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On Obscenity: The Thrill and Repulsion of the Morally Prohibited

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The paper proceeds by criticising the central accounts of obscenity proffered by Feinberg, Scruton and the suggestive remarks of Nussbaum and goes on to argue for the following formal characterization of obscenity: x is appropriately judged obscene if and only if either (A) x is appropriately classified as a member of a form or class of objects whose authorized purpose is to solicit and commend to us cognitive-affective responses which are (1) internalized as morally prohibited and (2) does so in ways found to be or which are held to warrant repulsion and (3) does so in order to (a) indulge first order desires held to be morally prohibited or (b) indulge the desire to be morally transgressive or the desire to feel repulsed or (c) afford cognitive rewards or (d) any combination thereof or (B) x successfully elicits cognitive-affective responses which conform to conditions (1)-(3).

I: Introduction

What is it for something to be obscene? The question is both interesting philosophically and of practical import. Its practical significance most obviously stems from the ethical and political disputes concerning obscenity and the fact that many states prohibit public obscenity.[1] Hence it is important to be clear about just what may be considered obscene and why. More generally, in contemporary Western society at least, there is a tendency amongst certain groups to bemoan a perceived increasing indulgence in and glorification of obscenity.[2] In order to know whether the complaint is justified or not, and whether as is often assumed this marks a decline in the moral character of contemporary society, we need to know just what obscenity is. The philosophical interest of the question is perhaps a little less obvious. It is a fact

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[1] See Joel Feinberg, *Offense to Others* (Oxford: Oxford University Press, 1985), pp. 165–89, for an explication of how obscenity, often falsely assimilated to pornography, has been taken to be an exception to the first amendment in the U.S. and Bernard Williams, *Committee on Obscenity and Film Censorship* (London: H.M.S.O., 1979) for the last thorough critical explication of the basis of the obscenity laws in the U.K.

[2] I take part of the recent furor over sex and violence in mainstream Hollywood movies and the continuing battles in the contemporary art world over the work of artists such as Robert Mapplethorpe and exhibitions such as the 1999 Sensation exhibition at the Brooklyn Museum, originally exhibited at the Royal Academy, to be symptomatic in this regard.

that many people get extremely worked up with respect to what they judge to be obscene. Yet this is rather puzzling. Obviously the notion of obscenity is not a simple, descriptive concept. To deem something to be obscene is to judge it to be extremely bad in some way. It is a concept part of the content of which carries a strong negative evaluation. Yet many of us commonly judge certain actions or attitudes to be very bad or immoral without becoming strident, heated or vexatious in our condemnation of them. Why then should many people do so in condemning obscenity? The answer cannot simply be that obscenity just is that which is *extremely* bad or immoral, in which case obscenity would merely be an uninteresting rhetorical term. For we often judge that certain actions or attitudes are extremely immoral, serial adultery or callousness say, without any kind of concomitant affective response. Yet the judgment of obscenity seems intimately tied to rather strong negative affective responses that explain the vehemence of condemnation.

The default explanation, which the philosophical literature on the subject concentrates on heavily, is taken to concern causal considerations. The thought is that many people get so worked up because they are afraid that what they judge to be obscene will causally influence, directly or otherwise, people's dispositions to behave in morally dubious ways or certain groups to be illegitimately silenced. The literature on whether such a thought is justified or not is extensive.[3] But this cannot be right as an account of obscenity *per se*. Even if we grant that there are causal links from obscene representations to immoral acts or the preclusion of certain groups this cannot be sufficient for a representation to be obscene. For the causal assumption would apply to many things we do not judge to be obscene nor necessarily get so worked up about. For example, Buster Keaton's films always represent women as shallow, giddy or stupid and someone might worry that watching many films of this kind may cultivate morally dubious attitudes or behavior with respect to women. But no-one would seriously condemn these kinds of films as obscene. Nor is the causal assumption necessary with respect to judging something to be obscene. A joke concerning, for example, my spitting on my grandmother's grave may be deemed obscene without anyone thinking it would affect people's dispositions regarding how they treat their grandparents. So the judgment of obscenity is prior to such causal considerations. Hence many people have strong affective responses to and condemn certain kinds of actions or representations as obscene without thereby assuming the kind of causal link postulated. In other words, most people would

[3] See, for example, Catherine MacKinnon, *Only Words* (Cambridge, MA: Harvard University Press, 1993), Nadine Strossen, *Defending Pornography: Free Speech, Sex and the Fight for Women's Rights* (London: Abacus, 1996), Rae Langton, "Speech Acts and Unspeakable Acts", *Philosophy and Public Affairs*, 22 (4), pp. 293–330, 1993 and Daniel Jacobsen, "Freedom of Speech Acts? A Response to Langton", *Philosophy and Public Affairs* 24 (1), pp. 64–79, 1995.

still have a strong affective reaction to and condemn that which is judged to be obscene even if they were aware that, *ex hypothesi*, it had been conclusively proved that there could be no significant causal influence upon the attitudes, dispositions and behavior of those who indulge in it. Thus for an informative characterization of obscenity we should look to accounts of it as a distinctive phenomenon prior to the standard causal considerations.

II: Inadequate Accounts of Obscenity

Joel Feinberg has argued that obscenity is essentially a charientic matter.[4] A charientic judgment concerns the non-moral qualities of an action, representation or character. To judge people or actions as boorish, coarse, uncouth, uncivilized and the like is to condemn them as vulgar, whilst to praise them as being elegant, civilized or cultured is to praise them as being refined. Such judgments are not moral since they pick out a coarseness of mind or manner of behaving and, as such, are distinct from the moral character of a person or action. Someone who is coarse of mind, and thus charientically flawed, may yet be wholly morally admirable whilst one who is refined and civilized may yet be morally decadent and corrupt. So we must be careful to keep distinct the charientic and moral aspects of an action or representation. Obscenity, according to Feinberg, just is the most extreme, unqualifiedly negative kind of vulgarity.[5] Hence the obscene is properly contrasted with both the immoral and the ugly. Moreover, we are or would be warranted in being deeply offended by obscenity—since extreme vulgarity is immensely unpleasant. Feinberg need not deny that the moral character of an action or representation may affect its charientic character. But it may only do so as an indirect side-effect—if and only if the moral character mars or promotes its charientic features such as its refinement, coarseness or vulgarity. For example, a couple may indulge in increasingly explicit foreplay in public and this may be considered immoral given the assumption that sexual activity should be an essentially private matter. But it is not, on Feinberg's account, the putative

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[4] See Joel Feinberg, *Offense to Others* (Oxford: Oxford University Press, 1985), pp. 97–126, and his *The Idea of the Obscene* (Lawrence: University of Kansas Press, 1979). Feinberg's use of the term 'charientic' is derived from an article by Peter Glassen who coined the term in his "'Charientic' Judgements," *Philosophy*, April, 1958, pp. 138–46. Glassen derives the term "from χαριευτοσ, genitive of χαριεισ..'...in At[tic Greek] χαριεισ was very often used of persons, in relation to qualities of mind, *graceful, elegant, accomplished...*οι χαριευτεσ *men of taste, men of education...op[posed to]* οι πολλδι...' (Liddell and Scott, *A Greek-English* Lexicon, 6th ed., 1869.)"

