

# The Wrong of Lying and The Good of Language: A Reply to “What’s the Good of Language?”

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## Abstract

Sam Berstler has recently argued for a fairness-based moral difference between lying and misleading. According to Berstler, the liar, but not the misleader, unfairly free-rides on the Lewisian conventions which ground public language meaning. Although compelling, the pragmatic and metasemantic backdrop within which this moral reason is located allows for the generation of a vicious explanatory circle. Simply, this backdrop entails that no speaker has ever performed an assertion. As I argue, escaping the circle requires rejecting Berstler’s fairness-based reason against lying. The problem is a general one: The wrong of lying cannot be founded on the goods of language.

## 1 Introduction

There is a pervasive intuition that—all else being equal—*lying* is morally worse than *merely misleading*.<sup>1</sup> This intuition, at least in its weakest form, can be made more precise as the claim that there is a *pro-tanto reason* which counts against lying, but not merely misleading.

This intuition has recently come under some disrepute due to another, conflicting intuition: The method of deception, whether it be by lying or merely misleading, is irrelevant to the moral status of the deceptive act.<sup>2</sup> Just as the brand of gun one uses is not relevant to the moral status of a murderous act, the “brand” of deception one uses is not relevant to the moral status of a deceptive act.<sup>3</sup> Although there are differences be-

tween using a Remington or a Smith & Wesson—the latter is made in New York, while the former is made in Massachusetts—these are not morally significant differences. Likewise, the non-moral differences between lying and merely misleading fail to give rise to a moral difference between the two—or, at least, so the challenge goes.

Sam Berstler, in “What’s the Good of Language? On the Moral Distinction between Lying and Misleading,” aims to meet this challenge by arguing for a moral difference between lying and merely misleading.<sup>4</sup> When we lie, so Berstler argues, we do something *unfair*—not so, or at least not so in the very same way, when we merely mislead. Employing a Lewisian convention-based semantics and a Gricean theory of communication, Berstler locates the one moral reason which counts against lying, but not merely misleading, in a kind of free-riding on the Lewisian conventions which ground public-language meaning. According to Berstler, this wrongful free-riding occurs when we lie, but not when we merely mislead.

The purpose of this reply is to raise a problem for this and similar possible accounts of the wrong of lying.<sup>5</sup> As a prelude, Berstler’s account of the moral asymmetry between lying and misleading is introduced (§2). Next, the account is shown to need refinement—Berstler’s key terms allows for the generation of a vicious explanatory circle (§3). To briefly introduce the circle: For Berstler, our practice of assertion *explains* semantic meaning—due to her version of convention-based semantics—and *depends* on it—due to her conception of assertion. In other words: For a first asserter to perform an assertion, there must already be in place a practice of asserting. To break out of this circle, at least one of Berstler’s glosses of key terms needs to be revised. But, as I argue, one cannot accept any of the needed revisions while still retaining Berstler’s desired moral asymmetry between lying and merely misleading (§4). The problem for Berstler’s view is a general one: The wrong of lying cannot be founded on a “good” of language (§5).<sup>6</sup>

## 2 Berstler's View

Berstler's aim is to:

- (i) Find a difference between lying and merely misleading;
- (ii) Argue that the difference in (1) is *morally significant*; and
- (iii) Provide support for the morally significant difference in (2) being the *only* morally relevant difference between lying and merely misleading.

In other words: To find the *unique*, moral reason which counts against lying, but not against merely misleading. Although the focus of this reply is to raise an issue with Berstler's argument in the second step, it is illuminating to briefly outline the arguments for the first two.

### 2.1 A Difference

Towards introducing Berstler's purported difference between lying and merely misleading, consider the following case.<sup>7</sup>

**Cake:** Sally has just tasted her brother's cake—a cake he is exceedingly proud of baking. It is, by all estimates, astoundingly bad. When her brother asks for her verdict, she is faced with a choice in how to respond. The following two responses provide paradigmatic cases of lying, in the first case, and merely misleading, in the second.

**Lie:** The cake is delicious!

**Mislead:** This is the best cake I've had all week! (When the only other cake Sally has had was the result of a failed baking experiment, which tasted even worse than Henry's).

