



MASTER IN ANALYTIC PHILOSOPHY

TFM/Final Research Paper

September 2023

Title of the thesis

**You shall not lie nor mislead (unless it is a
need)**

by ANDREA HUETE RODRÍGUEZ

Under the supervision of:

TERESA MARQUES



Abstract

In this paper, I defend the thesis that we have no grounds to say that misleading is morally preferable to lying. For this purpose, I first examine all the relevant philosophical positions on the discussion of the moral standing of lying in contrast with misleading, reviewing not only the main arguments for each one but also specific objections against most of them. Then, I carefully analyze Herzog's very recent argument which seems to be in favor of the traditional idea that misleading is better than lying and give reasons as to why her proposal is not convincing. Since Herzog's attempt to defend the traditional view is unsuccessful, as previous ones made by other philosophers, I argue that, in general, we have no good reason to think of misleading as a respectable alternative to lying.

Keywords Social ethics · Deception · Lying vs. misleading

Acknowledgements

I would like to express my gratitude to my supervisor, Teresa Marques, not only for her guidance during this particular project, but also for her constant support throughout my master's program, which has helped me to build up my self-confidence as a philosopher. I would also like to thank Neri Marsili for briefly introducing my colleagues from Topics in Semantics and Pragmatics and me to the discussion on the morality of lying in contrast with misleading. If not for him, maybe I would have never written this paper. In addition, I would like to thank my dear friend, Aina Tubau, for her encouraging words and belief in me, and for a very insightful question regarding my original arguments in this specific work.

1.Introduction

As children, most of us were told not to lie. Our parents, teachers or other adults told us that lying was bad, or that lying would make our nose grow like that of Pinocchio's. Other

children shame their peers who they think have lied saying things such as “liar, liar, pants on fire!”. However, I bet you have never heard something like “misleader, misleader, coward language cheater!”. One could think that there is a general consensus that misleading is not wrong, or, at least, not as wrong as lying.

Indeed, there has been a long tradition, rooted in christianity, of thinking that lying ought to never be done, while considering misleading acceptable if by doing so one can do good. St. Athanasius, a devoted christian who was being pursued by heretics supported by the Roman Emperor who were against his religious teachings, chose to mislead, avoiding the terrible sin of lying, when he bumped into his persecutors while rowing on a river. Lucky enough not to be identified, he was asked “Where is the traitor Athanasius?”, to which he replied “Not far away” (Geach, 1977, p. 114, as cited in Strudler, 2010). Apparently, this misleading answer got him to row past his persecutors unsuspected and unhurt. Perhaps you yourself have a deep-seated belief that lying is always wrong and, when facing an unwanted question, have chosen to use similarly misleading answers.

Although this absolutist moral prohibition against lying has been challenged notoriously, for instance, with the famous case of the murderer at the door who is asking for the whereabouts of their innocent potential victim, many philosophers insist that lying is generally worse than misleading, and that, if one needs to deceive someone, they should do so by means of misleading rather than lying whenever it is possible. Most recently, Herzog (2020), has argued that in cases in which there is a salient social rule against lying, acts of misleading are often morally preferable. In this paper, I argue that we have no reason to think that misleading is morally better than lying.

In section 2 of this paper, I present specific definitions of both lying and misleading, to provide some clarity to the lying/misleading distinction. In section 3, I analyze the main different positions regarding the moral standing of lying versus misleading, focusing on the key arguments put forward for each position and objections against them. Finally, in section

4, I defend my thesis, that lying is not morally better than misleading, by arguing against Herzog's recent argument which relies on social norms, as we have seen above.

2. The lying/misleading distinction

What exactly makes lying and misleading different types of communicative deception is still being discussed by philosophers such as Viebahn (2021) and García-Carpintero (2023). Moreover, some empirical findings suggest that lay people do not make a clear-cut distinction between lying and what philosophers typically consider misleading (Reins & Wiegmann, 2021). Nonetheless, in the literature regarding the moral standing of lying versus misleading, philosophers often offer or assume a precise definition of both lying and misleading (see Adler, 1997; Strudler, 2010; Saul, 2012; Webber, 2013; Rees, 2014; Berstler, 2019; Pepp, 2020; Herzog, 2020). Typically, lying is defined or pictured as asserting a proposition one knows or, at least, believes to be false, with the intention of deceiving someone. On the other hand, misleading is characterized as asserting a proposition that one believes true, with the intention of conveying a conversational implicature one believes to be false.

Since my aim here is to join the discussion on the moral standing of both lying and misleading when compared to each other, I also assume the aforementioned definitions of the two forms of communicative deception.

3. The moral standing of lying vs. misleading: four different perspectives

As I mentioned before, there is a long tradition of thinking that lying is worse than misleading. St. Athanasius and many others were surely convinced of it. However, philosophers have put forward several different views. It is my purpose to examine the most important ones in this section. First, I review relevant arguments that support the aforementioned traditional point of view. Next, I analyze the view that there is no morally relevant difference between lying and misleading. Then, I delve into the idea that misleading

is actually worse than lying. Finally, I explore the proposal that there is a morally relevant difference between lying and misleading, but that this difference implies that there are cases in which lying is worse than misleading, cases in which lying is better than misleading and cases in which choosing one over the other is morally insignificant.