[5] Hence "the main feature that distinguishes obscene things from other repellant or offensive things is their blatancy: their massive obtrusiveness, their extreme and unvarnished bluntness, their brazenly naked exhibition. A subtle offensiveness is not obscene; a devious and concealed immorality, unless it is an extreme violation of the governing norms, will not be obscene; a veiled suggestiveness is not obscene." Joel Feinberg, *Offense to Others* (Oxford: Oxford University Press, 1985), p. 124.

immorality of the act that renders it obscene. Rather it is the incredibly vulgar lack of self-restraint, which, in this case, is manifested in actions of a certain moral character.

One advantage of Feinberg's account is that it provides a characterization of the way in which certain subject matter is not necessarily but may be rendered obscene—by virtue of the most coarse, explicit and vulgar expression. Pornography, as distinct from erotica say, is explicitly crude about the nature of sexual arousal, manifests a coarse, impoverished conception of sexual desire and the characters, such as they are, lack human interest. Moreover, it seems to capture the range of phenomena often deemed to be obscene since actions or representations concerned not just with sex but violence, death and disease can all be extremely vulgar in expression.

However, as an account of obscenity, Feinberg's characterization can only be woefully inadequate. It is worth noting that Feinberg's account does immense violence to ordinary language use of the term. Paradigmatic cases of obscenity are condemned straightforwardly as such, not merely in virtue of their extreme vulgarity. Of course this may only show that ordinary language use of the term is mistaken. But in the case of obscenity there is good philosophical reason why ordinary language use should be this way.

Feinberg's identity claim cannot be right—obscenity is not just that which is extremely vulgar. Vulgarity is, in principle, to be distinguished from obscenity. On the one hand not all extreme cases of lack of self-restraint or vulgarity constitute obscenity. Consider the following cases of extreme vulgarity: it is rumored that Robert Maxwell once held a lavish dinner party to celebrate something like his ruby wedding anniversary, where every single dish was called after or involved some reference to himself; someone boasting loudly in a restaurant about the huge amount of money she earns; someone boasting about his sex life or making innuendoes about the sex lives of others at a party to people he is hardly acquainted with; someone deliberately seeking to show up or embarrass people; being over familiar with others; constant swearing; eating noisily at a restaurant table without using cutlery. All these cases violate norms of behavior and character in ways that seem to manifest an unrefined, coarseness of mind and lack of appropriate self-restraint. But though they are indeed instances of extreme vulgarity we are not tempted to consider them obscene *per se*. On the other hand, *pace* Feinberg, not all obscenity belies or is concomitant with vulgarity. The mode in which an obscene insult is expressed, for example, can be of a highly restrained, refined, elegant and sophisticated kind. Similarly artworks may commend to us an obscene thought or attitude but do so in a subtle, nuanced, restrained and sophisticated manner. Katsushika Hokusai's wood block print *Awabi Fisherwoman and Octopus* is ferociously explicit in its representation of sex between a woman and an octopus. As such one might be tempted to call it obscene, but certainly not vulgar. The point is that obscenity can be artfully

conveyed in a manner that marks out a discriminating, refined though possibly morally decadent mind. This suggests that obscenity quintessentially has a certain moral rather than charientic character. Even were Feinberg to advert to the weaker thesis that the obscene supervenes on the charientic (a) this is insufficient to deprive obscenity of its inherent moral character given one might hold that the moral character of any action or representation must admit of supervenience relations and (b) one has reason to doubt that obscenity supervenes on the charientic given that the same photograph of a naked child may be judged obscene or perfectly innocent depending upon changes external to the content of the photograph, for example whether it is exhibited innocently in a family photograph album or placed on a pedophile's web site.

Furthermore, in cases where we do judge vulgarity to be obscene the kinds of appraisals we make are not wholly specifiable without appeal to some notion of moral violation. To condemn a representation, which solicits an interest in the death throes of people being executed, or which glorifies the rape of women as obscene is, amongst other things, already to incorporate the judgment that to laugh at or delight in such things is deeply immoral. Even in cases of bad manners where we judge the vulgarity displayed to be obscene, this is so only where some moral norm is contravened. Consider the Monty Python Mr. Creosote sketch in *The Meaning of Life*. Mr. Creosote is a large diner in a very smart, busy restaurant. He begins to eat in the most wretched, disgusting, atavistic manner, growing ever more obese as he consumes larger and larger amounts of food. Towards the end he vomits sporadically into the champagne bucket especially brought for this purpose until he is finally sated—only to be tempted by the wafer thin mint (whereupon, having eaten it, he finally explodes). Now, if someone were to behave similarly (explosion aside) we would likely judge his or her behavior obscene. But this would not merely be because in so doing certain charientic norms of etiquette are violated in the most extreme manner possible. What exactly renders such behavior obscene is not yet obvious. But, at the very least, two elements seem relevant. Firstly, the nature of the diner's behavior is disgusting and repulsive. But this alone cannot be sufficient since not all things that are disgusting and repulsive are obscene. Secondly, that his behavior manifests extreme greed and thus involves the violation of a moral norm. It is only because the lack of self-restraint of the diner abrogates a moral norm of character in this manner that we are inclined to judge his actions obscene.

Thus, *pace* Feinberg, obscenity cannot be an extreme case or mere subspecies of vulgarity. Obscenity is in principle distinct from vulgarity—not all cases of obscenity constitutively involve vulgarity, although vulgarity may often be obscene. So we still need criteria that would enable us to sort out when and where something is merely vulgar and where something is obscene—which is much worse.

Discussions of obscenity most frequently arise in relation to pornography and sexual matters. Here the standard characterization of obscenity is given in terms of the notion of objectification. So it might be thought that a characterization of obscenity as constitutively involving objectification would likely prove adequate. For objectification is often held to abrogate respect for persons, hence the account would recognize that obscenity constitutively involves the violation of a moral norm, and can be extended to include many actions or representations which do not involve sex but nonetheless are commonly regarded as obscene, from slavery and torture to certain kinds of representations of death and disease. The core thought is that objectification dehumanizes persons by representing them as mere objects, things, or commodities.[6] However, as Martha Nussbaum has argued, the notion of objectification is a multiply variegated concept involving at least the following notions: instrumentality; denial of autonomy; inertness; fungibility; violability; ownership; denial of subjectivity.[7] Furthermore, certain kinds of sexual objectification can be a wonderful, non-objectionable part of sexual life as long as instrumentalisation is absent, the objectification is mutual and occurs within a context of mutual respect. Hence Nussbaum contrasts the objectification represented in Lawrence's *Lady Chatterly's Lover* with that present in crude pornography. So obscenity, which is always a strongly negative evaluative term, cannot be straightforwardly identified with objectification *per se*. Rather, it may be thought, it must be related to a particular kind of objectification.

Nussbaum herself, though she never discusses obscenity, marks out the most vicious kind of objectification as involving the preclusion of a person's subjectivity and autonomy. Pornography objectifies in just this way by presenting women as objects who are substitutable, subject to the control and desire of the reader and whose experiences matter not at all.[8] This view ties in neatly with Roger Scruton's notion of objectification, which is explicitly linked to the notion of obscenity.[9] For Scruton obscenity consists in objectifying another person through conceiving of the embodied person as reducible to their mere body thereby precluding their first person perspective.[10]

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6 See, for example, Andrea Dworkin, *Intercourse* (New York: Free Press, 1987) and Catherine MacKinnon, *Toward A Feminist Theory of the State* (Cambridge, MA: Harvard University Press, 1989).