In **Lie**, Sally literally and assertively utters something—'The cake is delicious!'—while be-

believing that the content of her assertion—that the cake is delicious—is *not true*. The same cannot be said of Sally's utterance in **Mislead**. In this case, she literally and assertively utters 'This is the best cake I've had all week' while believing that the content of her assertion is *true*. Although she believes this content to be true, she believes to be false a second content which is being contributing to the conversation, something like (e.g.,) that the cake is good. This second content, which is not literally asserted, is *implicated*.

Berstler takes it as a necessary condition of a speaker's lying to her audience that the speaker makes "an assertion that [she] believes not to be true."<sup>8</sup> Whatever one's preferred analysis of lying, this minimal condition seems like it will be satisfied—whether or not the analysis requires an intention to deceive, a falsity condition, or something else entirely.<sup>9</sup> In the form of a necessary condition for lying, we can take Berstler to be committed to the following.

**Lying.** If a speaker lies to her hearer, then she asserts something which she believes not to be true.

Berstler requires that Sally asserts something which she believes not to be true in **Lie**, but not in **Mislead**. To get this result, we can build the difference into the very nature of assertion: In **Lie**, but not **Mislead**, Sally asserts something which she believes not to be true; while in **Mislead** she implicates (but does not assert) something which she believes not to be true. More rigorously:

**Assertion.** If a speaker asserts that *P*, then she says *P* in order to mean *P*, and she intends to contribute *P* to the conversation.<sup>10</sup>

Assertions, on this view, must be *literal*—to assert that *P*, the speaker must also *say* that *P*, where *what is said* is strongly constrained by the meaning of the sentence uttered.<sup>11</sup> In

**Mislead**, because Sally does not say that the cake is good, she does not believe to be false what she asserts—she asserts (and believes to be true) that this is the best cake she’s had all week, while not asserting any other content. By **Lying**, then, we can conclude that she does not lie.

This, Berstler thinks, is the difference between lying and merely misleading: In cases of lying, but not cases of misleading, the speaker asserts something that she believes not to be true.

## 2.2 A Morally Significant Difference

With this difference between lying and misleading as a starting point, Berstler’s next step is to show that, based on this difference, there is at least *one moral reason* which counts against lying, but doesn’t count against misleading—that is: “when we tally up the reasons not to lie and the reasons not to mislead, we will always find one further reason not to lie.”<sup>12</sup>

Berstler locates the reason in an unexpected place: The foundations of meaning. When a speaker lies, “she wrongs all members of her linguistic community” because she unfairly “misuses a linguistic convention” which prevails in her community.<sup>13</sup> So locating the *one moral reason* requires demonstrating two claims: (a) that a prevailing linguistic convention is misused when a speaker lies and (b) that this misuse is unfair.

Taking these claims in turn, Berstler assumes a Lewisian convention-based semantics as the foundations, or grounds, of public-language meaning.<sup>14</sup> Supposing such a metasemantics (and setting aside complexities such as vagueness, ambiguity, and context sensitivity): A sentence  $x$  means  $P$  in a population  $G$  only if there prevails in  $G$  a convention of *truthfulness* in regard to  $x$  and  $P$ .<sup>15</sup> Truthfulness is defined by Berstler in the following way. Letting  $G$  be a population,  $x$  be a sentence of a language  $\mathcal{L}$ , and  $P$  be what it means in  $\mathcal{L}$ :

**Truthfulness.** A member of  $G$  is truthful in regard to  $x$  and  $P$  if, and only if, she asserts  $x$  only if she believes that  $P$ .<sup>16</sup>

When speakers lie they will always fail to be truthful in the sense defined by **Truthfulness**. Despite this failure, we are, we can suppose, conventionally truthful for many (most, or all) sentence/meaning pairs of English. Isolated cases of lying don't threaten the conventionality of our truthfulness—conventions require widespread conformity, not *total* conformity. When speakers lie, they fail to conform to the linguistic convention of truthfulness without threatening its conventionality.

