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# Speech Acts and Silencing: A Social Account of Speech Action and Restrictions on Speech

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# Speech Acts and Silencing: A Social Account of Speech Action and Restrictions on Speech

Casey Rebecca Johnson, PhD

University of Connecticut, 2015

In *Speech Acts and Silencing*, I develop a new, socially sensitive, account of conversation in general, and of assertion in particular. According to traditional speech act theory, an utterance is a particular conversational move, like a question or a promise, when it has the kind of force associated with that move. Traditionally, this force – called illocutionary force – has been understood in terms of various conditions, norms, and constraints that utterances either meet or fail to meet. My new account rejects two main assumptions involving illocutionary force: first, that illocutionary forces are constituted by norms, and second, that each utterance has, as an objective matter of fact, a single illocutionary force. In my first two chapters, I argue that our theories of conversation and assertion can do without the constitutive norm of assertion – indeed, I argue, there is no such norm.

In the third chapter, I reject the assumption of objective illocutionary force. Objectivism about a particular subject matter can come in various strengths and flavors, and I argue that none of the candidate objectivist positions about illocutionary force are satisfactory.

The fourth chapter outlines my new position. Illocutionary force, I argue, is relative to perspective. As participants in conversations perceive and register social changes made by speech, they form expectations and assign one another obligations. These expectations and obligations are the hallmarks of illocutionary force. Of course, participants may not all agree on the expectations and obligations generated by an utterance. So, the force that an utterance has is relative to the expectations it generates in each participant in the conversation.

While this account of illocutionary force is new, it has applications to extant debates. In particular, it has applications to our understanding of communicative justice. In my last two chapters I apply my new account of illocutionary force to the debates over unjust restrictions on speech and testimony. Social and political factors influence the ways in which participants perceive utterances. Because these perceptions are central to my account of illocutionary force, this account is well placed to help us understand the ways in which speakers are restricted unjustly in their ability to act with speech.

Speech Acts and Silencing: A Social Account of Speech Action and Restrictions on Speech

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APPROVAL PAGE

Doctor of Philosophy Dissertation

Speech Acts and Silencing: A Social Account of Speech Action and Restrictions on Speech

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## Introduction

While trying to come up with a title for my dissertation, I found myself wishing that, “How To Do Things with Words” hadn’t been taken. Doing things with words, after all, is my focus – though, to be honest, what I’ve attempted here is less of a “how to” and more of a “what’s done”. What is it that speakers do, when they act with their speech? And what kinds of restrictions on speech actions do speakers face? I’ve attempted to understand and explain in this dissertation what speakers do when they manage to act with their speech.

Austin, in his influential (and well titled) text makes what I take to be a key observation about the philosophical analysis of language use (Austin, 1975). He observes that, “It [has been] for too long the assumption of philosophers that the business of a ‘statement’ can only be to ‘describe’ some state of affairs, or to ‘state some fact’, which it must do either truly or falsely” (Austin, 1975, p. 1). Philosophers have been devoted to the declarative utterances, what Austin calls the “constatives”. These, according to philosophical lore, are the serious, important, and worthy utterances. The rest, the assumption goes, is nonsense. This assumption, however, drove philosophers to overlook many of the important actions that speakers take with their words. Austin demonstrates this by his examination of the performative class of utterances (i.e. “I pronounce thee man and wife” when spoken by a minister), but the lesson is much deeper than a performative/constative divide.

The lesson, from Austin and from Searle, who followed him, is that language is a tool that speakers use in myriad ways (Searle, 1969). Like the rock that can be a hammer, a doorstop, or a paperweight (to borrow an example from Agustín Rayo (Rayo,



2013)), language can be used for an evolving cluster of related tasks. If we only analyze the “serious”, “important”, or “worthy” declarative utterances, we impoverish our analysis, and render our theory too weak and myopic to account for actual language use.

Speech act theory broadened our theoretical horizons and captured the fact that speakers do many and creative things with their words. But the work is far from complete. While I believe that Austin’s observation is a vital one, and while I believe that Searle’s steps toward a taxonomy of speech acts is important and enlightening, I also believe that there is work to be done to supplement, adjust, and develop speech act theory to account for what speakers do with words. Despite having broad horizons, speech act theory is still out of touch with some social facts (Pratt, 1986), (Strawson, 1964), (Sbisà, 2002). I will bring these social facts to the fore. It also suffers from some deficiency of detail (Green, 2010). I will go some way toward addressing this deficiency. And further, it is not clear that speech act theory captures all of the aspects of our linguistic practices in which we’re interested (Williamson, 1996). I will improve upon speech act theory by de-idealizing, and by demonstrating that de-idealization does not preclude a careful and detailed analysis of speech action.

In some ways, I slip back into the comfortable assumption of the philosophers before me – I focus, in the dissertation, largely on the constative act of assertion. Indeed, three of the six chapters are directly concerned with understanding and explaining that speech act. I focus on assertion for two reasons: first, the literature has focused most on assertion. Second, and more importantly, assertion figures in questions of testimony and knowledge transmission. And these are some of the most interesting and important things that speakers do with their words.

The chapters proceed as follows. In the first chapter I engage with some of the literature on the nature of assertion. Assertion's nature, it is argued, is defined by a particular norm to which assertions are all subject (Williamson, 1996), (Lackey, 2007), (Rescorla, 2009a), (Bach, 2010), (J. Brown, 2010), (McKinnon, 2013). This norm, the so-called constitutive norm of assertion, is meant to range over all and only the utterances with the force of an assertion, thereby delineating assertion from other forces. Assertions are subject to a norm that conjectures, questions, and commands are not. And like other norms, this specifies one way of being proper. Politeness norms specify proper manners, moral norms pick out moral propriety, and the constitutive norm of assertion is supposed to pick out a specifically assertoric way of being proper. In this first chapter I argue there is no reason to believe in such a norm, or such a way of being proper. The usual reasons brought to support the norm are confused, and the benefits it promises are available from other sources. There is, I argue, no constitutive norm of assertion. This, however, does not mean that assertion isn't a distinct type of speech act.

In the second chapter I address one lingering reason we might have to believe in such a norm: the relationship between assertion and testimony. Testimonial knowledge transmission is important, both as a crucial way we acquire knowledge, and as a (relatively recent) question for research in epistemology. Because of this importance, the speech used to give testimony receives quite a bit of attention. There is a tendency, in the literature on testimony, to assume that the constitutive norm of assertion plays a crucial role in our analyses of testimony. In chapter 2, I argue that this is not the case. It is not compulsory to include the constitutive norm of assertion in our analysis of testimonial

knowledge transmission – indeed, other explanations of our testimonial behavior are simpler and more informative than those that include the constitutive norm of assertion.

The debates over the constitutive norm of assertion make a key assumption: they assume that each utterance has, at most, a single illocutionary force. They further assume that there is an objective fact of the matter as to whether or not a particular utterance is one kind of illocution rather than another. In chapter 3, I examine this assumption, exploring whether illocutionary force is objective, and in what such an objective force could be grounded. I conclude that objective illocutionary force faces many challenges, and raise several alternative positions, including illocutionary nihilism, illocutionary expressivism, and illocutionary relativism.

If these arguments are even partially successful, we're left with a bit of a lacuna: if assertion is a distinct type of speech act, and the members of this type are not grouped by being subject to a constitutive norm, then, what makes an utterance an assertion? In chapter 4, I attempt to fill in the details of a new account of assertion. To do this, I use some of the tools from Austin and Searle – in particular the category of illocutionary forces, and the conditions on having some force or other. These conditions offer only an incomplete account of having an illocutionary force, so I work to complete the account. In doing so, however, it becomes clear just how much having some force depends on the reactions of participants in a conversation. These reactions, however, can differ from participant to participant. We are left, then, in a position of having perspective-relative illocutionary forces. Or, so I argue in chapter 4.

In chapter 5, I put this new account of illocutionary force to work. Rae Langton, in her work on free speech, and illocutionary force, puts classic tools of speech act theory

to work (Langton, 1993). Langton's influential account locates one kind of unjust restrictions that subordinated speakers face – restrictions on making conversational moves. Her account has been influential, but it has also been criticized, (Jacobson, 1995), (Bird, 2002), (Maitra & McGowan, 2007), (M. K. McGowan, Adelman, Helmers, & Stolzenberg, 2011). In this chapter I address some of these criticisms. Doing so brings to light one key feature of our discursive practice – what matters for what speakers can do with their utterances has less to do with objective facts about those utterances, and more to do with how those utterances are perceived. This becomes key in this chapter, and the next.

Chapter 6 again engages with work on speech-related justice, this time focusing on epistemic justice. Miranda Fricker's influential work on the topic is helpful and elucidating, however, she views her account as conflicting and in competition with Langton's account. In chapter 6, I argue that these two counts are complementary rather than competitive. Indeed, by focusing on the ways in which utterances are perceived, we are able to take advantage of the complementary tools from both Langton and Fricker's account. This, in turn, gives us a more nuanced and complete understanding of discursive behavior in general, and of particular restrictions on that behavior.

The goal, in the dissertation, is to make the first steps toward an account of what speakers do with words that is both precise and realistic – one that captures both what utterances with particular forces have in common, and what creative and surprising ways speakers have of using their words. The key to making these steps is to say, precisely, what is done when a speaker's utterance has a certain force, and what is done when a

speaker cannot make an utterance with a certain force. So, it is an account of what is done with words.

## Chapter 1: There's No Norm of Assertion, And That's Okay

Abstract: There is considerable debate, in the philosophical literature, over which norm constitutes assertion. These debates are all misguided because there is no such norm. In this chapter I offer some evidence for this claim by challenging the three main motivations we seem to have for a constitutive norm of assertion. First, some are motivated by analogies between language and games. Second, some are motivated by the intuition that some assertions are worthy of criticism. Third, some are motivated by the discursive responsibilities incurred by asserting. I demonstrate that none of these offer good reasons to believe in a constitutive norm of assertion, as such a norm is understood in the literature. Others who have made similar arguments conclude that, because assertion is not normatively constituted, it does not exist at all – in other words, that there is no such thing as assertion. I disagree, and offer some reassurance: we do not have to relinquish the category of assertion just because it is not normatively constituted. I close the chapter with a sketch of an alternative understanding of assertion that has its roots in traditional speech act theory.

### §1. Norms and Norms

The philosophical debates over which norm constitutes assertion are misguided because there is no such norm. Assertion is not normatively constituted. I don't mean, by this, that there are no norms to which our assertions are subject. Just like our other behavior, assertions can be evaluated in myriad ways. Just as we can evaluate a person's eating behavior as polite, graceful, ill mannered, irrational, or well advised, we can also so evaluate their assertions. Insofar as the norms according to which we judge an assertion as polite, beautiful, inefficient, etc., are norms for assertions, then certainly assertion has norms. However, just as a person's eating habits are not defined or constituted by the norms that allow us to make these evaluations, neither are our assertoric practices.

I also don't mean that there is no accurate description of a *normal* assertion. Assertions are normally spoken or written. If spoken, they're normally within some range of volumes. It would be unusual to assert in some language not shared by one's

interlocutors – speaking the shared language is more normal. Insofar as some assertions can meet “the norm” by being normal in these ways, assertion has a norm. This kind of norm, however, does not constitute the speech act type. If the statistically normal assertions were something different, assertion as we know it would still be possible. Assertions would just tend to be louder, or longer, etc. These kinds of norms do not constitute assertion; they merely describe a subset of that category.

The constitutive norm of assertion is different from these other kinds of measures. According to the most influential accounts, there is a norm that constitutes assertion by doing two related things: first it sets assertion apart from other kinds of speech acts that are subject to other constitutive norms. And second, it sets the conditions for being a proper assertion (Lackey, 2007; Williamson, 1996). If we could discover the details of this constitutive norm, we would discover something important about the speech act itself – the norm is supposed to capture something intrinsic to and important about assertion (Rescorla, 2009a).

With this promising pay off, it is easy to see why philosophers have found it worthwhile to debate and investigate the nature of the constitutive norm of assertion. Unfortunately, the debate is based on the questionable premise that there is some such norm. I will not attempt to demonstrate that such a norm does not exist (demonstrating non-existence being fairly difficult). Instead I will argue that there is no compelling reason to think that there is a norm of assertion. Further, there’s an equally good explanation of assertion, and its place in our discursive habits, that does not require this norm.

First, some details about my target: proponents of the normative constitution of assertion take the constitutive norm to have one of two forms. First, it is quite popular to defend norms of the form  $XN$ .

$XN$ : it is assertorically proper to assert that  $p$  if and only if the asserter stands in relation  $X$  to  $p$ .

There are various candidate substitutions for  $X$  – a proper assertion might be known, or believed, or reasonably believed, or reasonable to believe etc. (DeRose, 2002), (Turri, 2013), (Kvanvig, 2011), (Bach, 2010), (Lackey, 2007). Timothy Williamson famously defends a knowledge norm according to which it is proper to assert that  $p$  only if one *knows* that  $p$  (Williamson, 1996, 2000).

As stated,  $XN$  is a necessary and sufficient condition for assertoric propriety. Meeting  $XN$  is a necessary condition for an assertion to be proper all things considered – if an assertion was morally, legally, and practically proper, but failed to meet  $XN$ , the assertion would not be proper. And, an assertion might meet  $XN$ , but fail to be moral, and so would fail to be proper all things considered. So meeting  $XN$  is insufficient for an assertion to be proper according to all measures.  $XN$  specifies a necessary and sufficient condition for the kind of propriety that constitutive norm is supposed to pick out – assertoric propriety.

For an assertion to be assertorically proper is for it to meet requirements for asserting, even if other requirements are not met. So, an impolite assertion might not be proper all things considered, but it could still be assertorically proper by meeting the constitutive norm. Assertorically proper assertions have a kind of propriety internal or



intrinsic to the act of assertion. Call theories of assertion that hold that the constitutive norm is of the form XN *Normative theories*, (N-theories).<sup>1</sup>

The alternative form of the constitutive norm defines assertion according to the behavior a speaker must perform to be proper *once she's asserted*. Because the requirement comes after the assertion, we will call the alternative form of the constitutive norm *Ex-Post-N*.<sup>2</sup> Ex-Post-N has this form:

*Ex-Post-N*: When faced with a legitimate challenge to defend an asserted proposition, it is proper to take further action *X*.

Michael Rescorla argues for this sort of view – he defends a norm whereby speech acts are assertions just in case the speaker is required to either rebut or retract in the face of a legitimate challenge (Rescorla, 2009j). For a challenge to be legitimate, in this sense, is for it to be of a particular sort. And this sort will help pick our assertions. A challenge that is legitimate for assertions would not be legitimate as a challenge to a question or a command, etc. In this way, the Ex-Post-N and XN are similar. Ex-Post-N, however differs in that it explicitly specifies a constitutive norm that individuates and sets propriety conditions for assertion by way of assertion's place in reasoned discourse.

I will argue, in this chapter, that there is no need for a constitutive norm of assertion, or for a special kind of propriety as described by any instance of either XN or Ex-Post-N that is particular to or individuates assertion. I will also argue that this fact should not convince us that there is no rich or substantive work to be done on assertion and the norms that govern assertion. I will stage my argument in two parts: I will begin by sketching and challenging the three major reasons that have motivated belief in a

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<sup>1</sup> Following (Cappelen, 2011).

<sup>2</sup> Following (Turri, 2013).

constitutive norm of assertion: first, the ubiquitous analogies between assertion and games are taken as evidence for a constitutive norm of assertion. Second, some argue for a constitutive norm on the basis of intuitions about criticism. Finally, some claim that asserters incur some assertion-specific responsibility. Failing to meet this responsibility is failing to meet the constitutive norm. By challenging the motivation to believe in the constitutive norm of assertion, I may appear to be challenging the category itself. However, I will close by offering some reassurance: we need not worry about the state or status of assertion without a constitutive norm. We can still account for and individuate assertion. Even without a constitutive norm, assertion is secure.

## §2. Support for the Constitutive Norm

### §2.1 Language Games

Philosophers often talk about language games – the idea that using language is like playing or making a move in a game. We talk about rules and about moves being in or out of bounds (M. McGowan, 2003),<sup>3</sup> of adding to the conversational scoreboard (Lewis, 1979). The descriptions we use in our analyses of conversation are fraught with talk of games.<sup>4</sup> The combination of this analogy to games, and the idea that games are “normatively constituted” offers one motivation for the view that assertion is also so constituted.

One way to individuate games is by way of their rules. An activity is an instance of soccer playing just in case the people involved are subject to the rules of soccer. If

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<sup>3</sup> Some philosophers even specify details about this language game – the game of giving and asking for reasons, for example (Brandom, 1998; R. Kukla & Lance, 2009).

<sup>4</sup> See (Wittgenstein, 2010), (Sellars, 1954c), (Searle, 1969), (Austin, 1975), (Brandom, 1998), (Lackey, 2007), (Turri, 2013)

there is a penalty when players other than the goalie pick up the ball, if putting the ball into the net during game play results in a change in the score, then soccer is, more or less, being played.<sup>5</sup>

Some rules of the game are indispensable. If a player violates these sorts of rules (with sufficient frequency, or with clear intent to do so) they are simply not playing the game. Some violations are so extreme, that a single occurrence is sufficient to rule-out soccer playing. If, for example, a player came onto the field wielding a racquet, she is not playing soccer, even if the context is casual. These central rules, taken together, make soccer soccer, rather than tennis or cribbage. They individuate one game from the others and so are constitutive rules of the game. If we discovered that another game had the same central rules, but was called something else, we'd say, "Oh, we call that, 'soccer'" – the central rules individuate the game. This is what the constitutive norm of assertion is supposed to do for that illocution. Even if the speech act were called something else, if it were subject to the same constitutive norm, it would be the act we call *assertion*.

That games are individuated by their central rules is taken as evidence that they are normatively constituted – this is why games are supposed to be helpful analogs for explaining the normative constitution of assertion. So, what does it take to be normatively constituted? The defenders of various constitutive norms of assertion suggest that assertion is the sort of thing that is individuated by being subject to some

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<sup>5</sup> I say "more or less", because there are instances in which some rules – even rules that seem central to the game – are ignored, and soccer is still being played. Take, for example, the rule that game play ceases momentarily when the ball goes out of bounds. In many casual contexts, that rule is suspended. Players can play soccer even without observing strict sidelines. In fact, too strict adherence to some rules in casual contexts is frowned upon. In other contexts, though, no such suspension is acceptable. In professional play, all of the rules apply.

particular standard for propriety (Williamson, 1996), (Lackey, 2007), (Bach, 2010), (Turri, 2013). A meaningful utterance is an assertion, rather than a question or a promise, depending on what it takes for that utterance to be proper. In other words, normative constitution requires that the thing constituted has, as part of its individuation conditions, some standards of propriety and impropriety. To be a member of the type is to be proper when the standards or are met, and so the standards must apply to all and only the members. And importantly, something can be of a type without being proper. An utterance that fails to meet the standards of assertion does not necessarily fail to be an assertion. That utterance is an assertion if it is *subject* to the norm. An utterance that is subject to the norm but fails to meet it is an *improper* assertion.

Just how alike are the constitutive rules of a game like soccer and the constitutive norms defended for assertion? It's clear that they're alike in at least one way – they are both meant to individuate activities. However, they're also different in an important way. The central constitutive rules of games are not normative in the same way constitutive norms are. Constitutive norms specify propriety conditions – constitutive rules of games do not. Notice that in our example of a central or constitutive rule, we do not have a case where our racquet-wielding player is playing soccer in a way that makes her subject to criticism. It's not that she is playing soccer badly, instead she is simply *not playing soccer*. To motivate the normative constitution of assertion in the desired way, the constitutive rules of soccer would have to determine what it takes to be *proper* soccer playing. But they don't. Instead, these rules determine what it takes to play soccer at all.

Perhaps the lesson from this is that games are a helpful analogy for language use generally, rather than for assertion in particular. This is, after all, what is suggested by

“the language game”, and by “the game of giving and asking for reasons” (Brandom, 1998). It is also suggested by John Searle’s analogy between castling and assertion – both are merely moves in games, not games themselves (Searle, 1969). Can we use this version of the analogy to motivate the view that assertion is normatively constituted?

Sticking to our soccer example, the rules that individuate particular moves, like goal kicks, specify the conditions under which such a move can be executed. It is only permissible to execute a goal kick if the ball has gone out of bounds, over the goal line, off the body of an offensive team member. In the absence of these conditions, it is improper to pick up the ball, place it in the goal area and kick it off. So, the rules that individuate goal kicks do specify propriety conditions of a sort. But notice, if a player doesn’t meet these conditions, their action doesn’t just fail to be proper – it also fails to be a goal kick. So, changing the analog for assertion from games to moves in games does not help elucidate the analogy.

Neither of the available analogs, games or the moves therein, provides motivation to think that assertion is normatively constituted. Even if assertion is analogous to one or the other of these, neither of them are constituted normatively, at least not if that requires that the norm in question individuate by way of propriety conditions.<sup>6</sup>

## §2.2 Critical Intuitions

Another motivation for the normative constitution of assertion is the intuition we have that some assertions are subject to a unique kind of criticism (J. Brown, 2010;

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<sup>6</sup> (Sellars, 1954c) who employed the idea of a language game, didn’t even take assertion to be the appropriate analog for moves in a game. Sellars, instead, takes the analog to be something like meaning or content, rather than speech acts.

Kvanvig, 2011; Lackey, 2007; MacFarlane, 2011; Maitra & Weatherson, 2010; Williamson, 2000). Our intuitions that an asserter is subject to criticism are taken as evidence that a norm has been violated. Sometimes these critical intuitions are due to violations of familiar and general norms on behavior – if we assert impolitely, or too verbosely, or at an unusual volume, we are intuitively subject to some kind of criticism. Sometimes, though, our critical intuitions are taken to be evidence that a central or constitutive norm of assertion has been violated. Many philosophers use these critical intuitions in their investigations of assertion, and quite a bit of work has been done using various cases to prompt intuitions of criticism (J. Brown, 2010; Lackey, 2011; Maitra & Weatherson, 2010).

In some ways, using intuitions of criticism to discover norms makes a lot of sense. There is probably no better way to discover some of the norms of a practice like assertion. Assertion is a familiar practice, one that lacks formal rules on almost all occasions. This makes it hard to discover and codify the norms without consulting the intuitions of those who produce and consume assertions. Admittedly, practitioners sometimes disagree about whether or not some assertion should count as violating a convention (as often happens when one interlocutor takes another's assertion to be rude), so there may be borderline cases. However, critical intuitions are good indications that some norm or other has been violated.

While critical intuitions indicate that *some* norm has been violated, it is not clear that critical intuitions are sufficiently fine-grained to give evidence that a *constitutive* norm of assertion has been violated. Constitutive norms of assertion are supposed to be

special, so not just any critical intuition will do.<sup>7</sup> Intuitions that an assertion is ill-mannered or immoral do not indicate that the constitutive norm has been violated. So, to pick out the constitutive norm-violations, we need assertion-specific intuitions.

In many cases, however, our critical intuitions are clouded by extra-assertoric considerations. Our critical intuitions do not allow us to discriminate between different sorts of violations sufficiently well to warrant inferences from them to conclusions about the constitution of assertions. To see this, we will look at examples of critical intuitions as they're used in the literature.

One of the most influential uses of critical intuitions is Williamson's work defending the knowledge norm (Williamson, 1996, 2000). Williamson bases much of his defense on the idea that some assertions are subject to criticism. In these cases asserters are subject to criticism and hearers are "entitled to feel resentment" (Williamson, 2000, p. 498), because the speaker does not meet the constitutive norm of assertion. The speaker does not know the proposition she expresses in her assertion. She does not meet the standard set by the knowledge norm and this explains our critical intuitions.

If the criticism is to indicate violation of the *constitutive* norm, the speakers must be subject to criticism *qua* *asserter*. The asserter has to be subject to criticism *because* she failed to meet the constitutive norm of assertion. Failing to meet the constitutive norm of assertion is an assertoric rather than a moral or conversational failing. As Williamson puts it, "the criticism that one has broken a [constitutive] rule of a speech act is no more a moral criticism than is the criticism that one has broken a rule of a game or language" (Williamson, 1996, p. 492). An intuition that an assertion is conversationally

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<sup>7</sup> Lackey (Lackey, 2007) has a nice discussion of this.

or morally appropriate (or inappropriate) is not going to count in favor or against an account of a constitutive norm.

Let's look at Williamson's discussion of critical intuitions. He focuses on a conversation about a lottery ticket. Consider a case in which I say, "Your lottery ticket did not win". If I have no information other than the very low probability that you hold the winning ticket, then I am subject to criticism. I don't know the outcome of the lottery, and so there's something improper about my assertion.<sup>8</sup> You are entitled to resent my assertion, and intuitively, I am subject to criticism for it. Without other details, it seems, there's little to explain this intuitive criticism *other than* the constitutive norm of assertion.

On the other hand, we're able to imagine conversational contexts in which an utterance like this would render a speaker subject to criticism. Even if we've not had a conversation precisely like this one, we can imagine how such a situation would go. You purchased a lottery ticket, presumably hoping to win, and I came along and burst your bubble. Given that you're of legal lottery ticket purchasing age, you are likely already aware of your low chances of winning.

This suggests a different explanation for the intuitive criticism. You can resent my assertion because I've asserted rudely. If I flatly assert that your hopes are about to be dashed, I might be rude in at least one of the two following ways. First, it is typically taken to be unkind to dash someone's hopes in an abrupt or flat-footed way. Second, my assertion is rude precisely because we both know about the overwhelming probability

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<sup>8</sup> Perhaps with a large enough lottery I can be certain that you didn't win – perhaps with sufficiently small probability my belief that your ticket didn't win counts as knowledge. I want to leave these admittedly interesting complications aside here.



that your ticket will lose. I am stating something so obvious that I am plausibly implicating some further content.<sup>9</sup> If my implication is “you ought to know this” or “you shouldn’t have purchased that ticket”, then plausibly I am violating some convention of politeness. I am plausibly subject to criticism, but of not particularly assertoric sort.