3.1. If you have to deceive, choose misleading over lying

Other than the religious motivation to avoid lying like the plague, the absolutist prohibition against lying also found support in the ethics of Kant. When challenged by Constant (1797) on his proposal for an unconditional duty to not lie, on the grounds that such a duty would require us to reveal the location of a potential innocent victim to someone who we know intends to kill them, Kant (1797) argued that everyone has the strictest duty to truthfulness in statements which they cannot avoid, even if their true statements do harm to themselves or others. In fact, if one's truthful statement has someone else's suffering as a consequence, Kant considers this harm to be caused by accident, since he believes no one is free to choose to lie because we have an unconditional duty not to do so. For all of us who, from the start, doubt that there is such a duty, the consequences of Kant's view on lying seem too extreme. Many of us would accept that there are instances in which one would be morally justified to lie, and the case of the murderer at the door is indeed a good example. However, some might insist that even in such cases we should not lie, since we can mislead instead (assuming staying silent is not a viable option). Like Athanasius, we can do our best to protect ourselves and others from harm without lying, using other means to deceive. But, what would make misleading a better option, morally, compared to lying?

According to MacIntyre (1994), some, including Kant, appear to be of the opinion that while it is our duty to assert only what (we think) is true, the false inferences which others may draw from what we say are, in some cases at least, not our responsibility, but theirs. As Adler (1997) notes, the underlying idea here is that each individual is a rational,

autonomous being and so fully responsible for the inferences they draw. Since lying leaves less space for the hearer to make inferences, the liar seems to have more responsibility than the misleader for their audience coming to believe a falsehood, which is supposed to make misleading the better option. Saul (2012) effectively disarms this notion. As she observes, even if we accept that the speaker actually shares responsibility with the audience, this does not necessarily imply a reduction of the wrongness of the deception that has been perpetrated. As she notices, we cannot move so quickly from sharing of responsibility to a reduction in badness:

Compare two mugging victims. Victim A is always careful to only walk through safe parts of town in full daylight. Victim B often ventures out late at night in dangerous areas, with money hanging out of his pocket. Both are beaten up and have their wallets stolen—Victim A in a good part of town in broad daylight, and Victim B in a bad part of town in the middle of the night. It seems perfectly reasonable to say that Victim B, who has been reckless, bears some responsibility for being mugged, while Victim A does not. But does this make the mugging itself less bad in the case of Victim B? Clearly not. Nor does it even make the mugger less culpable. (Saul, 2012, pp. 4-5)

As she points out, a mugger who only commits his crimes in an unsafe part of town is not in any way nicer than a mugger who does so in safe parts. Other things being equal, we would consider both muggers as equally blameworthy. Some might object that, since the wrongful action in both scenarios is the same (i.e. mugging), Saul's example cannot be applied to lying and misleading. While I think her point that we cannot move carelessly from sharing of responsibility to a reduction in badness still stands, I think it would be useful to imagine a different case:

Suppose Moriarty wants Cherry, an unknown criminal, to poison Dr. Watson. On a given occasion in which Watson has accepted an invitation to a tea party, Cherry has her long-awaited opportunity to end Watson's life and hear Moriarty's praise. She has two different options to fulfill her purpose: she can either put poison in a cup of tea and offer it to Watson, or put poison in the tea and offer Watson an empty teacup, a bottle of water and a teapot full of poisonous tea for him to serve himself. Either way, Watson will end up drinking poisonous tea and dying in agony. Will Cherry be less blameworthy for Watson's death if she goes with her second option and offers him an empty **teacup**, a bottle of water and a teapot full of poisonous **tea** in a **tea party** and Watson, unsuspecting of her intentions, proceeds to serve himself some tea from the assassin's teapot? I think not.

Now, think of falsehood as poison and communicative deception as poisoning. When Cherry offers Watson the poisonous cup of tea, she does something similar to the liar, who directly offers a falsehood for the audience to accept or refuse (but, in all likelihood, accept). When she, alternatively, chooses to offer Watson an empty cup of tea and so on, she does like the misleader, who offers everything that is needed for the audience to end up forming a false belief in a context in which it is highly unlikely that the audience will not end up doing so. Watson will not serve himself water in a teacup in a tea party when he has tea right in front of him, but Cherry might say she offered Watson a bottle of water and she was just leaving the teapot on the table in front of him because it was too hot to handle, just like the misleader can try to deny that they meant what they actually meant, knowing well that their audience did not have much of a choice to form a different belief unless they already suspected them of being manipulative and deceitful.

Whether Watson takes a poisoned cup of tea or unknowingly serves himself poisonous tea in an empty teacup, unwillingly causing his own death, has no impact on

Cherry's blameworthiness for his death. In the same way, whether one innocently accepts a false statement or comes to believe an implied falsehood that is needed to effectively make sense of the statement actually offered in a given context has no significant impact on how blameworthy is the deceiver for their audience forming a false belief. As Saul argues, then, when it comes to communicative dishonesty, whether the audience shares some responsibility or not in a given case of deception cannot be a justification for morally preferring misleading to lying.