7 Martha C. Nussbaum, "Objectification", *Philosophy and Public Affairs* 24 (4), pp. 249–91, 1995.

8 Ibid., pp. 279–83.

9 Roger Scruton, *Sexual Desire* (London: Phoenix, 1994), pp. 133–54.

10 Thus Scruton states that "obscenity involves a 'depersonalized' perception of human sexuality, in which the body and its sexual function are uppermost in our thoughts and all-obliterating. The copulation of animals frequently strikes us as obscene; so too does the copulation of human beings, when looked at from a point of view outside the first person perspective of those engaged in it. Thus, in literary representation, the distinction between the genuinely erotic and the licentious is a distinction not of *subject-matter*, but

Following this line of thought we can extract the following characterization of obscenity. Obscenity abrogates the fundamental moral norm of respect for persons in virtue of denying or precluding their first person perspective. What it is for something to be obscene is to manifest, solicit or endorse this kind of objectification. However, although suggestive, such a characterization remains inadequate because the notion of objectification cannot do the work required. There are several strong reasons that suggest not only that this is a mischaracterization of much pornography but also that we should be reluctant to identify obscenity with this particular kind of objectifying interest in others.

Firstly, there are many cases of taking an interest in something that preclude the first person perspective of the subject involved which are not obviously obscene at all. Consider representations of the chivalric ideal. A woman is represented as an object to be possessed and her autonomy and subjectivity, except in relation to the aspiring male's desire, is precluded. Similarly, in many Pre-Raphaelite paintings any sense of the depicted woman's particular first person perspective is precluded. Still, in these cases the preclusion of the first person perspective is not concomitant with a focused attention on the body parts of the subjects involved. But consider Lucian Freud's explicit nudes which often entirely preclude the subject's self-consciousness, concentrates viewers attention on the subject's body parts and thereby solicit an objectifying interest in them—yet we would not want to consider them obscene. His series of Leigh Bowrey, for example, draws attention to the mottled tones, contours and sheer expanse of flesh. In several of them only Bowrey's expansive back and the top of his domed head is visible to us. Our attention is solicited with respect only to the corporeal nature of his body and yet we would not be tempted to call the paintings obscene. So not all cases of the kind of interest picked out as obscene seem to be instances of an obscene interest.

Secondly, the preclusion of another's first person perspective seems to mark out a depersonalized interest in them. So the presumption is that we are disinterested, at least *qua* person, in whomever we take an obscene interest in. Yet an obscene interest in others, at least in certain cases, seems to be an essentially interested, personal one, albeit of a possibly perverted kind. Far from being disinterested we are often essentially interested in another as a person in some way.

Objectification, especially where it is construed in terms of reducibility to body parts, cannot adequately capture how pornographic representations seek to engage the viewer's interest. Consider the way strippers must work in

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of perspective. The genuinely erotic work is one which invites the reader to re-create in imagination the first-person point of view of someone party to an erotic encounter. The pornographic work retains as a rule the third-person perspective of the voyeuristic observer". Ibid., pp. 138–39.

order to elicit an obscene interest in them. The audience is not straightaway presented with the nude body. Rather the stripper must present herself in some semblance of an ordinary person and, in ritualized fashion, gradually strip away the various layers of clothing until the moment of complete revelation. This is not merely a fancy way of drawing the process out so observers feel like they are getting their money's worth but reflects something quite deep about what it is to take up an objectifying interest in someone. The stripper presents herself in a certain guise, often but not always making use of the clothing, paraphernalia and associations of certain stock roles. In so doing she enables the audience to make-believe with minimal imaginative effort that, fictionally, they are looking at a particular individual who has a certain role, character and dispositions. This is crucial in order to be interested in the (fictional) character as a person. Furthermore the stripper must comport herself in a manner which suggests that, fictionally, her character is available and open to the sexual desire and interest of those in the audience. Once this has been established she can then gradually strip away her layers in a ritualized, stepped fashion. In doing so she increasingly draws attention to her sexual features and simulates sexual arousal. Thus the individual in the audience is prescribed to imagine that, fictionally, she is available, aroused and, in her state of sexual desire, open to being satiated by his sexual desire for her. If the stripper were to start straight away without any clothes and just walk on it would be harder to take an obscene interest in her. For in that case it would be easier to see her just as a body or piece of meat which we might take a depersonalized interest in but certainly not an interest which is found to be arousing—and that is the point of the exercise. Indeed, certain paradigmatically obscene sexual representations concentrate on the first person perspective of those one is prescribed to take an obscene interest in. Hard-core pornographic novels and movies often prescribe attention to how the characters represented are, what they putatively desire, believe and feel in seeking to elicit sexual arousal from the audience.

Of course, it could be objected that the actual responses of arousal and desire on the part of the audience are fixed on a substitutable person who is used as a prop for us to imagine a fictional object—it is, in essence, fantastical.[11] True, for the fantasy and the obscene interest in the stripper to be sustained the audience must conceive of the stripper as a person. But we are not interested in the person she actually is, and her actual first person perspective, but that of the fictional character her act prescribes us to make-believe about.[12] But whether the object of our interest here is fictional or not is beside the point. Were it the case that the stripper or person in a pornographic

[11] Roger Scruton, *Sexual Desire* (London: Phoenix, 1994), p. 318.

[12] For a general theory about the use of props and representations as props in games of make-believe see Kendall Walton, *Mimesis as Make-Believe* (Cambridge, MA: Harvard University Press, 1990).

home movie were in fact as she presented herself to be and was aroused as she represented herself to be, the interest in her would still be thought to be obscene. Pornography generally, especially photography, represents actual women and may stimulate a desire for the actual woman which sex with someone else would not satisfy. Moreover, the typical case involves being interested in the experiences and responses of the person represented (whether fictional or actual), for example that they want sex. It is a general fact about sexual activity and interest that indulging it with someone who is not enjoying it is not, at least for most people, sexually satisfying. Peeping Tom type characters, who take a sexual interest of this kind in others, are often interested specifically in who the actual person is—no other person would do—and their particular mental states.