In contrast to this lottery case, consider one like the following: As we pass a corner store, we see a stranger purchasing a lottery ticket. If I assert, aside, to you, “That’s a losing ticket”, it does not seem like the same kinds of intuitions arise.<sup>10</sup> Because neither of us has a stake in this ticket, the intuitions in the case are less clear. If I assert this to you, it is not clear that you are entitled to feel resentment. It is hard to say why I would be subject to criticism. If our critical intuitions indicate that a constitutive norm has been violated, we would expect this assertion to prompt them. In this case, where no extra-assertoric considerations are weighty, no intuitions of criticism arise. Thus, it’s not clear that we can generate the relevant intuitions of criticism if conventions of politeness are not violated.<sup>11</sup>

Perhaps we could fill in some of the details of Williamson’s case to isolate the epistemic impropriety he notices. We could hold fix the low stakes, cancel any conversational implicatures, and imagine a morally, legally and practically conscientious speaker. Perhaps our intuitions of criticism would remain if such a speaker said, “your lottery ticket did not win”. If the critical intuitions remain, what does this show? Does it demonstrate that there is a constitutive norm of assertion? Not clearly – what it shows is

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<sup>9</sup> As per Grice (Grice, 1957)

<sup>10</sup> This kinds of cases have motivated philosophers like Jason Stanley and John Hawthorne to investigate stakes-sensitive norms of assertion (Stanley, 2008) (Hawthorne & Stanley, 2008)

<sup>11</sup> Lackey makes a similar point about Moorean and Lottery sentences (Lackey, 2008).

that there is an *epistemic* norm on assertion that, together with the legal, practical, and moral norms, allows us to assess speakers and their speech actions.

We can see the same phenomenon in more detail if we consider more elaborate cases. Lackey argues against Williamson's knowledge norm, and for a justification norm (Lackey, 2007). Lackey claims that agents need not have full-blown knowledge that *p* to properly assert that *p*. To demonstrate this she considers conversation situations in which an agent properly asserts that *p*, but does not know that *p*. These are cases in which the standards for knowledge are not met, and yet we do not take the asserters in question to be subject to criticism. One such case involves a distraught doctor who asserts to his patients that vaccines do not cause autism. The doctor does not believe this, as his daughter was diagnosed with autism soon after she was vaccinated. Nonetheless, the doctor is aware of the medical justification for his assertion. He has justification, and speaks truly, but does not know the proposition he expresses. Here, the intuition is that the doctor asserts properly despite not meeting the necessary conditions for knowledge. Call this case DISTRAUGHT DOCTOR.<sup>12</sup>

Recall that to offer evidence that the *constitutive* norm is being violated in a case the intuition must be one of assertoric impropriety. The intuition that something morally or conversationally improper has occurred is insufficient to demonstrate that the constitutive norm of assertion has been violated. In cases with high stakes, such as those

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<sup>12</sup> Lackey's cases are paradigmatic. Many philosophers have followed her in constructing their cases. Thus the literature on assertion is peppered with examples with similarly weighty stakes. Other cases involve presidential decisions, exam results, or oncologist reports (J. Brown, 2008; Lackey, 2011; Maitra & Weatherson, 2010). My arguments below will extend to these cases as well.

typically used in the literature, there is good reason to doubt that our critical intuitions are fine-grained enough to provide sufficient evidence for the constitutive norm.

In DISTRAUGHT DOCTOR, it is clear that the doctor has behaved appropriately. It is less clear, though, in what way his behavior is appropriate. It would be surprising if our feelings of approbation indicate that his behavior is appropriate in every conceivable way. More plausibly, we have the intuition that the doctor has behaved appropriately by meeting some subset of norms on behavior. It might be, for example, that the doctor has a duty, as a doctor, to give his patients and their parents the information available from our best science. He might also have a duty to follow the best practices for preventing the spread of disease. A failure to meet these duties would be morally, or at least professionally, improper. In meeting these duties, then, the doctor does as he ought. Our feelings of approbation might be prompted by these kinds of consideration, and not have anything at all to do with assertoric propriety. So, we have an alternative explanation for our intuitions in the case of the DISTRAUGHT DOCTOR. Moral intuitions are sufficient to generate the intuitions in question.

To test for assertoric intuitions, we need a case that is free from the moral connotations of DISTRAUGHT DOCTOR. So, consider a case in which Joe is shopping in a drugstore. Joe is aware of the consumer information offering excellent evidence that generic items are just as good as brand names, however his belief is defeated by his love of commercial jingles – these catchy tunes have convinced him that one brand in particular is the very best. Nonetheless, he asserts to his friend, “brand names make no difference”. Call this case GENERIC SHOPPER.

The shopper, in GENERIC SHOPPER, asserts something that is true and for which he has good reason. He, however, does not believe it, so does not meet the knowledge norm. He is in precisely the same epistemic position relative to his assertion as the doctor in DISTRAUGHT DOCTOR. So, what are the intuitions in the case of GENERIC SHOPPER?

It is likely that we do not have intuitions, or do not have clear intuitions in the case of GENERIC SHOPPER. GENERIC SHOPPER doesn't generate intuitions precisely because we are insufficiently aware of the stakes and motivations of the interlocutors involved. But, GENERIC SHOPPER is just as rich in conversational detail as DISTRAUGHT DOCTOR. If it is difficult to tell whether or not Joe is subject to criticism qua asserter, then our methodology for discovering norms of assertion does not help decide this case. If we have no intuitions about criticism in this case, then it is not clear whether or not a norm has been violated.

The best explanation for the lack of intuitions is that this case lacks a moral dimension. Without a background set of extra-assertoric norms met or violated, the degree to which Joe, or any similar speaker, is subject to criticism is not clear. In this case, in which the situation and motivation for the assertion are morally neutral, the only kind of criticism available is qua assertion, precisely as it should be if we are going to be sure that the intuitions generated can provide information about the norms of assertion. If we fail to have clear intuitions without high stakes, then this suggests that in the high stakes cases, some extra-assertoric factors are playing a role in prompting our intuitions. Critical intuitions in response to an utterance are not clear indicators that any particular norm has been violated, even if they do indicate that some norm or other has.

There is another way to use our critical intuitions: Williamson also uses our intuitions about proper responses to assertion to defend the knowledge norm. He argues that, since “how do you know” is a proper response to assertion, knowledge must be a requirement for proper assertion. According to Williamson’s position we are, when so challenged, being asked to demonstrate the propriety of our assertion. We might say, “oh, I don’t know – I was only conjecturing”, and evade the challenge, but then our speech is not an assertion. That, “how do you know” is an appropriate response to any assertion is supposed to offer good reason to believe that knowledge is the constitutive norm.

One problem with this response is that it is not clear in what sense of appropriate “how do you know” is always appropriate. Like our intuitions of criticism, these responses depend a great deal on the extra-assertoric features of the conversational context. If my commanding officer asserts something, “how do you know” is an improper response. If a timid student asserts something, “what makes you say so” seems more conversationally proper than the challenge “how do you know”. We can fix this by deciding on a particular kind of impropriety but doing so puts Williamson in danger of question begging: to fix a particular kind of assertoric propriety seems to be putting the constitutive cart before the horse. Unless we independently think there is a constitutive norm of assertion, calling on assertoric impropriety won’t help us.

There is another popular response to the “how do you know” proof of the knowledge norm. Several philosophers have observed that there are many proper responses to assertion (Kvanvig, 2009), (McKinnon, 2012). To see this, think again of Williamson’s defense of the knowledge norm: Williamson notes, ‘you don’t know that!’

is a natural response to the expression of a lottery proposition. According to Williamson, the propriety of ‘you don’t know that!’ or ‘how do you know?’ suggests that participants in conversations presuppose the knowledge norm. If they did not presuppose this, Williamson says, the ‘how do you know?’ response would seem inappropriate or a non-sequitur. Next, notice that there are many such appropriate questions. Kvanvig points out that, ‘Are you certain?’ and ‘do you have any good reason to believe that?’ are conversationally appropriate (Kvanvig, 2009, p. 5). McKinnon offers, ‘do you believe that?’ and ‘why do you believe that?’ as other appropriate options (McKinnon, 2012, p. 66). ‘What are you implying?’ and ‘are you serious?’ also seem to work. From this, Kvanvig concludes, “the data about conversationally appropriate questions doesn’t settle the matter as to the precise nature of the norm or norms of assertion” (Kvanvig, 2009, p. 5).

This conclusion seems right. We have intuitions that many different responses to assertion can be appropriate. If this is the case then neither our responses to assertions nor our intuitions about appropriateness should be trusted to pick out a unique norm. The inferences about the constitutive norm of assertion from our intuitions about conversational propriety are not clearly justified, given that conversations can be proper (or improper) in myriad ways. They can, after all, be measured by many norms.

Perhaps our critical intuitions offer us *prima* rather than *ultima facie* evidence for a particular norm. This is, after all, what Kvanvig concludes: our intuitions cannot *settle* the question. And, just because the evidence that the intuitions offer is defeasible doesn’t mean it isn’t evidence. Kvanvig himself uses intuitions of propriety and criticism in support of his favored norm.

This response is a mistake. Our critical intuitions were supposed to motivate us to believe that assertion is normatively constituted. If no critical intuitions can be decisive because they all depend on extra-assertoric considerations, then in what sense is there criticism *qua* assertion? Our critical intuitions are too varied to be good evidence for the violation of a constitutive norm, and so cannot offer evidence that there is some such norm. Critical intuitions should not motivate us to think that assertion is normatively constituted. Instead, they point us to the various general norms on behavior that also bear on assertion.

### §2.3 Discursive Responsibilities

The above motivations are usually offered in support of constitutive norms of the form XN. The other kind of constitutive norm defended in the literature derives from the responsibilities that an asserter incurs by asserting. The idea is that assertion has a particular function in discourse; one that makes asserters subject to criticism if they do not respond to challenges in particular ways. If a speaker asserts that *p*, and her interlocutor challenges her (in a legitimate way), then that speaker must, according to this kind of norm, retract or defend her assertion. This is the ex-post-facto normative constitution of assertion.

Michael Rescorla defends a view like this (Rescorla, 2009a). Assertions, according to Rescorla, are proper when the speaker meets her discursive responsibilities. As part of his defense of this norm Rescorla voices some of the doubts about N-theories detailed above. Unfortunately, some of these doubts apply to Rescorla's view as well, leaving him subject to many of the same criticisms he himself raises. I will demonstrate

this, below. This, in turn, will make it clear that we do not need assertion to be normatively constituted to account for our discursive responsibilities.

Rescorla's norm picks out requirements for proper behavior on the part of the speaker after they assert, rather than on how they must be positioned in order to assert properly. This is why they've been called *ex-post-facto norms* (Turri, 2013). According to a view like Rescorla's, speech acts are assertions when the speaker is required to either rebut or retract in the face of a challenge. If there is no such requirement, if, for example, the speaker can remain silent in response to a challenge, then the speech act is not an assertion. This is because assertion is part of reasoned discourse and assertions generate discursive responsibilities to defend the asserted proposition. From this, defenders of the *ex-post-facto* norm infer that assertion is constituted by a normative requirement to defend the proposition expressed, or to retract it (Rescorla, 2009a).

This inference is a mistake. The *ex-post-facto* norm fails to be motivated reasons familiar, now, from the discussion above. First, the norm fails to apply to all and only assertions. Second, the criticism tracked by the norm can be explained by other familiar norms on behavior – there is nothing particularly assertoric about it. These reasons are familiar from our discussion of N-theories, but it will be worthwhile to review them for *ex-post-facto* norms.

Rescorla acknowledges and attempts to respond to this first worry. We do not, as he notes, defend all of our assertions. Further, in some contexts challenges would be inappropriate. Rescorla has the following to say in response to this criticism:

[This] fact is consistent with the dialectical model, which holds that asserting a proposition is performing an action that occupies a certain normative role within reasoned discourse. Such a view can allow that assertion sometimes occurs outside reasoned discourse. Non-dialectical



assertoric performances may even statistically outnumber performances within reasoned discourse. The model claims only that non-dialectical assertoric performances are explanatorily derivative from core performances within reasoned discourse... Not all assertions are moves within reasoned discourse, but all assertions are potential moves within reasoned discourse. (Rescorla, 2009a, p. 105)

This might seem to help – while not all asserters are required to defend their assertions, all asserters are making the *sort* of move that *could* make a speaker subject to such a requirement. Assertion is the kind of speech act that *could* render the speaker subject to such a requirement, if that speaker asserted it in the context of reasoned discourse.

We can account for these observations, however, without a constitutive norm. Rescorla's has only shown that we are sometimes required by conversational norms to provide reasons for our assertions. If this response motivated the kind of constitutive ex-post-facto norm Rescorla wants, it would be equally open to the N-theorists. It is not convincing in either case.

To see why, first notice the shape of Rescorla's response. He claims that assertion is constituted by being subject to a norm that is only in play in some cases. He also claims that despite this, the norm is still constitutive, because it *potentially* could. Now, imagine we were to substitute an N-theoretic norm (the kind of norm he rejects) for Rescorla's. For example, suppose that knowledge were the constitutive norm of assertion. We could, if Rescorla's argument works, account for the cases in which the knowledge norm does not apply by pointing out that the assertion in question has the *potential* to be subject to criticism if it is not known. Rescorla, however, rejects norms of the form XN for ranging over only some assertions (Rescorla, 2009a, p. 108). Given that he thinks this is problematic for the N-theorists, it is hard to see how his response to the first worry can be satisfying.

There is a further similarity between the N-theoretic norms and the ex-post-facto norm that Rescorla defends. As Rescorla points out, the criticism tracked by the N-theoretic norms can be accounted for and explained by general norms of behavior. This, according to Rescorla, indicates that the N-theoretic norms do not tell us anything particular about the nature of assertion. The same, however, is true for the ex-post-facto norm that he defends. Our non-linguistic acts, our non-verbal communicative acts, and our non-assertoric illocutionary acts all seem vulnerable to challenge.

According to the ex-post-facto norm, asserters are required to retract or defend their illocution if challenged in some contexts. This won't individuate assertion, however, as much of our behavior is open to challenge in some contexts. There is non-linguistic behavior that, if enacted publically, can be challenged.<sup>13</sup> In some contexts it is appropriate for the people around me to challenge me to explain or apologize for my behavior. So, for example, if I leave my briefcase in the middle of an airport lounge, I may be called on to explain my behavior or remove my briefcase. Behavior, in general, can be challenged in ways very like what the ex-post-facto norm requires.

A plausible account of assertion would clearly have to restrict the kind of challenge that differentiates assertion. Assertions are public expressions of content, so some challenges that might apply to behavior generally, calls to explain, or apologize, are too general to be good candidates for the ex-post-facto norm's challenge. After all, I can be called on to explain or apologize for any number of non-assertoric behaviors – if I cut you off in line, I am not asserting, but I may well be required by norms of behavior to explain or apologize for my behavior.

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<sup>13</sup> And, if enacted privately it *could* be challenged if the circumstances were different.

The challenge that seems best suited to distinguish assertion, and so to serve as the appropriate challenge for the ex-post-facto norm is the challenge to support or retract one's assertion. This kind of challenge seems to be what Rescorla has in mind, and it is an idea that can trace its roots to work from Brandom (Brandom, 1998), and Price (Price, 2010). The idea is that for my speech to be an assertion is for me to be subject to the norm that I must justify or retract my assertion in the face of a challenge.

And this kind of norm would not apply to all behavior – not even to all public communicative behavior. After all, apologizing for a gesture is not the same as retracting it. It's not even clear what it would mean to retract a gesture. So, perhaps we can distinguish assertion this way: a speaker who asserts is required to explain or retract.

To see why this won't work, however, consider questions. These are non-assertoric illocutionary acts that can be challenged in some contexts. "What makes you ask?" is an appropriate challenge. When challenged, the questioner has the option to either give her reasons for asking, or *to retract*. We can and can be called to take back questions, and promises, and commands, and suppositions, as well as assertions. The challenge to explain or retract does not apply only to assertions and so cannot be an individuating norm.

The best explanation for the similarities in the social expectations generated by our behavior is that we have some general behavioral norm or, perhaps, communicative social norm that requires of us that we explain ourselves or retract when challenged. Just like the extra-assertoric norms that determine when it is permissible or not for the DISTRAUGHT DOCTOR to make his assertions, extra-assertoric norms can explain our ex-post-facto required behavior. General norms on speech action might be moral,

practical, or epistemic – they need not be constitutive to bear on our assertoric behavior.

To be clear, none of this is to say that these norms do not apply to assertion. On the contrary, these general norms of behavior govern assertions and allow us to evaluate them. The point, here and above, is that these norms do not tell us anything particular about the constitution of assertion. Instead, they tell us about the general measures on speech behavior, and our intuitions that speakers are subject to criticisms.

§3. And that's Okay.

### §3.1 Assertion vs. Declarative Saying

I am not alone in claiming that the normative accounts of assertion fail. Herman Cappelen has argued from the failure of N-theories to account for assertion to the conclusion that there is no such useful or informative category (Cappelen, 2011). Further, he claims, the very notions of assertion and the more general notion of an illocution are unhelpful philosopher's inventions. I won't engage with his arguments against N-theories; however, I will briefly demonstrate why I do not share his conclusion.

Cappelen suggests that we do away with talk of illocutions in favor of the purportedly less fraught category of *declarative sayings*. If we can separate the declarative meaningful utterances from the other sorts of behavior, Cappelen argues, we have all the taxonomy we need.

So, we have two options: either declarative sayings can do all the interesting taxonomic work, or assertion is a philosophically interesting category. Cappelen is clear that he wants to pick out sayings as distinct from assertions. He takes the former to be helpful and the latter to be unnecessary and obfuscating. I will argue that the category of

declarative sayings either cannot capture the interesting differences and similarities in speech acts, or is just identical to the category of assertions (so if one category is interesting/useful, both are). To proceed, however, some details of speech act theory will be helpful.

Speech act theory distinguishes between locutions, illocutions, and perlocutions (Austin, 1975; Searle, 1969). Meaningful utterances are locutions. I can make a locution without making an illocution if I am testing a microphone or practicing my diction. If my locution is a move in a conversation, I've also made an illocution. Promises, commands, assertions, and questions are all examples of illocutions. Perlocutions are the effects of my illocution on the behavior of participants in the conversation. If, because of my illocution you answer my question, or close the door, your answering or closing is the perlocution. So, in making a single utterance, I can be said to have uttered meaningful noises, asked a question, and prompted an answer. Speech act theory gives us ways to distinguish between these at the level of locutions, illocutions, and perlocutions.

Cappelen advocates doing away with the notion of illocutions all together. All the interesting work, he claims, takes place at the level of the locution (Cappelen, 2011, p. 22). I disagree.

Cappelen wants to give up the illocutionary category. He argues that illocutions in general and assertion in particular are useless philosophical inventions. However, notice the following: while Cappelen claims that we only need locutions, he wants to specify that he is picking out the declarative meaningful utterances. It seems to me that he can mean one of two things by 'declarative'. First, he might mean to be picking out a grammatical type. Declarative sayings, by this understanding, involve a subject, and a

verb, and if inscribed, would conclude with a period. This is what linguists study when they look at grammatical mood, and perhaps Cappelen means to appeal to that study. Or, Cappelen could mean to pick out something important about the kind of action taken by an agent who produces such a meaningful string of noises, namely that that agent is declaring something, or making a statement.

Here, then, is the rub for Cappelen: if he means the first grammatical reading of ‘declarative’ then he is in a position of being unable to distinguish between the kinds of actions that speakers take with declarative sentences. In many conversations “the window is open and the room is too breezy” counts as a request. But Cappelen, on this first reading, has no machinery to account for this. Our communication, in particular our verbal communication, is not typically strictly bound by grammatical conventions, making grammatical rules ill-suited to distinguish between the different things we do with our meaningful noises. If, on the other hand, Cappelen means this second reading of ‘declarative’, then declarative sayings occur when speakers make statements, declare things, or *put things forward as true*. And this is just what assertions do, according to speech act theory.

It is not clear to me how to show that a category is philosophically interesting apart from showing that it captures some distinction that matters. If the distinction between 1 and 2 matters, then speech act theory does better than Cappelen’s sayings account, as it can use illocutionary categories to distinguish between them. If this is a distinction worth capturing, then Cappelen’s declarative sayings won’t serve us well unless they are understood in the very way that assertion is. At that point, we have a quarrel over labels, and not over substantive differences in view (I return to Cappelen’s

position in Chapter 3). From this I conclude that we should not abandon assertion, even if the N-theories and the ex-post-facto norm fail to individuate that type.

### §3.2 Reconstituting Assertion

I've argued, so far, for two claims: first, that assertion is not normatively constituted and second, that it is useful to have illocutionary categories, like assertion, in our analytic tool-kit. In light of these, the remainder of the chapter will be devoted to a sketch of an alternative constitution for assertion – one that requires no particularly assertoric propriety. In other words, I'll sketch what it takes to assert, and how assertions differ from other illocutions. I'll do this by engaging with some more tools from speech act theory.

Searle distinguishes illocutions by way of a number of different kinds of rules (Searle, 1969). For each illocution there are propositional content rules, preparatory rules, sincerity rules, and essential rules. With the exception of the essential rule, these are conventions that determine various sorts of felicity or normalcy. They are met in some central instances of the illocution and set expectations for the speaker's attitude toward the proposition expressed. An illocution cannot be fully felicitous without meeting all of them, but a locution can be that illocution without being felicitous. These kinds of rules can be shared across different illocutions – a promise and an assertion can have the same propositional content, for example. The essential rule, on the other hand, must be met for some utterance counts as performing the type of act in question. This rule is supposed to determine the illocutionary status of a locution. When a speaker meets an essential rule, she presents herself as having met the other sorts of rules as well.

We should be very careful with this idea of felicity. It can be easily confused with the kind of propriety debated among the N-theorists. The important thing to note is that there are many ways of being felicitous qua assertion – being sincere, being justified, expressing a proposition, etc. Some kinds of infelicities make the locution misfire as an assertion – like the essential rule, and the propositional rule. Other kinds make the assertion potentially immoral – violating the sincerity rule is an abuse of the illocution. Regarding these kinds of abuses, misfires and infelicities, Austin says, “Do not stress the normal connotations of these names!” (Austin, 1975, p. 16). It might be perfectly proper, all things considered, to abuse an illocution in some way or other. Further, these kinds of felicities do not individuate assertion. Insincerity is an abuse of assertion *and* of promising. Being conversationally appropriate is a preparatory condition for a large number of illocutions (Austin, 1975, pp. 136-138). The notion of felicity won’t do the work that the N-theorists require of assertoric propriety.

Returning to assertion’s constitution, Searle’s essential rule for assertion is as follows:

Essential Rule: an utterance is an assertion if it counts as an undertaking to the effect that the proposition expressed represents an actual state of affairs.

The other rules, the preparatory rules, sincerity rules, etc. describe typical or felicitous assertions. These rules are:

Content Rule: Any proposition, *p* can be expressed by assertion

Preparatory Rule: an asserting speaker, *S*, represents herself as having evidence (reasons etc) for the truth of *p*

Sincerity Rule: *S* represents herself as believing that *p*.



In making such an assertion, a speaker also represents herself (to some extent) as having adequate evidence for the truth of proposition expressed, and as having made a contribution that is conversationally appropriate. She also represents herself (to some extent) as believing the proposition expressed in her assertion. None of these representations need to be true, or fully met. Regarding these representations, Searle says, “in the performance of any illocutionary act, the speaker implies that the preparatory conditions of the act are satisfied” (Searle, 1969, p. 65). From early speech act theory, then, we have an alternative way to individuate assertion. I discuss these tools from early speech act theory in detail in Chapter 4.

There may be a worry that the essential rule does not individuate appropriately. Assertions aren’t the only way to put content forward as true. Conjectures, as Williamson tells us, also put propositions forward as true (Williamson, 1996). So do guesses. However, in conjecturing or guessing, the speaker does not represent herself as having the same degree of evidence for the truth of the proposition expressed as she does when she asserts. Thus, given the relationship between meeting the essential rule of assertion and the representations an asserter thereby undertakes, this account of assertion can individuate assertion from other speech acts.

Searle’s essential rule is very different from the constitutive norms discussed above. It does not give conditions for assertoric propriety. Essential rules give us the standard by which something *counts as* an assertion, not the standards by which we can criticize an asserter. Thus, failing to meet this rule is failing to be an assertion<sup>14</sup> – clearly

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<sup>14</sup> Just as failing to meet the constitutive rules of soccer is failing to play soccer. Here, perhaps, is an apt analogy with games.

not the kind of consideration that the N-theorists had in mind. The essential rules individuate illocutions but do not give propriety conditions.

Whatever propriety conditions particular assertions have will be based on other extra-assertoric norms available from morality, legality, politeness, efficacy, epistemology and/or aesthetics. What norms are applicable will vary from context to context (and perhaps vary in more fine-grained ways than that). Assertions will be evaluated relative to different norms in different contexts. And, further, because none of these norms constitute assertion, assertions can be proper or improper according to a single standard in ways that vary from context to context. What it takes to assert properly, as assessed from the standards of politeness for example, depends a great deal on context. We have the flexibility to account for this variation with a theory of assertion that does not require the same standard to individuate the type and set propriety conditions.

One response on behalf of the N-theorists is to argue that Williamson (and the rest) should be seen as spelling out just what it takes to have adequate evidence. I doubt that this is their intention, but perhaps it is one way to understand the project. If that is the case, however, it is not clear why we should expect the level of adequate evidence to be the same for all assertions. Different contexts could require different epistemic relations to the asserted content. In some contexts asserters might represent themselves as knowing the content, as Williamson suggests. In others they might represent themselves as merely having reason to believe it, as Lackey recommends. In other words, understanding the project in this way renders the debate between the N-theorists extraneous. Seen in this light, Williamson etc. would be engaged in a very different

project than determining the constitutive norm. Their investigation would be, instead, into the epistemic relationships that proper asserters sincerely represent themselves as having to the proposition they express. And, because this standard does not need be the same for all and only assertions, they might all be right about assertions in some contexts. The disagreement and the debate between the N-theorists, then, would dissolve.