This doesn't show that anything "unfair" or "wrong" is done when the liar fails to conform to the convention of truthfulness—failing to conform to a convention of (e.g.) cribbage by playing to 131 points instead of the usual 121 is not wrong in any moral sense. To argue that the liar's failure to conform is unfair, Berstler appeals to fair-play obligations—obligations which arise from rule-governed, cooperative activities that are mutually beneficial. Adopting a weakened version of a Hart-Rawlsian principle of fair-play, Berstler proposes:

**Fair Play (Weak).** When a number of people engage in a just, mutually advantageous cooperative venture, according to rules, and thus restrain their liberty in a way necessary to yield advantage for all, and when you have benefited from these people's submission, you [have a reason] to conform to the rules.<sup>17</sup>

Language use is, we can suppose, a "just, mutually advantageous cooperative venture" which is rule governed—our practices of transmitting information, asking questions, giving orders, suggestions, and encouragement are all aided by having conventional associations between sentences and meanings. To reap these communicative benefits, so Berstler

maintains, we must restrain our liberty in certain ways: We must only assert what we believe to be true, we must be truthful. When we lie—but not when we merely mislead—we reaping these communicative benefits without doing our part by conforming to the convention of truthfulness which helps secure them. Therefore, when we lie—but not when we merely mislead—we fail to make good on one of our linguistic obligations. This, Berstler thinks, is *one moral reason* which counts against lying, but not merely misleading.

### 3 The Problem

Berstler provides a forceful argument for a moral difference between lying and merely misleading. The pragmatic and metasemantic backdrop within which the argument is formulated, though, allows for the generation of a vicious explanatory circle. Towards making this point, I first introduce the explanatory circle (§3.1), then demonstrate why Berstler is committed to each link (§3.2), and lastly show that this commitment is an untenable one (§3.3).

#### 3.1 The Circle

In a simple form: According to Berstler’s version of convention-based semantics, for sentences to have meaning, speakers must—at least for the most part—only make assertions while believing what they assert; *but*, at least on Berstler’s view, to assert requires that sentences *already* have meaning. This circle necessitates a revision of at least one of Berstler’s key terms. But, as I argue in §4, any such revision threatens Berstler’s proposed moral asymmetry.

Before this circle can be presented, some further remarks on the notion of *what is said* are required. There are, roughly, two views about this notion: (i) semantic views and (ii) non-semantic views. Supposing the former, the semantic meaning of the sentence uttered *partly determines* what is said by the speaker in uttering that sentence.<sup>18</sup> Supposing the latter, the semantic meaning of the sentence uttered *does not even partly* determine what

is said by the speaker in uttering that sentence.<sup>19</sup> The circle, unsurprisingly, can only be generated on *semantic views*—views that claim a determination relation between semantic meaning and saying. Also unsurprisingly, Berstler requires some sort of semantic view.<sup>20</sup>

To see why Berstler requires a semantic view of *what is said*, think back to the case of **Lie** and **Mislead**. It had to be true that in **Lie**, but not in **Mislead**, the speaker asserted (and therefore said) something that she believes not to be true. If semantic meaning plays no role in determining what is said, we have no reason to deny that the speaker in **Mislead** said (and therefore asserted) that the cake is good. In other words: She would have lied, and not merely misled according to **Lying**. So, Berstler must require that the semantic meaning of a sentence, at least in some way, plays a role in determining what a speaker says in uttering that sentence. Linking this requirement with Berstler's commitment to her version of Lewisian convention-based semantics, **Truthfulness**, and **Assertion** allows for us to generate the following explanatory circle:<sup>21</sup>

#### INSERT IMAGE HERE

Going over the problem again, but in a slightly different way: (i) Assertions, at least for Berstler, are always said (i.e., (1)  $\rightarrow$  (2)); (ii) Berstler's Lewisian metasemantics requires that our practice of assertion partially explains why sentences have the semantic properties that they do (i.e., (2)  $\rightarrow$  (3)  $\rightarrow$  (4)  $\rightarrow$  (5)); and (iii) *what is said* is, at least partly, a *semantic notion*—it depends on the semantic properties of the sentence uttered (i.e., (5)  $\rightarrow$  (1)). More succinctly: On Berstler's view, assertion requires semantic meaning and purports to explain it.<sup>22</sup>

This circle—if it is vicious in the way that I argue in §3.3—shows that we *can never* bootstrap ourselves into semantic meaning: semantic meaning requires assertion and assertion requires semantic meaning. Because of this, no sentence conventionally means anything. To put it mildly, this circle, if vicious, is an unwelcome one. But is Berstler



committed to it?

## 3.2 Commitment

The circle previously introduced has five links. The goal of this subsection is to demonstrate Berstler's commitment to each link. This commitment, as I then argue (§3.3), is an unwelcome one.