It might be pointed out that at least most people would not consider stripping *per se* and the interest solicited in it obscene.[13] But this only serves to highlight further the inadequacy of the account of obscenity proffered. Furthermore, the specific points made about the personalized interest solicited still go through in relation to more obviously paradigmatic instances of obscenity—in the case of extremely violent pornography say. We can even imagine a representation of a rape where the viewer's interest is solicited with respect to what the victim's actual first person states are and, moreover, that it is crucial to the perpetrator as represented that it is the particular person it is whom they are raping. The interest of the perpetrator is excited by it being this particular person, that this particular victim feels angry, powerless, sexually subjugated and abused. Here it matters that the victim is the particular person they are, that their first person responses to their violation are what is being attended to by the perpetrator of this heinous act and that this is what the audience's interest is being directed toward. Nor is this confined to cases concerned with sexual interest. A few years ago a video was released in the U.K. that consisted of footage from capital punishment executions of criminals in the U.S.A. The video was condemned as obscene by virtue of soliciting an interest in the pain, suffering and death throes of the criminals. But far from precluding the first person perspective of the person being executed the video solicits the viewer to contemplate and savor the anticipation, dread, pain, fear and death throes of the particular people being put to death. Hence we are prescribed not just to recognize that they are self-conscious, but the particular person they are and their particular responses to what they are being subjected to. Such cases are far from rare. If one goes into a large newsagent one will often find magazines with titles such as *Murder Monthly* which detail salaciously the more gruesome aspects of serial killings or infamous crimes. In their detailing of the crimes such magazines focus readers attention

[13] This point was put to me by Anthony Ellis.

on and prescribe responses toward not just how the victim was killed but how they might or must have felt.

So far from precluding and being disinterested in the first person perspective of another, at least certain kinds of interests we would characterize as obscene essentially presuppose an interest of a personal kind in another's fictional or actual first person states. A depersonalized interest in others that apprehends them not as persons but in a detached fashion as objects constituted by their bodily nature may in various contexts be deeply problematic. But this cannot be an adequate characterization of just what it is for an interest in someone to be obscene. There are paradigmatic cases of obscene interest in the actions of others or representations which far from precluding the first person perspective of another actively solicit and indulge in the contemplation of it. It might be added that there are also many things we would deem obscene which do not obviously involve personal relationships in any way.

To claim that obscenity consists in a certain kind of objectification is to conflate a typical means of realizing obscenity with obscenity itself. For there are paradigmatic instances of obscenity that do not involve such objectification at all, and, conversely, not all cases which involve the mode of objectification identified are obscene. We tend to judge a whole range of features, representations, attitudes and interests as obscene and we are left without any informative account of obscenity as such which is supposed to bring them all together.

III: Paradigmatic Judgments of Obscenity

In striving for an adequate characterization of obscenity it is helpful to bear in mind paradigmatic examples of what we are seeking to define. So the best place to start is with a list of examples and kinds of cases that are standardly judged to be obscene. There are a wide diversity of interests, actions and representations often judged to be obscene and many instances are highly contentious. It should also be noted that one can have obscene representations of non-obscene actions and, conversely, representations of obscene actions that are not themselves obscene—a representation of a gruesome rape may not be obscene whilst a representation of consensual, straightforward sex between married partners may be. Moreover, the context of an action or representation may well make a crucial difference. Although I am not claiming that the following list is exhaustive or complete, I am claiming that they are paradigmatic cases of judgments of obscenity. The methodological assumption is that once we get an informative account of the nature and structure of judgments of obscenity in the central cases, we should be able to see when, where and why a judgment of obscenity may (or may not) be made appropriately in more contentious borderline cases. Furthermore it is crucial to recognize that

in judging something to be obscene the target of the judgment is the attitudes and interests as manifested in an action or representation. When we talk of a photograph or film being obscene, for example, it is the attitude of the implied author as conveyed through the photograph or film toward which the judgment is directed. Hence we distinguish between medical textbook photographs taken and displayed with the more exalted aim of informing students about clinical diagnosis and perceptually indiscernible photographs taken and displayed for the purposes of savoring and delighting in the repulsive appearances of disease and deformity. The most unproblematic judgments of obscenity arising from paradigmatic instances come under the following kinds of cases, where 1–4 are a non-exhaustive list of alternative necessary but not sufficient conditions:

1. An action or event is represented in such a way as to solicit and commend cognitive-affective responses of sexual desire that are taken to be morally prohibited.

This covers such cases as extremely hard-core pornography where, amongst other things, rape, necrophilia, pedophilia or brutally violent and intrusive sexual activities are represented as sexually arousing and desirable. The representation aims to solicit such arousal and desire in its audience and commends such responses to us by prescribing us to delight in them. Thus, for example, we distinguish between De Sadean works like *Juliette*, hard-core pornography or films such as Peter Greenaway's *The Baby of Macon* where the audience is prescribed to delight in the sexual subjugation and pain of a rape victim and the arousal of the perpetrators of rape from portrayals of rape as represented to us in works such as Jonathan Demme's *The Accused*. Although *The Accused* portrays a rape both from the perpetrators and victim's viewpoint we are not prescribed to delight in the sexual arousal of the perpetrators or the subjugation of the victim. *The Accused* is not obscene since far from commending such desires to us, as *Juliette* does, such responses are condemned. The distinctive characteristic of this kind of obscenity is that the purpose of the representation is to solicit and commend as delightful morally prohibited sexual desires.

2. Judgements of obscenity need not and often are not directed toward soliciting and commending sexual desires taken to be morally prohibited. They are often directed toward actions and representations that aim to solicit and commend morally prohibited cognitive-affective responses to the infliction of pain, suffering, misfortune and even the death of persons.

This covers classic cases of extreme representations of violence. It also covers cases such as the death row video whose purpose is directed toward soliciting

an interest in the pain, suffering and death throes of the criminal, a different video released by the same company consisting of repeated footage of slowed down scenes of airplane crashes and crime magazines such as *Murder Monthly* where the audience is prescribed to savor or delight in the physical pain, fear, suffering and even death of those represented. Such cases are distinct from non-obscene representations which may involve exactly the same subject matter—such as a somber video on capital punishment by Amnesty International, a video on air crashes by the air traffic authority and police reports of murders.[14] In the latter cases though our attention may be directed toward the same features of the objects of the representations, we are not prescribed by the way in which it is done to savor the suffering involved.

It also covers cases that do not involve violence but where one is nonetheless prescribed to pruriently enjoy or delight in the misfortunes of others. Freak shows, certain kinds of jokes (about the Holocaust say) or novels that prescribe a delight in the tragic nature of someone's misfortune are often judged obscene on this basis although no violence is involved. Hence we distinguish between obscene freak show type cases, where we are prescribed to look upon and delight in the deformed as sub-human, and the merely grotesque, such as competitors in a gurning competition, where the object of fascination and delight is the appearance of facial contortions alone. In the former case people are represented as being freakishly other than human and this is what our responses are shaped toward and prescribed to pruriently enjoy or delight in. We also distinguish between tragedies proper, such as *Othello*, and cases of obscenity where we are prescribed to delight in suffering. Similarly we distinguish between the merely horrific and the obscene where the former is an appropriate object of fear but need not be represented as attractive or, where it is, the responses themselves (of horror) are not morally prohibited.

3. Judgments of obscenity are also often made with respect to objects whose authorized purpose is not directed toward soliciting and commending morally prohibited cognitive-affective responses.[15] However, the context in which they are displayed or the use to which they are put may render them obscene. No-one, for example, would consider children's clothing catalogues to be obscene *per se*. But where photographs culled from such catalogues are

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[14] This is not to deny that certain gratuitously explicit images of someone being tortured or starving could be obscene even though Amnesty International or Oxfam may present them in order to stir up our emotions against human rights abuses or the plight of famine.