Further, Searle's requirement is that, in asserting, you present yourself as having a particular standing. We present ourselves as having the epistemic relation to our assertions that is required by the context in which we assert it. In contexts in which certainty is required for proper assertions, asserters represent themselves as certain about what they assert, even if they do not know it. The N-theorists purport to pick out which relation asserters must actually have in order to be proper, not the relation that they must present themselves as having. This, with the plausibility of context-sensitive propriety norms, tells against an interpretation of N-theoretic debates as over adequate justification. There is, in other words, not much hope for the N-theorist or the N-theoretic debate to recover by pursuing these lines of argument.

We require a variety of things of proper assertions, from justification, to moral consideration, to artful expression. And these requirements vary in their strength across contexts. We can measure the propriety of a particular assertion according to many different standards. In some conversations morals will trump manners. In others, practicality will take the day. None of these standards, however, constitute assertion.

Importantly, some of these evaluations help to account for the data raised in favor of the N-theoretic norms and the ex-post-facto norms. In each case raised by defenders of those norms, there are extra-assertoric violations or felicities that render the assertion

proper or improper *in some way*. These extra-assertoric norms influence our intuitions about the propriety of particular assertions. There is no need for *assertoric* impropriety to account for these intuitions when we have other familiar norms already doing that work, and an analysis of assertion that individuates the taxon without relying on constitutive norms. So, I conclude, we don't need the constitutive norm of assertion. And, given that there are other ways to tell assertion apart from other illocutions, that's okay.

### §3.3 Where Do We Go From Here?

With the beginnings of an account of assertion safely in hand, we might still wonder, where do we go from here? Granting that we can distinguish assertoric force from other illocutionary forces, what should we do with this distinction? If we stop looking for the constitutive norm of assertion, what kinds of questions and project can we pursue? If the foregoing is correct, we can move forward by focusing on the norms by which we *do* assess assertion, and the uses to which we put these assessments. In this final section, I will identify three philosophically interesting projects have not been damaged by the above. All three projects investigate phenomena related to assertion, and none of them require normative constitution thereof.

First, we might wonder about the epistemic norms (note the 's') on assertion in various contexts. Patrick Greenough (Greenough, 2011), and Janet Levin (Levin, 2008) have argued that assertion's norm varies from context to context. If the epistemic norm on assertion does not have to distinguish assertion from other illocutionary forces, then the norm is free to vary, and our account of testimony can countenance varied

requirements. Theories of testimony that make use of assertion's constitutive norm, like those of Elizabeth Fricker (E. Fricker, 2007), Jonathan Adler (Adler, 2013), Sanford Goldberg (Goldberg, 2011), and Jennifer Lackey (Lackey, 2008), can be more focused projects without the burden of demonstrating that the norms they're using govern all and only assertions.

Freeing the norms in this way means that our account of the epistemic norms on testimony can require more in some cases than others. Some cases, like testifying in court, might indeed require knowledge for proper assertion. In others, like the case of the distraught doctor, the testimony need not be believed (and therefore not known) to be epistemically proper. Discovering what about the cases causes these differences in epistemic requirements seems like a worthy project – and it is one that is only available if we relinquish the idea that is a single epistemic norm on all and only assertions.

A second worthy project is on the *other* norms on assertion. Epistemic norms have been the focus for the literature on the constitutive norm; however other philosophical inquiries have focused on other kinds of norms. Work by Miranda Fricker (M. Fricker, 2007), Rae Langton (Langton, 1993), Ishani Maitra, and Mary Kate McGowan (Maitra & McGowan, 2010), and others, brings attention to the moral, legal, and practical norms that govern our speech acts and, by extension, our assertions and testimony.

By focusing on these other kinds of norms, we can see more clearly how and why speakers use different kinds of speech acts. Assertions can, for example, be a powerful source of knowledge, but also be a powerful tool for subordination. An assertion might be epistemically proper and still be impractical, immoral, or subordinating. On the other

hand, it might be a matter of justice, or of practical exigency, that we assert without justification, say, or belief. This is made clear in the cases raised by Lackey (Lackey, 2007), by Weatherson and Maitra (Maitra & Weatherson, 2010), and by Kvanvig (Kvanvig, 2009), in their discussions of the constitutive norm. However, there the observations go by the wayside in pursuit of the constitutive norm. More attention is due to the other norms on assertion, as the work from Langton etc, makes clear.

A third project, separate from questions of testimonial knowledge transmission, and questions of just speech action, is to figure out just how our everyday speech actions, and perhaps assertion in particular, are related to our other behavior, both public and private. What norms, if any, are particular to our public action? For which of these, if any, are all and only speakers responsible? All and only asserters? What kinds of expectations do we have of speakers? These kinds of questions are closely related to the ones that Rescorla asks, as discussed above, but more general, as they are not bound to produce a particular norm to constitute assertion.

In many ways this project is similar to work on conversations from Brandom (Brandom, 1998), Kukla and Lance (R. Kukla & Lance, 2009), Green (Green, 1999, 2010), and Price (Price, 2013). To see what kinds of expectations and responsibilities asserters and other speakers incur we will have to look at the purposes and kinematics of conversation. We will have to look at assertion's place in a complex practice. This is a live and important project, and one that need not invoke or inquire about a constitutive norm of assertion.

The following chapters only make brief contact with most of these projects. I want to flag them here, though, because the positions taken in the rest of the dissertation

will be, to the very best of my ability, compatible with a pursuit of these projects. There is work to be done, though, before the projects can be pursued – work on testimony, illocutionary force, and assertion itself. I turn to that work in the next chapters.

## Chapter 2: Testimony and the Constitutive Norm of Assertion

Abstract: In this chapter I discuss one lingering reason we might think that the constitutive norm of assertion is theoretically compulsory. Despite the arguments in chapter 1, there is a long-standing assumption that the constitutive norm of assertion plays a vital role in our understanding of testimonial knowledge transmission. In this chapter, I argue that this is not the case. I do so by demonstrating that for every reasonable candidate role the constitutive norm of assertion might play in an explanation, there is a better simpler explanation that leaves that norm out. Indeed, as in chapter 1, most of the places where the constitutive norm of assertion seems necessary are, in the end, places where other more general norms are in play.

### §1. The Constitutive Norm and the Epistemology of Testimony

It is widely assumed in the epistemology of testimony that there is a connection between testimonial knowledge transmission and the constitutive norm of assertion.

Timothy Williamson, in his seminal discussion of knowledge and assertion, remarks that,

It is...pointful to ask why we have such a speech act as assertion in our repertoire...No doubt we need a speech act something like assertion, to communicate beliefs, but could we not have done so just as well by using a speech act whose rule demanded less than knowledge? ... One obvious answer is that we need assertion to transmit knowledge. (Williamson, 2000, p. 267)

Similarly, in her work on reductionism and anti-reductionism, Elizabeth Fricker claims that,

The speech act of assertion is...governed by the norm: one should assert that P only if one knows that P...in asserting that P, the asserter gives her word that P and entitles her audience to believe that P on the strength of her say-so, so that her audience may complain if P subsequently turns out to be false, or the asserter not to have known it to be true. (E. Fricker, 2007, p. 104)

In his *Stanford Encyclopedia of Philosophy* entry on problems in the epistemology of testimony, Jonathan Adler notices that,

The [knowledge norm] seems to capture the hearer's point of view: The hearer accepts the speaker's testimony without learning of the speaker's



evidence or reasons or credentials, since the hearer takes the speaker to know. (Adler, 2013)

These references to ‘the norm of assertion’, ‘the knowledge norm,’ and ‘the rule’ of assertion all invoke the notion of a speech act defined by being subject to a constitutive norm.

Some epistemologists have even remarked on the frequent use of this assumed connection. In her book on testimony, Jennifer Lackey points out that,

Considerations regarding the [Knowledge Norm] have been quite heavily relied upon to provide support for [The Transmission of Epistemic Properties]. (Lackey, 2008, p. 105)

Sanford Goldberg also mentions this assumption in his work on epistemic rights saying,

I want to take the claim that assertion has a norm and put it to work in connection with some issues surrounding testimony. I am not the first to try to link the debate over assertion’s norm to issues regarding testimony. Various people have already done so. (Goldberg, 2011, p. 175)

As all of these passages demonstrate, there is an apparently intuitive and often assumed connection between the norm that constitutes assertion and the knowledge we transmit through testimony.

Unfortunately, the constitutive norm of assertion is not a simple tool to use. There is little consensus over which norm, if any, constitutes assertion. The constitutive norm of assertion is supposed to determine, for all assertions, whether or not those speech acts are proper. This means that the norm does not describe how assertions normally are, it describes the characteristics of proper assertions. It also means that a speech act is an assertion if and only if it is subject to that norm. Defenders of the norm also specify that

the norm determines assertoric propriety, in particular, rather than legal, or moral, or practical propriety.<sup>15</sup> However, neither the details nor nature of the norm are obvious.

One sign of this confusion is that a wide variety of candidates for the constitutive norm have been defended. Williamson (Williamson, 1996), Keith DeRose (DeRose, 2002), and John Hawthorne (Hawthorne, 2004) defend the knowledge norm according to which proper assertions are known. Matthew Weiner (Weiner, 2007), on the other hand, prefers a truth norm – that proper assertions are true. Lackey (Lackey, 2007) defends a norm according to which it must be reasonable for a speaker to believe the content she asserts for that assertion to be proper. Kent Bach (Bach, 2010) defends a belief norm according to which a proper asserter only needs to believe the content she asserts. Ishani Maitra and Brian Weatherson (Maitra & Weatherson, 2010) defend a norm according to which it is proper to assert some content only if it is proper to act as if that content is true. And the debate is complicated even further: Janet Levin (Levin, 2008), John Koethe (Koethe, 2009), Daniel Whiting (Whiting, 2013), Mikkel Gerken (Gerken, 2013), Charlie Pelling (Pelling, 2013a, 2013e), and Herman Cappelen (Cappelen, 2011) have all raised worries about the nature and existence of a specifically assertoric norm. The precise nature of the constitutive norm of assertion is a hard and complex problem in the philosophy of language.

So, the assumption that the constitutive norm of assertion has an important role to play in accounts of testimonial knowledge transmission comes at a cost – it commits the epistemologist to taking a stand on there being a constitutive norm for assertion, on the nature of that norm, and on that norm's ability to play the role of explaining testimonial

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<sup>15</sup> (Lackey, 2007) has a nice discussion of this.

transmission. It would therefore be a benefit, and yield a simpler epistemological project, if the epistemological account of knowledge transmission could avoid commitments regarding the constitutive norm of assertion.

In this chapter, I will argue that this benefit is within reach – the constitutive norm of assertion, though it might seem integral to accounts of testimonial knowledge transmission, in the end, has no role to play in those accounts. Furthermore, I'll argue, there are alternative explanations we can give for testimonial knowledge transmission. These alternatives eschew the constitutive norm of assertion, but instead draw on general norms on behavior – norms of politeness, morality, and practicality. So, not only does the constitutive norm play no role in explanations of testimonial knowledge transmission, we also already have all the norms we need to explain this phenomenon.

I begin, in the first section, with two somewhat simplistic ways of articulating the assumption that the constitution of assertion explains the knowledge hearers get from testimony. Despite the fact that no particular philosopher defends such simplistic articulations, these cases offer a good place to start our examination of the purported connection. In this first section I consider both internalist and externalist accounts of testimonial knowledge transmission that invoke the constitutive norm of assertion. I will demonstrate that the constitutive norm of assertion has no plausible role to play in these accounts.

I next turn to an account of testimonial knowledge transmission that uses the constitutive norm of assertion more plausibly. This account is closely related to features of the quoted Fricker and Williamson passages above. It is an articulation of the assumption that the constitutive norm of assertion plays a role in making testimony

*reliable*. In this section I will argue that the constitutive norm, at least as it is usually understood, cannot play that role.

Finally, I turn to an account of the rights conferred by testimony and the role that the constitution of assertion plays in explaining those rights. Goldberg (Goldberg, 2011) and Philip Nickel (Nickel, 2013) have both recently claimed that assertion's constitution helps explain this exchange of rights. In the last section I demonstrate that the constitution of assertion has no role to play in these explanations either. The upshot, if my arguments are correct, is that there are important norms on assertion at least one of which is epistemic, but none of which has to constitute the speech act in order to explain testimonial knowledge transmission.

## §2. Internalist and Externalist Accounts

A few more preliminaries are in order before going on. First, I will assume throughout that testimonial knowledge transmission occurs. I will also assume that there are familiar norms on our actions and that speaking is a kind of action. By this I just mean that our speech acts can be measured against norms of practicality, morality, legality, beauty, etc. I take both of these assumptions to be relatively uncontroversial, so I will not defend them here. I will also not discuss the nature of belief or its relationship to knowledge and testimony.<sup>16</sup> I will not engage in the lively debate over reductionism and anti-reductionism.<sup>17</sup> I will mention, but not attempt to adjudicate between internalist

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<sup>16</sup> See (Williamson, 2000), (Lackey, 2008), (Millikan, 1984), (Gendler, 2008)

<sup>17</sup> (E. Fricker, 2007), (Horgan, 1996), (Lackey, 2003)

and externalist accounts of justification.<sup>18</sup> I don't leave these debates aside because I think they are unimportant – on the contrary, I think these are questions on which interesting and important work is being done. In fact, I think that epistemologists of testimony should pursue that interesting work and abandon the assumption that they need the constitutive norm of assertion at all.

This is not to say that our theory of assertion can ignore norms writ large. The familiar norms that I assume bear on our on our actions might well play a role in our account of testimony. We might be interested in measuring a speaker's testimony for practicality, beauty, or sincerity etc. However, we can make these evaluations without claiming that they constitute the speech act of assertion. The constitutive norm, on the other hand, is supposed to be special – it is the measure that defines assertion, making an utterance that kind of speech act, rather than a conjecture, or a swearing. The constitutive norm is unlike other norms in that it defines assertion. Michael Rescorla puts this distinction well when he says that, “a norm is constitutive of a practice [if and only if] one must obey the norm to engage correctly in the practice” (Rescorla, 2009a, p. 101).

Further, the constitutive norm of assertion measures an assertion-specific kind of propriety. It is independent of norms or manners or morals. And, the constitutive norm of assertion has nothing to say about frequency or likelihood. Williamson himself points out that we may only infrequently meet the constitutive norm of assertion (Williamson, 1996). Nonetheless, being subject to this norm is what sets assertions apart from other speech acts.

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<sup>18</sup> See (Bonjour, 2002), (Goldman, 1979), (E. Fricker & Cooper, 1987), (Kornblith, 2001), (Feldman & Conee, 2001)

Now we are in a position to begin by looking at the simplest ways of using the normative constitution of assertion in our account of testimony. This simple (perhaps simplistic) beginning will serve an important function: it will allow us to steer clear of some potentially distracting, and ultimately unworkable options. First, let's look at an internalist account of testimonial knowledge transmission – taking the sort of access internalism that has been defended by Laurence Bonjour (Bonjour 1992) as our test case.<sup>19</sup> According to a simple version of access internalism, an agent must be able to access the justification for her beliefs for those beliefs to be justified. For testimony, this means that a hearer who comes to have knowledge because of an assertion must be able to access the justification that that assertion provides.

How might a simple, straightforward internalist account of testimony make use of an epistemic constitutive norm of assertion? Mere knowledge of this norm would be insufficient. Notice the immediate implausibility of the following:

*Internalist Account 1 (Int1)*

A speaker S truly asserts that *p* and is heard by hearer H who comes to believe that *p*. Assertion has a constitutive epistemic norm. H knows (or is in a position to know) that assertion is so constituted.<sup>20</sup> H comes, thereby, to know that *p*.

This account claims a connection between an epistemic constitutive norm and the justification available to the hearer. The hearer has access to the constitution of assertion, so if that knowledge could justify her belief, then the hearer has access to the justification for her belief. Clearly, though, knowing about the epistemic constitutive norm of assertion does not justify belief in asserted content. Knowing that a proper assertion has

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<sup>19</sup> This is merely for simplicity, as I am confident that there is a mentalist analog available

<sup>20</sup> Something like this is usually assumed in accounts that make use of the constitutive norm of assertion. See (Goldberg, 2011), for example.

some features does give H much knowledge at all about a particular assertion, including S's.

This is especially clear given that the constitutive norm of assertion neither guarantees nor makes likely that asserters stand in the appropriate epistemic relation to the content they assert. Instead the normative constitution of assertion gives conditions for when assertions are *proper*. So, the hearer only gets justification to believe the asserted content if the assertion in question is proper. But the propriety of the asserted content is neither assumed in Int1, nor is it something that the hearer clearly has access to by knowing about the normative constitution of assertion.

An improved internalist account would have to include more details. For one, it requires a condition according to which the justification is conferred only when the assertion is proper. It also requires a condition to the effect that the justified hearer has access to the fact that the assertion is proper. Supplementing with these considerations in mind yields the following:

*Internalist Account 2 (Int2)*

S truly asserts that *p* and is heard by H, who comes to believe that *p*. Assertion has a constitutive epistemic norm. H knows (or is in a position to know) that assertion is so constituted. If S's assertion is proper, then H has justification to believe the content. H has access to the fact that the assertion is proper. H comes, thereby, to know that *p*.

Int2 claims that if an assertion is assertorically proper, and the hearer is aware of or has access to this propriety, then the assertion justifies belief in the content expressed. In this supplemented version we have a more complete explanation.

In supplementing to make the account more complete, it becomes clear just how little work the constitutive norm is doing. If H has access to the fact that S's assertion is

proper, then H has access to S's epistemic relationship to P. Given that we're considering the knowledge norm of assertion, this means that H has access to the fact that S knows that P. Perhaps H knows or has access to S's track record with respect to P-related subject matter. Perhaps H knows or has access to the fact that S is sincere and well informed regarding P in this case. However H comes to have access to the fact that S knows that P, H must have this access independent of S's assertion for Int2 to be plausible. With this in mind, we can substitute the epistemic relationship that makes the assertion proper (i.e. knowledge) in for 'is proper' and get a simpler picture. To see this, consider the following alternative:

*Alternative Account 1 (AltA1)*

S truly asserts that *p*, and is heard by H, who comes to believe that *p*. If S knows that *p*, and H has access to this fact, then H has justification to believe the content. H has access to the fact that S knows that *p*. H comes, thereby, to know that *p*.

AltA1 offers at least as good of an account as Int2 does. The norm of assertion plays no role in the explanation, and AltA1 is simpler for leaving it out. If simplicity is a virtue, then AltA1 provides a better alternative than either of the internalist accounts.

What about externalist accounts? As in the discussion of internalism, let me specify a test case for externalism: reliabilism. Reliabilist accounts of justification do not require that the knower have epistemic access to her justification. Instead, either the source, or the kind of source for the belief in question must be reliably truth conducive, either because the belief is formed by way of a reliable process, or because the beliefs themselves are reliable indicators (Armstrong, 1973), (Goldman, 1979), (Bach, 1985), (Alston, 1988). For testimony to justify belief in the content asserted, either the testifier,



or testimony in general, needs to yield true beliefs enough of the time. So, our reliabilist story of testimonial knowledge transmission would go something like this:

*Externalist Account (Ext)*

S truly asserts that *p*, and is heard by H, who comes to believe that *p*. Assertion has a constitutive epistemic norm. If S's assertion that *p* is a reliable indication that *p*, then H is justified in her belief that *p*. S's assertion that *p* is a reliable indicator that *p*. H comes, thereby, to know that *p*.

Given the foregoing, it is probably clear that the constitutive norm of assertion plays no role in Ext1. To see this consider the following:

*Alternative Account 2 (AltA2)*

S truly asserts that *p*, and is heard by H, who comes to believe that *p*. If S's assertion that *p* is a reliable indication that *p*, then H is justified in her belief that *p*. S's assertion that *p* is a reliable indication that *p*. H comes, thereby, to know that *p*.

So, if we're already assuming (as in Ext) that S's assertion is a reliable indication of the truth of the asserted content, then knowledge is transmitted for entirely general reasons, having nothing to do with whether reliability is the norm of assertion. Whether reliability is the norm of assertion is actually irrelevant to the explanation of why H acquires knowledge. If this is right, then we don't need an epistemic constitutive norm of assertion to account for testimonial knowledge transmission as described by Int2 or Ext.

Both alternative explanations are simpler than the accounts that invoke a constitutive norm. From this, I conclude that such a norm is not necessary in these somewhat simple explanations of the knowledge a hearer comes to have via testimony. Whether we employ an internalist or an externalist notion of justification, the constitutive norm plays no role in these accounts of testimonial knowledge transmission.

Perhaps there are more plausible ways to incorporate the constitutive norm of assertion into our account of testimonial knowledge transmission. Internalists and externalists who are committed to the normative constitution of assertion could certainly pursue more complicated accounts of testimonial knowledge transmission in which the normative constitution plays an important role.<sup>21</sup> The challenge, for these more complicated options, is to show that the constitutive norm of assertion has an important role to play in our explanation of testimony, *and* avoids the objections I'll detail below.

As I'll argue in the next section, statistical norms of assertion, and proper functional accounts of assertion, might plausibly work well in an explanation of testimonial knowledge transmission, but the normative constitution of assertion is neither of these. In light of this challenge, I think we are unlikely to make much progress with these hypothetical more complicated versions of the connection between the normative constitution of assertion and testimonial knowledge transmission. If such a connection could be made clear, however, perhaps there would be a role for the constitutive norm of assertion to play.

### §3. Reliability

The constitutive norm of assertion might play a different, less direct (but more plausible), role in accounts of testimonial knowledge transmission. No matter what analysis of justification turns out to be right, testimonial knowledge transmission seems to require that speakers be trustworthy, at least enough of the time. This is part of the point of the Williamson passage quoted above – if speakers didn't speak sincerely some

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<sup>21</sup>An Internalist might look to (E. Fricker, 2006) and an Externalist might try (Burge, 1993), or (Graham, 2012a) for potential ways forward.

sizable proportion of the time, we would simply not use a speech act like assertion to testify. An epistemic constitutive norm of assertion might explain why we use assertion reliably to report and transmit our knowledge. Perhaps testimony is reliable *because* knowledge is the norm of assertion. In other words, the reliability of testimony, and the hearer's subsequent knowledge, might require that knowledge is the norm of assertion.

There are two ways the constitutive norm of assertion could contribute to the reliability of testimony. First, speakers might be aware that they can only speak properly if they meet the norm – the constitutive norm of assertion might, e.g., motivate speakers to only assert what they know. Second, the constitutive norm of assertion might be necessary in an explanation of *why* speakers continue to use assertion to communicate knowledge – we continue to use assertion in this way because asserters tend to be reliable. I'll consider each of these in turn.

First, perhaps the constitutive norm of assertion motivates speakers to be reliable. Certainly we are sometimes motivated by norms.<sup>22</sup> Norms of driving motivate us to be safe drivers – we approximate the speed limit, for example, and so drive more safely. Legal norms play a role in explaining why we drive safely. So too, perhaps assertoric norms play a role in explaining why we testify reliably.

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<sup>22</sup> The classic analogs for the norm of assertion are the rules of chess. A game cannot be chess, the analogy goes, unless the players are subject to the rules of chess. I don't think that chess makes a great analogy, however. The claim is something like this: just as the rules of chess, taken all together make chess the game it is, the norm of assertion makes assertion the illocution it is. But chess and assertion just aren't analogous in a way that helps motivate the normative account. If I violate the rules of chess, taken together, on purpose, I'm simply not playing chess. It is important for the normative account of assertion that I can violate the constitutive norm and still be asserting (albeit improperly) (Williamson, 1996), (Lackey, 2007), (Bach, 2010), (Turri, 2013).

Despite its initial plausibility, this way of understanding the connection does not work for two reasons. First, there is a clear disanalogy between the driving and asserting cases: the speed limit is not a constitutive norm for driving. If there were no speed limit, driving would still be possible, and the speed limit does not pick out a driving-specific kind of propriety. So, the speed limit is not a constitutive norm for driving. It is clear there are norms we're motivated to follow – the speed limit is one – but that's not enough to show that the constitutive norm of assertion motivates us, especially as the two norms fail to be analogous in this important way.

Worse still, comparing these cases does not support the need for an epistemic constitutive norm of assertion to account for speaker's motivation. Drivers are motivated to follow the norms on driving because of specific and (largely) tangible consequences for not so doing. Drivers approximate the speed limit because of the legal, and practical (and perhaps moral) consequences for violating that norm on driving. The same is not true when we violate the constitutive norm of assertion.<sup>23</sup>

Of course, speakers can experience negative consequences for their legally, practically, or morally improper assertions. Lying offers a good example. In some contexts, violating the moral, legal, or practical norms prohibiting lying can be very bad for the liar indeed. Perjurors, whose assertions violate legal norms, can face very tangible negative consequences. Moral, legal, and practical norms encourage speakers to be reliable (at least some of the time), but these kinds of norms are precisely *unlike* the constitutive norm of assertion – they measure the kinds of propriety that the constitutive

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<sup>23</sup> Consider Williamson's point that asserters only rarely properly assert (Williamson, 1996).

norm attempts to leave aside.<sup>24</sup> Given that moral, legal, and practical norms govern our speech behavior, it is reasonable to believe that these norms encourage speakers to be reliable. Therefore, the explanation of reliability does not need the constitutive norm of assertion. The moral, practical, and legal consequences for violating these norms already account for speakers' motivation. As Goldberg remarks,

There are all sorts of other pressures that can be brought to bear against an irresponsible asserter. These include a diminishment in the trust such a speaker is accorded, the consequent diminishment in the roles that are open to her to play in the deliberations of the various communities of which she is a member, other forms of loss of status (and perhaps loss of friends and partners) and the moral disapproval of one's peers. (Goldberg, 2013, p. 143)

So, even if speakers are motivated by norms to be reliable sources of testimony, we do not need the constitutive norm to account for this.