(1) → (2): Berstler is explicitly committed to this link by her adoption of **Assertion**—for a speaker to assert that  $P$ , she must *say* that  $P$ .<sup>23</sup>

(2) → (3): Berstler, again, is explicitly committed to this link—in this case, due to her adoption of **Truthfulness**.<sup>24</sup>

(3) → (4): Following Lewis, a convention of  $R$ -ing prevails in a population  $G$  only if, “within  $G$ , the following condition holds. (Or at least almost holds. A few exceptions to the “everyone” can be tolerated.) Everyone conforms to  $R$ .”<sup>25</sup>

For everyone, or almost everyone, to conform to  $R$ —in this case: asserting only what one believes—*individuals* have to conform to  $R$ . Universal generalizations, after all, are true in virtue of their instances.<sup>26</sup> But even if this is not the case—even if an instance of *Sally's* being truthful doesn't even partially explain why a convention of truthfulness prevails in the population of which Sally is a member—we can simply uniformly replace ‘Sally’ with ‘everyone, or almost everyone’ in the circle. If generalizations like ‘everyone, or almost everyone,  $\phi$ 's’ aren't dependent on individuals'  $\phi$ -ing, then they surely must be dependent on some sort of generalization. As an example, (3) → (4) would then read: Everyone, or almost everyone, is truthful regarding  $e$  and  $P$  → There prevails in  $G$  a convention of truthfulness regarding  $e$  and  $P$ . For ease of discussion, I will assume that the universal generalizations relevant to conventions are true in virtue of their instances. In other words: We can accept without revision (3) → (4).

(4) → (5): Berstler—in virtue of her explicit commitment to Lewisian convention-

based semantics—is committed to the connection between conventions of truthfulness (i.e., (4)) and semantic meaning (i.e., (5)).<sup>27</sup> Lewisian convention-based semantics *just is* the view that a convention of truthfulness at least partially explains why sentences mean what they do in a population.

(5) → (1): Besides an explicit commitment to the connection between semantic meaning (i.e., (5)) and what is said (i.e., (1)), Berstler is also conceptually so committed.<sup>28</sup> As was argued in §3.1, Berstler requires a semantic view of what is said to capture the correct result in cases like **Cake**—namely: that Sally does not lie in **Mislead**.

Berstler is committed to each of the five links of the circle. This, by itself, is of little importance unless the circle is a vicious one. As I argue, the circle is in fact vicious: Because semantic meaning requires assertion, and assertion requires semantic meaning, we can never bootstrap ourselves into semantic meaning. In other words: No sentence is semantically meaningful within Berstler’s framework.

### 3.3 Viciousness

As presented, the circle is *untensed*—there is no time-indexing. This might suggest a response to the circle’s viciousness, and even its existence. Making this suggestion more concrete, the nodes of the circle when tensed might read:

- (1) In uttering  $e$ , at  $t_0$ , Sally said that  $P$ .
- (2): By uttering  $e$ , at  $t_0$ , Sally asserts that  $P$ .
- (3): In this instance at  $t_0$ , Sally is being truthful regarding  $e$  and  $P$ .
- (4): There prevails in  $G$  at  $t_0$  a convention of truthfulness regarding  $e$  and  $P$ .
- (5):  $e$  means  $P$  in  $G$  at  $t_0$ .

This tensing of (1)-(5) suggests the following: It is not that a convention of truthfulness (i.e., (4)) depends on *current* instances of truthfulness (i.e., (3)); rather, the convention depends on *past* instances of truthfulness. In other words: To maintain the link of de-

pendence between instances of truthfulness and a convention of truthfulness, we must appeal to instances of truthfulness *before*  $t_0$ . Because (3) is not an instance before  $t_0$ , (4) does not depend on (3). More concretely: (4) depends on the believed true assertions that occurred at  $t_{-1}$ ,  $t_{-2}$ , and so on. Therefore, the circle does not arise once we appropriately tense (1)-(5).

This time-indexing makes the viciousness of the circle *more* pernicious, not less. We can't say that there prevails in  $G$ , at  $t_0$ , a convention of truthfulness regarding  $e$  and  $P$  in virtue of the past assertions performed by members of  $G$ . If we did, we could, of course, ask the question, "How could member of  $G$  previously have performed assertions?" For the close past, we can try to appeal to past assertions, but there had to have been a *first act of assertion*. Supposing Berstler's backdrop with the addition of time-indexing, it would be impossible for a first assertion to occur—and therefore impossible for a second, third, and so on, assertion to occur. Before the first asserter asserted, there would have had to have been a convention of speaker's asserting propositions which they believe. But that's surely impossible.