[15] I am construing authorized purpose here in terms of the message and prescribed cognitive-affective responses we might reasonably ascribe to a work or action in virtue of what the actual or hypothetically implied author is seeking to achieve. See Jerrold Levinson, "Messages in Art", *Australasian Journal of Philosophy*, 73 (2), 1995, pp. 184–98, for a related but different distinction between a work's reasonably ascribed message and the message a work may easily be misconstrued as having contained.

grouped together on a pedophilia collage or web-site they may become so. For they are being grouped together to draw attention to ways in which they may be viewed as arousing morally prohibited cognitive-affective responses—in this case sexual desire directed toward pre-pubescents. The same may be true of medical photographs of diseased bodies or cadavers. The individual photographs are not obscene in any way but a collage of such photographs may be arranged in a way which prescribes the viewer to respond with delight to the pain, suffering or death represented. Here it is the purposive context rather than the authorized purpose for which the photographs were taken which guides our responses in a way that gives rise to the judgment of obscenity.

4. Lastly there are objects or actions which do not purposively authorize or attempt to commend cognitive-affective responses which are morally prohibited and yet which are commonly judged obscene where they naturally give rise to such responses i.e. they naturally elicit rather than purposively solicit them. For example, multiple couples having sex in public or the macabre debris of a fatal car accident may result in similar responses to that intended or which is the purpose of those objects characterized in groups 1 and 2. The intention or purpose, with respect to the authorized purpose of the objects themselves or their setting in context, may be entirely absent. Consider the case of a somewhat gross sex orgy in the park as witnessed by passers by. Many will judge the act to be morally prohibited, at least on the minimal grounds that sex (morally) should be an essentially private matter. Thus to look at the couples, whether out of curiosity or because the scene is found to be sexually arousing, is itself deemed to be morally prohibited. Nonetheless, it is a natural response to be tempted to glance and at least cop a good look precisely because the scene is fascinating or arousing. The intention of those taking part in the orgy may be in no way to solicit such responses—perhaps they chose that part of the park on the mistaken assumption that no-one ever walked there—nonetheless their actions naturally give rise to responses which underwrite the judgment of obscenity.

The paradigmatic kinds of obscenity manifest a variety of features which are marks of the obscene: subject matter of bodily functions, sex, violence and death; certain kinds of interest taken up in such subject matter; a lack of self-restraint being sought or elicited in the audience or viewer; treating persons as objects; public indecency. Whilst it is right to take such features as potential markers, none of them capture obscenity's fundamental character. With respect to representations it is crucial to bear in mind that it is not the predominant subject matter *per se* of obscenity, sex, death and violence, which give rise to the judgement of obscenity. Rather, in the case of representations, obscenity concerns the ways in which such subject matter is treated in

order to solicit or elicit certain kinds of responses from us. Moreover it cannot be that a judgement of obscenity is applied to anything and everything that we cognitively-affectively respond to as being morally prohibited. Otherwise obscenity would be reduced merely to that which is deemed morally very bad. But there are many things that may be judged morally prohibited, from the betrayal of a friend or adultery to a representation glorifying the brutalities of imperialism, without giving rise to a judgment of obscenity.

IV: The Phenomenology of the Obscene

A rough characterization of the paradigmatic cases of judgments of obscenity must give due recognition to a central feature of the phenomenology involved in all four kinds of cases—namely the feelings of repulsion, by virtue of soliciting or naturally eliciting fascination in responses taken to be morally prohibited, and attraction toward indulging or even delighting in those very responses.[16]

But by virtue of what is one being attracted to indulge cognitive-affective responses taken to be morally proscribed and which give rise to feelings of repulsion? Another way of asking the same question is to ask what motivating reason or purpose could one have for indulging in that which is taken to be morally repulsive? There are three distinct reasons or purposes that explain the attraction involved:

1. Desire Fulfillment

The paradigmatic cases of obscenity all involved the solicitation or natural elicitation of cognitive-affective responses toward the object taken to be morally prohibited. That they shape or naturally give rise to such responses explains our repulsion but, given the attraction involved, points towards the indulgence of motivating desires—which do not arise in response to what is taken to be morally permissible, right or good but are taken to be contrary to fundamental moral prohibitions.

Take, for example, a representation of a rape where one is directed toward delighting and being aroused by the victim's pain, powerlessness and sexual subjugation. It is found to be repulsive because it commends us to delight in responses arising from what makes rape the deeply immoral and heinous act it is. Nonetheless, at least in so far as the representation is successful, it also evokes a sense of sexual excitement, arousal and desire.[17] For such a represen-

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[16] The fascination that obscenity exerts upon us often involves or is tied up with delight but need not be. I may be fascinated by and pruriently enjoy in some sense savoring the interest and responses which arise from my contemplating an obscene representation without necessarily delighting in them.

[17] This is not to claim that a representation of a rape can only be judged obscene if it is found arousing. This is just one way in which such a representation may seek to solicit an

tation seeks to create or speak to a desire for sexual power, domination and supremacy against another's will on the one hand and, on the other, the desire to be sexually subjugated by the will of another. Such desires, and thus attraction toward these kinds of representations, are not uncommon amongst both men and women though they are also taken to be morally prohibited with respect to their being manifested in actions such as rape. Such a representation is thus both repulsive, by virtue of being morally abhorrent, and attractive, by virtue of arousing and commending certain basic sexual desires.

The very same kind of characterization is appropriate with respect to many representations of violence, suffering, death or misfortune adjudged obscene though the relevant desires being indulged may be rather different. But the desires are common enough—to see or make another suffer, to exercise power by subjugating the will of another or to victimize. Were one to be given the opportunity to actually carry out such desires with respect to real people the morally decent person would not act on them, would feel overwhelmingly repulsed and feel no attraction at the prospect of so doing. But with respect to objects that speak to such desires without involving acting upon and harming others, the force of the moral prohibition slackens somewhat and one feels the pull of the desires spoken to (at least where the object is successful).

It is important to note that the desires as indulged in the cognitive-affective responses may be taken to be morally prohibited for 3 distinct reasons:

(i) The desires may be held to be intrinsically bad—such as the desire to entirely subjugate another in raping, torturing or killing.

(ii) The desires themselves may not be held to be intrinsically bad but misdirected in morally prohibited ways. For example, the desire to be sexually dominant or dominated is not of itself obviously intrinsically bad. But as aroused and indulged in the representation of rape such a desire may be taken to be misdirected in a morally prohibited manner.

(iii) The desires may not be taken to be intrinsically bad or misdirected but a surfeit of indulgence of a desire may be taken to be morally prohibited. For example, the indulgence of a desire for food is not intrinsically bad and as directed toward a desire to eat meat one may not hold it to be morally inappropriate. But sating this appetite through overindulgence in one sitting by eating plateful after plateful of racks of ribs followed by numerous pigs' trotters may be judged obscene. For eating a gross amount of ribs and trotters manifests extreme greed that is taken to be morally prohibited.

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interest in it or responses to it that are taken to be morally prohibited. There are many other means—for example representing rape as funny.

2. Meta-Desire Fulfillment

It may well be that some of the paradigmatic cases of obscenity though adjudged to be morally repulsive, by virtue of soliciting and commending morally prohibited cognitive-affective responses, are not found to be attractive in virtue of the first order morally prohibited desires they speak to. Nonetheless, they may still be adjudged obscene due to the attraction involved at the second order level—that the representation solicits and commends morally prohibited responses is what is found attractive and delighted in even though the first order desires themselves are not.