Favoring the view that lying is generally worse than misleading, Adler (1997) argues that, since there are times in which we have a legitimate need to deceive (such as when we want to maintain our privacy or deal with others with politeness and tact), we have a pragmatic justification for preferring misleading to lying. This need, he suggests, generates a norm of conversation to the effect that truthfulness is more important with respect to what we say than what we otherwise convey. This norm of conversation, he suggests, 'acquires moral force'. As Saul (2012) highlights, if the reason for allowing some kinds of deception is that sometimes we have a legitimate reason to deceive, a lessened demand for truthfulness when one has legitimate reason to deceive would make better sense than one that focuses on the method of deception. As she remarks, we accept violence in cases of self-defense although we generally think that violence is bad, but we do not focus significantly on the method one uses for self-defense (of course, if the degree of violence exceeds the required for such purpose, one can suspect cruelty or other motives for violence, such as retribution, but that would be a different issue and it is clear that both lying and misleading simply to harm others are unacceptable, the point here is that if we can lie or mislead harmlessly when we have legitimate reasons to deceive it seems irrelevant which one we choose to do).

On another note, Strudler (2010) suggests that although both lying and misleading involve an aim to breach a trust, telling something to someone inherently involves asking for a greater degree of trust than merely implicating something, so lying is generally worse than

misleading. According to the philosopher, one cedes more control to a person in trusting their assertion than in trusting their implicature, when the former and the latter express the very same proposition: if one accepts an implicated proposition, one reserves the capacity to raise doubts about it consistently with continuing the enterprise of a trust-based conversation, but when one accepts an asserted proposition, one ordinarily loses that capacity. Since, in his view, an audience that trusts an assertion gives up more control than one that trusts an implicature, one invites greater trust in asserting than in implicating. According to Strudler, when trusting, one transfers the effective locus of their decision-making on the truth of given beliefs to their conversational partner, thus, by betraying their audience's trust, a speaker compromises their autonomy, and since the audience foregoes greater control when deriving the relevant belief from an assertion than from an implicature, this compromise of their autonomy is worse when the speaker lies than when they mislead.

Webber (2013) points out that Strudler has not explained why questioning someone's assertion is, apparently, more destructive of trust in a conversation than questioning their conversational implicature. As Webber views it, this can easily be explained by the fact that one can damage one's credibility in implicature without thereby damaging one's credibility in assertion. On his account, to be caught lying damages one's credibility in assertion (the more important the lie, the more damage), and to be caught implicating a falsehood damages one's credibility in implicature. If one does not trust someone in assertion, they will not trust them in implicature, but the opposite does not happen, according to the author. This asymmetry supposedly justifies society in finding the liar more shameful than the misleader, as lying is taken to damage an informant's credibility as a whole, and this would be more detrimental to our collective needs as an epistemic community than an act that only damages the credibility of that informant's conversational implicatures. The latter leaves us with the option of checking such implicatures by asking the same informant the requisite simple question. This leads Webber to claim that if one must depart from honesty, misleading is the best option.

However, both Strudler and Webber seem to follow their own personal intuitions on this matter, since people who are known to be dishonest by means of misleading might not really maintain their credibility in assertion (they might just be considered a dishonest person in general and so not trusted in assertion nor implicature) and it does not look like one raising doubts for assertion would cease trust-based conversation any more than raising doubts about implicatures (see Pepp, 2020, for more on this discussion).

Following a different train of thought, Berstler (2019) defends that lying is worse than misleading because liars, but not misleaders, act against the principle of fair play, a moral principle that governs how we cooperate and says that if one benefits from a practice, then one must conform to that practice. The idea is that words inherit their representational properties from the sentences in which they are embedded, and sentences, in turn, inherit their representational properties from mental states. Self-perpetuating conventions associate the relevant sentences with the relevant mental states. These conventions are the following:

Let x be a sentence and p a proposition. If x (conventionally) means p , then:

Truthfulness: (a) Speakers assert x only if they believe p .

Trust: (b) If speakers assert x , their addressees come to believe p (unless they have some other reason not to). (Berstler, 2019, p. 18)

In our practice of language, to assert honestly and to trust our conversational partners are conventions that benefit us all. If my brother lies to me, saying “I didn’t eat your oatmeal cookies”, he is benefitting from linguistic conventions without conforming to them, so he is acting unfairly towards me and other members of the linguistic community who expect him to follow the linguistic conventions that allow us to have a useful, meaningful language. As per Berstler, implicature does not play this essential metasemantic role because cases of implicature are not cases of conventional meaning, and so, misleading is morally advantageous over lying. Going back to the oatmeal cookies example, consider the case in

which my brother does not like oatmeal cookies, yet he ate them all because he was hungry and had no time to prepare a proper meal for himself due to some work which he urgently had to take care of. If my brother told me “You know I don’t like oatmeal cookies” after I asked him if he ate my cookies, he would be stating something that is, indeed, true. By doing so, he would also imply a falsehood (namely, that he didn’t eat the cookies). He would be dishonest, and so, he would be blameworthy. However, on Berstler’s account, because by misleading he did not act against the principle of fair play, since he followed the regular linguistic conventions that are actually in place (he asserted only what he believed to be true), he would be less blameworthy than if he had chosen to lie instead.