More concretely, let Henry be one of these pre- $t_0$  asserters and let him assert  $P$  by uttering  $e$  at  $t_{-n}$ . For him to assert  $P$  by uttering  $e$  at  $t_{-n}$ ,  $e$  must mean  $P$  at  $t_{-n}$ . For  $e$  to mean  $P$  at  $t_{-n}$ , there must be a convention of truthfulness regarding  $e$  and  $P$  at  $t_{-n}$ . For such a convention to prevail on this indexing approach, there must have been a suitable number of instances of truthful assertions *before*  $t_{-n}$ . In other words: Henry could not be the first asserter to assert  $P$  by uttering  $e$ ; there must have been a previous assertion—and even a previous convention of truthful assertions—for Henry to perform such an assertion. But, of course, Henry and his assertion are not special in this regard; for anyone to have asserted  $P$  by uttering  $e$  at a time  $t$ , there must have been a time before  $t$ ,  $t_{-n}$ , such that, at  $t_{-n}$ , there is a convention of truthfulness regarding  $e$  and  $P$ . In other words: There can never be a first (and therefore a second, or third...) assertion of  $P$  by uttering

*e*—and, because lying requires assertion, no speaker has ever lied. Further, because semantic meaning depends on a practice of assertion, this result entails that no sentence is semantically meaningful. These results are surely unacceptable.

## 4 Escapes From The Circle

The results of this circle are unacceptable, so one of the five links that composes it must be broken. There are three plausible options in breaking the chain of dependence:<sup>29</sup>

**Option-1.** Reject that asserting that *P* requires saying that *P*—i.e., (1) → (2).

**Option-2.** Reject that truthfulness is a matter of the speaker *asserting* only what she believes—i.e., (2) → (3).

**Option-3.** Reject that a convention of truthfulness (partly) determines semantic meaning—i.e., (4) → (5).

One of **Option-1-Option-3** must be accepted—as the unwelcome explanatory circle demonstrates. But, at least as I argue in this section, *none* of them can be accepted while still retaining Berstler’s desired moral difference between lying and merely misleading. In other words: Berstler’s purported moral difference is no difference at all.

Turning first to **Option-1**, can Berstler reject that asserting that *P* requires saying that *P*? This is a viable option. There are, after all, *non-literal* assertions. Not only that, but some also argue for *non-literal* lies—such lies are conceptually ruled out by the pair of **Lying** and **Assertion**.<sup>30</sup> The kind of revision to **Assertion** that is needed—at least to avoid the circle—must break the link between semantic meaning and saying, and assertion. One revision that meets this constraint is something like the following:

**Assertion\***. If a speaker asserts that  $P$ , then:

- (1) she performs a communicative act  $C$  with  $P$  as content;
- (2) with  $C$ , she intends to communicate  $P$  to an audience;
- (3) with  $C$ , she commits herself to  $P$ .<sup>31</sup>

By adopting something like **Assertion\*** instead of **Assertion**—by disentangling assertion from saying—Berstler can escape the circle. But two problems remain. First, using this conception of assertion commits Berstler to a controversial view of lying, a view adopted by Emanuel Viebahn.<sup>32</sup> Second, even if something like this controversial view is correct, Berstler's moral difference will not apply to all lies. Showing this: **Option-1** requires divorcing lying from semantic meaning. If lying is divorced from semantic meaning, then the liar does not always violate the conventions which determine semantic meaning—for a speaker to lie, she need not be free-riding on a Lewisian convention. This amounts to forfeiting, or at least greatly weakening, Berstler's main claim of finding a moral reason which counts against *all* cases of lying, but no cases of misleading.<sup>33</sup> To sum up: This option requires both a contentious view of lying and greatly weakens the scope of Berstler's conclusion.

Turning to **Option-2**, can Berstler reject that truthfulness is a matter of the speaker *asserting* only what she believes? At first glance this is a welcome revision. Lewis, after all, phrases his notion of truthfulness without appealing to assertion—or any other illocutionary act for that matter—precisely because he takes such acts to depend on linguistic conventions.<sup>34</sup> Although this revision allows for Berstler to avoid the explanatory circle, the cost would be her purported moral difference between lying and misleading. To see this, consider Lewis' own account of truthfulness:

**Truthfulness\***. A population  $G$  is truthful in regard to  $x$  and  $P \leftrightarrow$  Each member of  $G$  is such that:

[T1] They *utter*  $x$  only when they believe that  $P$ , and

[T2] They participate in verbal exchanges by occasionally uttering  $x$ .<sup>35</sup>

The problem here is a simple one: If one of the wrongs of lying stems from the liar's failure to be truthful, then *any* failure of truthfulness should also share in that wrong. Making this concrete, consider the following case.