Consider, for example, a narrative where the central character is represented as progressing from the violation of one moral taboo after another—say committing incest in chapter 1, necrophilia in chapter 2, torture in chapter 3 and so on. It does not seek to solicit arousal and commend to us the particular desires that such acts may speak to. Indeed the scenes of moral violation are portrayed in a disinterested, detached manner precisely to avoid evoking in the reader a sense of excitement, arousal and desire with respect to them. However, what the narrative does do is to solicit and commend to us, as exciting, interesting and delightful, moral transgression as such. This meta-response the narrative seeks to evoke, delight at the transgression of moral norms, speaks to a common desire to break free from the fundamental moral norms and mores we ordinarily take to be binding. We are not attracted to do so in everyday life because of the high moral costs to oneself (the concomitant feelings of shame and guilt) and others (the harm they would suffer) of doing a grave wrong and the high prudential costs (being ostracized by others at best or imprisoned at worst). But such costs are far less with respect to representations that merely solicit, indulge and commend a desire to be morally transgressive without any obvious harm to anyone. Hence one may feel the pull of such objects much more easily. Thus we may judge such cases obscene by virtue of the moral repulsion, at both the acts represented and the commendation of moral transgression, and yet simultaneously attractive, by virtue of indulging our desire to be morally transgressive and freed from the constraining shackles of moral norms and prohibitions.

The meta-response found attractive need not be the second-order desire to be morally transgressive. It may just be a desire to delight in the first order feelings of repulsion that the object affords. One may grant that there are certain ideal human standards by virtue of which it is appropriate to derive pleasure from certain things and be repelled by others.[18] Certain tastes or sensations are pleasurable under certain standard and normative human conditions. However, in secondary cases, where we can inhibit or modify the standard conditions through interference or convention, then the feelings of repul-

[18] See Alasdair MacIntyre's "Pleasure as a Reason for Action" in his *Against the Self-Images of the Age* (London: Duckworth, 1971), pp. 173–90.

sion which are typically unpleasant may be found, by some at least, to be pleasurable. Hence representations of murder which are repulsive and which salaciously celebrate the pain and torture involved may be found attractive by virtue of the feelings of repulsion which arise, even though were one presented with the case as represented in real life one would not feel pleasure at all but only intense aversion. Not all objects that speak to this delight in being repulsed will be appropriate objects of the judgment of obscenity. For many of them will be merely ugly, grotesque or horrific. Nonetheless, where this motivation is spoken to by an object that seeks to solicit responses we morally ought not to indulge or desire, then it is a paradigmatic case of obscenity.

A little bit more does need to be said here about how feelings of repulsion may be found—by some, under some conditions—to be pleasurable. It may be thought that the very notion of 'delight in being repulsed' is oxymoronic.[19] One way of disambiguating the notion is in terms of delight in the fact that one is repulsed by an object. On this reading we do not delight in the feelings of repulsion as such but, rather, we delight in the fact that we have an unpleasant response of repulsion to the object concerned. This is a mark of our being the sort of person who responds negatively to the kinds of things that violate moral taboos. Thus the pleasure or delight is explained as a function of the recognition that we are morally decent people who decry the violation of what is taken to be morally sacred. Such a reading looks relatively unproblematic, given that it does not involve the claim that we somehow enjoy repulsion as such which is intrinsically unpleasant, and does seem to fit certain kinds of cases. Consider, for example, Céline's *Voyage au bout de la nuit*. The nihilistic, morally transgressive and repulsive character of the novel is, in part at least, directed toward a vehement protest against the meaninglessness of modern existence. The moral disgust and repulsion the novel solicits from the reader is thus represented as unbearably awful and the pleasure sought from the reader is, at least in part, the pleasure of recognition—namely that one is the kind of person who is morally repulsed by the states of affairs as represented.

However, this cannot be the whole story. For many obscene works which solicit repulsion, by virtue of soliciting or naturally eliciting fascination in responses taken to be morally prohibited, and attraction toward indulging or even delighting in those very responses, cannot be said to have the purpose of reminding us that we are morally decent people and thereby afford us pleasure in this recognition. Rather what they seek to do is elicit pleasure *in* the very feelings of repulsion or disgust that are solicited—the work of Antonin Artaud, John Waters, de Sade, the Earl of Rochester or Georges Bataille stands testimony to this being the case. Consider Patrick who read a novel on

[19] This point was made to me by one of the journal's anonymous referees.

the recommendation of a friend that it is really obscene. But Patrick finds he reacts only with mild distaste to the novel and complains bitterly to his friend on the grounds that the book just wasn't repulsive enough. His friend responds by suggesting that Patrick wasn't responding with the appropriate level of moral disapprobation which would have afforded him the pleasure of recognizing himself to be a morally decent person. But no, Patrick retorts, to be sure the events represented were morally bad enough for him to be afforded that pleasure—it's just that it wasn't repulsive. What Patrick was seeking was the enjoyment afforded by experiencing repulsion.

At first pass this looks paradoxical—since how could someone enjoy experiencing a negative feeling or emotion? But the paradox can be dissolved if we consider a solution articulated by Berys Gaut in relation to the paradox of horror.[20] To be repulsed by something involves not only certain affective feelings but a negative evaluation. Different cognitive-affective states are to be individuated not merely in terms of their phenomenological aspect, since different cognitive-affective states may share the same phenomenology, but in terms of their evaluative thoughts. What distinguishes a positive from a negative cognitive-affective state concerns the evaluations involved. The object to which a state is directed is brought under negative evaluative concepts: the disgusting, the repulsive, the shameful and so on.[21] Importantly this does not sever the conceptual link between evaluation and pleasure. Rather it is necessarily typically the case that if someone positively evaluates a state of affairs then he will find that state of affairs pleasant. But, as I suggested above, this allows for atypical cases where the typically unpleasant feelings of repulsion are found, by some at least, to be pleasurable.

3. Cognitive Rewards

Often the motivating attraction in paradigmatic judgments of obscenity does not arise from particular morally prohibited desires or the desire to be morally transgressive. However, the judgment may still arise by virtue of the abrogation of moral prohibitions against conceiving, representing or treating persons in certain ways, which gives rise to repulsion, and yet found to be attractive or compelling in virtue of the cognitive interests spoken to—such as curiosity or fascination.

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[20] Berys Gaut, "The Paradox of Horror", *British Journal of Aesthetics*, 33 (4), 1993, pp. 333–45.

[21] As Gaut puts it, "since we can disvalue something without finding it unpleasant, it follows that it is possible to find both negative emotional responses *and* their objects pleasant. Hence, by appeal to an evaluative theory of the emotions, we can show that there is nothing paradoxical about the enjoyment of negative emotions, for it is only required that one *disvalue* the *objects* of these emotions." Ibid., 341.