There is another way that the constitutive norm of assertion might contribute to asserter reliability. As Williamson points out, we habitually use assertions to communicate our knowledge to one another. If assertions are to perform this function, speakers must stand in the epistemic relationship to the content they assert that is specified by the norm.<sup>25</sup> If we are to continue to use this speech act to communicate knowledge, then speakers need to meet this epistemic norm with some regularity.<sup>26</sup> If speakers used assertions only or usually when they failed to stand in the requisite epistemic position to transmit knowledge, we wouldn't use assertions the way we do. As

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<sup>24</sup> (Lackey, 2007)

<sup>25</sup> Or in one of a range of relationships.

<sup>26</sup> There might be some cases, like those brought up by Lackey (Lackey, 2007), and Maitra and Weatherson (Maitra & Weatherson, 2010), where hearers can come to know content based on unjustified or disbelieved assertions. The norm need not be knowledge, it merely needs to feature in the eventual production of knowledge on the part of the hearer.

long as enough asserters stand in an epistemic position that allows us to transmit knowledge, the speech act will last as a discursive habit with this use. So, perhaps the role for the constitutive norm of assertion in analyses of testimonial knowledge transmission is to explain why speakers habitually assert in this way.

First, let me note that this purported explanation is making a sizable assumption. Even if Williamson's observation is right, it is still not clear why this should motivate us to believe in a constitutive norm of assertion. Williamson's observation is that asserters must know the content of their assertion enough of the time, if we are to continue to use assertion to transmit knowledge. This, however, is a necessary condition on our using a speech act in a particular way. Alone, this tells us nothing about how it is proper to use that speech, or about the nature of the speech.

Even if we could fill in more of the details, the constitutive norm of assertion, at least as it is described in the literature, cannot explain why speakers habitually assert reliably. For this explanation we need to demonstrate why speakers have a particular epistemic position *enough of the time*. It must be, so to speak, normal to use assertion in this way. We could offer a standard for so-called 'normal' or 'paradigm' assertions, and so capture this requirement with some kind of 'norm'. This measure, however, is not a constitutive epistemic norm in any recognizable form. The epistemic constitutive norms determine propriety, not frequency (Williamson, 1996) (Lackey, 2007). So, even if we need some sort of norm to account for the reliability of testimony, the constitutive norm

won't do the trick.<sup>27</sup> The other norms, with their tangible consequences, are much more likely to make speaker reliable *enough of the time*.<sup>28</sup>

It is perhaps tempting to use the constitutive norm of assertion to explain *why* these other norms apply. The other norms might explain speaker's motivations to be reliable, but perhaps the constitutive norm has a place in an explanation of the applications of these other norms. This explanation would go something like this: linguistic communities hold one another legally, morally, and practically responsible for asserting reliably precisely because assertion is normatively constituted. The normative constitution of assertion might have a role to play after all – it might ground or explain our other normative assessments.

I confess that I fail to see how such an explanation is enlightening without much more detail. And, I confess, I find it difficult to imagine how that detail could come from the resources of criticism and assertoric propriety available from the constitutive norm of assertion. This explanation does not seem promising, but it is, I grant, an open option if we need to explain the moral, legal, and practical norms on assertion.

Luckily, however, an explanation for our habitual use of assertion, and for the norms that stabilize that use, is already available. Ruth Millikan's proper functional account of speech acts explains why the reliability of assertion contributes to our continued use of assertion in our testimonial practices (See (Millikan, 1984), (Millikan,

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<sup>27</sup> A norm that merely describes a statistical measure, like in (Millikan, 2005) could work here. This kind of norm is not what the N-theorists have in mind.

<sup>28</sup> Perhaps there is a temptation to claim, here, that the constitutive norm explains why such assertions are normal. I am not sure how this explanation would go, unless the constitutive norm motivates speakers to be reliable. And this would just collapse into the first way of developing the connection to reliability. Otherwise the constitutive norm of assertion, at least one that measures assertoric propriety, does not seem to contribute to an explanation at all.

1998), and (Millikan, 2005)). Leaving most of Millikan's details aside (they are outside of the current scope) let me emphasize just one important point: according to Millikan, proper functions are not normative in the way that the constitutive norm of assertion purports to be. The proper function of assertion is determined by historical facts, not facts about assertoric propriety. These historical facts might explain why our assertions are the way they are *now*, but they have nothing at all to say about how they *ought* to be, now or in the future. So, if additional explanation is needed for our application of the norms that motivate asserters to be reliable, such an explanation is available without using the epistemic constitutive norm of assertion.

Philosophers have pursued ways of linking the proper functionalist account of assertion to the epistemic requirements on assertion. Peter Graham, for example, develops a proper functionalist account of the epistemic norms on our behavior, including our speech behavior (Graham, 2012c). I find this account both interesting and attractive. The idea is that speakers hold one another accountable for their epistemic relationships to their utterances, punishing liars and the unreliable, and rewarding truth-tellers. Speakers have internalized this, and the epistemic requirements have become evaluative as well as descriptive norms.<sup>29</sup> This behavior has proved beneficial, and has promoted the survival of this testimony as a mode of knowledge exchange.<sup>30</sup> There are, therefore, evolved epistemic norms that help explain how we learn from one another's words.

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<sup>29</sup> Paul Faulkner (Faulkner, 2007) offers a genealogical story as well, though his is a genealogy of trust rather than of reliability. I think my response to Graham responds *mutatis mutandis* to Faulkner as well.

<sup>30</sup> It is possible that there is some kind of evolved normative stance that conversers take to each other – and this could even be part of our cognitive architecture. This is a fascinating suggestion, and could have implications for our approach to the epistemology of testimony, but it is outside of the current scope.



Graham is clear, however, that the epistemic norms he is investigating are not necessarily constitutive of assertion. Indeed, several of his points tell directly against understanding his target norms as constitutive. He says, “three [norms] are involved, I believe, in our practice of “truth-telling” with differing scope, strength, and compliance, on differing subject-matters in different contexts” (Graham, 2012c, p. 20). Furthermore, Graham cautions against jumping to the conclusion that a norm on some practice is constitutive of that practice. Therefore, I don’t think Graham’s account, even if correct, can compel us to call upon the constitutive norm of assertion. The epistemic requirements we make of each other will likely play a role in our explanation of testimonial knowledge transmission, but these requirements do not need to constitute the assertions speakers use to testify.

#### §4. Epistemic Rights

The constitutive norm of assertion has, so far, had no role to play, but perhaps there is still a need for it in explaining the epistemic rights exchanged in testimony. In the quote above, Fricker points out that if speaker *S* testifies that *p*, she makes herself vulnerable to a variety of criticisms if she does not have the requisite epistemic relationship to *p* (E. Fricker, 2007). One reason a speaker might be subject to criticism is that her assertion has granted her hearers certain rights, for example, a right to expect her to be knowledgeable, or justified, etc.

In his recent discussion of testimony, Goldberg (Goldberg, 2011) discusses the rights exchanged in testimony. In particular, he observes that in at least some instances

testifiers grant their hearers certain rights. He calls these rights Buck-Passing and Blame, and defines them as follows:

*Buck-Passing:* [If] *H* accepts speaker *S*'s testimony that *p*, under conditions in which *H* had the epistemic right to accept that testimony... [then] *H* is epistemically entitled – is within her epistemic rights – to pass the epistemic buck to *S* (by representing *S* as having more in the way of epistemic support for the truth of *p*).

*Blame:* [If] *H* accepts *S*'s testimony that *p* under conditions in which *H* had the epistemic right to accept that testimony... [then] *H* is entitled – is within her epistemic rights – to blame *S* for the insufficient epistemic support of her (*H*'s) own belief. (Goldberg, 2011, p. 178)

According to Goldberg we can explain these rights if we make two key assumptions.

First, we must assume that assertion has an epistemic constitutive norm. Second, we must assume that speakers and hearers are in a position to know this about the nature of assertion (Goldberg, 2011, pp. 178-179). These two assumptions give us the tools to explain these rights.

So, the normative constitution of assertion figures as an assumption in one explanation of the exchange of epistemic rights.<sup>31</sup> Such an explanation might go something like this:

#### *Epistemic Rights 1 (Rights1)*

Assertion is constituted by being subject to an epistemic norm such that the assertion is only assertorically proper when the speaker stands in the requisite epistemic relation to the content she expresses. Speakers and hearers are in a position to know that assertions are only proper if known by the asserter (or if the asserter stands in the requisite epistemic relationship to the content). A hearer can, therefore, fault a speaker who

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<sup>31</sup> Goldberg offers an explanation like this as one way to explain the epistemic rights exchanged in testimony. His goal in doing so is to demonstrate that such an explanation is possible by way of the constitutive norm of assertion and a speaker who is well placed to assert. He is attempting to demonstrate that no further assurance is necessary. He does not, therefore, argue that an explanation like Rights1 is the *best* or *only* explanation. There are clearly other explanations available.

fails to stand in the required relationship for failing to be assertorically proper – This is Blame. A hearer can also call on a speaker to demonstrate to some third party that she has behaved assertorically properly – this is Buck-Passing.

The idea is plausible enough – Buck-Passing and Blame describe the rights we have to hold speakers responsible for behaving properly. And, if assertion is normatively constituted, one must meet the constitutive norm to be behaving properly.<sup>32</sup> But must the norm that explains these rights be constitutive of assertion? To see if a constitutive norm is required, here, we should see if we can develop a convincing account of Buck-Passing and Blame without it.

The most promising way to begin to develop this alternative is by observing the following: much of our behavior, whether discursive or otherwise, can be measured against a wide variety of norms.<sup>33</sup> There are standards of beauty, efficacy, legality, etc, for many of our actions, including our speech actions. Sometimes when we hold speakers responsible for speaking properly, we are holding them to these kinds of standards. We sometimes evaluate speech as deft, artistic, beautiful, or evocative. Failing to meet these standards, in some situations, comes with blame. Appearing to meet these standards also invites buck-passing. To see this, consider standards of efficacy in question and answer sessions. Imagine I am allowed to ask two follow-up

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<sup>32</sup> For further discussion of how these epistemic rights are acquired see Philip Nickel's work on the subject (Nickel, 2013).

<sup>33</sup> There is another way we might remove the constitutive norm from the account: we could offer an alternative account involving a kind of error theory. That is, we could deny that assertion is epistemically normatively constituted but imagine that S and H retain their belief that it is. We could still account for Buck-Passing and Blame if S and H (perhaps their entire discursive community) merely *believed* that assertion was only proper when known. This alternative might have promise, but I doubt it is simpler than Rights1, so I won't pursue it.

questions of a speaker. If you're chastised when you attempt to do the same, you can pass the efficacy buck to me, asking me to justify the efficacy of asking two questions. These standards are not constitutive of any speech act but they are, nonetheless, standards of proper speech in some contexts.

I also think that it is equally plausible that the kind of propriety required by the explanation of epistemic rights is due to meeting *a* norm on assertion rather than *the constitutive* norm of assertion. H and S can hold and be held responsible for propriety even if that responsibility does not constitute assertion. If S and H are in a position to know that their speech community expects them to say what they know, or to say what is beautiful, or what is legal, then H has the right to expect that S's assertion meets these norms. The constitutive norm is not required to account for the rights described in Rights1.

From this observation we can construct an alternative account of the epistemic rights conferred by testimony. This alternative capitalizes on general norms that govern our discursive behavior – norms that are already familiar and at work in our understanding of our general behavior – and so is simpler. Consider the following:

*Epistemic Rights 2 (Rights2)*

Social acts, like testimony, are governed by norms on behavior that are enforced by social and linguistic communities. S and H are in a linguistic community that holds speakers accountable for speech that is impolite, inarticulate, misleading, dishonest etc. Therefore, S can be held responsible for failing to meet any of these – if she is dishonest, she can be blamed. If S led H to believe H was epistemically well placed to believe S's assertion, H can ask that S to demonstrate that to a third party – H can pass the buck. Thus, the general norms enforced in the community can account for Buck-Passing and Blame.

In Rights2, Buck-Passing and Blame are explained by the conventions and practices of the communities in which testimony takes place without calling on a constitutive norm of assertion. Some norms explain the exchange of rights, but they are norms on general speech behavior. There is no need for these norms to constitute assertion. To see that this is plausible consider the following counterfactuals.

First, imagine a community of language users who quassert. Quassertions are declarative utterances – quasserters put forward content just as asserters do. The difference, however, is that there is no constitutive norm of quassertion – all utterances are either not quassertions or are quassertionally proper. Nonetheless, members of this community are reluctant to quassert without justification because the penalties for misleading interlocutors are very harsh.<sup>34</sup> We could even imagine a community in which quasserting without justification or knowledge is punishable by law, despite being perfectly quassertionally proper.<sup>35</sup> It seems likely that members of this community could testify to one another by quasserting, and that they would be reasonable in having certain expectations because of the conventions on quasserting. If a speaker quasserts that *p* her hearers expect her to be able to offer justification for that content. Similarly, they expect to be able to rely that speaker's quasserted content, and the justification for it in later conversational contexts. In this case the conventions that bear on quasserted testimony seem to ensure Buck-Passing and Blame. If anything, quasserters even better off with regard to their Buck-Passing and Blame practices than we are – they can be surer that their fellow quasserters have justification.

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<sup>34</sup> Note that in some contexts this is similar to our actual community – misleading people from the stand in a court room is legally and practically inadvisable.

<sup>35</sup> Consider: even perfectly executed u-turns are illegal in some contexts.

Now, imagine a community of language users who assert, and whose assertions are only proper when known.<sup>36</sup> This is a community of happy bull-shitters: they flout the constitutive norm and rarely make proper assertions. Further, imagine that there are no conventions or social consequences for improper assertion. In such a community, would Buck-Passing and Blame describe rights from asserted testimony? I think not. We would not blame an asserter who fails to know the content she asserts if she has not generated the expectation that she knows. Similarly, we would not ask, of such a speaker, that she demonstrate her knowledge to some third party – we would not expect her to have this knowledge. This suggests that what makes testimony the kind of practice that gives hearers the rights described in Buck-Passing and blame is the broader social context in which speakers testify, rather than facts about the nature of assertion. Thus, we can have a constitutive norm without securing or accounting for Buck-Passing and Blame.

An objection might arise, at this point, to the effect that these norms on quassertion are epistemic norms. If, after all, a quasserter is punished when she quasserts without standing in a particular epistemic relation to the content she expresses, then there is an epistemic norm on quassertion. Our quasserters are held to an epistemic quassertional norm. So, in what way is this explanation *different* from the kind of explanation Goldberg offers? The explanations are different because there is nothing *quassertional* about the impropriety of quasserting without justification. The norms on quassertion do not constitute that speech act, nor do they measure quassertoric

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<sup>36</sup> The details of the epistemic constitutive norm don't matter here.

impropriety. So, there can be epistemic norms on some behavior that do not constitute that behavior.

For an analogous example, take the epistemic norms on betting behavior. For a bet to be ‘safe’ the positive outcome needs to meet a threshold of probability. It is likely that this threshold varies across bets with different stake/payoff ratios. This varied threshold might set a standard for being an epistemically appropriate bet, but there is no reason to require that this standard constitutes betting behavior. Nor do we feel pulled to say that there is some specific betting impropriety that this norm measures. An epistemic norm on assertion could be much the same – setting a standard for a speech act to be epistemically proper<sup>37</sup>, without constituting the speech act.

Perhaps the lesson from all this is that there is a special relationship between the epistemic norm of assertion and assertion itself. Perhaps this relationship is distinctive in such a way that the epistemic norms are much more important to the nature of assertion than the other norms that might bear on the speech act. This idea might go something like this: grant that assertions can be measured for morality and beauty, as well as along an epistemic dimension. A speaker might assert without ever attending to the beauty of her words, but if she asserts without ever attending to her epistemic relationship to the content expressed, something has gone wrong. And this seems especially true if we’re interested in the knowledge she transmits by way of her assertions. This, perhaps, suggests that epistemic norms are special to – perhaps even constitutive of – assertion.<sup>38</sup>

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<sup>37</sup> Perhaps even epistemically proper given the contexts. Note that the threshold can vary. That’s a complication for another time, but see (Levin, 2008), and (Greenough, 2011) for more.

<sup>38</sup> I’m grateful to an anonymous referee for this suggestion.

Certainly, the epistemic measures of assertion are especially important to epistemic matters, like testimonial knowledge transmission. This I grant. I balk, though, at the next step in the above. Why should the fact that epistemic measures of assertion are important for understanding epistemic practices that use assertion be evidence of anything about the constitution or nature of assertion? If we were concerned with jokes rather than with testimony we would expect aesthetic measures like humor to be especially important. If we were concerned with legal liability, we'd be concerned with legal measures. None of this has direct implications for the constitution of assertion. Instead it suggests that there are various measures for our actions, each of which might be highlighted by a different avenue of inquiry. And speakers can be held accountable for meeting these various normative measures.

Further, it is not clear that the epistemically inattentive agent we're imagining couldn't participate in testimonial knowledge transmission. The agent who is universally inattentive to the epistemic relationships speakers bear to assertions might none-the-less be a reliable enough indicator of some states of affairs to transmit knowledge, even if she, herself, is unaware of that. Lackey, in her book on testimonial knowledge transmission, considers cases like this (Lackey, 2008). Borrowing from Lackey, we can imagine an agent who, because of some brain injury or pathology, has a mental block about epistemic relationships. She doesn't attend to her own epistemic relationship to content, nor does she attend to the relationships others bear to the content they assert. Her doctor, however, has noticed certain patterns in her chatter – for example, the agent only mentions deer when she's lately seen horses. From her testimony, then, the doctor can



learn when the agent has seen horses.<sup>39</sup> While we might hold such an agent to be epistemically irresponsible, and while she might not be aware that her hearers are learning from her, nonetheless, she could participate in testimonial knowledge transmission, even if she is unaware of her participation.

From these considerations, I conclude that it is at least as likely that Buck-Passing and Blame are due to our conventions, practices, and expectations about testimony, rather than anything about the normative constitution of assertion.<sup>40</sup> While there must be norms *on* assertion – even epistemic norms – those norms need not constitute assertion or pick out any specifically assertoric propriety.

It might be tempting, at this point, to consider the features of testimony discussed above, together, rather than separately. That is, while I've demonstrated that these phenomena can be explained by way of alternatives that don't require the constitutive norm, the constitutive norm offers a unified account of all the phenomena in question. So, while the constitutive norm may not be the simplest explanation for any particular feature of testimony, it offers the simplest explanation for the phenomena considered together. If this is the case, then we can infer that we need the constitutive norm of

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<sup>39</sup> Perhaps we're tempted to say that such an agent fails to testify because she fails to assert. Her babble might allow the doctor to learn, but it is not learning through *testimony*. Going this way, however, seems perilously close to begging the question.

<sup>40</sup> An objection, here, might be that the normative constitution of assertion *just is* the collection of conventions, practices and expectations about testimony. If that is the case, then, clearly, I have no bone to pick with the normative constitution of assertion. In that case, though, the literature has been mightily misleading. Arguments over which assertions are subject to assertoric criticism ought to be supplanted by an empirical study of the conventions, practices, and expectations about testimony.

assertion because it is the best explanation of many features of testimonial knowledge transmission.<sup>41</sup>

I find this line of argument unconvincing for two reasons. First, the point I've been making in the above is that appeals to the constitutive norm of assertion are not *compulsory*. That is, if we don't want to involve ourselves in the debates over the constitution of assertion, we need not. This does not mean that there are no reasons one might appeal to the constitutive norm, just that we can explain the target phenomena without doing so. The second reason I'm dubious is that it remains to be seen how unified an explanation the proponent of the constitutive norm can offer. Until such an explanation is made, and made in detail, this candidate explanation appears to be a promissory note that the constitutive norm is involved somehow. And that's where we began.

The nature of the epistemic norms on assertion should be investigated. We stand to gain a better understanding of the epistemic requirements to which we hold asserters if we examine these requirements directly. Such an understanding has promising applications to our understanding of various kinds of testimony, and to matters of epistemic justice.<sup>42</sup> We can pursue an understanding of the epistemic requirements on assertion more easily if we relinquish the commitment that the same norm must apply to all and only assertions – the commitment, that is, to the normative constitution of assertion.

## §5. Conclusion

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<sup>41</sup> I'm grateful to an anonymous referee for this suggestion.

<sup>42</sup> See (M. Fricker, 2007) for a discussion of this latter project.

I've offered alternatives to the accounts of testimonial knowledge transmission that use or rely on the constitutive norm of assertion. These alternatives only make use of the familiar norms that govern our behavior – norms of conversation, morality, practicality, or legality. Neither justification, nor reliability, nor epistemic rights require a constitutive norm of assertion for their explanations. Perhaps there are other reasons to believe that the constitutive norm of assertion is necessary for an explanation of testimonial knowledge transmission. I have certainly not demonstrated that such a reason is ruled out in principle. I hope, however, that the alternatives discussed demonstrate that the link between testimony and the constitutive norm of assertion is not compulsory. We do not need to rely on a constitutive norm of assertion to account for testimonial knowledge transmission.

The alternative explanations discussed above offer evidence for the fairly weak claim that we do not need to invoke a constitutive norm of assertion in our explanation of testimony. In closing, I'd like to offer one reason for a stronger claim: we *should not* invoke a constitutive norm of assertion. The reason is this: assertion's epistemic norm likely varies by context – in some situations we must know to properly assert; in others we must merely have justification. Just as other measures of propriety, like politeness and beauty, vary in their requirements from context to context, so too does the measure of epistemic propriety. And, given that this norm does not constitute assertion, its variance is no worry for the unity of the speech act.

The above considerations lead me to conclude that the debate over which norm constitutes assertion is misguided, at least to the extent that it is motivated by a need to account for features of testimony. Testimonial knowledge transmission, reliability, and

epistemic rights can be explained without appealing to the constitution of assertion, if we acknowledge that many norms govern our behavior. Those norms might include some of the measures thought to constitute assertion, but we ought not conclude from that that the speech act is constituted by those norms. Norms bear on behavior without constituting that behavior. And, by freeing the epistemic norm from the constraints of constitution, we can account for the variety of epistemic measures of assertion.

As we've seen, in these first two chapters, there are good reasons to doubt that we need a constitutive norm to understand assertion or its function in our communicative practices. This assumption and its attendant debates can be left aside. In the next chapter, I turn to another key assumption in the literature on assertion and illocutionary force – the assumption that each utterance has one and only one such force.

### Chapter 3: Objective Illocutionary Force?

Abstract: Suppose I make an utterance, intending it to be an assertion. You don't take it to be one. Is there an objective fact of the matter about who is correct? More generally, are there objective facts about whether a given utterance has a particular illocutionary force at a time? Since the 1950s, philosophers of language have used Austin's distinctions between locutions, illocutions, and perlocutions. In that time, it has been assumed that there is an objective fact of the matter about what illocutionary force, if any, each locution has. An utterance is, objectively, either an assertion, or a command, or a question, or mere vocalizing etc. but not more than one of these. In this paper, I argue that objectivists about illocutionary force face some grave difficulties. I consider several flavors that this objectivism might take, highlighting both the benefits and challenges of each. I thereby demonstrate that none of them fares particularly well. In closing, I consider and recommend an alternative perspective-dependent, relativistic understanding of illocutionary force.

#### §1. A Case of Disagreement

In 2002, the U.S. Supreme Court ruled that when a police officer says, “May I look in your bag”, that officer has issued a request (Nadler & Trout, 2009). Justice Scalia argued for this conclusion on the basis that such an officer, “has made it very clear that he's asking for your permission”(U.S. v. *Drayton*, 2002). Many people do not take these sorts of utterances, made by police officers, to be mere requests for permission.

According to one study, only 20% of participants who hear such utterances by police feel free to leave or to decline (Kessler, 2009). The participants who do not feel free to decline seem to disagree with Justice Scalia – they think the utterance is a command. These participants, then, disagree with the Supreme Court over what philosophers have called the *illocutionary force* of this sort of utterance.

We might argue over who is right – the Supreme Court, or the majority of study participants. To argue about this, however, is to make a key assumption: it is to assume that there is an objective fact of the matter about what kind of conversational move a police officer makes in a case like this. This assumption is the target of exploration for

this paper. Are there objective facts about whether a given utterance has a particular illocutionary force at a time? If so, in what does this objectivity consist?<sup>43</sup>

J.L. Austin's influential *How To Do Things with Words* points out that speakers do many things with their words beyond simply declaring beliefs (Austin, 1975).<sup>44</sup> In demonstrating that this observation was not at odds with a detailed analysis of language and conversation, Austin developed useful tools for understanding speech action. In particular, he distinguished between three ways of describing any particular speech action: locutions, illocutions, and perlocutions. When a speaker in a conversation says, "may I look in your bag" she issues a meaningful utterance. The meaningful utterance is what Austin called the *locution*. If that locution was a conversational move (and not merely a vocal exercise), then it had some *illocutionary force*, making it an assertion, or a command. If the utterance has distal effects – a sympathetic look, or another round at the bar – these effects are the *perlocutionary effects*.

As usually conceived, a locution in a context can have many perlocutionary effects – I might annoy you *and* get you to open your bag. However, as usually conceived, a locution can have, at most, one illocutionary force. This is not to say that "May I look in your bag" is always a command. In some context it might be a request, in others a question. As usually conceived, however, this locution does not (perhaps,

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<sup>43</sup> There's a wrinkle running through this whole treatment that I simply ignore, namely, the possibility of vague or indeterminate illocutionary forces. Perhaps a particular utterance could fail to be objectively simply an assertion, or simply a conjecture because illocutionary forces are indeterminate, and this utterance is assertion-ish, but also conjecture-like. I take no issue at all with this kind of indeterminacy and I don't ignore it here because it isn't interesting. I only ignore it because it is a complication, and we must take things one-step at a time. I suspect that the challenges for Objective Illocutionary force will remain *mutatis mutandis* for a subtler Objectivism that allows for indeterminacy.