**Non-Literal:** Sally, after eating a meal that would satiate a horse, responds to her grandmother's question—"Are you hungry?"—with a *sarcastic* "I'm starving!"

In this case, Sally fails to conform to Lewis' version of truthfulness—she utters something (i.e., 'I'm starving') without believing the relevant proposition (i.e., that she, herself, is starving). So, if a wrong of lying is tied to failing to conform to Lewis' version of truthfulness, then every non-literal kind of speech—sarcasm, irony, metaphor, hyperbole, etc.—is wrong for the very same reason that lying is wrong.

Lastly, turning to **Option-3**, can Berstler reject that a convention of Berstlerian truthfulness (partly) determines semantic meaning? Accepting this option would constitute a denial of Lewisian convention-based semantics, and therefore offer an escape from the explanatory circle. But, this option would block Berstler's appeal to *fair-play* principles. Such principles require that the "cooperative venture"—sharing a public language—necessitates some restraining of liberties—asserting only what you believe. If Berstlerian truthfulness is *not necessary* for the benefits of a shared public-language—as it would be if we reject Lewisian convention-based semantics—then **Fair Play (Weak)** and other similar principles will not provide a moral reason which counts against lying; let alone one which counts against lying, but not merely misleading.

As I have argued, Berstler's purported moral difference between lying and merely misleading requires a pragmatic and metasemantic backdrop within which we can generate an explanatory circle. To break out of this circle, we either needed to: (**Option-**

1) commit to a contentious view of lying, while accepting that Berstler's wrong counts against *only some* lies; (**Option-2**) allow for the wrong of lying to *also* be a wrong present in all cases of non-literal speech; or (**Option-3**) forfeit the link between fair-play obligations and lying, and thereby abandon the moral reason which counts against lying. Once we adopt any of these options, we lose a plausible account of the wrong of lying altogether.

## 5 Broader Lesson

The problem raised in this paper, in one form or another, does not only arise due to the details of Berstler's view. A broader lesson can be drawn: We shouldn't look to the goods of language to find the unique wrong of lying.

What are the *goods of language*? Certainly the chief good is the communicative potential provided by sharing a language. This potential can be traced back to two kinds of features of language and language use: Pragmatic and semantic features. Pragmatic features of language use have to do with how and what we communicate beyond what we literally say—including, but not limited to, implicatures and non-semantic presuppositions. Semantic features have to do with the properties of languages themselves—including what words and sentences *mean* in that language. The communicative potential provided by sharing a language arises from these two features. Because of this, the wrong of lying, if the wrong is connected to a good of language, must be linked to one of these pragmatic or semantic features. The structure of these possible views will be similar: Find a pragmatic/semantic difference between lying and misleading, and then argue—via fair-play and meta-pragmatic/meta-semantic principles—that the liar, but not the misleader, is free-riding on some pragmatic/semantic good of language. Whether the good proposed is traced back to pragmatic or semantic features, this methodology is flawed.

To see this, suppose the proposed good of language that sheds light on the wrong of lying is pragmatic in nature. This would require that there is a pragmatic difference

between the liar and the misleader. The problem is that the misleader, and not the liar, is the one who abuses pragmatic features of language: They are the ones who deceive by implicating and presupposing believed false propositions.

If, instead, we suppose the good of language to be linked to semantic features, then the circle argued for in this paper will arise in one form or another. To see this, consider a metasemantic view *M*. This avenue will have to argue that the liar, but not the misleader, acts contrary—at least in some way—to *M*. As an example: The liar fails to conform to a convention of truthfulness. But, *M* partially and indirectly determines whether a speaker lies in the first place—it does this by determining what is said, and therefore asserted, by the liar in lying. In other words: The circle will arise in one form or another for all proposed metasemantic views which count the liar, but not the misleader, as failing to conform to what that view dictates.

