

On the alleged perversity of the evidential view of testimony

ARNON KEREN

1. My wife tells me that it's raining, and as a result, I now have a reason to believe that it's raining. But what kind of reason for belief does her testimony provide me with? According to the evidential view of testimony (EVT), what my wife's testimony provides me with is evidence: evidence indicating that she believes that it's raining, which then indicates that it is indeed raining.

Until recently, most epistemologists of testimony, both reductionist and non-reductionist, accepted some version of EVT. In recent years, however, EVT has met with an objection in the form of what I will label the *perversity argument*. The perversity argument was first presented by Richard Moran (2005) and elaborated by Faulkner (2007, 2011) and others. They argue that in conceiving of the reason for belief provided by testimony as evidence, EVT mischaracterizes the kind of reasons normally provided to an audience by speakers' testimony. The problem with such an evidential view of testimony, it is argued, is that thought of as evidence, testimony is evidence that is deliberately produced in order to make others believe. But to the extent that testimony is to be thought of as evidence, its deliberate nature undermines its epistemic status. As a result, EVT portrays us as perversely according to testimony having a privileged status as a vehicle for knowledge. Against this, I want to argue that in spite of its initial plausibility, the perversity argument fails. For there is no reason to think that the deliberate nature of testimony, as such, diminishes its status as evidence.

2. Moran presents the perversity argument as follows:

Ordinarily, if I confront something as evidence (the telltale footprint, the cigarette butt left in the ashtray) and then learn that it was left there deliberately, even with the intention of bringing me to a particular belief, this will only discredit it as evidence in my eyes. It won't seem better evidence, or even just as good, but instead like something fraudulent, or tainted evidence. (Moran 2005: 6)

As a result, EVT entails that we should not accord to testimony the privileged epistemic status we actually accord to it:

[T]his sort of view seems to picture us as *perversely* preferring to increase our epistemic exposure, by...according a privileged place to human speech, which is here construed as a kind of evidence that has been deliberately tampered with. On the 'evidential' reconstruction of

testimony, speech functions as no more than a very possibly misleading way of learning the speaker's belief. (Moran 2005: 6, emphasis added)

The perversity argument against EVT has been particularly influential, and has led to a surge of interest in non-evidential views of testimony, of which Moran's assurance view is the most prominent. One reason for this is that the perversity argument, unlike some others, supposedly shows that EVT fails even on its own terms.¹ Since testimony has lowly epistemic status when conceived of as evidence, EVT cannot explain why we consider testimony as such a significant source of knowledge. This is why EVT leads us to see our according a privileged status to testimony as perverse.

Does EVT indeed imply that testimony has a lowly or diminished epistemic status because it is deliberately produced? Why do Moran and others claim that this is so? To see the force of their argument, consider the following case, based on one presented by Faulkner (2007: 877):

HANDKERCHIEF: When the police officer finds the suspect's handkerchief at the crime scene, this seems to provide her with good evidence that the suspect was there. But when the officer learns that the handkerchief was placed there deliberately, with the intention of making her believe that the suspect was there, 'this discredits it as evidence' (Faulkner 2007: 877). Now she does not appear to have good evidence for the same proposition.

The same is also true of other cases: the cigarette-butt left in the ashtray, the footprint in the sand. What would have been regarded as good evidence for p is not to be regarded as good evidence for p once it is known that it was deliberately produced to make one believe that p . Instead, the evidence 'is discredited' and now seems like 'tainted evidence' (Moran 2005: 6).

Similarly, the argument goes, the fact that testimony is deliberately produced to make the audience form a belief also 'undermines its evidential value' (Faulkner 2011: 64). Because of that, a view that affirms that the epistemological value of testimony is just its value as evidence leads to the conclusion that testimony has a lowly epistemic value, and hence that there is something perverse in our according a privileged epistemic status to testimony as a source of knowledge. To avoid portraying our reliance on testimony as perverse, an epistemological account of testimony would have to admit that testimony can provide us with a reason for belief, the epistemic value of which is not its value as evidence.

This argument admits of stronger and weaker interpretations, depending on how we understand the claim that the deliberate nature of testimony diminishes its value of evidence. According to the strong interpretation (the strong perversity claim), testimony is typically not good evidence for

1 Therefore, supporters of EVT cannot respond to the perversity argument as they have sometimes responded to other arguments, like those pointing to EVT's neglect of some phenomenological feature of normal testimonial encounters: namely, by denying the epistemological significance of this fact.