<sup>44</sup> Perhaps this should have been obvious. It wasn't.

even could not) have *more than one* force in a single context. The literature assumes that there is an objective fact of the matter about what conversational move (if any) each utterance is.<sup>45</sup> Call the position that maintains this assumption *Illocutionary Objectivism*.

In this chapter, I will argue Illocutionary Objectivism faces some serious difficulties. In the next section I will review some of the philosophical debates that involve or invoke this assumption. In section 3, I will examine different types of objectivism about illocutionary force, pointing out the difficulties for each. In closing, I will consider and recommend an alternative conception of illocutionary force, one that allows locutions to have more than one illocutionary force at a single time.

## §2. Arguing Over Illocutions

Austin distinguished between locutions, illocutions, and perlocutions. Subsequent work from Searle (Searle, 1969) and others (Sbisà, 2001) distinguished between different kinds of illocutionary force. These analyses have proved useful in diverse philosophical pursuits. The debates over the constitutive norm of assertion (Lackey, 2007), (Williamson, 1996), (Whiting, 2013), (Rescorla, 2009a) are, in many ways, the direct result of the features and flaws of speech act theoretic tools.<sup>46</sup> The debates over silencing and communicative injustice, (Langton, 1993), (Jacobson, 1995), (Langton & Hornsby, 1998), (Maitra, 2009), (Rebecca Kukla, 2012), even more explicitly build on Austin and Searle's tools and taxonomies.

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<sup>45</sup> This understanding of illocutionary force similar to the account offered by Marina Sbisà (Sbisà, 2001)

<sup>46</sup> One way, for example, to understand Williamson's project is to fill in the details of the distinction between conjecturing and asserting that Searle posits.

Along with the tools, however, these debates inherited the assumption that there is an objective fact of the matter about which unique illocutionary force (if any) an utterance has. Austin does not explicitly require that there be such an objective unique force, however his discussion certainly suggests it. In introducing the idea of illocutionary force he says, “in general, to perform a locutionary act is, we may say, also and *eo ipso* to perform an illocutionary act” (Austin, 1975, p. 98) (underlined emphasis added).

I don’t want to make too much of the singular article, but notice that Searle’s discussion also suggests there is an objective fact of the matter about the illocutionary force of each utterance. Searle says, “the illocutionary force indicator shows how the proposition is to be taken... what illocutionary force the utterance is to have” (Searle, 1969, p. 30) . So, there’s at least some evidence that Austin and Searle assumed that each utterance objectively has only one illocutionary force, and has that force as a matter of objective fact.

The debates that invoke illocutionary force mentioned above have taken this assumption and run with it. It is operative in the debates mentioned above over the constitution of particular illocutions, like assertions or promises, and over illocutionary disablement. Consider the points of contention between the parties to these debates. Among those concerned with the constitution of assertion, for example, there’s a great deal of contention about whether test-case utterances count as assertions rather than conjectures or a swearings. One example of this, from the work of Jennifer Lackey, is a case where teacher tells her students some content she does not believe (Lackey, 2007). We are asked to judge whether or not her utterance counts as an assertion. The parties to



debates like this use our intuitions of illocutionary force as evidence in favor of their preferred account. But our intuitions differ. Despite this difference, the assumption is that each utterance has, at most, one illocutionary force.

And then, among those concerned with communicative injustice and illocutionary silencing, there's a great deal of debate over whether or not speakers can be restricted in making illocutionary acts. Rae Langton offers an influential case of a woman attempting to refuse sex. She utters, "no", but her attacker has consumed violent pornography, and so does not recognize her utterance as a refusal – Langton argues that this keeps the woman's utterance from having that illocutionary force (at least from having it fully successfully). Alexander Bird (Bird, 2002), Ishani Maitra (Maitra, 2009), and others (M. K. McGowan et al., 2011) argue over the force of that woman's utterance. The point of contention is whether she *in objective fact* refused. I'll return to this example below, but for now, notice that the debate is over an alleged objective illocutionary fact.

So it seems like there is an assumption, inherited with the tools from Austin and Searle, that there is an objective fact of the matter about which illocutionary force each utterance has. In some cases, this assumption seems like no big deal. Sure, we might debate over what it takes to be an assertion vs. a conjecture, but that's not a problem – that's why we do the hard philosophical work. In some cases, however, the assumption seems like more of a problem, as when our intuitions are intractably different. In fact, as I'll argue in the rest of the paper, the assumption is problematic because of the difficulties that face various varieties of objectivism about illocutionary force. Let's turn to these varieties now.

### §3. Flavors of Objectivism

When philosophers say that some fact is objective, they often have one or both of the following points in mind.

1. That fact is universal or absolute
2. That fact is mind or practice independent.

A fact is universal or absolute when it is true in all contexts from all points of view.

Mathematical truths are usually taken to be paradigm examples of these kinds of facts. It is an absolute fact that “ $2+2=4$ ”. There are no circumstances under which that proposition would be false. A fact is mind or practice independent would obtain even if human practices either ceased or radically changed. If there were no humans, for example, the facts described by physical laws would remain the same. Rate equals distance over time no matter what we think, or how physicians practice. Even if there were no people physical propositions would either be true or false. (See (Boghossian, 2006) for more discussion of the tenets of objectivism).

So far, so good. However, there are a number of different ways that these tenets of objectivism could be understood and combined. One kind of objectivism might maintain that facts are absolute but not mind-independent, while another kind could hold the opposite. According to the strongest kind of objectivism for some subject matter, facts about that subject matter are both absolute AND mind or practice-independent. Call this *Strong Objectivism*. A slightly weaker objectivism holds that propositions about a subject matter do depend on people’s practices, but are nonetheless absolutely true or false. Call this *Moderate Objectivism*. Moderate Objectivism, as I’ll discuss it here,

comes in at least three flavors. In what follows we'll consider how both sorts of views might be applied to illocutionary force.

Let's start with Strong Objectivism. We can imagine a strongly objective position about moral propositions. Strong Objectivism about morality holds that the proposition expressed by, "murder is wrong", is true or false absolutely and independent of human practice. So, if it is true that murder is wrong, the proposition expressed by, "murder is wrong" is true in every context, whether or not anyone ever knows it, and however people behave. For a marginally less contentious example consider strong mathematical objectivism (sometimes called Platonism). Recall that the proposition expressed by, " $2+2=4$ " is true everywhere, no matter what people think about it (Horston, 2015). It makes no difference to the truth or falsity of this proposition what mathematicians believe, or how we evolved to use mathematics. It also makes no difference whether or not mathematicians disagree over the truth or falsity. And, in general, the Strong Objectivist holds, partly as a consequence of these other commitments, that there is no faultless disagreement. If you and I disagree over the answer to an arithmetic problem, at least one of us must be making a mistake. Or so says Strong Objectivism.

Indeed, one appeal of Strong Objectivism about illocutionary force is that it appears to allow us to adjudicate cases of disagreement. If you think that the proposition expressed by, "Mary issued a command" is true, and I think its false, then we disagree about the illocutionary force of Mary's utterance. Perhaps Mary uttered, "The door is open" in a context where her utterance is taken as a command and as an assertion. If we disagree about what force her utterance has, Strong Objectivism picks out a fact of the

matter. It is not up to us or to the conversational participants to just decide what force Mary's utterance has. Strongly objective facts don't depend on what anyone thinks.

Instead, Strong Objectivism about illocutionary force holds that ascriptions of illocutionary force are true or false, universally, and independent of our practices or perceptions. This means that if the proposition expressed by, "Mary issued a command" is true, then it is true even if we think it is false, or don't know Mary etc. It is true even if *Mary herself* thinks it is false. It is true even if *every speaker ever* thinks it is false. There is no requirement, according to Strong Objectivism, that speakers have any epistemic access to the illocutionary facts. Strong Objectivism is really pretty strong.

Strong Objectivism about illocutionary force, indeed, looks too strong. If illocutionary force were strongly objective, then there could be global error about the illocutionary forces of conversational moves. That is, all conversations could have proceeded in just the way they in fact did – plans could be made, knowledge transmitted, offense meant and taken – without anyone getting the illocutionary facts right. But there is no evidence of this kind of global error. Strong Objectivism is, therefore, deeply undermined.

Perhaps this appears to be question begging. Let me put it a little more carefully: A position that claims that the facts about the illocutionary force are entirely independent of the practice of conversing seems difficult to sustain. According to Strong Objectivism about illocutionary force, a tool developed to capture some facts about conversations is entirely independent of the facts about conversations. This is tantamount to holding that the facts about what chess moves are entirely independent of the practice of playing chess.

Now, this is a coherent position to hold about illocutionary force. I just don't know why anyone would want to hold it. What would be the appeal of describing our practice with tools that are entirely divorced from and independent of those very practices? It is not as if there are mysteries about illocutionary force that can only be solved by appeal to this kind of fact of the matter. So, while Strong Objectivism about illocutionary force is a coherent position, it scores poorly in terms of plausibility and appeal.

If this is still unconvincing, let me try an appeal to authority. Rebecca Kukla has informative and important work on illocutionary force. She makes the following point about a position like Strong Objectivism:

“A basic commitment for me is that normative statuses are material social statuses. They cannot exist unless they have practical social cash value. Normative statuses supervene on concrete, materially implemented dispositions to act. A speech act that does not make a difference to how people are actually disposed to behave does not succeed in having a normative output at all... speech acts have their [illocutionary] force only in virtue of the concrete social difference that they make, or how they are taken up in practice.” (Rebecca Kukla, 2012, p. 443)

I'll return to Kukla's positive position later, but in terms of a response to Strong Objectivism and its ilk, I think this is simply correct.

Let's turn our attention to Moderate Objectivism. Of our two tenets of objectivism mentioned above, Moderate Objectivism only maintains the first. Moderate Objectivism holds that illocutionary facts are absolute, but not mind-independent. It is open to the Moderate Objectivist, to say that propositions about illocutionary force are objectively true or false precisely because of some fact about people (perhaps ideal people) and their practices. So, for the Moderate Objectivist about moral propositions, the proposition expressed by “murder is wrong” is true because of something about the

way people are, or about our practices and behavior. One way to understand this is in reference to, for example, an idealized agent. This is the position that the proposition expressed by “murder is wrong” is true because murder is not something a virtuous person would do. Moderate Objectivism about illocutionary force, then, holds that the proposition expressed by, “Mary issued a command” is true because of some facts about conversers or conversation.

Notice that the Moderate Objectivist holds that there is a connection between the target facts and our practices. Believing in this connection encourages them to hold an additional commitment: namely, that the facts in question are “epistemically constrained” (Wright, 1992). This means, for Moderate Objectivism about illocutionary force, that we could, in principle, have epistemic access to the illocutionary forces of utterances.<sup>47</sup>

Individual agents might still be mistaken about the illocutionary force of a particular speech act, but Moderate Objectivism means that if an agent understood conversation as it is actually practiced, she would be able to detect the illocutionary forces of locutions. Advanced sociolinguistics, or accurate speech act theory could grant this kind of epistemic access. The epistemic constraint as applied to illocutionary force, then, means that something about actual conversational practices determines the illocutionary force of actual locutions. Moderate Objectivism is still objectivism – it still holds that facts about illocutionary force are universal. If you and I disagree about the illocutionary force of some utterance, then at least one of us must be wrong.

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<sup>47</sup> This is an additional commitment for the Moderate Objectivist because simply mind-independence does not entail an epistemic constraint. It could be that a set of facts depends on our practices, but that those facts are so complex or difficult that they are inaccessible to us.

Moderate Objectivism comes in several varieties, as there are several different ways that objective illocutionary force could be determined by conversational practice. First, as in the moral case above, the objective illocutionary force might be determined by the judgments or behaviors of an ideal agent. Here, rather than the morally virtuous person, the ideal agent is an ideal interlocutor.<sup>48</sup> According to this version of Moderate Objectivism, the illocutionary force of a particular utterance is the force that the idealized interlocutor would assign to it. So, if an ideal interlocutor would call Mary's utterance a command, then the proposition, "Mary issued a command" is true. Call this variety of objectivism *Ideal Interlocutor Objectivism*.<sup>49</sup>

Ideal Interlocutor Objectivism is appealing in the same way that Strong Objectivism was appealing, with the additional benefit of appearing to meet the epistemic constraint. Just like the Strong Objectivist, the Ideal Interlocutor Objectivist need not side with any *actual* interlocutor in a case of disagreement. But, because Ideal Interlocutor Objectivism is a form of Moderate Objectivism, the verdict is not divorced from practice. We can defer to a counterfactual or ideal interlocutor. The utterance in question has whatever force she would reasonably take it to have.

While Ideal Interlocutor Objectivism is initially more plausible than Strong Objectivism, it still faces some difficulties. First, if the position is to be anything more than a promissory note, it needs to provide some explanation of the ideal interlocutor. Such an explanation would describe the features of such a person – maybe give an

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<sup>48</sup> The term is largely incidental. We could call this interlocutor conversationally virtuous, or any number of other things.

<sup>49</sup> I'm grateful to Sandy Goldberg for suggesting this flavor of objectivism.

algorithm for how she determines the illocutionary force. Further, such an explanation would need to specify what it takes to be reasonable.

There are, after all, a variety of ways of behaving that might be called reasonable. So, too, there are a number of ways of reasonably ascribing illocutionary force. It is reasonable, in one way, to assign an utterance the illocutionary force that puts the speaker in the best position. Take, again, the case in which Mary utters, “The door is open”. If Mary will get in trouble for issuing a command, perhaps it is reasonable to ascribe assertoric force to her utterance. It is reasonable, in another way, to ascribe to the locution the illocutionary force that the most powerful hearer ascribes to it. If Mary’s boss takes her utterance to be a command, then it is reasonable that it has that force. And there are surely other considerations that bear on the reasonable assignment of illocutionary force. Ideal Interlocutor Objectivism would have to fill in either a way to choose between or to aggregate these different ways of being reasonable.

Perhaps there is a better way to ascribe force by way of idealization. Instead of an ideal interlocutor, we might specify ideal epistemic conditions. This is a second form of Moderate Objectivism – call it, *Ideal Conditions Objectivism*. Ideal Conditions Objectivism holds that an utterance has a particular force just in case it would be judged to have that force, were ideal conditions to obtain. The proposition expressed by, “Mary issued a command” is true just in case her utterance would, in ideal epistemic conditions, be judged to be a command.<sup>50</sup>

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<sup>50</sup> This idea of ideal epistemic conditions is closely related to the conditions under which we might have what Michael Lynch calls Superwarrant (Michael P. Lynch, 2009), and what Crispin Wright calls Superassertibility (Wright, 1992).



Of course, for Ideal Conditions Objectivism to fare any better than Ideal Interlocutor Objectivism we need to say something about the ideal conditions – otherwise we’re just pushing the mystery back a level. Perhaps the ideal conditions involve knowledge of the relevant conversational history, awareness of the interlocutors’ social positions, and access to the relevant perceptions and intentions. This is plausible enough, but the proponent of the Ideal Conditions position would have to justify these conditions as ideal. To yield the correct illocutionary judgment, an agent in the ideal epistemic conditions must know everything that might bear on the force of the utterance, and it is difficult to give an account of what that would include, without appearing to be either ad hoc or question begging.

Further, for Ideal Conditions Objectivism to avoid collapsing into Strong Objectivism it must be possible for actual agents to be in the ideal epistemic position – or at least it must be possible for real agents’ force ascriptions to match those of the ideal agents. And, if this alternative is to meet the epistemic constraint, it must be possible for actual agents *to know* when they’re in ideal epistemic conditions. These requirements are not clearly out of reach for this alternative, but it does require some work to demonstrate that the conditions can be met.

A further wrinkle for Ideal Conditions Objectivism is that it is not clear that there is only one set of ideal epistemic conditions. If an agent is in ideal epistemic conditions, then she has a coherent set of beliefs – it is hard to see how an incoherent set of beliefs would emerge in ideal epistemic conditions. If an ascription of force is made in these conditions, that ascription will cohere with the coherent set of beliefs. Here, then, is the rub: given the nature of coherent sets, it is possible for there to be more than one coherent

set of beliefs in response to a single set of epistemic conditions. If these coherent sets of beliefs yield different judgments for a single utterance, then we have a case of reasonable disagreement - equally coherent sets of beliefs in equally epistemically ideal circumstances can yield different ascriptions of force for a particular utterance. And Ideal Conditions Objectivism does not offer a way to choose between them.

While this is not, in principle, a problem, part of the appeal of Illocutionary Objectivism was that it promised to yield a single force for each utterance. After all, the tenant of objectivism that Moderate Objectivism retains is that facts about illocutionary force are absolute. If appealing to an ideal interlocutor does not yield a single objectively true ascription of force, then it's hard to see why such a position would appeal to an Objectivist at all. Perhaps the proponent of Ideal interlocutor Objectivism could devise a way to decide in cases of reasonable disagreement. But, again, the method has to meet the epistemic constraint or risk collapsing into Strong Objectivism. I am not optimistic about this prospect.

Luckily for Moderate Objectivism, there are other forms of Moderate Objectivism available. Many, including Strawson (Strawson, 1964), Grice (Grice, 1957), Green (Green, 2013) and arguably Millikan (Millikan, 1984), have taken the speaker's intentions to be the objective authority on illocutionary force. *Speaker Centric Objectivism*, then, is the position that the objective illocutionary force of an utterance is determined by the intentions of the speaker. This position has prima facie appeal. After all, Mary, as the producer of the utterance whose force is in question, seems to have special insight or access into the nature of her utterance. Mary probably meant to do some particular thing with her words – she had some sort of illocutionary intention (even

though she probably wouldn't call it that). Speakers make their utterances in the way that they do in order for those utterances to have some force, so it is plausible to take their word on the nature of that force.

Speaker Centric Objectivism is much more moderate than Strong Objectivism, and offers even more epistemic access than Ideal interlocutor Objectivism. If we want to know what the objective illocutionary force of an utterance is, we only need to consult the intentions of the speaker. Speaker Centric Objectivism, then, offers an objective, practice-based, epistemically accessible illocutionary force. Speaker Centric Objectivism is looking pretty good.

While Speaker Centric Objectivism enjoys more plausibility than the other forms so far considered, it still faces some challenges. First, as Rebecca Kukla observes, 'intentions in speaking are part of the story that gives a speech act the [illocutionary] force it has, but they are not privileged or definitive' (Rebecca Kukla, 2012, p. 5). Kukla motivates this claim by way of an example involving a factory floor manager named Celia. 95% of the workers that Celia manages are men, and when she gives instructions, her workers are rarely compliant. Kukla's claim is that one likely explanation is that the workers count Celia's utterances as requests rather than orders. She intends to order them to perform certain tasks, but, because she is a woman, the utterances are not perceived as orders. Kukla explains the situation as follows:

"Because of her gender, she cannot employ normal discursive conventions to mark her speech acts as orders. She might add, "No really, I mean it!" or "I will dock your pay if you don't do this now!" and this still might not overcome the fact that her body marks her as not an ordering authority in this context. No matter how carefully she cleaves to what would normally be the conventions for ordering, the local context and discursive practices surrounding her speech acts—which will always include the workers'

uptake of and response to these acts—will in fact turn them into requests instead”(Rebecca Kukla, 2012, p. 446)

Kukla’s point, here, is multi-faceted, involving claims about social position, authority, and subordination. These are all important points. For our purposes, however, it is sufficient to observe that Speaker Centric Objectivism cannot accommodate the following purported datum: a speaker can intend her speech to have one force only to find that it has an entirely different force.

And this is not just a feature of political or social subordination. To see this, imagine Alesha is speaking to her 14-year-old daughter. Alesha plans to be offering her daughter some advice. She utters, “You know, you really could study *before* the day of the exam”. As she makes this utterance, Alesha realizes that, despite her intentions, her daughter will probably take her utterance to be a criticism – indeed, as Alesha hears the utterance, she herself comes to count it as a criticism. Speaker Centric Objectivism predicts that the force of Alesha’s utterance is to advise. This prediction is counter-intuitive.

Another problem for Speaker Centric Objectivism is that most speakers do not fix their intentions very precisely. Children, for example, seem to make conversational moves without much forethought (they are, perhaps sadly, not alone in this). If the objective illocutionary force is fixed by speaker intentions and some speaker fails to intend a particular force, is her speech devoid of force? Is it devoid of force even if everyone involved treats it as a command? A Speaker Centric Objectivist is committed to this being the case.

Further, sometimes our utterances just “slip out”. Conversations don’t always proceed by way of reasoned, planned locutions, and we nonetheless hold speakers

responsible for the illocutions we perceive them to have made. In some cases, we are likely to hold speakers responsible *especially* because their illocution is unintentional. A person might, in a heated discussion with their partner, for example, be held responsible for issuing an ultimatum she did not intend. Unintentional speech can have weighty consequences. Speaker Centric Objectivism must explain why apparently force-less speech has these features.

These observations about speakers and their intentions do not constitute decisive arguments against Speaker Centric Objectivism. Instead, they demonstrate that an initially plausible, apparently simple way to determine objective illocutionary force faces difficulties. Indeed, a proponent of Speaker Centric Objectivism will either have to bite some bullets regarding speaker intentions, explain away the data, or retreat to a different position. One possible retreat would be to rest illocutionary force with some *idealized* speaker's intention. The difficulty, of course, is explaining this ideal without collapsing into a version of Ideal interlocutor Objectivism, with all the attendant difficulties.

Kukla's discussion, however, suggests another mild form of Moderate Objectivism. This is the view according to which the hearer fixes the objective illocutionary force of an utterance. Kukla claims that Celia's utterance is turned into a request by the workers' responses to it. The worker's hear her utterance as having the force of a request, and so that is the force it has. Call this form of Moderate Objectivism about illocutionary force *Uptake Objectivism*.

Uptake Objectivism has its roots in part of Austin's original analysis. Austin says, "unless a certain effect is achieved, the illocutionary act will not have been happily, successfully performed... the effect amounts to bringing about the understanding of the

meaning and force of the locution. So the performance of an illocutionary act requires the securing of uptake” (Austin, 1975, pp. 116-117). Uptake Objectivism takes this requirement seriously, basing illocutionary force on the uptake of a hearer.

According to Uptake Objectivism, a proposition expressed by “Mary issued a command” is true just in case Mary’s interlocutor takes her utterance to be a command. This kind of position plays a role in some of the debates over illocutionary disablement. Rae Langton’s work on illocutionary silencing appears to require Uptake Objectivism (a point I’ll return to in chapter 5)(Langton, 1993). In one of her motivating examples, a rapist silences a woman when he does not take up her uttered “no” as a refusal. Uptake fails, and the woman’s utterance does not count as a refusal. Note, that if Speaker Centric Objectivism were true, the woman’s intention to refuse would be sufficient to give her utterance that force. This is a paradigm example, then, of Uptake Objectivism.

The requirement of uptake for illocutionary force is one of the more contentious points in Langton’s analysis. Daniel Jacobson (Jacobson, 1995), and Alexander Bird (Bird, 2002), both argue that uptake is not, or at least not always, necessary for illocutionary acts. Bird argues by way of examples of utterances where uptake fails, but, intuitively, the utterance still has the intended force. Here is one such example:

“When the judge passes sentence, his words may be addressed to the prisoner in the dock, but sentence is passed whether or not the prisoner realizes that this is what the judge is about. Nor does anyone else have to realize that, so long as the judge performs his duty in accordance with the law and established procedures (although someone had better realize it for the sentence to be carried out). Here the conditions for successful illocution do not include uptake” (Bird, 2002, pp. 7-8).

If Bird is right about the utterance in this case, then uptake is necessary for, at most, only some illocutionary forces. The challenge for Uptake Objectivism, then, is to say what determines illocutionary force for those cases in which uptake is not necessary.

A further challenge for Uptake Objectivism is this: many conversations take place between more than two people. Uptake Objectivism seeks to determine illocutionary force by way of the uptake of a hearer. If, however, there is more than one hearer and if those hearers disagree, what is the illocutionary force of the utterance?

Let's return, for a moment, to the case of Celia, the factory floor manager. Celia is addressing a group of workers who are starting their shift. She says, "place all emptied shipping crates in bays 3 and 4," to a group of ten workers. Six of them take up her utterance as a request. Three of them take it up as a command. Two are busy thinking about their kids, or their bills, or their next cup of coffee, and don't take it up at all. Uptake Objectivism is committed to uptake determining illocutionary force. So, Celia's utterance is a request, and a command, and a mere locution, as these were the forces ascribed to it by the uptake of the audience. Uptake Objectivism, therefore, is in the same position as Ideal interlocutor Objectivism: either it must offer a way to decide between candidate illocutionary forces that does not collapse into Strong Objectivism, or it cannot determine a single objective illocutionary force. And, if it cannot determine such a force, Uptake Objectivism loses its appeal as an objectivist position on illocutionary force.

We've now considered five kinds of objectivist positions on illocutionary force. And, upon consideration, the various flavors of objectivism face some serious challenges. Strong Objectivism is so divorced from practice and so epistemically inaccessible to

practitioners that it seems, at best, unmotivated. More mild forms of objectivism enjoy more plausibility but face challenges of their own. Ideal interlocutor Objectivism faces a dilemma - it either collapses into Strong Objectivism or needs an epistemically accessible way to weigh the various requirements on being reasonable. Ideal Circumstances Objectivism has no resources to adjudicate cases of reasonable disagreement. Speaker Centric Objectivism makes implausible predictions in many kinds of cases, and must either bite those bullets or explain away the data. And, Uptake Objectivism faces several challenges. First, not all illocutionary forces require uptake. And, second, a dilemma looms here, as well: either Uptake Objectivism must explain how to decide between hearers whose impressions disagree, or it must countenance more than one force, thereby losing its appeal to objectivists. From this, I conclude, that proponents of objectivism about illocutionary force have some explaining to do.

### III. Alternatives to Objectivism

It would be reasonable to work quite hard to fill in the theory of objective illocutionary force, especially if there were no alternatives to Illocutionary Objectivism. I will not take the time to do a full defense of any such alternatives here, but I do want to demonstrate that such alternatives exist. I'll consider three alternatives to objectivism that are familiar from similar debates in other domains: Nihilism, Expressivism, and Relativism.