Against Berstler’s argument, Viebahn (2022) argues that, intuitively, the choice between lying and misleading matters more for the addressees than it does for uninvolved people of the same linguistic community, that there are some lies that do not exhibit the unfairness Berstler identifies, and that fairness is not the only morally relevant difference between lying and misleading. To be more specific on the second point, Berstler’s account seem to leave out metaphorical assertions such as “The nuclear reactor is a tinderbox” and non-literal lies like “I’ve got tomatoes coming out of my ears” coming from a gardener who has had a very poor crop of tomatoes this season.

Recently, Herzog (2020) has argued that, given that social norms can play an important role in supporting morality, individuals have a responsibility to preserve such norms and to prevent ‘cultural slopes’ that erode them. This means that, wherever there are norms against lying, but not misleading (or stronger norms against lying), acts of misleading are morally preferable. This, when we think of a community heavily influenced by a religious past in which the absolutist prohibition against lying was commonplace, or a community influenced by Kant’s view on lying, would pave a way for a new defense of the idea that one should always choose misleading over lying if one needs to be dishonest. I argue against Herzog’s proposal in section 4.

3.2. You might as well lie

Bernard Williams (2002) argued against the view that misleading is morally preferable to lying. As he sees it, Athanasius treated the act of making a false assertion as morally different than more indirect deceptive acts for no good reason, “fetishizing” assertion. After all, both lying and misleading involve betraying someone’s trust. He is not alone in supporting the thesis that misleading is not generally better than lying, for Saul (2012) makes a similar point. She states that, except for particular contexts in which the speaker’s responsibility is narrowly confined to just what she asserts (for instance, in a courtroom), we cannot say that acts of misleading are better than acts of lying. She thinks that decisions to lie or mislead are often morally revealing, and that this, together with an excessive focus on the cases in which the choice to mislead reveals something admirable, wrongly leads us to believe that acts of misleading are morally better than acts of lying.

On Saul’s (2012) account, because some people hold the false belief that misleading is morally better than lying, them choosing to mislead instead of lying can reveal an admirable desire to reduce the wrongness of one’s deception. However, as she remarks, the same decision can be made with the intention of being able to retain plausible deniability and so, escape any consequences of their attempted act of deception, which is not admirable in any way, but rather morally problematic. A similar situation holds for lying. As the philosopher argues, one can lie because they totally disregard morality when it comes to deception, but one could lie thinking that it is the best option from a moral standpoint. To illustrate this, she goes back to the case of the murderer at the door that was highlighted in the discussion between Constant and Kant’s regarding the absolute prohibition of lying. As she observes, if the person at the door wants to make sure that they save the murderer’s potential victim, and lying looks like the best way to do it, given that a person’s life is far more important than the alleged difference between lying and misleading, them choosing to lie would be more

admirable than them choosing to mislead just for the sake of possibly preserving their own moral purity¹.

All in all, in Saul's view, acts of misleading and of lying are, generally, morally on a par, and there is no reason for thinking otherwise.

3.3. Lying is actually better than misleading

As Saul (2012) mentioned, there are cases in which one can resort to misleading in hopes of not needing to own up to their misbehaviour as deceivers. One could think that such a particular case of misleading would be morally worse than lying in the same circumstances. Nonetheless, would anyone claim that misleading is generally worse than lying? Unexpectedly, turning the tide, Rees (2014) argues that not only is misleading no better than lying, but it is actually worse. Contrary to what others have defended, Rees considers that far from reducing the deceiver's culpability, the greater and more active responsibility of the merely deliberately-misled for their own deception actually aggravates the wrongness of deceiving them. The idea behind this thesis is that deliberate misleading involves a greater betrayal of trust than lying since it depends on the deceived person cooperating more actively in their own deception. Since, according to Rees, assuming conversational cooperation is both a moral and an epistemic obligation² for any interlocutor who does not have positive reasons to distrust their conversational partner, and since the misleader relies to a much greater extent on their victim's trust and willingness to cooperate than the liar, misleading acts are worse than lying.

¹ One might object that the person at the door could also mislead to protect themselves from accusations of lying if they're discovered to cover up the victim, but a murderer might very well want to punish misleading if they suspect they have been misled, or even just attack the person at the door for not being accurate despite their intentions. While choosing to mislead rather than lying does not really guarantee any protection against the murderer, lying instead of misleading does make it more likely that the murderer does not find the person they are after.

² It is Rees' (2014) belief that we have an epistemic obligation to assume cooperation because we are all epistemically interdependent and epistemic cooperation requires presuming fellow conversants cooperative. On the other hand, she thinks that this obligation is also a moral one because, as she sees it, moral knowledge depends on epistemic cooperation, communication is essential for our well-being as social creatures, and treating others with respect requires expecting them to be trustworthy in the absence of evidence to the contrary.