the attested proposition. Accordingly, EVT leads us to conceive of testimony as nothing but ‘discredited’ (Moran 2005: 6; Faulkner 2007: 877) ‘fraudulent’ (Moran 2005: 6) ‘tainted’ (Moran 2005: 6, 15) ‘very possibly misleading’ (Moran 2005: 6) ‘doctored’ (Moran 2005: 6, 18) evidence. If this is so, then surely EVT would seem to fail in its central task of explaining how we can gain knowledge by relying on testimonial evidence. According to the weak interpretation (the weak perversity claim), while testimony might provide us with good evidence for the attested proposition, perhaps even good enough to support knowledge-level justification, its value as evidence is nonetheless diminished by its deliberate nature. Accordingly, EVT leads to the conclusion that we should always prefer to learn from others about the world not by relying on their testimony, but through observation of other forms of behaviour not deliberately produced in order to make us believe. According to this interpretation, the problem with EVT is that it portrays us as perversely preferring to rely on a source of evidence that is of diminished value as compared to other sources of evidence (Moran 2005: 6; Faulkner 2011: 65–66).²

Do examples such as *HANDKERCHIEF* support either the weak or the strong perversity claims? One way of trying to support the claim is through an argument by analogy. Thus, Faulkner writes:

The fact that the husband’s ‘evidence’ . . . turned out to be an intentional product undermines its evidential value. However, if this is correct, the same is true of what people say. Ordinarily . . . *what we say* is very much an intentional product. This fact devalues testimony *as evidence*. (Faulkner 2011: 64–5)

Thought of as evidence, a speaker’s testimony that *p* is at most deliberately produced evidence for *p*, and hence, *as in HANDKERCHIEF*, evidence of diminished value.

I want to argue, however, that once we realize why the deliberate nature of the evidence in *HANDKERCHIEF* matters for its status as evidence, we can see that such cases support neither the weak nor the strong perversity claim. The deliberate nature of evidence matters for its status as evidence because knowledge of its deliberate production matters for what best explains the existence of the evidence. Typically, what would best explain the fact that the suspect’s handkerchief was found in the crime scene is the proposition that he was there; and it is because of the explanatory relation between these propositions that one is good evidence for the other (Lipton 2004). But if it is known that the handkerchief was deliberately placed at the crime scene in

2 Faulkner (2011) suggests that Lackey (2008) interprets Moran as making the strong perversity claim, and insists that the weaker interpretation is the correct one. While I agree that this weaker interpretation is more plausible, the strong interpretation can also find support in the text.

order to make us believe that the suspect was there, then the suspect being at the crime scene may not be part of the best explanation of the evidence. Instead, what best explains the existence of the evidence is someone's intention of making us believe that the suspect was there.

In some cases, however, while the fact that evidence for p was deliberately produced partially explains the existence of the evidence for p , p may nonetheless remain part of the explanation. And when the best explanation of the existence of deliberate evidence for p entails p , the deliberate nature of the evidence need not diminish its status as evidence. When Herod presented Salome with John's severed head, the fact that Herod did so in order to make Salome believe that John is dead did not diminish its value as evidence for John's death. Similarly, the deliberate nature of evidence need not diminish its status as evidence where there are good reasons to believe that the producer of the evidence is honest. For in such a case, what best explains the person's intentions of making us believe that p is her own belief that p , which is often best explained by the fact that p . It is therefore not the case that, in general, deliberately produced evidence for p is evidence of diminished value: some is and some isn't. It typically is good evidence when we have reasons to attribute honesty to its source. Since proponents of EVT typically argue that we do normally have reasons to make such attributions, the fact that testimony is deliberately produced does not mean that its value as evidence is diminished.

Perhaps, however, the point opponents of EVT try to make by pointing at cases such as HANDKERCHIEF is precisely that we do not have a default epistemic entitlement to attribute honesty to sources of testimony and deliberately produced evidence. For if attribution of honesty were indeed the justified default position, as proponents of EVT typically argue (Burge (1993); Adler (2002)); and if indeed deliberately produced evidence for p is good evidence for p when we have good reasons to attribute honesty to its producer, then would it not follow that the default position should be that deliberately produced evidence for p is good evidence for p ? Wouldn't we then have to concede that even once we recognize its deliberate nature, the evidence in HANDKERCHIEF should be regarded as good evidence for the proposition that the suspect was at the crime scene? But surely it is not! Thus the example shows, it might be argued, that we should not normally attribute honesty to sources of testimony and of other forms of deliberate evidence. At least not by default. If so, then while EVT might not entail that my reliance on my wife's testimony is perverse, it may appear to suggest that my extensive reliance on less familiar speakers is.