Nihilism about illocutionary force is the position that there is no such force. Such a position holds that of the three categories from Austin, at most only locutions and perlocutions are real. We need only look at conversation to see that there are meaningful



utterances, and that these utterances have distal effects. The nihilist, however, would deny that these utterances fit into categories of conversational moves. One such nihilist (the only one I'm aware of) is Herman Cappelen. Cappelen denies that illocutionary force is anything more than a philosopher's invention (Cappelen, 2011). According to Cappelen, speakers do make utterances in a variety of grammatical moods, but there are no useful categories of conversational moves.

Nihilism is one alternative to Objectivism, but I don't find it particularly appealing. First, Nihilism cannot distinguish between conversational moves and mere vocalizations or diction practice. I can make the utterance "the rain in Spain stays mainly in the plain", without making a conversational move, or I can use an utterance of those sounds to assert something about Spanish meteorological facts. Nihilism can't capture this difference.

Further, while Cappelen's nihilism makes some use of grammatical mood – that is there are declarative utterances, imperative utterances etc. – these distinctions seem too coarse grained. Uttering, "my mother-in-law is coming to town" to my boss in a conversation about days off is different from uttering the same sounds to my partner in a conversation about cleaning the bathroom. This, plausibly, is a case where the same sounds, with the same grammatical mood can (at least) two different conversational moves. Nihilism cannot capture this difference. (If this seems familiar, that's because it recalls a discussion from chapter 1).

Another alternative to objectivism, in many domains, is Expressivism. In the moral domain, for example, Expressivists argue that moral propositions aren't objectively true or false, because they are not truth-evaluable propositions. Moral propositions,

according to the Expressivist, are expressions of approval or disapproval. So, “murder is wrong” is an expression of disapproval on the part of the speaker, and cannot be evaluated for truth or falsehood anymore than “ouch” can be.

I don’t know of any illocutionary Expressivists, but I can imagine the commitments of such a view. The idea would be that the proposition expressed by, “Mary issued a command” is not objectively true or false because it isn’t truth-evaluable. Ascriptions of force, on this view, are not in the game of representing facts. Instead they are tools used by speakers to direct their interlocutor’s perceptions and behavior. In this way, illocutionary Expressivism would be a special kind of a more general Expressivism (perhaps similar to one defended by Huw Price (Price, 2013)).

One benefit of such a view is that it secures epistemic access to illocutionary force. There is no worry that illocutionary force is divorced from practitioners, as the categorizations would be entirely based on the attitudes of speakers. Illocutionary Expressivism, then, avoids the concerns faced by Strong Objectivism.

Expressivist positions, however, do face notorious challenges. The most pressing of these is often called the Frege-Geach problem (Schroeder, 2008). The problem is this: often Expressivist propositions appear in arguments with truth-evaluable propositions. Consider this example: “If charity is good, then I will go to the soup kitchen today. Charity is good. Therefore, I will go to the soup kitchen today”. The argument seems straightforwardly valid. The consequent of the conditional, “I will go to the soup kitchen today,” is truth evaluable. I’ll either go, or I won’t. But the antecedent and the second premise are moral propositions – they have no truth-value. Truth is not preserved, in this

apparently valid argument, because only some of the propositions are true. Expressivism must explain away this apparent problem.

Expressivists have done a lot of work to attempt to address this problem (Hare, 1970), (Price, 1994), (Kölbel, 2002), (Michael P Lynch, 2013). Many of the proposed solutions may be available to the Illocutionary Expressivist. For my money, the more challenging problem is to demonstrate that Illocutionary Expressivism<sup>51</sup> is preferable to alternatives that do not face these challenges.

A third alternative to Objectivism is Relativism. Relativism about illocutionary force is the position utterances only have illocutionary force(s) relative to some perspective. There are no illocutionary forces simpliciter, only perspective-relative forces. There are a number of different ways to understand these perspectives, but one appealing way would be to let each participant in a conversation determine a perspective-relative illocutionary force. So, in Celia's case, her utterance would be a request relative to some workers' perspectives, and a command relative to others'. A proposition expressed by, "Mary issued a command" would never be true simpliciter, but it could be true if it were elliptical for "Mary issued a command relative to Martin's perspective".

Relativism enjoys the following benefits: first, it is both practice-dependent and epistemically accessible. As long as we can tell how a participant in a conversation perceives some utterance, we can tell what force it has relative to her perspective. Second, Relativism does not have to privilege any one measure of illocutionary force over another – the speaker and all the various hearers can be right about the illocutionary

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<sup>51</sup> I should say, too, that I think that an Illocutionary Relativist could maintain that utterances have illocutionary forces only relative to a perspective, and also that ascriptions of force are tools used by speakers to manipulate one another. These two commitments are not incompatible.

force. Proponents of both Speaker Centric Relativism and Uptake Relativism have made cases for the importance of their favored perspective on illocutionary force, and Relativism can rule in favor of both.

One challenge to Relativism about illocutionary force is that it must either countenance all perspectives, including those of intransigent or peculiar interlocutors, or explain why some perspectives can be discounted. Imagine one of Celia's workers perceives her utterance as a promise, or worse, as a christening. The other workers take her to have requested, or commanded, but Murray (let's call him), takes her to have christened. According to Relativism, Murray is just as right about the illocutionary force (relative to his perspective) as the other workers are. Relativism would have to address the intransigent perspective, either by denying its possibility or, more plausibly, by explaining away the datum. Perhaps the relativist could argue that while Murray is right about the illocution, no one needs to attend to his perception unless they have a moral, practical, or legal reason to do so. But this would need some fleshing out.

#### §4 Conclusion

These are not full or complete examinations of the alternatives to objectivism. Such examinations are beyond the current scope. What I hope to have demonstrated is that there *are* such alternatives. If the challenges raised against the flavors of Objectivism make that position unpalatable, then Nihilism, Expressivism, and Relativism are available. If objectivism remains an appealing position, I hope to have pointed to some lacunae in the positions as they currently stand.

Many debates involving illocutionary force assume that illocutionary force is objective. This assumption is seldom acknowledged, let alone explained. I've attempted to sketch some of the logical space for such explanations, and the challenges that these explanations face. These challenges motivate an exploration of the alternatives to objectivism. Of the alternatives under consideration, Relativism seems to be the most promising. In light of this promise, I'll explore the position further in the next chapter, looking, in particular, at the ways in which Illocutionary Relativism might account for assertoric force.

## Chapter 4: Perceiving Assertions

Abstract: So far, I've challenged two important assumptions from the literature on illocutionary force and assertion: first, the assumption that assertion is normatively constituted. I've argued that this assumption is neither compulsory nor helpful. Second, I've challenged the assumption that each utterance has, as an objective matter of fact, one illocutionary force. Relinquishing these assumptions would come at a considerable cost if doing so precludes a workable theory of illocutions in general and assertion in particular. The project of this chapter is to demonstrate that we do not face this costly consequence. We can account for assertion without a normative constitution and without objective illocutionary force.

### §1. Where We've Been and Where We're Going

So far, in the dissertation, I've argued for the following:

- Assertion is not normatively constituted (Chapter 1)
- Nonetheless, norms do bear on assertions (Chapters 1 and 2)
- Assertion is a more-or-less distinct illocutionary type (Chapter 1)
- We can account for testimonial knowledge transmission without the constitutive norm of assertion (Chapter 2)
- There need not be an objective fact of the matter about whether a particular utterance is an assertion, or a conjecture, or has some other illocutionary force (Chapter 3)

Even if only some of these arguments are correct, there are lingering questions still to be answered: how do we distinguish illocutionary forces? What is distinctive about assertion? How must an attempt at communication be perceived for it to be an assertion?

Inspired by Austin (Austin, 1975), and Searle (Searle, 1969), we can start to answer to these questions: As discussed in chapter 1, Searle individuated illocutionary forces in terms of what he called the essential rules, the preparatory rules, and the sincerity rules. This, while helpful, is only a start. The goal of this chapter is to develop

an account of assertion that, while inspired by speech act theory, attends to the points for which I've argued in the foregoing.

I will proceed as follows: in the next section I will discuss illocutionary force in general, calling attention to helpful tools from Searle, Austin and Lewis. One major difference between my view and the extant views is the importance of the reactions of those involved in the conversation. The third section will discuss these reactions, what I'm calling *perceptions of speech*, and the importance of these to our analysis of illocutionary force. In the fourth section will attempt to forestall some objections by acknowledging and explaining some consequences of my account of illocutionary force. In the fifth section, I will turn from a general discussion of perceived illocutionary force to focus more specifically on what happens when an utterance is perceived as an assertion. This discussion of assertion will undoubtedly raise some concerns, especially given work from earlier chapters on the epistemic and other general norms that bear on our speech. So in sections 6 and 7, I will address some of these, first discussing epistemic norms, before turning to more general norms on behavior. Our first task, then, is to consider some speech act theory, beginning with some features of Searle's work on illocutionary force.

## §2. Illocutionary Force

Searle's essential, preparatory and sincerity rules work together to individuate illocutionary forces. These rules apply in different ways. All utterances with a particular illocutionary force must meet the essential rule. Meeting this rule is "essential" because it is a necessary condition for having one illocutionary force rather than another. All

promises count as the undertaking of an obligation on the part of the speaker. All greetings count as courteous recognitions of the hearer by the speaker, etc. (Searle, 1969). The sincerity and preparatory rules, on the other hand, are not met to the same degree by all instances of an illocution. The sincerity condition on promising says that the promisor represents herself as intending to perform the action. I can make a promise even if I intend to break it. Nonetheless, preparatory and sincerity conditions do help individuate illocutionary forces. The way in which the utterance meets the essential rule will generate some of a set of expectations typical of the illocutionary force in question. A bet, like a promise, counts as the undertaking of an obligation for future behavior on the part of the speaker, so these forces share an essential rule. The two forces, however, differ in the expectations that utterances with that force typically generate, and so they meet the essential rule in different ways.

Here's how this is supposed to work: usually, when I utter, "I promise I'll pick you up at 7", I count as undertaking an obligation to pick you up at 7. Paradigmatically, counting as undertaking an obligation means that I have also represented myself as sincere in that promise (even if I am not), as if you'd like me to do so (even if you would not), and as if that would be something I would not normally do (even if I would). I might still count as promising even if, for instance, I count as undertaking an obligation to do something I *would* normally do (or you wouldn't like, etc.), but these conditions pick out the usual expectations generated by illocutionary types. The preparatory and sincerity rules for an illocution describe the paradigm or expected conditions under which one makes an illocution. These conditions help to explain why "I promise to breathe in



and out” or “I promise to beat you at chess” may count as promises, but of a peculiar, funny, or ironic sort.

This is a very good start – speech act theory is promising precisely because it acknowledges the wide variety of actions that speakers perform using words, and offers criteria for individuating those actions. Unfortunately, the criteria used by early speech act theorists like Austin and Searle paved the way for the confusion about norms discussed in the previous chapters. In particular, Austin fixes on a target by discussing a kind of ideal illocution that he calls “happy”, and, “felicitous” (Austin, 1975, pp. 14-15). Failures to meet this ideal are called “abuses”, or “misfires”. Despite his admonitions that we “[ought] not stress the normal connotations of these names!” (Austin, 1975, p. 16)<sup>52</sup>, it is hard to read the descriptions of happy felicitous promises, or abused assertions as anything but normative. And recall from chapter 1 that I’ve argued against attempts to discover a constitutive norm of assertion.

Searle’s discussion of the preparatory conditions for illocution has a similar problem. The ideas of “counting as...” and “presenting as if...” are not entirely clear, and are not free from normative connotations of their own. “Counting as...” harkens back to the bothersome game analogy.<sup>53</sup> In games, after all, certain moves count as scoring a point, or going out of bounds etc. This game analogy was one of the main motivations for the normative constitution of assertion discussed in chapter 1. There, I argued that we must be cautious in our faith in and use of this analogy.

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<sup>52</sup> As discussed in a footnote, Austin considered using the thinner notion of a “non-play” for the misfires. Perhaps this less loaded term would have tempted fewer stresses of the normal connotations (Austin, 1975, p. 31).

<sup>53</sup> To which we’ll return in a moment.

It is a short step from Austin and Searle's terminology to the kind of N-theoretic commitments rejected in the foregoing. We want to avoid that step, attractive though it might be, given the arguments we've considered above. We also want to be able to define assertions in general without relying on unreliable and mutable linguistic habits – as we've seen in our discussion of Cappelen (Cappelen, 2011) in chapters 1 and 3, we can't rely on grammatical mood. What we need is a way to discuss assertions in the abstract, avoiding normative connotations, and making room for the creative ways that speakers use locutions.

In light of these considerations I propose the following alternative: rather than “normal”, “happy”, or “felicitous” illocutions, I propose discussion of the *classic illocution*. I don't propose this shift just to multiply terminology. Instead, the notion of a classic such-and-so will be useful for our purposes here. It will allow us to offer a paradigm or central case of something, without either normative connotations or reliance on statistical normalcy of particular linguistic flags. The classic such-and-so could be quite bad – think of the classic serial killer, the classic adulterer or the classic case of pancreatic cancer. The classic such-and-so could also be in a small minority – most photos of the Eiffel tower will fail to be classic, being off center, out of focus, or of tourists and the tower. The classic such-and-so is just a useful way of talking and fixing on a target of analysis. If this use is accomplished by any other terms on offer, substitute those instead. I, however, think that the notion of the classic such-and-so is likely to be very helpful for our analysis of illocutionary force.

To see this, consider the *Classic Sonnet*. Classically, a sonnet is a 14-line poem, with various structural properties. The classic sonnet is composed of two parts, first

some form of problem or question, and second a kind of answer or solution. The classic sonnet expresses praise of the sonneteer's subject – classically his or her beloved or the object of his or her affection. The classic sonnet has some rhyme scheme that it follows throughout. Classic sonnets are more closely related to odes (in some salient ways) than they are to diatribes. They're more closely related to limericks (in some salient ways) than they are to declarations of war.

Particular sonnets deviate more or less from the classic sonnet. A particular sonnet might not include the two-part structure. Or it might not express praise. A particular sonnet might not rhyme smoothly, or entirely according to scheme. These deviations are sometimes cause for criticism, but sometimes cause for commendation. Consider Shakespeare's Sonnet 130 ("My mistress' eyes are nothing like the sun") (Shakespeare, 1975). This sonnet is appreciated precisely because of its comedic deviance. *Classic* is, therefore, not a measure of sonnet propriety.

There is one way in which a poem must resemble the classic sonnet in order to be a sonnet at all: a sonnet must have 14 lines. There are, however, variations in the rhyme scheme that sonnets employ, allowing for distinctions within the sonnet family: the Petrarchan sonnet differs from the English sonnet, and from the Spenserian sonnet, etc. Members of all these groups bear some resemblance to one another, but the resemblance is even closer between members within the groups. (This feature will become important later.)

So much for the classic sonnet; what of the classic illocution? By having illocutionary force *x* or *y* an utterance will bear some resemblance to the classic *x* or *y*.

Searle lays out the following conditions for an utterance to have an illocutionary force in (what I'm calling) the *classic* way:

Propositional Content Rule:

1. Sets limits on what propositions can be expressed by utterances with the force in question; ie: promises must be about future actions – “The utterance... predicates some future act *A* of the speaker *S*” (Searle, 1969, p. 63)

Preparatory Rules:

1. The implied conditions for the illocutionary force in question. “When I make a statement I imply I can back it up, when I make a promise I imply that the thing promised is in the hearer’s best interest” (Searle, 1969, p. 65)

Sincerity Rule:

1. The state the speaker would have to be in to be sincerely uttering with the force in question. “Wherever there is a psychological state specified in the sincerity condition, the performance of the act counts as an *expression* of that psychological state. This law holds whether the act is sincere or insincere.” (Searle, 1969, p. 65)

Essential Rule:

1. The change the utterance counts as making to the positions of the salient agents. For example, for promises “the utterance... counts as the undertaking of an obligation [on the part of the speaker] to do [some action]. (Searle, 1969, p. 63)

The first three kinds of rules can be met to more or less degree by some utterance, and that utterance would thereby bear more or less resemblance to the classic illocution of the specified kind. The essential rule is just that – it is essential must be met for the utterance to have the illocutionary force in question. The classic conditions individuate different types of illocutionary forces that have the same essential rule (more on this below).

As an analysis of illocution, however, this is, unfortunately, incomplete. Searle’s account relies on our making sense of the idea that series of meaningful sounds *count* as some conversational move or other. Part of the point from Searle’s analysis, a point that he echoes from Austin, is that we can do many and varied things with the same words. “I

promise” does not always flag the undertaking of an obligation to perform future action. We use it differently when we say, for example, “I promise I went to the store”. And this variability increases if we consider linguistic practice across time. Variety in word use is precisely why speech act theory does not individuate illocutions in terms of paradigm locutions, or usual linguistic flags.<sup>54</sup> Searle individuates in terms of what the locutions *count as doing*. So, we need to understand what it takes to *count* in this target sense.

To do this, we will have to look at the behavior of the relevant conversers and the changes particular speech acts bring. Returning to the game analogy might help clarify this: we play chess in many different ways – on boards, with computer programs, etc. And we can imagine playing in even less familiar ways, like by shouting out coordinates to one another or with human players as pieces as in *Harry Potter and the Sorcerer’s Stone* (Rowling, 1999).<sup>55</sup> It would be insufficient for an explanation of castling to describe the move as picking up pieces shaped *like-such-and-so* and moving them *thusly* even if that’s the most common way to castle. Castling is more general than that, and there are many ways we do and could count as making that move.

Just as there are many ways to perform an act that counts as castling there are many ways to count as asserting, or as promising etc. Describing utterances with these forces in terms of the grammar or words usually used in making such utterances would be an insufficient explanation – incomplete and prone to exceptions. Instead, what we need to understand what it takes to count as a particular illocution.

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<sup>54</sup> For more on why it is hard to use individual words as flags or indications of types of illocutions, see (Austin, 1975, p. 33).

<sup>55</sup> Consider, also, Sellars’s example of Texas Chess (Sellars, 1954a).

To do that, let's start with utterances. Uttering meaningful content is different from thinking precisely because the content is expressed, that is, it is made more or less public. In making meaningful signs or signals, I do something observable from the outside (so to speak). Sometimes speakers utter to themselves by thinking out loud or soliloquizing, but even those acts are different from mere thought precisely because the proposition is expressed.<sup>56</sup> When a speaker expresses a proposition as part of a conversation, that speech changes the state of that conversation.<sup>57</sup>

The details of these changes depend on many facts about the interlocutors. Among these are their histories together, the clarity with which the speakers speak, the state of the conversation so far, etc. Lewis offers a helpful analogy. In his work on presuppositions (Lewis, 1979), Lewis gives an account of parts of conversation in terms of scorekeeping. He takes the now-familiar position that conversation is, in some relevant ways, like a game. There are various moves that speakers can make that affect a set of aspects of the game, what he calls (albeit loosely) the score. The analogy is a familiar one, but Lewis' treatment is more explicit than most. Taking baseball as conversation's analog, he offers two distinct ways we can understand the relationship between the score and the rules.

On the first understanding, the rules dictate how the score changes between points in the game, given particular moves that players make. The score at  $t$  and the rules dictate the score at  $t'$ , after particular moves have been made. On the second understanding, the score of the game is dictated by the official scoreboard (whatever that

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<sup>56</sup> It is intuitive to take these less public cases as derivative of more public expression.

<sup>57</sup> See (Brandom, 1998) or other left-wing Sellarsians for this. Also, we're leaving aside, for now, cases of silencing.

is – the mechanical physical board, some running count in the umpires’ heads, or some combination of mental scoreboards). The rules, by this account, are “empirical generalizations, subject to exceptions, about the ways in which the players’ behavior tends to cause changes on the authoritative scoreboard” (Lewis, 1979, p. 344). Either account will allow us to make certain predictions about how the game will go. In some cases these predictions will be shared by both accounts. In others, like in cases wherein a call is contested, the accounts will generate different results.

The important aspect of Lewis’ analogy, for our purposes, is the notion of a conversational scoreboard. For baseball, the official or authoritative scoreboard might be either the umpire (or the fans, or some collection thereof) or the displayed tally – it’s not clear which is beholden to which. For conversation, however, the official score is even less clear. Most conversations don’t have umpires or referees, and we rarely display a score. And Lewis is forthcoming about this. He says,

“Conversational score is, by definition, whatever the mental scoreboards say it is; but we refrain from trying to say just what the conversationalists’ mental scoreboards are. We assume that some or other mental representations are present that play the role of a scoreboard, in the following sense: what they register depends on the history of the conversation in the way that score should according to the rules... It is no harm if [the rules] underdetermine the evolution of the score, and it is possible that score sometimes evolves in a way that violates the rules” (Lewis, 1979, p. 346).

Lewis’ analogy is helpful because it brings to light the ways in which conversers keep track of the changes made in conversations. However, a strictly Lewisian conversational scoreboard is too narrow to capture all of the important aspects of conversational practices. Lewis offers the scoreboard analogy to explain how conversers can change the scoreboard by adding or subtracting presuppositions. But just as not

every move in baseball changes what team is ahead, (running to 1st base does not, by itself increase a team's score), not every conversational move adds or subtracts presuppositions. We need to cast a wider net in order to capture all we want to about conversations and illocutionary forces.

Conversations are more complicated than mere presupposition addition, and can be altered in myriad ways. If I utter, "I promise to put the cat on the mat", for example, then I've made some changes to the conversation beyond just adding the presupposition that the cat's location is somehow relevant. My promise is added to the history of the conversation as is the fact that I've undertaken an obligation to place the cat on the mat in the future. Depending on the correct theory of promising, perhaps my interlocutors have a right to my doing so. At the very least they have a *prima facie* expectation that I will do so.

The lesson I want to take from Lewis and his use of the scoreboard analogy is that conversers themselves keep track of many of the important details of the conversation in which they're taking part. This is what he means by pointing to the "conversationalist's mental scoreboards". What we want to do, in describing the kinematics of conversation, is to give generalizations about how conversations go, and how speakers who participate in conversations make the changes they do.

I propose that having a particular illocutionary force can be understood in terms of changes in an interlocutor's impression of the conversation. Conversation, like many games, proceeds smoothly as long as all parties agree on the score. The people involved in (or observing) the conversation keep track of the moves that are made therein, adjusting their expectations and behavior as needed. If disagreements arise, they usually



manifest themselves in some surprise or confusion for the interlocutors or players. One difference, perhaps, between games and conversation is in the tolerance we have for creativity in each. Our practices allow for much more creativity and malleability, not to mention more divergence in perspectives, for the state of conversation than they do for the states of play in more regimented games like baseball and chess.

Most conversations, unlike most games, do not have strictly codified rules<sup>58</sup>. This is not a necessary condition on being a conversation – conversations in court, perhaps, are exceptions. In general, though, the kinematics of a conversation will be more nebulous than the kinematics of baseball. Because of this, the idea of counting is perhaps misleading. Most conversers do not keep a tally of their conversations, nor do they think in terms of the categories of conversational moves. “Count” invokes both something more official, and something more considered than is appropriate for most conversations.

The impressions conversers have of conversation are, in general, more automatic and less specific than the scoring of points in a game. Most conversers will have impressions of their interlocutors’ moods, their interlocutors’ goals, whether their interlocutor has their best interests in mind, etc. These aspects of conversation, however, do not lend themselves to official tallies, scores or public record. We want something more impressionistic than that, so, I will call these impressions the conversers’ *perspectives*. A converser develops a perspective by forming various perceptions of the conversation and the moves made therein. An utterance in conversation is *perceived* as having certain (related) characteristics, including volume, propriety, and illocutionary

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<sup>58</sup> Calvinball being the notable exception (Watterson, 2005).

force. I will use *perception* as a technical term in the analysis of assertion, so I'll take the next section to explore it more fully.

### §3. Perceptions

The term *perception* has a storied history in philosophy.<sup>59</sup> The term's most familiar contemporary use relates to our senses – our perceptions are the information we receive from our visual, auditory and tactile sensations (Crane, 2014) (Siegel, 2013). I hear a chirping, and see a flapping wing, and perceive (perhaps indirectly) a bird. I smell hot breath, and feel a furry ear, and perceive my dog. My senses generate a perception when presented with stimuli. I would like to use the term *perception* as applied to speech acts in a related but technical and slightly different way.

While there is clearly an auditory aspect in our perception of spoken utterances, and visual and tactile aspects for other meaningful signs and signals, I intend to use the term in a technical sense defined as follows: the perception one has of a speech act is the collection of impressions one has of it, including impressions of content, volume, tone, appropriateness (according to all sorts of measures), and illocutionary force. So, if you call across a room to me, “we’d better get this show on the road”, and I am attending to it, then I will have a perception of that speech act. My likely perceptions of it are as expressing content about what we should do next, as louder than many speech acts, as jovial (perhaps), and as a suggestion or a request. Clearly these perceptions are highly context sensitive and affected by many variables. I will discuss some of these later in this section.

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<sup>59</sup> The nature of perception was a central issue even for early modern philosophers (Hume, Kant, and Descartes, and many others, were concerned about perceptions).

One thing to note right away is that our perceptions of speech, like our sense perceptions, are largely automatic. When we engage in conversation we smoothly and mostly unconsciously perceive speech acts in a variety of ways. My experience with a speaker I believe to be a liar automatically influences how I perceive her speech. I might perceive her as promising but as making a false promise. I don't have to consciously bring my experiences to mind in order to have this perception. My knowledge of children automatically influences how I perceive a toddler's speech. I might not perceive a toddler as able to make a promise, even if she utters the sounds "I promise". I don't have to consciously remind myself of facts about toddlers in order to do this. Perceptions of speech, like the attitudes and beliefs that affect them, are largely automatic and unconscious. While I'll return to this point in some detail below, this observation is a point in favor of perceptions over countings. That is, in lieu of Searle's idea of an utterance *counting as* doing such-and-so, I would like to understand illocutionary force in terms of an utterance being *perceived* in a particular way.