One could argue that there is not really an obligation to assume that others are being cooperative, but perhaps just to act as if they are being cooperative while knowing that they might not be (since we know enough not to place our trust on others unless we have positive reasons to do so³), since that would allow us to continue communicating without any problem, but it is not really necessary since Rees' argument already faces a more direct objection. As Berstler (2019) notes, while the victim of a liar may not make use of the cooperativity assumption in recovering the assertion, the victim still makes use of the cooperativity assumption in deciding to believe the lie, they mistakenly believe that the liar is cooperating toward a shared goal, so both the liar and misleader exploit the victim's mistaken belief that the deceiver is cooperating. Pepp (2020) also points out that the deceived's trust which is betrayed either by a lie or by an untruthful implicature is the same trust.

3.4. Neither misleading nor lying are better in nature, it's a case-by-case issue

Timmermann and Viebahn (2021) hold that the relationship between lying and misleading is complicated and there is not a general answer to whether one should choose one over the other in a situation in which they intend to deceive someone. On their account, while the natures of lying and misleading differ in a way that accounts for a difference in their moral evaluation (liars *commit* themselves to something they believe to be false, while misleaders avoid such commitment), this difference makes it possible that lying happens to be worse than misleading in some cases, better in some others, and neither worse nor better in yet other ones. As they see it, the difference in commitment between lying and misleading allows different moral factors to bear on the overall moral evaluation of the deceiving action in different cases. To illustrate this idea, they present several instances of communicative deception. Here are the most relevant ones.

³ This point would take us to the very complex discussion between reductionists and non-reductionists of testimonial justification for knowledge.

Case 1: The Dying Woman

A dying woman asks a doctor whether her son is well. The doctor saw the son yesterday, when he was fine, but knows that he was killed shortly afterwards. The doctor utters:

Version A: (1) He's fine.

Version B: (2) I saw him yesterday and he was fine.

According to Timmermann and Viebahn, the doctor should attempt to mislead (version B) rather than lying because in doing so, they show that they acknowledge the dying woman's right to be told the truth (even while choosing not to fulfill it in order to spare her unnecessary pain). As I see it, though, choosing to mislead does not mean that one acknowledges their audience's claim to truthfulness any more than if they chose to lie. To begin with, the doctor could choose to mislead just because they believe that lying is a sin that they would have to pay for in the afterlife, or to feel better about themselves for not having used a direct way of leading the woman into believing something false. More importantly, the fact of the matter is that the belief that the doctor wants the dying woman to form is exactly the same (namely, that her son is fine), so it would be hypocritical of the doctor to say that they acknowledge the woman's right to truthfulness while leading her into a falsehood. The only thing that would make it acceptable in this case to mislead, would also make it acceptable to simply lie: that we would spare the dying woman of even more suffering before she takes her last breath⁴.

Case 2: Paintings at an Exhibition

Amy is attending a vernissage at a small gallery. She gets talking to Bill and finds out that he is the painter of the works on display. Bill asks Amy: 'Do you like the paintings?' While Amy thinks that the paintings show a very good mastery of

⁴ Some would argue that it is paternalistic to deceive the woman assuming that is the best they can do for her, and that she deserves to learn the truth about her son before she passes away: of course, knowing the cause of her son's death would hurt her, but knowing that she has no son to leave behind might give her relief. Perhaps she believes in the afterlife and hopes of finding her son there give her a bittersweet sense of peace.

composition and excellent brushwork, she does not like them overall. However, Amy is unsure whether Bill wants an honest answer, so instead of:

Version A: (3) Yes, I like them.

she says:

Version B: (4) The composition is great and the brushwork is excellent.

Timmermann and Viebahn argue that when it is uncertain whether the claim to truthfulness has been released, misleading would be better than lying because it would allow the audience to make further inquiry if they want to know the truth. In reply to (4), Bill could easily ask “Oh, so you like the paintings?”.

Case 3: The Peanut Attack

George is cooking dinner for Frieda. He knows that Frieda has a moderate peanut allergy and that peanuts will give her a stomach ache. He wants Frieda to have a stomach ache and has asked his flatmate Hans to sneak some peanuts into the meal while George and Frieda are on the balcony. Frieda, being rightly cautious, asks whether George has put any peanuts in the meal. George utters the true but misleading (6) rather than the false (5):

Version A: (5) There are no peanuts in the meal.

Version B: (6) I didn't put any peanuts in.

As Timmermann and Viebahn note, in this case, Frieda clearly maintains her claim to truthfulness, and both utterances (5) and (6) are equally reliable as means of deception due to being direct answers to her question. Thus, Frieda cannot detect the lack of commitment in (6). From the philosophers' perspective, this case shows that even though lying and misleading always differ in terms of commitment, this difference does not always lead to a difference in reliability, so it cannot always set lying and misleading apart morally.

Timmermann and Viebahn also mention the famous case of the murderer at the door (Case 5) that, as I commented before, is very representative of Kant's absolutist prohibition

against lying. Like Saul (2012), they believe it is better for the person involved in this case to lie to the murderer rather than to attempt to mislead, because the latter choice can arouse suspicion and lead to the death of the potential victim.