It is not clear whether Moran can maintain these claims without undermining his own position. But I shall not explore the question here. For the fact that recognition of the deliberate nature of the evidence in HANDKERCHIEF suffices to undermine its value as evidence does not show that the deliberate nature of testimony likewise suffices to diminish

testimony's value as evidence. There is an important difference between cases of doctored evidence, such as HANDKERCHIEF, and the kind of deliberately produced evidence that testimony is. As Moran, following Grice, has pointed out, in telling me that p a speaker does not only have the intention that I come to believe that p ; she has the higher-order intention that I come to believe this because I recognize her intention of making me thus believe. The fact that she is telling me that p with the intention that I come to believe that p is manifest, and is essential to our understanding her speech act as an act of telling. In contrast, what makes deliberately produced evidence into doctored evidence is precisely the intention to conceal the intention behind its production. The producer of doctored evidence has both the intention of making us believe a certain proposition, and the intention that we not recognize that the evidence was produced with such an intention. It is this intention to conceal the intention behind the production of the evidence which gives us, in the case of doctored evidence, positive reasons against attributing honesty to its producer. No comparable reason for attributing dishonesty to a speaker exists in the case of deliberately produced testimony, because here the intention of making us believe is manifest, not concealed.

In some cases the deliberate nature of evidence discredits it as evidence; in others it does not. We can now see more clearly what distinguishes between the cases, and why the analogy between HANDKERCHIEF and testimony breaks down: Recognition of the deliberate nature of evidence typically discredits it when its deliberate nature is concealed, but not when its deliberate nature is not concealed. At least cases such as HANDKERCHIEF do not give us a reason to believe that the deliberate nature of evidence discredits it when its deliberate nature is not concealed, as is the case with tellings.

While the analogy between HANDKERCHIEF and testimony breaks down, it might seem that we can establish the weak perversity claim without relying on the analogy: Surely, the fact that a piece of evidence is produced deliberately with the intention of making us believe a proposition opens up a possible source for error, which would not be open if the evidence were produced without such an intention. Only when evidence is deliberately produced is there a possibility that it was deliberately produced in order to mislead us. Does it not follow that the deliberate nature of testimony diminishes its value as evidence, even if it does not undermine it completely? EVT would therefore entail that, other things being equal, we should prefer other ways of learning about a thinker's belief, in particular, those that are 'not wholly dependent on his overt, deliberate revelation of them' (Moran 2005: 6).

This claim supposedly entailed by EVT is not an unacceptable sceptical conclusion. That in relying on others to learn about the world we should prefer to learn of others' beliefs not on the basis of their testimony, but on the basis of other evidence, is a bullet the evidentialist might be quite willing to

bite. But must she indeed bite this bullet? Does EVT indeed entail this claim? It is far from clear that it does.

That as a source of evidence about a person's belief, testimony, when compared with an alternative source of evidence, involves an additional risk of error, does not show that the value of testimony as evidence is lower than that of the alternative. The fact that inferring that p from evidence e_1 involves an additional source of error as compared with evidence e_2 does not mean that e_1 's value as evidence for p is diminished as compared with e_2 . This would only follow if other assumptions are made: e.g. that reliance on e_2 does not involve any additional risks of error not present when relying on e_1 . And such an assumption is not true of the comparison between testimony and other means of learning about the world from observations on other people's behaviour. While there is an additional risk of deliberate deception when relying on testimony, other types of risk are arguably diminished: Not only is the risk of interpretative error diminished when relying on testimony; arguably, the risk of non-intentionally induced error is also lower in the case of testimony than in the case of inference on the world from observation on other's behaviour. The act of telling – unlike most other forms of behaviour – is governed by both epistemic and communicative norms that diminish the risk that one would be unintentionally misled by relying on a speaker's testimony. Consider the widely discussed claim that the speech act of assertion is governed by the knowledge norm, according to which, one ought to assert that p only if one knows that p (Williamson 1996). The norm guides speakers in their choice regarding which of their beliefs to express in their testimony. As a result, a responsible speaker would not express in her testimony beliefs that have a low epistemic status.³ Other forms of behaviour, in contrast, are arguably not subject to such an epistemic norm, and so a responsible agent can reveal in his behaviour both beliefs that constitute knowledge and those that do not.⁴ So while the risk of arriving at an intended false belief is arguably greater when one relies on testimony, the risk of arriving at an unintended false belief is arguably greater when one is relying on behaviour that is not deliberately produced in order to make others form a belief. And there is no reason to believe that the increased risk of the former type of error is more significant than the decrease in the risk of the latter type. For reasons already

3 The claim still holds even if, as some have suggested, the norm of assertion is not the knowledge norm, but some other epistemic norm, such as a norm of certainty (Stanley 2008) or of reasonable belief (Lackey 2007).

4 Other communicative norms also have a similar effect. Such norms do not only require of us that we express in our testimony propositions which we hold true. In choosing which of our beliefs to express in our testimony, such norms require that we be careful not to speak in ways that may result in unintended error. Responsible speakers must be careful not to mislead their audience, even unintentionally. In contrast, when behaviour is not intended to produce beliefs in others, it is not normally chosen with consideration of the possibility that it will lead others, even unintentionally, to form false beliefs.

discussed, cases such as HANDKERCHIEF do not show this. So we have been given no good reason to believe that EVT implies that we should prefer to learn about the world by observing other people's behaviour, rather than by relying on their testimony. EVT, *pace* Moran and Faulkner, can explain why we prefer to learn from others about the weather by asking them about it, and not through observation on their non-verbal behaviour.