Recall that Lewis stays quiet about the official scoreboard of conversations (and, incidentally, of baseball). This is, I suspect, for two reasons. First, he doesn't really need to fix an official scoreboard to make a fruitful analogy for an analysis of presuppositions. The second reason, however, is that it is very difficult to say what scoreboard is official, for any given conversation. There is no official mechanical scoreboard to reflect the updates that speakers make, and the rules of conversation are not so clear that we all have in mind a single unambiguous ordered n-tuple for the score. And this gets more and more complicated, the more you add to your analysis of the conversation.

Imagine telling a fan about a baseball game that you're watching. The fan doesn't have first hand access to the game and has called to ask, "what's going on??" You could tell the fan the score, but she'd probably want more than that. A full picture of the state of a baseball game includes things like the score and the runs and the players on base, but it should also include things like the strictness of the umpires, the volatility of the catchers, and the fatigue in the pitcher's arm. And, if you gave the fan one report, even one including all these factors, she might well seek a second opinion. I might make a report on the state of the game that is informatively different – and without calling the veracity of your report into question. Reports of the state of play of the game can differ without any intuition that at least one report must be wrong. I'd like to suggest that the state of the conversation is like this. Different participants are likely to differ on the details of the set of obligations or responsibilities, and positions of the speakers, and the presuppositions assumed. When perceptions diverge too much, we should expect confusion or disagreement, just as we would if there were divergent perceptions of the state of a baseball game.

Widely divergent perceptions are relatively rare. Most of the time, baseball games proceed without confusion about the state of play. And, most of the time, conversational participants are able to converse and satisfy their social goals. This suggests that neither players nor conversers diverge very often in their perceptions of the state of their activities. Baseball's official scoreboard helps players to align their perceptions because it is an objective measure against which players can correct their perceptions. Conversation, we might think, must have some similar objective measure.

I discussed this kind of objective measure in detail in the last chapter. For our purposes here, it is sufficient to recall that no appealing measure was forthcoming. We were unsatisfied with an absolute, mind-independent illocutionary force, as it was too divorced from conversational practice. Ideal Interlocutor Objectivism did fare slightly better, but in the end was mysterious. Ideal Conditions Objectivism was still better, but still was unable to adjudicate cases of reasonable disagreement. And, neither speaker- nor hearer-based objective forces offered an intuitive way to determine force in all cases.

Furthermore, it is not clear that we need objective illocutionary force. According to the picture from Lewis, each participant in a conversation can keep score. Sometimes these scores will disagree, and participants will register different scores, and have different expectations despite hearing the same utterance. These different perceptions and expectations will generate varied predictions for the kinematics of the conversation. A small divergence in perception may have a proportionately small effect, while a large divergence might be brought to the fore as the interlocutors act on their different expectations. If I take Mary's utterance to be an assertion and she takes it to be a conjecture, we may never realize our disagreement, as our expectations are sufficiently similar. If, however, I take Mary to be issuing a command, and she takes herself to be asserting, then our disagreement will likely yield differences in expectations that are manifested in our behavior. These disagreements happen in everyday conversation and seem well described without insisting on objective illocutionary force.

While these disagreements are familiar, they're not ubiquitous. Perhaps our general agreement seems hard to explain without objective illocutionary forces to which we all align. We can explain the convergence of perceptions, however, without an

objective measure if we consider the reasons that motivate conversers to participate in conversations. Perhaps some of us converse just for conversation's sake, but cases strictly like this (where companionship etc. are not motivating factors) are rare. Desires and pressures external to conversation itself often motivate conversers. Psychological studies reveal that speakers are often motivated by attempts to fit in and be accepted (Beersma & Van Kleef, 2011), (Dunbar, 2004), (Feinberg, Willer, Stellar, & Keltner, 2012). We converse, at least in part, because conversation is a tool for us to pursue these motivations.<sup>60</sup> We are social creatures who coordinate our behavior at least in part by communicating using our words. Exclusion from this joint activity comes at a serious cost (Smith, 2014), (Waddington & Fletcher, 2005). Conversers are, therefore, highly motivated to read social cues and be constantly checking their perception of the state of the conversation against the impressions they have of their interlocutors' perceptions. And, it seems, some of the most artful conversers are those who best track their interlocutors' perceptions of the state of the conversation.

Artful individuals are not always cooperative. Tracking conversation and aligning conversational perceptions of utterances might seem to require a team effort on the part of all interlocutors, a requirement that would clearly not be met. Fortunately, the kind of tracking I have in mind does not require global conversational cooperation. This is for two reasons – first, to align perception with yours I do not have to believe what you believe writ large, I just have to agree with you about the force of the locution – about the obligations and expectations that the utterance is generating. I don't have to agree with

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<sup>60</sup> This kind of pressure is discussed at length in Price (Price, 2010), (Moran, 2005), and (Green, 2013). Related work is being done in sociolinguistic accounts of politeness. I have in mind work from Brown and Levinson (P. Brown & Levinson, 1987) and the subsequent literature.

you about what expectations *are reasonable or practical* – the utterance just has to change our perspectives in the same way. Second, and relatedly, perceptions of illocutionary force are perceptions of *representations* that speakers are making. A person who perceives her own utterance is a greeting takes that utterance to represent her as happy to see her interlocutor. I can align my perception with hers even if I know she is not feeling that way. Becoming skilled at aligning one's conversational count with one's interlocutors' is, I suspect, a contributing skill for those who are particularly adept at conversation – both as benevolent and as malevolent interlocutors – the con artist must, after all, be able to keep track of her mark's perceptions.

Consider the phenomenon of innuendo or off-the-record speech (P. Brown & Levinson, 1987). Think how closely interlocutors must track one another's perceptions to execute such acrobatic (yet ubiquitous) conversational moves. If a stopped driver utters, "Gee, officer. I was thinking that maybe the best thing would be to take care of the ticket here, without going through a lot of paperwork" (Lee & Pinker, 2010), she'd do well to track how the officer perceives her speech before making any more conversational moves. She wants to make sure that both of their perceptions are aligned.

Aligning perceptions, in this way, is familiar skill in many diverse areas of our lives. Conversation is only one activity among many in which we must rely on our impressions of other participants' perceptions of the state of the activity: in improvisation, both musical and comedic, we see the same thing. If you and I are cooking together, we must keep track of one another's perceptions and expectations. If we're executing a football strategy, we must do the same. Indeed, in any unscripted cooperative activity, we can, without the aid of objective measures, coordinate. This,

perhaps, requires further explanation, but it at least should not be surprising that conversers can and do coordinate without an objective score for the conversation, given that we do so in our other pursuits.

With regard to illocutionary status I conclude the following: a locution has a particular illocutionary force to the extent to which conversers take it to change the state of the conversation in ways typical of that illocution. If a converser takes my locution to be putting the content forward as true in a way that generates expectations of sincerity and justification, then I have asserted. If no perspective reflects that I've done so, I have not. There is, just as in other perspective-relative cases, an objective fact about what counters have registered. There is an objective fact about whether a speaker's locution counts as an assertion *relative to some perspective*, but there is no perspective-independent fact of the matter. Illocutionary force, then, is relative to perspective – and this is the position I called Illocutionary Relativism in the last chapter.

This conclusion may not enjoy universal appeal. As a new and controversial thesis, this is to be expected. I will do my best to increase its appeal by attempting to assuage some immediate concerns in the remainder of this section.

First, a speaker's own perception is sufficient but not necessary for her utterance to have some illocutionary force. If I perceive my own locution as an assertion, then it is one relative to my perspective. Another interlocutor might perceive my utterance as an assertion even if I do not. And again, this is sufficient for me to have asserted relative to her perspective. This helps account for why children, or other speakers who may not be in a position to keep a count for the state of the conversation can, nonetheless, make some illocutions. Perhaps children do not often count as promising, and almost never count as



marrying, but we do sometimes perceive their locutions as assertions. And we can do so even if they do not yet have the concept of assertion, expectation or obligation.

Certainly we do, sometimes, have a strong intuition that a particular speaker asserted (or promise etc.), no matter what anyone thinks. Sometimes we want to correct one another's perceptions. Without an objective scoreboard or official tracking for the state of the conversation, how are we to understand these intuitions?

The answer, I think, lies in important facts about how we use language. These facts have figured in the above, but they warrant emphasis. While illocutionary forces are perspective-dependent, they also have weighty social consequences. There are often social costs when perceptions differ, and we have, therefore, some motivation to align our perceptions with others'. There are also social costs associated with relinquishing one's opinion. If my perception differs from yours, and I change it to bring it in line with yours, I admit to having miscounted – if only relative to my new position. I admit to have made a mistake, from our now-shared perspective, in my understanding of the distribution of the obligations and permissions in the conversation. Because of these pressures, the costs of divergent perceptions often motivate us to convince one another of the authority of our perspective.<sup>61</sup> These kinds of social costs and benefits will be discussed at length in chapters 5 and 6.

Similarly, I submit, sometimes our apparent disagreements over illocutionary force are actually disagreements over which social, practical, or political norms are operative on our conversational context. So, if you and I appear to disagree over whether

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<sup>61</sup> There is even evidence that speakers who voice divergent perspectives are often identified as out group members – so perhaps there's social pressure to align on that front as well. (Sunstein, 2000)

or not an utterance was a joke, we might instead be disagreeing over whether or not that utterance *should be treated* as a joke. It might be that when I insist that a locution is a joke I'm actually recommending that we proceed *as if* the speaker was joking because it is more practical, moral, or legal to do so. So we might be disagreeing about the best course of action rather than about the illocutionary facts.

Also, notice what we do to develop intuitions about illocutionary force: we use our own impressions of the conversation – even if we were not participants. Say you're telling me about a fight you had with your partner. In the midst of this fight your partner uttered, "well, that's because you're just like your mother, isn't it?" When I want to know if your partner's utterance is an assertion or a question (or has some other force), I investigate the history of inquiring about your conversational history with your partner. I might ask about past conversations relating to you and your mother. I might inquire about tone. I might also inquire into how you responded, or are disposed to respond to your partners' locutions. In other words, I inform myself as to the state of the conversation, and then determine how to perceive the locution. By positioning myself to assess a locution's illocutionary status, I generate a perception thereof. As a practiced converser, I have some justification for believing that others would share my perception, as my perceptions have aligned with others' in the past.

However, as our own conversational experiences and the literature on N-theories demonstrate, we are also familiar with disagreement over perceptions of locutions. These disagreements can be fleeting, and resolved in the course of the discussion, or they can last, as they seem to in the philosophical literature. Philosophers in the n-theoretic debate make excellent cases for divergent judgments about the illocutionary status of locutions.

One advantage of an account like mine is that they can all plausibly be right. A single locution might be perceived as an assertion, a conjecture, or some other illocution altogether, relative to different perspectives.

There are a few things to notice in light of this. First, no perspective is authoritative in virtue of illocutionary facts. Recall that speakers themselves keep track of conversations. It is not as if my hearer has the only perspective on the state of the conversation. If he takes me to be obligated, and I do not take myself to be, then there is no intuition, nor reason to think that I am, thereby, *ultima facie* obligated. If my only hearer counts my locution, “is the cat on the mat?” as an assertion, and I do not, then there is a good chance that we will reach a conversational impasse sooner or later – and his attempt to elicit my justification will likely come to naught.

The harder case is one in which *many*, *all*, or *particularly powerful* interlocutors differ from me in their perceptions. In cases like this, I may well be persuaded to change my perspective because of practical considerations. I may be given good reason, to supply justification or retract, even if I do not take myself to have undertaken an obligation to do so with my locution. If a thug or a henchman responds to my locution, “is the cat on the mat?” with threats unless I can offer justification, then retraction seems like a good and practical option. But the motivation to retract, if there is one, does not come from the perceptions of my interlocutors alone: it is due to the position they hold relative to me. No extra danger is undertaken by the difference in counts that would not be undertaken by the holding of any minority opinion.

Further, the power of the perspective of the majority only affects how a speaker might change her own perspective, or her own behavior. I might become convinced to

update my perspective to reflect an assertion, to bring my perspective in line with that of the powerful party (presumably, approximates one way in which we teach children how to individuate illocutions – how to tell a promise from a guess). Or, I might change my behavior, but maintain my perception. I might just act on what, from my perspective, is a miscount on the part of the powerful group.

The second thing to note about the potential risks undertaken by speakers is that while perceptions are relative to a perspective, they are not always under the conscious control of interlocutors. Conversations often (for better or for worse) proceed without much reflection on the part of the conversers. We do not, most of the time, think consciously about the state of the conversation unless something goes wrong. If the behavior of one of our interlocutor indicates that her conversational expectations have been violated, for example, we might pause and reflect. We occasionally make explicit the commitments and responsibilities we count speakers as undertaking, especially when we're teaching people to converse. Most often, though, conversation proceeds with updates in the state of the conversation over which counters have no, or limited, control.

Incidentally, this relative automaticity is why I prefer the term “perception”. Usually when talk about perceiving something we mean that we're sensing that thing, or becoming aware it by way of our senses. Perception is not the sort of thing we have to try to do. We may try to consciously train our senses, by focusing our attention or by habituating ourselves to some way of sensing, but perceptions, for the most part, proceed without much effort on our part. Perceptions, in the technical sense I'm employing here, are much the same.

If I'm right about illocutionary force, then an utterance is a member of an illocutionary type, relative to a perspective, when that locution is perceived to be a member of that type. That perception, however, need not be explicit or even considered by the interlocutor in question. As we learn to converse, we learn to keep track of the effects that particular patterns of speech have. We learn what kinds of expectations our locutions generate in our interlocutors, and what kinds of consequences befall those who violate these expectations. And most speakers do all this without ever hearing the words "illocution", "speech act", or even "perceptions".

A complication arises, here, with regard to perceptions and reactions. We, in the philosophical literature, are well used to developing perceptions and having reactions to speech acts in hypothetical or imagined conversations. We eavesdrop, so to speak, on conversations of imagined interlocutors in order to generate a variety of intuitions. We see this in the literature on the norms of assertion, (Williamson, 1996), (Lackey, 2007), (Maitra & Weatherson, 2010). We see it in the literature on testimony (Lackey, 2011), (Pelling, 2013c). And we see it in the literature on the nature of knowledge (DeRose, 2009), (Ludlow, 2005), (Schaffer, 2004), (Stanley, 2004), and in other areas of philosophical inquiry. We tend, in these discussions, to treat illocutionary force as more or less obvious. However, I've been arguing that illocutionary force depends on the perspective of those interlocutors involved in the conversation. Those perspectives, in turn, depend on the history and habits of those interlocutors. If we're imagining speakers, and observing a hypothetical conversation, there are no real interlocutors with habits and histories. Further, in many cases we use, the imagined interlocutors are unaware of some salient feature of the speech act (remember DISTRAUGHT DOCTOR

from chapter 1). So, given what I've said, are the speech acts we use as data devoid of illocutionary force?

I think not. When philosophers imagine observing a conversation, they develop a perspective on the conversation that allows them to perceive utterances as having particular illocutionary force. The philosophers, then, are like interlocutors (albeit relatively quiet and omniscient interlocutors). The utterances in question have a status relative to the perspective of the philosopher who is considering it. The information that that philosopher has, and the history that that philosopher stipulates, stand in for the history and habits of the interlocutors in everyday actual conversations. This allows that philosopher to perceive the speech act as having a particular force, and to have certain (perhaps counterfactual) expectations about the conversation in question.

Again, the perceiver need not explicitly acknowledge or be aware of her expectations. It is sufficient to have some expectation, to be counterfactually surprised by violations thereof. So, for example, I can have the expectation that the floor of my office remain solid even if I don't acknowledge this to myself. I *would be surprised* if the office floor dissolved. Similarly, a perceiver *would be surprised* if a speaker whose speech she perceived as an assertion objected to reiteration of the asserted content. A perceiver *would be surprised* if a speaker whose speech she perceived as a promise immediately made contrary plans. This is all that is required to have an expectation.

It is important to see that locutions can be perceived as having some force even if (and, most commonly when) the interlocutors have never heard of illocutions, assertions, or even promises. But this should not be surprising. The labels we've put on illocutionary forces are just that – and surely we can recognize things without knowing

what they're called, and without knowing everything about our own recognition of them. We are happy to describe non-human animals and babies as recognizing their own names even before they can articulate the concept of a name. We do this because of their reactions – the response to the sound of their name is different than it would be to some other phoneme. A similar rationale is available for our analysis of illocutionary force. We can tell when conversers have perceived a locution as having a particular force because of the reaction they have to it, and to subsequent behavior. This reaction is different when they perceive a locution as a question, say, rather than an assertion.

The kind of automatic reaction I have in mind is similar to the following familiar phenomenon: I might catch my interlocutor's attention saying, "Look! Your train!" My interlocutor, assuming she is like most fluent English speakers, will not be able to help having some fleeting thought about trains. She does so automatically. Just as that fluency in a language prompts our thinking when we are confronted with particular familiar words, fluency in conversation prompts our thinking in the face of locutions. Saying "the cat is on the mat" just prompts most of my interlocutors to perceive my utterance as an assertion. Absent some history together, or contraindicating condition like tone or expression, my utterance will have that effect. Thus, while we may occasionally face a particularly devious interlocutor, most of the time perceptions of force and perceived obligations will match. When an interlocutor takes me to be undertaking an obligation by way of my utterance (or to be expressing belief etc.), the same undertaking will be reflected in my perception, and so no disagreement over obligations will occur.

A mismatch between perceptions, however, is still possible. The various interlocutors in a conversation clearly leave space for a difference between how the

speaker the force of her speech and how her interlocutors perceive that force. In most cases, a speaker will perceive her locution as having the force she intends. According to other conversers, however, she may have spoken with a different force. The speaker's utterance could, for example, be perceived as a sincere assertion when, in fact, she intends to be speaking sarcastically. This will generate a mismatch in perspective-relative obligations. When this sort of mismatch occurs, it may interrupt the flow of conversation because expectations are violated. In a case like this conversers will have to negotiate and bring their counts into better alignment, or will have to abandon the conversation.

Conversers generally coordinate perceptions because they are usually (though not always) motivated to bring their perceptions of the state of the conversation fairly close together. Most of the time, speakers don't want to generate responsibilities inadvertently, nor do counters want to expect things unreasonably. Conversers are, at least most of the time, participating (more or less) voluntarily in a (more or less) cooperative practice.<sup>62</sup> Thus, in a simplified case, speakers' utterances are perceived as having the force they intend those utterances to have. Again, too much divergence causes confusion, and frequently thwarts conversational goals. So, in addition to the mostly automatic perceiving of locutions, there is a great deal of social pressure to coordinate perceptions of the conversational state. And some speakers, again, can exploit this fact about conversational dynamics to their own ends. This all means that we should not, practically speaking, be bothered by the intransigent interlocutor's expectations. Our conversational practices have built in and familiar ways of moving past such expectations. So far,

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<sup>62</sup> Searle calls this "Shared Intentionality" in (Searle, 1990). Cooperation like this is also familiar from Grice (Grice, 1957).



however, I've said nothing about what obligations we *in fact* have. I will address these at the end of the next section. In it, I look at some of the more surprising and apparently less comfortable consequences of Illocutionary Relativism.

#### §4. Some Consequences of Illocutionary Relativism

In explaining and defending illocutionary relativism, I've addressed a number of objections and concerns. There remain some consequences of the view that I've not yet mentioned or addressed. These consequences might seem like objections or concerns, but I want to suggest that they are not as worrisome as they might appear – though I did consider calling this section “bullets to bite”.

The first consequence to note may also be the most obvious: Illocutionary Relativism holds an utterance has whatever force it is perceived to have. That means that if a hearer perceives my utterance as an assertion, it is an assertion relative to her perspective. If she perceives it as a threat, it is a threat relative to her perspective. It also means that an utterance can have no force at all, if it is either not perceived, or not perceived as having a force. So, the first consequence is that there can be forceless utterances.

Forceless utterances are not just a consequence of Illocutionary Relativism. Even Austin acknowledged that some utterances of meaningful signs and signals could be mere locutions, without illocutionary force, or perlocutionary effects (Austin, 1975, p. 98). If I utter “testing, one two three” into a microphone, my utterance will, in most cases, be perceived as having no force at all. And, indeed, illocutionary relativism predicts the intuitive result that like this has no force.

The more subtle case is that in which an utterance has no force relative to any perspective because it is not perceived at all. Illocutionary relativism is committed to saying that an utterance that goes entirely unnoticed has no force at all, as there is no perception of its force. And, perhaps, this seems *prima facie* bad.

One difficulty with a case like this is that this failing of perception is not simply a classic case of failed uptake by the hearer(s) – one in which I utter something to you and you do not attend. To have a case of forceless utterance, according to Illocutionary Relativism, is to have a *universal* failure of perception. This is because the speaker's own perception of her utterance generates a perspective relative to which the utterance has a force – mere failures of uptake on the part of the hearer won't do the trick. If *no one at all* including the speaker perceives the utterance, then it is, indeed, forceless.

So, Illocutionary Relativism is committed to the possibility of forceless locutions but only in two rare cases: there are the forceless utterances that are mere vocalizations – pronunciation practice, recitations, and microphone tests – and there are forceless utterances that are universally unperceived. In this latter set perhaps we have dying whispers, meaningful utterances shouted on windy mountaintops, or text messages that are deleted before they're even sent. To be really forceless, an utterance must be truly universally unperceived. And in those rare cases, I'm happy to say that the locution is forceless.

Another consequence of Illocutionary Relativism is that we never improve in our ability to ascribe force over time. Illocutionary force is determined by perception, so we determine the illocutionary force by perceiving it. Our perceptions are always equally good at matching the facts because they always determine the facts. And this, perhaps,

seems counterintuitive. Indeed, there are ways in which people seem to improve – children learn about different conversational moves, and as we become more familiar with our conversational partners, we become better able to gauge their illocutionary intentions. Illocutionary Relativism seems *prima facie* ill equipped to handle this kind of improvement.

Luckily, there are other measures on the quality of force ascription than mere accuracy, and we can improve along these measures. Recall, from the discussion above, that we assess an interlocutor's perception along moral, legal, and practical lines. In some cases we are also interested in measuring force ascriptions for alignment. And this seems to be what is happening in the cases above. We explain to children what different kind of forces there are in order to allow them to align their perceptions with others. We improve in our ability to predict the intentions of our intimates because we improve in our ability to align with them over time. And the impetus for alignment does not rely on anything about objective illocutionary force – alignment is helpful for all the reasons detailed above.

Perhaps the most daunting consequence of illocutionary relativism is this: the emphasis on perspectives might appear to place speakers in a precarious position. Illocutionary Relativism holds that an utterance of mine is an assertion relative to some perspective just in case it is perceived as an assertion from that perspective. If I assert relative to my hearer's perspective when I do not intend to do so, my hearer will take me to be undertaking a responsibility I do not intend to undertake. Namely, she will take me to be representing myself as justified and sincere (to some extent). It may be troubling to think that I can be perceived as having the responsibilities associated with these

representations without intending to undertake them. What do we do, if this is true, when faced with particularly petulant or intransigent conversers? Can I really be obligated to supply justification just because one of my interlocutors perceives my utterance as having some force?

There are a couple of ways to go about addressing this concern. The first is to simply restrict the obligations generated by illocutionary force to *perspective-relative* obligations. This would mean that in the case of the perceived assertion, I have an obligation to supply justification relative to that perspective. I think that this is unsatisfying at best.

The other way to address this problem is to acknowledge that at least some of the obligations we generate in conversations are objective. Insofar as these obligations are objective, they will have a complicated relationship with perspective-dependent illocutionary force. While I think it is beyond the scope of the current project to attempt a full picture of this relationship, I do want to demonstrate that accounting for the relationship is at least possible.

Here is one hypothesis regarding the relationship between expectations and obligations (I won't defend it too far, though I think that it may be plausible): in all of these cases, someone thinking I have an obligation to do *x* might generate a *prima facie* obligation for me, even if that person is mistaken about my intentions. That thought only generates an *ultima facie* obligation in the unlikely case that that *prima facie* obligation goes undefeated. To see what *ultima facie* obligations an agent have, we will have to consider other factors, like the moral, practical, and legal situation of that agent.

Take the following example: Dave expects Sally to come to his birthday party. His expectation, alone, seems sufficient to generate a (very) weak obligation for Sally. This obligation could be strengthened or weakened by other circumstances, including Sally's background knowledge and plans. It could easily be defeated if attending the party will come at some prohibitive moral, practical or legal cost, or indeed, if Sally does not know about the party. This, I think, is the same with differences in illocutionary perceptions. That my interlocutor perceives my locution as an assertion generates a *prima facie* obligation to provide justification, but that can be defeated by my different perception, or strengthened by the other practical or moral costs of not providing justification. The *ultima facie* obligations incurred by speakers will depend on many factors beyond the illocutionary status of their locutions.

So there is at least one sketch of a way to connect *perspective-relative* obligations with *perspective-independent* or *objective* obligations. When my interlocutor perceives my locution as an assertion she takes me to be obligated to supply justification. That generates for me a very weak obligation to do so, but that obligation can be defeated easily. For any account of obligation, if that account allows for a distinction between *prima facie* and *ultima facie* obligations, this connection should work. This is merely a sketch, but there may be good reason to be optimistic about the possibility and plausibility of this kind of connection between count relative and objective obligations.

Even if this sketch turns out to be implausible, or if other better accounts are available, perspective-dependent illocutionary force does not obviously preclude such an account. My interlocutor perceives me as obligated to justify the content in question, and so perceives me as asserting. The relationship between this perceived obligation and any

objective obligations might well be fraught. If I'm right that perception is sufficient for illocution, it is a further question whether or not perception is sufficient for obligation – at least for the account at hand.