Although this discussion of the broader lesson has been rather abstract, the lesson itself can be put rather simply: Lying requires language, so the goods of language cannot help explain the unique wrong of lying.



## Notes

<sup>1</sup>It should be noted that ‘mislead’ is a *success* verb—to mislead, the misleader must succeed in misleading. It also has a non-intentional reading—a misleader might *accidentally*, or *unintentionally*, mislead. My focus is the success-neutral, intentional notion of *intentionally trying to mislead*, but for readability I will simply talk about *misleading*.

<sup>2</sup>See Jennifer Saul, *Lying, Misleading, and What is Said: An Exploration in Philosophy of Language and in Ethics* (Oxford: Oxford University Press, 2012), among others.

<sup>3</sup>*ibid.*, 7.

<sup>4</sup>Sam Berstler, “What’s the Good of Language? On the Moral Distinction between Lying and Misleading,” *Ethics* 130, no. 1 (2019): 5–31.

<sup>5</sup>A different problem has recently been proposed by Emanuel Viebahn, “Lying, Misleading, and Fairness,” *Ethics* 132, no. 3 (2022): 736–751. The main problem raised by Viebahn’s reply—although certainly not the only one—relies on a contention view of lying; Viebahn’s commitment-based view of lying allows for presuppositional lies and non-literal lies. For more discussion of this view see Emanuel Viebahn, “Non-Literal Lies,” *Erkenntnis* 82, no. 6 (2017): 1367–1380, Emanuel Viebahn, “Lying with Presuppositions,” *Noûs* 54, no. 3 (2019), and Emanuel Viebahn, “The Lying-Misleading Distinction: A Commitment-Based Approach,” *The Journal of Philosophy* 118, no. 6 (2021): 289–319. For a recent criticism, see Neri Marsili and Guido Löhr, “Saying, Commitment, and the Lying–Misleading Distinction,” *Journal of Philosophy*, (forthcoming), As we will see, Berstler’s account of the moral difference between lying and merely misleading would not apply to such lies. So, granting that Viebahn is right about these kinds of lies, Berstler’s view does not provide a moral reason which counts against *all* lies. Although I am sympathetic to something close to Viebahn’s account of lying, I will not be relying on any specific view in this reply.

<sup>6</sup>This is not to say that there is no moral difference between lying and merely misleading; only that, if there is such a difference, we must look elsewhere than the “goods” afforded by language.

<sup>7</sup>This case is adapted from Berstler, “What’s the Good of Language,” 6.

<sup>8</sup>Berstler, “What’s the Good of Language,” 8.

<sup>9</sup>Still, some question even this minimal condition. See Brian Haas, “Lying With ‘Ouch!’ and ‘Oops!’,” (Unpublished Manuscript, January 2023), typescript.

<sup>10</sup>Berstler, "What's the Good of Language," 8-9.

<sup>11</sup>By building lying on assertion, and assertion on saying, Berstler is following Don Fallis, "What is Lying?," *The Journal of Philosophy* 106, no. 1 (2009): 29–56, Thomas Carson, *Lying and Deception: Theory and Practice* (Oxford: Oxford University Press, 2010), Andreas Stokke, *Lying and Insincerity* (Oxford: Oxford University Press, 2018), among others. To one degree or another, all require lies to be said. A notable exception to this tradition is Viebahn, who does not require lies to be said. For citations, see fn. 5.

<sup>12</sup>Berstler, "What's the Good of Language," 10.

<sup>13</sup>Berstler, "What's the Good of Language," 17-18.

<sup>14</sup>Public-language meaning just being the meaning of signs, sentences, and signals for a population.

<sup>15</sup>See David Lewis, *Convention: A Philosophical Study* (Malden, Mass: Basil Blackwell Ltd, 1969), 194 and David Lewis, "Languages and Language," in *Minnesota Studies in the Philosophy of Science*, ed. Keith Gunderson (University of Minnesota Press, 1975), 3–35. For criticism of this condition on language use, see John Hawthorne, "A Note on 'Languages and Language'," *Australasian Journal of Philosophy* 68, no. 1 (1990): 116–118. If this or other criticisms are successful, Berstler's fairness-based account fails. But, for the sake of argument, let us assume that a convention of truthfulness is necessary for using a language.