Consider the case of Leontion in Plato's *Republic*.[22] Leontion, amidst the debris of execution, struggles with himself because he both feels compelled to dwell on the appearance of the mutilated corpses and yet feels repulsed because he takes it that so doing violates the kinds of interests one should have or take in the dead. The attraction does not arise because Leontion wishes to dwell on and delight in the physical violence, pain and suffering that caused the corpses mutilation. Nor does the element of compulsion arise because he has a desire to be morally transgressive as such. Rather he is attracted to dwelling on the gruesome sight out of sheer curiosity and fascination with what mutilated corpses look like. This is not uncommon—it is a familiar feature of motorway driving that hold ups are often the result of motorists slowing down to take a lingering glance at the wreckage of car crashes and crowds often gather at scenes of accidents, suicide attempts and shoot outs to peer at the wounded or dead.

It should be noted that an interesting case of fascination where something is adjudged obscene may be due, oddly enough, to the sheer disbelief or incredulity at the extent of the moral abrogation involved or the way in which the moral norms are abrogated. The repulsion arises from the object commending the indulgence of desires taken to be morally prohibited but the attraction arises as an expression of the internal commitment to the moral norms so shockingly abrogated.

For example, a few years ago an exhibition of a contemporary artist's work in London included a figurative work where a fetus was used to represent an earring as an integral part of the piece. A friend of mine just could not believe that the artist had done this and was fundamentally outraged at what she took to be deeply immoral (she suggested it was akin to the use of murdered corpses in a work). But it was not just that she was morally offended or outraged. For, despite her repulsion, she felt compelled to go back to the piece again and again. Indeed, the rest of the exhibition seemed to hold relatively little interest for her compared to this piece. It was not that she was curious about or fascinated with the appearance of the fetus as such. Rather she was just incredulous that the artist had used the fetus in this manner at all given her deep moral conviction that abortion amounted to murder. The motivating attraction of the piece just was its abrogation of what she took to be a fundamental moral prohibition. Thus the judgment of obscenity was expressive of her deep moral convictions.

V: Worries

Having characterized the motivational reasons which explain the attraction to that adjudged morally prohibited something remains to be said about the

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[22] Plato, *The Republic*, trans. D. Lee, (Harmondsworth: Penguin, 1974), 2nd ed., Book IV, pp. 215–16, l. 439e—l.440a.

element of repulsion. Thus far a proper judgment of obscenity has been characterized in terms of something that is both found attractive for the reasons adjudged and held to be morally prohibited. But this cannot be sufficient. Consider *The Simpsons*.[23] Bart is often represented as doing and delighting in various immoral if usually minor acts. The audience is prescribed to respond with enjoyment and delight at these activities. As it happens the context of the program as a whole is if anything rather moral—Bart is basically a naturally mischievous but fundamentally decent character. Nonetheless, one can imagine a rather puritanical parent judging the program to be morally pernicious because of the solicited delight in what are held to be immoral activities. But this is not to judge the program to be obscene. After all, many acts and representations we deem to be morally prohibited are nonetheless found attractive for the reasons adduced, from lying and adultery to scurrilous autobiographies, yet we would not call them, as such, obscene.

The worry is an important one and points us toward what is lacking thus far in our characterization of a judgment of obscenity—the element of repulsion. Consider the range of phenomena that tend to be involved in paradigmatic cases of obscenity and the ways in which, in representations at least, we are prescribed to attend to them. Our attention is drawn to the texture, color and dimensions of body parts, the soft, malleable, yielding nature of flesh, the flecked, glistening, oozing nature of bodily fluids and the hard-bodied, tensile, well-defined nature of bone amongst other things. The standard case concerns the visual appearance of an object, though it can and sometimes is a matter of the sound, smell, or touch of an object which is found to be repulsive—the look of a diseased body, the sound of screams of pain or smells of putrefaction for example. The repulsion involved tends to arise from the visceral nature of that being adjudged obscene.

What is found to be repulsive will be individually and socio-culturally relative to a high degree. For example, a vegan may well be repulsed when seeing anyone eating meat since she attends to it in terms of the ripping flesh, bloody juices and white bone of a creature that should not have been killed or be eaten whereas, for many meat eaters at least, this is not how they would naturally attend and respond to such a sight at all. However it is easy to imagine ways in which a film maker could represent someone eating meat so as to solicit repulsion in ordinary meat eaters. A diner might be filmed eating a grotesquely outsized pig's trotter, the camera might focus on the sheen of the juices coating the crackling, the flecked spittle of the diner, the gape of the mouth as the pink flesh is brought up to be engorged. Indeed, where the diner is represented as gorging himself on a surfeit of meat, and the extreme satiation of such a desire is considered morally bad, then we might naturally and properly judge the scene as represented to be obscene. That a

[23] I owe both the worry and the example to Ward Jones.

film maker could shape ordinary meat eaters responses in this way suggests that, despite a high degree of relativity regarding what is found to be repulsive, there are certain kinds of things that we are naturally repulsed by *qua* human beings. Certainly certain kinds of smells or sights such as maggot ridden, putrefying bodies, people eating their own faeces and vomit or the torturous infliction of extreme pain would be found universally repulsive. It is far from unlikely that such basic common responses are hardwired at the biological level for adaptive evolutionary reasons, though how the fundamental biological underpinning to many of our aversive reactions is expressed is culturally variant. Aversive reactions to things which smell, sound or look repulsive manifests a life preserving urge since such things are, more often than not, the marks of disease, contamination, hostility or danger.

A different kind of worry brings us back to the question of how useful it is to talk of obscenity at all. The term's function, in terms of its modern history at least, may be thought of as an upshot of the two basic senses it seems to have had: (i) disgusting or repulsive to the senses (which has little if anything to do with morality) and (ii) positively indecent or immoral. The latter sense was taken up into and formalized by Anglo-American law and was utilized within the legal framework to pick out certain grounds for censorship and prohibition. But, at least from the 1960's on, the term has acquired very different connotations. For example, it became *de rigueur* to assert claims such as 'war is obscene', 'capitalism is obscene', 'environmental degradation is obscene', 'first world exploitation of the third world is obscene' and so on. Not only are such uses of the term obscenity inconsistent with the account given but the very process of using the term in such ways for the purposes of moral rhetoric has, in fact, meant that it has come to lose any precise meaning it once had. It is rather futile to give a conceptual analysis of a moral term when its sense has evolved away from that which the analysis seeks to capture because the social institutions, outlooks and attitudes which made sense of the use characterized have dwindled away. It would be rather like trying to give an analysis of 'gay' in terms of its use and function in the nineteenth and early twentieth century as if it applied in any informative fashion to our use of the term now.[24]

The point should be well taken. However, the argument I have given is not a case of conceptual analysis in the sense that I am merely seeking to capture the socio-cultural meanings and uses of the term. Rather I have sought to show that there are a certain set of complex responses giving rise to a distinctive kind of judgment that constitutes a complex moral phenomenon. Moreover, the phenomenon does have, for the reasons given, striking similarities to the kinds of things people often try to get at or articulate when

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[24] Several people expressed this kind of worry to me but I owe the articulation of it above to Anthony Ellis.

they condemn a representation or action as obscene. Of course, the account does not straightforwardly map onto all the uses of the term precisely for the reasons given. But, the point is, the account picks out precisely what people are trying to get at in some cases of what are taken to be paradigmatic instances of obscenity. For these reasons I take it to be appropriate as a normative account of obscenity. If the term is to be used in any interesting sense, then it must be the sense given by the account I have characterized. Still, if others wish to use some other new term for the complex responses and phenomenon I have mapped out then the issue is a semantic one. But I have at least good reason for my semantic preference—the account does pick out a distinctive phenomenological character which explains the complex nature of our affective responses to many things taken to be paradigmatically obscene and explains why, independently of causal considerations, some people may think certain kinds of things adjudged obscene should be prohibited.