Case 6: The Willingly Deceived Cook John is an ambitious and passionate amateur chef, but unfortunately not blessed with too much talent. His wife, Joanne, has repeatedly had the experience that John got quite upset when she showed too little enthusiasm about his culinary achievements, or even criticized some meal he prepared. From this she has drawn the conclusion that John prefers an insincere compliment to an honest appraisal of his products. When John once again puts too much salt in the soup and asks whether she enjoyed the meal, Joanne could either utter the false (9) or the true but misleading (10):

Version A: (9) It was the best fish soup I've ever tasted. It was delicious!

Version B: (10) My mother used to cook that soup on Christmas Eve. I loved it.

As Timmermann and Viebahn see it, since John does not want to receive any hint that he is lacking as a chef, Joanne has to leave him in the dark about the truth to respect his epistemic authority (his right to decide for himself about his epistemic states). When deceiving is required, like in cases 5 and 6, one should use the most reliable means for it, choosing the course of action that someone takes to be less reliable is subject to blame or moral criticism and not just to rational criticism so this preference for the most reliable means is not only instrumental but also moral, in Timmermann and Viebahn's view.

To further clarify their account, the two philosophers aid themselves with a visual classification for how the difference in commitment between lying and misleading turns out to be of moral importance when mixed with contextual factors, in Fig. 1.

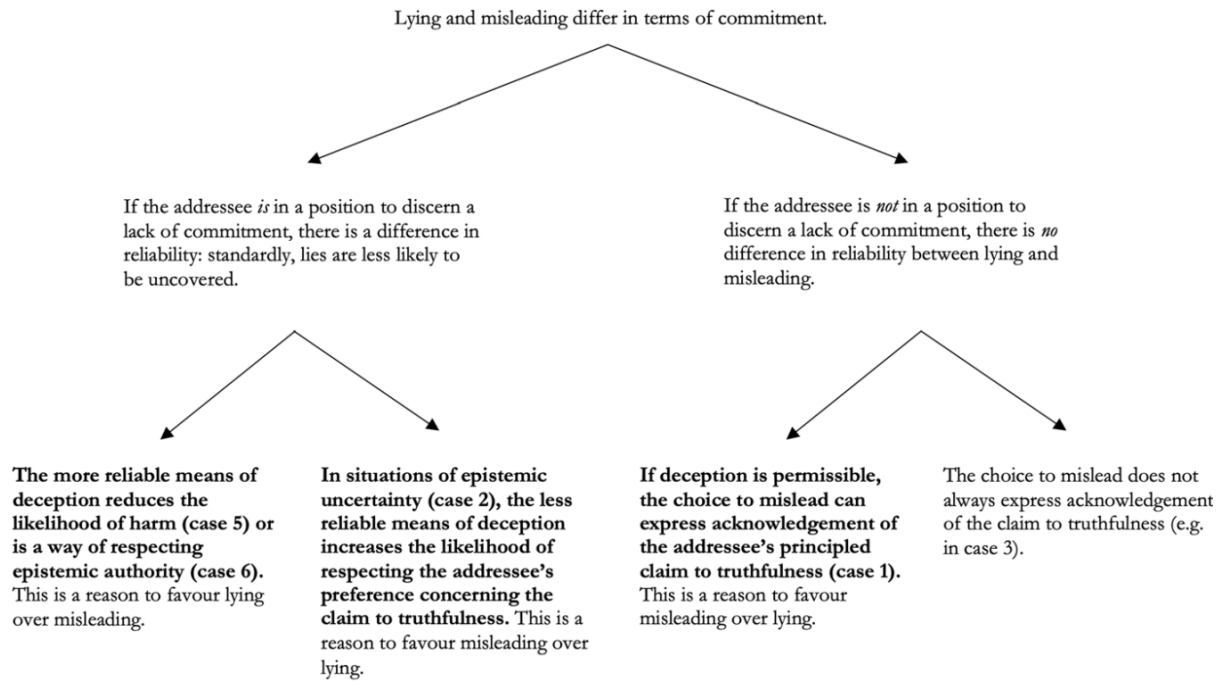


Fig.1 How the difference in commitment can make a moral difference (Timmermann & Viebahn, 2021, p. 1498)

Although, as I have expressed before, I am not convinced about their classification for case 3, I see no problem with how they have classified the other cases, and find the argument that, due to the difference in commitment between the two forms of communicative dishonesty at hand, it is contextual factors given in each particular case which determine the moral standing of misleading in comparison to lying pretty reasonable.

4. Forget about social norms: Herzog's argument won't save the traditional view

In section 3.1. we saw the different arguments in favor of the thesis that lying is, if not always, generally worse than misleading. We also saw several objections against most of those arguments. However, Herzog's (2020) recent argument regarding lying in relation to social norms, which seems to leave a path open to defend this thesis, has been untouched. It is my purpose here to defuse it. First, let's recall how her argument goes with a brief reconstruction:

- (1) There are social norms (norms that the members of a group consider valid for themselves and for other group members) that support individuals' moral agency (without these norms it may be very hard for them to do the right thing).
- (2) Individuals have a responsibility to preserve such norms and to prevent 'cultural slopes' that erode them.
- (3) A norm against a wrongful act (such as lying or misleading) is a norm that supports individuals' moral agency.