Of course, we can imagine possible non-existent forms of non-deliberately produced evidence which would provide us with the same kind of information about a person which testimony does, or even better: perhaps a mind reading device indicating not only that a person has some belief, but also what beliefs she has about that belief: she believes that *p*, that she knows that *p*, that she can tell us that *p* without violating any epistemic or communicative norm of assertion, without unintentionally misleading us... If we imagine the device to be sufficiently reliable, then indeed a person's testimony would provide us with evidence of inferior quality when compared with evidence provided by this device. EVT would then entail that we should prefer to rely on the device rather than on the speaker's testimony. But as long as this implication holds only for such non-existent forms of non-deliberate evidence, there seems to be nothing unreasonable about this implication. Even if it is an 'epistemic datum' that a speaker's testimony can put us in a better epistemic position than inference from her behaviour (Faulkner 2011: 66), it is certainly not an epistemic datum that a speaker's testimony would put us in a better epistemic position than our reliance on such an imagined device: Consider the case where our imagined device is ultra-reliable in indicating what speakers believe, and what they believe about their own beliefs (that they can tell us that *p* while satisfying all the norms of assertion, etc...). And suppose that a speaker just told us that *p*. Is it so clear that we would be in a better *epistemic* position if we relied on her testimony, instead of relying on our imagined device?

3. If it were sound, the perversity argument would have a two-fold significance: In addition to undermining EVT, it would also set up a task that any alternative to EVT would be required to meet. If indeed testimony had a diminished evidential value because of its deliberate nature, then to avoid failing as EVT supposedly does, an alternative to EVT would need to explain why testimony can have a better epistemic status than its status as evidence. Succeeding in this task would involve explaining how testimony can provide us with a reason for belief, the epistemic value of which, unlike the epistemic value of evidence, is enhanced, rather than diminished, by recognition of its intentional character. It is this task that the assurance view is designed to meet, and which, Moran claims, only it can meet (Moran 2005: 18). However, as I have argued, EVT does not entail that testimony has lowly status as evidence, and the perversity argument against it is unsound. Thus, whether or not EVT provides us with an adequate account of the reasons

provided to us by speakers' testimony, there is no reason to think that an adequate epistemological account of testimony must meet the kind of task which the assurance view is designed to meet.⁵

*University of Haifa
Mount Carmel, Haifa 31905, Israel
akeren@research.haifa.ac.il*

References

- Adler, J.E. 2002. *Belief's Own Ethics*. Cambridge, MA: The MIT Press.
- Burge, T. 1993. Content preservation. *The Philosophical Review* 102: 457–88.
- Faulkner, P. 2007. Telling and trusting. *Mind* 116: 875–902.
- Faulkner, P. 2011. *Knowledge on Trust*. Oxford: Oxford University Press.
- Lackey, J. 2007. Norms of assertion. *Noûs* 41: 594–626.
- Lackey, J. 2008. *Learning from Words: Testimony as a Source of Knowledge*. New York: Oxford University Press.
- Lipton, P. 2004. *Inference to the Best Explanation*, 2nd edn. London: Routledge.
- Moran, R. 2005. Getting told and being believed. *Philosophers' Imprints* 5: 1–29.
- Stanley, J. 2008. Knowledge and certainty. *Philosophical Issues* 18: 35–57.
- Williamson, T. 1996. Knowing and asserting. *The Philosophical Review* 105: 489–523.

5 Previous versions of this article were presented at meetings of the Joint Session of the Aristotelian Society and the Mind Association, the Epistemology Research Group at the Van Leer Jerusalem Institute and at a colloquium at the philosophy department, the Hebrew University of Jerusalem. For helpful comments, I am grateful to participants at these meetings, and to David Enoch, Boaz Miller, Lotem Rotbain-Sher and Saul Smilansky. I owe a deep debt of gratitude, for his comments and for much more, to Jonathan Adler, my teacher and friend, who has recently passed away.

The argument from divine indifference

JONATHAN WEISBERG

I will argue that the rationale behind the fine-tuning argument for design is self-undermining, refuting the argument's own premiss that fine-tuning is to be expected given design. In (Weisberg 2010) I argued on informal grounds that this premiss is unsupported. The argument to be offered here, the argument from divine indifference, bolsters that informal argument and answers objections due to White (2011) and Bradley (forthcoming).

The fine-tuning argument for design rests on a relatively new discovery in cosmology: that our universe's constants and initial conditions are