VI: The Formalized Account of Judgments of Obscenity

An examination of the phenomenology of judgments of obscenity provides the basis for an adequate characterization. For an agent to properly judge something to be obscene the object of her judgment must naturally elicit or commendingly solicit cognitive-affective responses that abrogate her internalized moral prohibitions. Furthermore the object must do so in a way that gives rise to or is judged to warrant feelings of repulsion and yet is nonetheless found to be or to merit attraction or compulsion. The attraction arises from one or more of the following functions: the object is taken to indulge first order desires internalized as immoral that the agent has; the object is taken to indulge the second order desire to be morally transgressive or the second order desire to delight in the first order feelings of repulsion; the object taken to indulge responses internalized as immoral is taken to reward cognitive interests such as curiosity or fascination.

Although the paradigmatic kinds of cases were described in terms of objects actually being found repulsive and attractive, this is not a strict requirement. For we can and often do recognize that an object we do not find both attractive and repulsive may appropriately be found to be so, in ways we take to be immoral, by people whose interests and character though intelligible are nonetheless relevantly different from our own. The judgment of obscenity is, in this regard, similar to a judgment of moral offence—we often judge certain actions or representations to be morally offensive without ourselves necessarily being or feeling offended.

The characterization captures the core features of the paradigmatic kinds of cases of judgments of obscenity. In recognizing the central elements of repulsion and attraction the account is able to explain precisely why people tend to

get so worked up about things they deem to be obscene. For despite people's internal recognition that the responses solicited or elicited are immoral nonetheless they find themselves attracted to indulging them for the reasons given above. This is, naturally, something we find deeply uncomfortable and it is this that explains the stridency of condemnation associated with judgments of obscenity. In so doing the account clearly distinguishes judgments of obscenity from straightforward common or garden judgments of moral offensiveness that do not involve an element of attraction. The account also distinguishes judgments of obscenity from judgments of the merely grotesque or horrific where there is no sense of moral abrogation involved. It should also be noted that the moral prohibitions relevantly abrogated are those that are internalized as distinct from those consciously believed or accepted. For someone may intellectually reject the belief that pornography *per se* is immoral and yet, because of the moral prohibitions enculturated and internalized, not yet respond to pornography in ways consistent with this belief. We should be careful to avoid over-intellectualizing judgments of obscenity and the responses involved to what, primarily, is a visceral felt response more akin to feeling than thought. Judgments of obscenity arise from deep within and are more closely related to kinesthetic gut reactions to the attitudes and interests as manifest in the object of our judgment than considered, intellectual judgments.

Moreover, the account allows for the recognition that context can play a crucial part in judgments of obscenity. Objects which in isolation or in terms of their authorized purpose may not give rise to the judgment of obscenity may nonetheless do so in different contexts or when made to serve different purposes. Innocent photographs of children when used in a collage that speaks to pedophiliac desires may be deemed obscene where they are constituent parts of the object whose purpose is to solicit responses internalized as immoral.

However, before formalizing the account into a strict definition we should bear in mind an important distinction that relates to the point about context. Many of the objects we deem to be obscene are representations produced in forms the function of which are to solicit and indulge responses commonly held to be immoral, though nonetheless found attractive for the reasons given above. Snuff movies, pedophiliac pornography or pornography of a viciously violent or misogynistic kind most obviously come to mind. Anything that belongs to a central form that has the function of being obscene is obscene whether it successfully realizes its purpose or not. This condition is, however, strongly defeasible rather than absolute. A completely useless director trying to make pedophiliac pornography, an Ed Wood Jr. of the porn industry let us say, may fail so completely that the resultant movie is not even recognizably pornography. Just as, by analogy, someone's juvenilia may be so bad as to fail to constitute poetry. But anything that is recognizably pedophiliac

pornography, whether or not it successfully elicits the sought for responses, is obscene by virtue of its authorized function or purpose. By contrast objects that are not in such central forms are not properly judged obscene unless they do in fact elicit the responses of repulsion, as an upshot of internal moral prohibition, and attraction, for the reasons given.

On the basis of the above considerations the appropriate formalized definition of a proper judgment of obscenity must be as follows:

x is appropriately judged obscene if and only if either (A) x is appropriately classified as a member of a form or class of objects whose authorized purpose is to solicit and commend to us cognitive-affective responses which are (1) internalized as morally prohibited and (2) does so in ways found to be or which are held to warrant repulsion and (3) does so in order to (a) indulge first order desires held to be morally prohibited or (b) indulge the desire to be morally transgressive or the desire to feel repulsed or (c) afford cognitive rewards or (d) any combination thereof or (B) x successfully elicits cognitive-affective responses which conform to conditions (1)-(3).

An important virtue of the account as formalized is the recognition of the relativity, both at the individual and cultural level, of judgments of obscenity. Different cultures or the same culture at different times tend to judge different things to be obscene. This is explained by the socio-cultural variance in what is internalized as morally prohibited. A puritanical culture will, for example, judge many more things to be obscene than a predominantly liberal culture. Similarly within the same society, especially within a liberal culture, there will be a fair degree of divergence over some fundamental moral prohibitions. This explains why, for example, for some pornography as such not only was but is taken as obviously remaining an appropriate object of a judgment of obscenity whilst for others, unless the pornography involved solicits responses tied up with vicious violence or extreme misogyny, it is far from obvious. Indeed even over the last thirty years in contemporary Western culture there has been a massive shift regarding what is commonly held to be obscene. Whether this reflects well or badly on our culture depends upon whether certain things previously regarded as morally prohibited but no longer thought to be so really are or not. But that is a question not about what constitutes a judgment of obscenity proper but whether something is *really* obscene. Whether a proper judgment of obscenity is really merited can only be resolved by showing whether the moral prohibitions implicit in a proper judgment of obscenity are warranted or not. However, I take it that we can agree that all or most of the moral prohibitions involved in the paradigmatic kinds of cases adduced earlier are warranted. I cannot hope to settle more controversial cases—that would be far beyond the scope of this paper. Nonetheless, the account not only captures the central cases of judgments of

obscenity, something no account thus far has managed to do, but also explains why there is disagreement about the controversial cases. In philosophical terms at least, that is progress.[25]

[25] A very, very distant cousin of this paper was given at the University of Glasgow and the University of Durham. A much closer version of the paper was given whilst I was a visiting fellow at the University of Rhodes and at a seminar at the University of Natal (Pietermaritzburg). I would like to thank all those who raised points or criticisms in the various discussions. I would also like to thank Piers Benn, Ward Jones and Seiriol Morgan for several discussions on this matter, Derek Matravers, John Divers and Anthony Ellis for their detailed comments on written draft versions and, lastly, the two anonymous referees of the paper for *Philosophy and Phenomenological Research*. My thoughts on this matter have been much improved due to their promptings and suggestions.