The idea behind the first premise is that, as human beings, we feel a strong need to belong and our behaviour is significantly shaped by our social environment. As per Herzog, although individuals can question and scrutinise the social norms that are present in their environment, our natural tendency towards conformity can override our trust in our own moral sense. To support this, she mentions evidence from Gino et al. (2011), whose results indicate that, for instance, when the members of one's own social group cheat in an experiment this has a contagious effect on the others and increases the rate of cheating. As for the second premise, its motivation is that we all benefit from social norms that help prevent wrongdoing and if we act against those norms we promote their destruction. The third premise is very transparent and needs no explanation. Up to this point, I have nothing against Herzog's argument. The problem with it lies in her attempt to hint at a fourth premise and arguing, from then on, that it could land us in the conclusion that lying is generally worse than misleading and can be reconstrued as the following:

- (4) Social norms against lying tend to be stronger, clearer and more salient than norms against misleading.

After hinting at premise (4), Herzog finds herself arguing that:

If one can choose between a lie—which threatens to unravel a norm that serves as a clearer focal point—and an act of misleading—which might somewhat shift the norm against misleading, but it is less clear whether or not it will do so— then this constitutes an argument in favour of choosing the act of misleading as the lesser evil. (Herzog, 2020, p. 88)

Clearly, she considers that social norms against lying are more likely to be eroded than the ones against misleading. How does she hint at premise (4)? She contends that norms against lying are more straightforward, and that it can be harder to judge whether a statement was an act of misleading or not since it would be necessary to know the precise intentions of the speaker to identify an act of misleading and to differentiate it from other communicative mishaps (a lack of attention or precision). Moreover, she goes back to the idea that part of the blame for the hearer ending up with a wrong belief might be put on the hearer and they may be more hesitant to confront a speaker when they suspect that they might have been misled than when they have been lied to. Putting it all together, she thinks that norms against misleading are more difficult to stabilize, and hence less likely to be a strong focal point, than norms against lying.

Herzog's argument might look plausible at first, but it is problematic in two ways. Firstly, assume that, instead of a general rule against dishonesty (or, in the positive reading, for honesty), there is a particular norm against lying and another against misleading. Assume also that, as Herzog believes, the norm against lying is clearer. It might be harder to blame a misleader than a liar for their wrongful deceiving, because the misleader has ways of reconstruing a different meaning for what they “really meant”, but this does not mean that, overall, it is easier to judge whether we have been lied to than whether we have been misled. Usually, when someone lies, they intend their lying to be kept a secret because if the lie is revealed it fails whatever it is its purpose. Additionally, liars would not want to face the loss of reputation that comes with being caught in a lie. But there is yet a more fundamental issue

here, and it is that we tend to lack knowledge that would raise any suspicion that we are being lied to. If Julia's boyfriend keeps on texting flirty messages to several women even when he is in her presence, intending to cheat on her the moment someone flirts back, signals that would warn Julia of that fact need not be available for her. Consequently, if Julia asks her boyfriend "Who are you talking to?" when she sees her boyfriend grinning while looking at his phone and his answer is "An old friend from uni who now lives in Nevada, I wish you could meet him one day, he is hilarious", she might never doubt her boyfriend's words. Habitual liars can easily accompany their initial lies with intricate totally or partially fictional stories to sound believable. Because liars want their lies to go unnoticed, most of us are not good at detecting lies (Bond and DePaulo, 2006) and a significant number of the lies that are told are little white lies (Serota et al., 2022), the social norm against lying is, most likely, typically broken without it being known by most of the community, as happens with misleading and the corresponding norm against it. If we go by Herzog's logic, it seems that lying should be considered worse than misleading if one goes around flaunting their lying, but whether a wrongful act has been revealed to the public or not should not bear any significance on how wrong it is. If Kant's murderer at the door finally encounters the person they were searching for and murders them, the fact that he has gone around asking for their victim's location, showing obvious signs of intending to kill them, does not make their crime worse, it just means that, apart from being a murderer, the murderer does not care about their reputation or lacks social awareness.

On a different note, it looks like Herzog wrongly assumes that lay people make a clear-cut distinction between lying and misleading, as philosophers typically do. However, it could very well be the case that when we tell others not to lie, we intend to convey the message that they should be honest in general. It is not like we tell children "Don't lie, lying is wrong. Misleading, however...". We judge anyone who we detect as dishonest as shameful. If my brother ate my precious oatmeal cookies behind my back, I would get just as

angry at him for conveying the message that he did not, whether he did so directly or indirectly, because what would enrage me is the fact that he not only ate my cookies, but tried to make me believe he was not to blame for their disappearance and was entirely innocent. Herzog might think differently, she might get angrier at people who have been dishonest to her through lies than to those who she knows have misled her. But it is likely that my experience is common. As I mentioned in section 2 of this paper, empirical data indicates that people consider it possible to lie with deceptive implicatures in some cases (Reins & Wiegmann, 2021), so a social norm against lying could also be in place against what philosophers usually determine as acts of misleading.