<sup>16</sup>Berstler, "What's the Good of Language," 18. Three things should be noted about this account of truthfulness. First, Berstler talks about assertions of *sentences*. This, I think, is best read as equivalent to propositional assertion—where  $x$  is a sentence, something like: by uttering  $x$ , she asserts that  $P$ . Second, Berstler departs from Lewis' own statement of truthfulness by appealing to the notion of assertion—Lewis makes no use of the notion. Rather, he appeals to *utterances* of sentences. Lastly, Lewis focuses on what it is for a population (or individual) to be truthful in a *language*, not single pairs of sentences/meanings. The second departure, at least as I argue in §4, is problematic. For Lewis' own account of this notion, see Lewis, *Convention: A Philosophical Study*, 178-179 and Lewis, "Languages and Language," 7.

<sup>17</sup>Berstler, "What's the Good of Language," 21. For the Hartian and Rawlsian inspiration, see H.L.A. Hart, "Are There any Natural Rights?," *The Philosophical Review* 64, no. 2 (1955): 175–191 and John Rawls, *A Theory of Justice* (Cambridge, Mass: Harvard university press, 2009). For critical discussion, see Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974) and John Simmons, *Moral Principles and Political Obligations* (Princeton: Princeton University Press, 1981), Ch 5.

<sup>18</sup>See, among others, H. P. Grice, "Utterer's Meaning and Intentions," *Philosophical Review* 78, no. 2 (1969): 147–177 and Kent Bach and Robert Harnish, *Linguistic Communication and Speech Acts* (Cambridge, MA:

MIT Press, 1979).

<sup>19</sup>See Herman Cappelen and Ernest Lepore, *Insensitive Semantics: A Defense of Semantic Minimalism and Speech Act Pluralism* (New York: John Wiley & Sons, 2008).

<sup>20</sup>Berstler explicitly endorses a Gricean view of *what is said* (Berstler, “What’s the Good of Language,” fn.12 and fn.11). On such a view, a speaker says that *P* if, and only if, the speaker did something *x*: (1) by which the speaker tries to communicate that *P* and (2) which is [an utterance of] a sentence part of the meaning of which is ‘*P*.’ See Grice, “Utterer’s Meaning and Intentions,” 148-150.

<sup>21</sup>Arrows represent partial determination, part of a reduction, or partial ground; the reader may take their pick of irreflexive and transitive metaphysical relations of dependence.

<sup>22</sup>More abstractly: Berstler requires that there is some act,  $\phi$ -ing, such that  $\phi$ -ing requires a convention of  $\phi$ -ing to already be in place. But that’s surely not possible.

<sup>23</sup>See Berstler, “What’s the Good of Language,” 8-9.

<sup>24</sup>See Berstler, “What’s the Good of Language,” 18.

<sup>25</sup>See Lewis, “Languages and Language,” 5.

<sup>26</sup>See Kit Fine, “Guide to Ground,” in *Metaphysical Grounding*, ed. Fabrice Correia and Benjamin Schnieder (Cambridge: Cambridge University Press, 2012), 37–80.

<sup>27</sup>See Berstler, “What’s the Good of Language,” 18.

<sup>28</sup>See Berstler, “What’s the Good of Language,” fn. 11 and fn. 12.

<sup>29</sup>And two implausible ones.

**Option 4:** Reject that a convention of truthfulness depends on there being instances of truthfulness—i.e., (3)  $\rightarrow$  (4). Adopting this option—besides being implausible—would threaten Berstler’s appeal to **Fair Play (Weak)**; if either individual or general instances of truthfulness are not necessary for a convention of truthfulness to prevail in a population, then speakers need not restrain their liberties by being truthful in order to gain the benefits of language.

**Option 5:** Reject that *what is said* is at least *partly determined* by the meaning of the sentence uttered—i.e., (5)  $\rightarrow$  (1). For discussion on why this is implausible, see §3.1.

<sup>30</sup>For discussion of non-literal lies, see Viebahn, “Non-Literal Lies.”

<sup>31</sup>This conception of assertion is employed in the definition of lying found in Viebahn, "The Lying-Misleading Distinction: A Commitment-Based Approach," 300.

<sup>32</sup>See fn. 5 for a presentation of this view, and a recent criticism.

<sup>33</sup>For discussion of this point, see Viebahn, "Lying, Misleading, and Fairness," 742-750.

<sup>34</sup>Lewis, *Convention: A Philosophical Study*, 152-159.

<sup>35</sup>See *ibid.*, 178-179 and Lewis, "Languages and Language," 7-8.