Since Herzog's argument in favor of the thesis that misleading is morally preferable to lying is problematic, as the previous arguments on this line, it seems that we have no grounds to say that misleading is better.

5. Conclusion

As previous attempts to favor the traditional, religious idea that lying is generally worse than misleading, Herzog's argument which relies on the existence of social norms that support moral agency, is problematic. At the moment, it seems that we have no good reason to accept the traditional view on the moral status of lying versus misleading. While the proposal that misleading is generally worse also appears to be unsuccessful, Williams (2002), Saul (2012), and Timmerman and Viebahn (2021) seem to be on the right track when they say that there is nothing in lying and misleading on their own that makes them different on a moral level. Despite having its own problems, Timmerman and Viebahn's account which pays attention to the specific contextual circumstances of each case of deception is the most promising, since it recognizes the complexity of the relation between lying and misleading as philosophers have often defined them, so it might be worth it to examine it more carefully.

References

- Adler, J. E. (1997). Lying, deceiving, or falsely implicating. *The Journal of Philosophy*, 94(9), 435. <https://doi.org/10.2307/2564617>
- Berstler, S. (2019). What's the good of language? on the moral distinction between lying and misleading. *Ethics*, 130(1), 5–31. <https://doi.org/10.1086/704341>
- Bond, C. F., Jr., & DePaulo, B. M. (2006). Accuracy of Deception Judgments. *Personality and Social Psychology Review*, 10(3), 214–234.
https://doi.org/10.1207/s15327957pspr1003_2
- Constant, B. (1797). *Political Reactions*. [Pamphlet]
- García-Carpintero, M. (2023). Lying versus misleading, with language and pictures: The Adverbial account. *Linguistics and Philosophy*, 46(3), 509–532.
<https://doi.org/10.1007/s10988-022-09355-0>
- Geach, P. (1977). *The virtues*. Cambridge University.
- Gino, F., Schweitzer, M. E., Mead, N. L., & Ariely, D. (2011). Unable to resist temptation: How self-control depletion promotes unethical behavior. *Organizational Behavior and Human Decision Processes*, 115(2), 191–203. <https://doi.org/10.1016/j.obhdp.2011.03.001>
- Herzog, L. (2020). Lying, misleading, and the argument from cultural slopes. *Res Publica*, 27(1), 77–93. <https://doi.org/10.1007/s11158-020-09462-4>
- Kant, I. (1898) On a supposed right to tell lies from benevolent motives. In T.K. Abbott (trans.) *Kant's critique of practical reason and other works on the theory of ethics*. Longmans, Green and Co.
- MacIntyre, A. (1994). Truthfulness, lies, and moral philosophers: what can we learn from Mill and Kant? In *Tanner Lectures on Human Values*, 309–69. Princeton University. Presented on April 6 and 7, 1994.
- Pepp, J. (2020). Assertion, lying, and untruthfully implicating. In S. Goldberg (Ed.) *The Oxford Handbook of Assertion*, (pp. 827–850). Oxford Univeristy Press.

<https://doi.org/10.1093/oxfordhb/9780190675233.013.40>

Rees, C. F. (2014). Better lie! *Analysis*, 74(1), 59–64. <https://doi.org/10.1093/analys/ant104>

Reins, L. M., & Wiegmann, A. (2021). Is lying bound to commitment? empirically investigating deceptive presuppositions, implicatures, and actions. *Cognitive Science*, 45(2). <https://doi.org/10.1111/cogs.12936>

Saul, J. (2012). Just go ahead and lie. *Analysis*, 72(1), 3–9.

<https://doi.org/10.1093/analys/anr133>

Serota, K. B., Levine, T. R., & Docan-Morgan, T. (2022). Unpacking variation in lie prevalence: Prolific liars, bad lie days, or both? *Communication Monographs*, 89(3), 307–331. <https://doi.org/10.1080/03637751.2021.1985153>

Strudler, A. (2010). The distinctive wrong in lying. *Ethical Theory and Moral Practice*, 13(2), 171–179. <https://doi.org/10.1007/s10677-009-9194-2>

Timmermann, F., & Viebahn, E. (2020). To lie or to mislead? *Philosophical Studies*, 178(5), 1481–1501. <https://doi.org/10.1007/s11098-020-01492-1>

Viebahn, E. (2021). The lying-misleading distinction: A commitment-based approach. *The Journal of Philosophy*, 118(6), 289–319. <https://doi.org/10.5840/jphil2021118621>

Viebahn, E. (2022). Lying, misleading, and fairness. *Ethics*, 132(3), 736–751. <https://doi.org/10.1086/718082>

Webber, J. (2013). Liar! *Analysis*, 73(4), 651–659. <https://doi.org/10.1093/analys/ant081>

Williams, B. (2002). *Truth and Truthfulness: An Essay in Genealogy*. Princeton University Press.