There are many familiar examples of unexceptional circumstances in which participants in a conversation disagree over the obligations of salient agents. Even in situations without disagreements about illocutionary force, agents disagree about who is obligated to do what. Conversations in committees, teams, and boards of directors all offer examples of cases in which interlocutors disagree about the obligations generated in conversation, though they might have perfectly aligned illocutionary perceptions. I want to suggest that these cases have a great deal in common with the differences that might be generating concern about unexpected speaker obligation. That is, the *ultima facie* obligations a person has are complicated by many factors, and sometimes obligations emerge unexpectedly. This is not to say that the illocutionary facts are not among these factors. It is just that a theory of illocutionary force, alone, won't settle the question.

I've attempted, in this section, to forestall some objections to Illocutionary Relativism by discussing some of the consequences of the view. I don't expect these to be fully satisfactory, but I hope to have clarified, at least, what I take to be some surprising but acceptable consequences of the view. Next, we turn to assertion.

## §5. Perceiving Assertions

Our next concern is to say what it is for conversers to take a locution to change the state of the conversation in ways characteristic of *assertion*. The strategy will be, as in the above, to start with speech act theory. We know, from speech act theory, that a

speaker can affect her situation in many ways. Some of these are perlocutions – the effects the speech act has on the thoughts or actions of those who hear it. By promising I might reassure or comfort you. By asserting I might inform or annoy you. A single speech act can result in many perlocutionary effects, and many illocutionary types can have the same perlocutionary effects. My promise might inform you, and my assertion might comfort you. There is no supervenience relation between illocutions and perlocutions.

Speech acts can also affect the presuppositions held by conversational partners. These presuppositions are part of Lewis' conception of the conversational scoreboard, but these do not work to individuate speech act types any more than perlocutions do. I can add or subtract presuppositions using any number of illocutionary types. Thus, the effects on the state of the conversation that are particular to illocutionary types are neither perlocutions nor the addition or subtraction of presuppositions.

The target of our analysis in this section, then, is the effect on the state of the conversation that indicates that the participants in the conversation have perceived a locution as an assertion. This effect will be had in common across all and only members of an illocutionary type – assertions will have a characteristic effect on the scoreboard. This effect will, therefore, individuate utterances made with assertoric force without relying on a norm or linguistic flags for assertion.

Searle takes the schematic general outline for illocutionary force (discussed at the beginning of the chapter) and specifies it for several particular forces. He lays out the following conditions for assertions:

Propositional Content Rule:

1. Any proposition *p*

Preparatory Rules:

2. The speaker (S) has evidence (reasons, etc.) for the truth of *p*
3. It is not obvious to both S and the hearer (H) that H knows (does not need to be reminded of, etc.) *p*.

Sincerity Rule:

2. S believes *p*

Essential Rule:

2. Counts as an undertaking to the effect that *p* represents an actual state of affairs

According to Searle, the essential rule for assertion is that the speaker counts as putting the content she expresses forward as true. The classic conditions include a sincerity condition – she represents herself as believing the content. They also include a justification condition: the speaker represents herself as having the necessary justification for the proposition. She also represents herself as making a conversationally appropriate contribution. In asserting, “the cat is on the mat”, I count as putting it forward as true that the cat is on the mat. Further, I count as representing myself as believing that that is the cat’s location (even if I don’t), as justified in that belief (even if I am not), and as presenting something conversationally appropriate (even if it isn’t).

According to the essential rule, to count as asserting is to count as putting the proposition expressed forward as true. In terms of the current theory, this means that the speaker is perceived as putting the content forward as true. When a converser counts as doing so, this will generate some particular changes in the perceiver’s perception of the state of the conversation. According to the classic conditions, asserters are perceived as representing themselves as believing and standing in the requisite justificatory



relationship to the proposition they express. These too will generate some particular changes in the perceiver's perception of the state of the conversation. We will look at the changes described by both kinds of rules, though they work together and are not cleanly separable.

What happens to the state of the conversation when a speaker's utterance is perceived as putting content forward as true? When a locution is perceived in this way, the perceiver takes the speech act to offer defeasible permission for the hearers to infer the proposition expressed, and any undefeated entailments thereof.<sup>63</sup> The perceiver will behave as if the asserter has made that content available for use by the hearers – and this will generate certain expectations. The counter treats the locution and the fact that the speaker locuted as she did as permission from the speaker to her hearers to use the content expressed as evidence in reasoning. If my locution “the cat is on the mat”, is perceived as an assertion, then the perceiver treats me as offering permission for inferences that my hearer can use in reasoning going forward.

An example will help: if Sally perceives my utterance, “the cat is on the mat” as an assertion then she will take me to be, by my speech act, permitting my hearers to infer that the cat is on the mat and is not on the chair etc. Sally expects to be able to say “the cat is not on the chair” to me without my challenging her, even if she has no other knowledge about the cat's location. This permission can, of course, not result in such an inference – my licensing Sally to make an inference means neither that she will nor that she ought to make it. Sally might, for example, know I am attempting to mislead her about the cat's location. This would defeat Sally's justification to think she should make

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<sup>63</sup> I leave aside, here, over hearers, eavesdroppers, and the speaker herself. I will return to these points in subsequent discussion.

that inference from my assertion, but my locution has, nonetheless given her (defeated) prima facie permission from me to infer the proposition I express and entailments thereof. In general, participants who perceive my locutions as assertions will expect that it is safe for my interlocutors to expect that I will not challenge a subsequent expression of the same proposition. In counting you as asserting I take you to have generated expectations that would be explained by your having a certain epistemic relationship to the content you expressed – I take you to have represented yourself as having that relationship.

Work on inferentialism from Brandom (Brandom, 1998), and Kukla and Lance (R. Kukla & Lance, 2009) make use of some similar ideas. That work is largely invested in analyzing meaning in terms of conversational permissions. According to the inferentialist account of meaning, the meaning of the proposition expressed just is the inferences it licenses for hearers. If my assertion means that the cat is on the mat, it does so by licensing that inference for my interlocutors. By making that utterance I've voiced my permission for my hearers to believe that content and use it in their reasoning. My analysis of assertion, while similar to this work in some respects, also differs in important ways. My analysis of assertion is similar in that it incorporates the notion of inference licensing more generally into the account of the effects that are paradigmatic of assertion. The view floats free from any commitments regarding the meanings of utterances. A familiar truth-conditional approach could be the best analysis of meaning, and help account for how noises or signs get to be locutions with particular meanings, and still work perfectly well with the analysis of assertion on offer.

Let's return to the essential rule and classic conditions from Searle, to see how they are to play a role in the view on offer. The essential rule and the classic conditions

help explain why a converser who perceives an utterance as an assertion expects to be permitted, by the speaker, to make certain subsequent moves. Say you perceive my utterance, “the report is due on Thursday”, as an assertion. This perception means that a) I’ve put the content forward as true and done so in such a way that you expect me to behave as if the following are true: b) I believe that the report is due on Thursday; and c) I have some appropriate level of justification for that belief.<sup>64</sup> If I behave differently, for example, by challenging the proposition when expressed by an interlocutor, my behavior would be surprising and confusing. Sensible interlocutors would quickly adjust their expectations of me and of conversations with me. They might make some effort to exclude me from future conversations, or their perceptions of the state of conversation will no longer be updated to reflect assertions on my part – my utterances might no longer be perceived as assertions.

Of course, not all speech acts that have the same illocutionary force meet the classic conditions for that illocution fully. Sarah might order Dave to do something against her will or better judgment. She might order him to do something and even hope he disobeys. The classic conditions do not describe essential features of the illocution. Rather, the classic conditions describe features that are usually present to some degree in members of the illocutionary type. If Sarah’s utterance is perceived as an order, it is perceived as a member of an illocutionary type that is classically issued by speakers who want the subject of the order to obey. And conversers can recognize locutions as members of that type even if the speaker clearly does not desire obedience.

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<sup>64</sup> What level is appropriate may vary across conversational contexts. More on this later.

Similarly, Sarah might assert insincerely. She might assert something hoping that Dave recognizes her insincerity (if, for example, they're conspiring against a third conversational participant). If Dave perceives Sarah's utterance as an assertion, he perceives it as the member of an illocutionary type that is classically sincere. And conversers can recognize members of that type even if the speaker is clearly not sincere.

The classic conditions for an illocution just describe expectations about illocutions of that type.<sup>65</sup> Violations of those expectations comes with two kinds of risks – first, an individual who regularly violates the expectations of her interlocutors is likely to lose the ability to update the scoreboard in the usual ways. That is, chronic liars are not counted as asserting once their habits are discovered. Second, whole communities who fail to meet the classic conditions are unlikely to have the illocution in question in their repertoire for long. If my community learns that expectations of sincerity are always misplaced, there will be no expectation generated even if I try to represent myself as sincere. What we call asserting, with its familiar conversational effects, will no longer exist in this community.

Some of the classic conditions for asserting are familiar – like the conversational maxims outlined by Grice. These conditions – Searle mentions the salience condition – apply to virtually all speech acts and so won't help us individuate assertion (Searle, 1969). The sincerity and justification conditions, however, will.

Taking, first, the sincerity condition: if a locution is perceived as an assertion, the speaker is perceived as representing herself as believing the content expressed. Even if she is insincere, she can still be perceived as asserting if she is perceived as representing

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<sup>65</sup> The frequency with which speakers whose utterances are perceived as assertions do in fact meet the classic conditions might be the subject of some interesting empirical work.

herself as sincere to some extent. When speakers sarcastically express declarative utterances, they don't represent themselves as sincere. If, while holding the cat on my lap I say, "the cat is on the mat" (with a tone or a smirk, usually<sup>66</sup>), then I will not be perceived as representing myself as believing that the cat is on the mat. My locution will likely not be perceived as an assertion. Neither sarcastic nor clearly insincere declarative utterances, therefore, are members of the set of assertions. Thus, meeting the classic condition of representing oneself as sincere, to some extent, helps separate assertions from other declarative locutions.

The other key classic condition for assertion is that the speaker represents herself as justified in her belief in the proposition she asserts. This is the justification condition. When a locution is perceived as an assertion the speaker is perceived as representing herself as having the evidence or as being reliable for the proposition she expressed. Even if she lacks the justification or is unreliable, she can still be perceived as asserting to the extent that she is treated as representing herself as justified. Speakers who express declarative utterances without being perceived as representing themselves as so justified are not perceived as asserting. They might be perceived as conjecturing, or supposing, instead. Say we've been wondering about the location of the cat, and I've denied having any evidence to bring to bear. In that case, my locution "the cat is on the mat", will not likely be perceived as an assertion, but rather as a conjecture. This is because I'm not representing myself as having the justification necessary for assertion – that is, I'm not

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<sup>66</sup> Sometimes with a condescending "Yeah, sure" appending to the beginning – as in "Yeah, sure, the cat is on the mat". But notice that these flags can appear in sincere and asserted locutions as well.

representing myself as meeting the classic conditions. Thus, the classic conditions on asserting also help distinguish assertions from these other illocutions.

Assertions generate different expectations and different responsibilities than other illocutions, and the classic conditions capture this difference. If an interlocutor perceives my utterance as an assertion, she takes me to be representing myself as justified and as believing the content I express, at least to some extent. To that extent, then, she expects me to continue to believe it when she or another hearer expresses it. She expects to be treated as permitted to express the proposition and its entailments. If I want to continue to be treated as an asserter, I better not violate these expectations too often or without explanation. I have a (degree of) responsibility to my interlocutors not to generate and then violate expectations. I have this responsibility generally, not just in conversation, because of the general social norms that govern all of my behavior. This responsibility is not particular to making a move with some illocutionary force.

Similarly, the fact that the classic assertion is justified generates expectations in those who perceive my utterance as an assertion. To the extent that I am perceived as representing myself as having appropriate justification, I am perceived as representing myself as able to offer that justification in response to challenges (Rescorla, 2009a). I am treated, then, as responsible for being able to meet these challenges, or to act as a source of justification for others. If Sally asks me how I know the cat's location, I am perceived, in virtue of being perceived as asserting, as having represented myself as able to answer her. If I am not able to do so, I take certain risks – I may be scolded, asked to retract, treated as an unreliable asserter, or I may fail to be treated as an asserter in the future.

And each of these comes at some potential cost for me as a converser, at least with respect to those interlocutors and conversations with them.

One feature of this account is that it captures the ways in which a speaker's illocutionary efficacy depends, in part, on her illocutionary history. It might seem initially odd that my locution "the cat is on the mat" could be perceived as an assertion in some contexts, but not in others, despite being the very same locution. Notice, though, this flexibility is not uncommon: Dave should, *prima facie*, perceive his boss, Sarah's, locution "get the report to me by Friday" as an order. If, however, Sarah scolds and berates him each time he gets her his reports by the specified day, he may cease to perceive her locutions as orders. One of the classic conditions for ordering is that the speaker represents herself as wanting the subject of her order to behave in the ways indicated (Searle, 1969). Given that Sarah behaves as if she does not like when Dave acts in accordance with her orders Dave should, at the very least, hesitate to count her as ordering. Here, as in the assertion case, whether or not a speaker's locution is perceived as a particular illocution depends on the speaker's conversational history with her interlocutor. Notice that if I hear Sarah's utterance to Dave, and know only their positions in the company, I will perceive her utterance as an order. This is because my history with Sarah differs from Dave's.

Conversers react differently to locutions they perceive as different illocutions. And it is this reaction – the one that co-varies with the illocutions – that distinguishes one illocution from another. These reactions are explained by the essential and classic conditions of each illocutionary type. Some reactions, however, are quite similar. The

reaction conversers have to conjectures, for example, seems similar in various ways to the reactions conversers have to assertions.

It is not always easy to tell whether my perception of an utterance is closer to a classic assertion, or to a classic conjecture. And, it doesn't always clearly make much difference to a conversation. Assertions and conjectures, as well as presumptions, suppositions, and guesses, can serve remarkably similar roles in some of our conversations. The reactions conversers have to these can be fairly close together, and they allow us to do very similar things – put content forward as true.

Green describes this relationship between illocutionary forces saying that these similar forces all belong to the same family, *the assertive family* (Green, 2013, p. 404). In the terms of the account on offer, illocutionary families are groups of illocutionary types all of which have the same essential rule. Recall that sonnets are a sort of family – classic Spenserian sonnets, classic Shakespearian sonnets, etc., are all members of the group of 14 line rhyming poems. Just as all of these members of the sonnet family have 14 lines, all utterances that are perceived as a member of the assertive family count as putting the content they express forward as true. The various ways the speakers are perceived as representing themselves then distinguish the members of that family, distinguishing assertion from conjecture etc. So, when my locution is perceived as putting the content expressed forward as true, it is perceived as a member of the assertive family.

Grouping illocutionary forces into families is useful for several reasons.<sup>67</sup> First, recalling the discussion of coordination and divergence above, sometimes conversers

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<sup>67</sup> Here I gesture a bit at the vagueness wrinkle I left aside in chapter 3.



need not align their perceptions precisely to proceed with their conversation – sometimes perceiving a locution as in the same family is sufficient for coordination. If I say, “the cat is on the mat” I might perceive my locution as an assertion, while you perceive it as a conjecture. In many contexts, no trouble will arise as a result of this difference in perceptions. The essential rule is the same for both, and the conversational expectations are similar enough to allow the conversation to proceed smoothly. All should be well, unless the level of justification expected of me having somehow becomes conversationally or contextually salient. But in many cases, the differences between these two members of the assertive family just don’t matter. And the account in question, by distinguishing illocutionary forces in virtue of both the shared essential rule *and* the classic conditions helps describe this intuitive and familiar similarity.

These illocutions are best understood as coming in degrees or strengths. A locution is an assertion rather than a conjecture when the locution is perceived as put forward as true and in such a way that the perceiver believes that the speaker is representing herself as having justification sufficient to warrant *any* reiteration in the context (R. Kukla & Lance, 2009, p. 22). And a locution is a mere conjecture when it is perceived as put forward as true but in such a way that the speaker is not believed to be under the same obligation to provide justification. And there may be many in-between cases.

For assertion, the picture we have so far is this: a speaker asserts when an interlocutor perceives her locution as an assertion. A speaker S’s locution that *p* is perceived as an assertive when it induces changes in an interlocutor I’s perspective on the conversation that reflect that I takes S to be putting *p* forward as true. Further, that

assertive is an assertion when it is perceived in such a way that I takes S to be representing herself as having a justified belief that *p*. The classic conditions (that the asserted content be believed and justified) help to explain the difference between utterances perceived to be assertions, and utterances perceived to be conjectures or swearings, etc.

To see this, consider the different expectations you have of someone whose speech you take to be asserted, and whose speech you take to be mere conjecture. Imagine you hear me utter, “the cat is on the mat”. If you perceive my utterance as a conjecture, you take me to be putting the content forward as true, and you expect that I won’t immediately challenge conjectures (perhaps even assertions) of the same content by others present. You also expect that I won’t defend the conjecture against all that many challenges. You expect that I’ll have some reason for my claim (albeit possibly a very weak one), but that I won’t argue for it against countervailing evidence. Those who count me as merely conjecturing have certain expectations of me with regard to that content.

If you perceive my utterance as an assertion, however, different expectations are generated. If you perceive my utterance as an assertion, you expect me to allow repetitions of the content by my interlocutors. You also expect me to allow assertions of salient entailments of that content by interlocutors. You also expect me to offer evidence or retract the content in the face of a challenge. You might expect that I’ll act surprised if countervailing evidence is presented to me. Thus, the expectations are generated by illocutions of one of these types are explained by the classic conditions for each being different.

Notice, though, that my interlocutors might not have the salient expectations unqualifiedly. Just because an interlocutor perceives my utterance as an assertion does not mean that she expects to be able to assert the same content to me unchallenged forever into the future. If I speak to Sally and Derrick while Sally and I are conspiring to fool Derrick about the location of the cat, then Sally may still perceive my utterance as an assertion. Sally expects to be able to reiterate that the cat is on the mat at least while the collusion continues – she takes me to be representing myself as justified in my belief that that is the cat’s location, even if I am not and she knows I am not. That is why it is a representation – in this case it is, perhaps, merely a representation. Once our conspiracy is over, however, she will not expect to be able to reassert the cat’s location.

So, for an utterance to be clearly and strictly an assertion rather than, say, a mere conjecture, the following is necessary: the utterance must be perceived as putting the content forward as true, and as representing the speaker having a justified belief in that content. So, the speaker’s utterance must be perceived as representing the speaker as meeting the classic conditions, even if she does not. All utterances perceived as assertions represent the speaker as believing and being justified in their belief in the content they express to the extent necessary for licensing inferences in the context in which they speak. They need not, however, actually be sincere or justified. And the degree of represented justification necessary for assertion may well vary across contexts.

Searle says that the condition on asserting is that asserters represent themselves as “having evidence (reasons etc.) for the truth of [the proposition they express]” (Searle, 1969, p. 66). Plausibly, at least some conjecturers are taken to have represented themselves as having *some* justification; so having representing oneself as having

evidence simpliciter will not make the difference between all conjectures and assertions. The difference maker will come in the *level* of justification speakers take me to be representing myself as having. A locution is perceived as an assertion, to the extent that the speaker is taken to have represented herself as having justification sufficient to license others to assert the same content later in this and other conversations, and to respond to challenges.

How are we to understand this requirement for represented justification? According to the justification condition, a speaker whose utterance is perceived as an assertion is thereby taken to have represented herself as having adequate justification. This justification is different from the justification someone who is perceived as conjecturing is taken to have represented herself as having. But, just what level of justification is this? And won't this introduce the kind of normativity – that is, epistemic constitutive normativity – that was rejected in the chapters above? Similarly, if I represent myself as believing and as justified in my belief, shouldn't I in fact believe with justification? I will address these worries in the next two sections, first returning to the epistemic norms of assertion, and then to the other norms that play an explanatory role in our understanding of assertion, and conversation more broadly.

## §6. Epistemic Norms

As we've seen in previous chapters, there is quite a lively debate about the level of justification necessary for proper assertion. I've argued, however, that this debate is mistaken (see chapters 1 and 2). Yet here, in my discussion of assertion, obligations, and classic conditions, I've made use of the idea that interlocutors come to have certain

expectations about the epistemic states of those they perceive as asserting. This could be a problem: one concern with the view of assertion on offer here might be that it is reintroducing the debate over epistemic normativity for assertion rejected above. If this were true, my contribution would only be the contentious claim that illocutionary force is perspective-dependent. Beyond that, the N-theoretic debate against which I've argued would still be a live one. And if this were true, then we should still attempt to discover the constitutive norm of assertion.

This is mistaken for two reasons: first, the kind of normativity debated by N-theories is of a different sort from that described by any of the classic conditions. Second, because these are classic conditions rather than essential rules, they need not remain fixed across contexts. Let me address each of these reasons in turn.

First, the kind of normativity N-theorists purported to pick out was a measure of distinctively assertoric propriety. For an assertion to be proper *qua* assertion, it had to meet the distinctively assertoric norm. I've expressed (and argued for) doubt that there is any such special assertoric propriety – any propriety that makes a locution an assertion. Further, while the account I'm advocating involves what is *expected* of those whose utterances are perceived as assertions, behaving as expected does not mean behaving as is proper. Behaving as expected doesn't even mean behaving statistically normally. If an assertion is as it is expected to be, then it meets its classic conditions to some extent. Propriety comes from meeting other sorts of norms.

This still leaves us with one sort of epistemic debate: According to the picture I've been advocating, conjecture and assertion differ in terms of the epistemic relationship a speaker is taken to have represented herself as having to the content

expressed. It is necessary, for a locution to be an assertion, that the speaker be taken to have represented herself as believing and as justified in her belief in the content expressed. This might all be correct, but it still doesn't settle one important debate – what level of justification and belief do we take asserters to represent themselves as having? Is it knowledge? Reasonable belief? Reasons to believe? Thus we see the return of one version of the debate we appeared to leave behind in chapter 1: what level of represented justification makes an utterance an assertion rather than some other kind of speech act?

This question is different from that over which the N-theorists disagree because there are no claims about assertoric propriety or assertoric criticism. There might be claims about what makes a classic assertion classic, but the classic assertion is not detectable by way of intuitions of criticism. An abnormal or unexpected assertion might be perfectly proper, or even laudable, thus the favored test of the N-theorists is unavailable here. Nonetheless, in a straightforward way, the question about the level of represented justification echoes of the debate rejected in the previous section – both that debate and the question at hand are concerned with the level of justification that makes an assertion an assertion.

There are a number of candidate answers to the question about the level of represented justification. First, we might deny that there is some such level. Such a denial would go against speech act theory, the literature on assertion, the literature on testimony, and our own observations and practices. I will not pursue this candidate.

Second, we might argue that there is a single unique level of justification we represent ourselves as having when we assert. We then have to argue over which – is it

knowledge? Certainty? Justification for belief? This is the option that most clearly echoes the debates between N-theories discussed above.

The third option is that the level of justification that asserters represent themselves as having is not fixed across all assertions. A context sensitive, or relativistic answer to the question is possible. This kind of answer might follow work from Janet Levin (Levin, 2008) or Patrick Greenough (Greenough, 2011). And, given that this level of justification need not constitute assertion, the shiftiness will not undermine the coherence of the category, as Herman Cappelen argues it does (Cappelen, 2011).

Either of these second two candidates can work with the account of assertion on offer. Perhaps it is the case that there is a single level of justification that speakers are taken to represent themselves as having when their utterances are perceived as assertions. Perhaps all such speakers represent themselves as knowing, or as having justification sufficient for knowledge. This would generate a debate very like the one occurring in the literature on the constitutive norm of assertion – only this time, the parties would be cautioned against using criticism as method of detection.

Alternatively, perhaps that level varies from context to context (of assertion or evaluation). The level of justification that sets assertion apart might just be *more than what would be required for conjecture* in that same context. So, if we're moved by considerations of context to give a shifty answer to the question at hand, we might do so by offering a comparative answer. Asserters represent themselves as having more justification than would be necessary for conjecture but less than necessary for solemn swearing in the context.

One point in favor of the third shifty candidate answer is this: given that there is no need to fix a unique level of justification to distinguish assertoric force, the parties to the new debate could all be right about their data (though not about the positions they take the data to support). In some context knowledge will be required, so a new version of the Williamson position is right (Williamson, 1996). In others, mere belief might be required, so a new Bach position is right as well (Bach, 2010). In still others, justification for knowledge (absent belief) might be the required represented level. A new version of Lackey's position is also right (Lackey, 2007).

To see how this would work, imagine a case like this: in a very casual context, my interlocutors know I have reservations about the location of the cat, but still perceive my utterance as an assertion when I say, "the cat is on the mat". Because the context is casual, these conversers still perceive my speech as an assertion of the content – they would, for example, take themselves to be permitted to repeat the content to me with impunity. They further think they can call on me for justification sufficient for them to be able to assert the same content in a similar context. In higher-stakes contexts, an utterance that is perceived as having been made with the same level of doubt might be perceived as a conjecture or supposition, because it would not generate the assertion-typical expectations in my interlocutors. In this higher-stakes context the utterance does not meet the contextually determined requirements, despite being represented in the same way. In this context, the level of justification I represent myself as having is not sufficient for assertion. The conversational effects are, therefore, different in these different cases. And this is what sets the illocutions apart.



I will not attempt to settle the question of epistemic requirements here. Doing so is beyond the scope of the current project and is, as I hope I've demonstrated, not necessary for the stability of the category of assertion. For now, I'll stake two tentative claims: first, my intuitions are that the third candidate answer (the shifty answer) is likely to be right. Second, I suspect that an empirical study of the expectations of interlocutors who register speakers as asserting might be useful in determining an answer to this question. That would be interesting data, and helpful for understanding the epistemic norms to which speakers are held.

#### §7. Extra-Illocutionary Norms

Epistemic norms are one among many standards against which we measure conversational moves. We sometimes find an assertion lacking because the speaker expresses content we know to be false, or unjustified. We sometimes find fault with a question because the answer is obvious – the speaker ought to know it already. These conversational moves fail to measure up, epistemically. We also, and perhaps more often, find fault with conversational moves because they are rude, impractical, or immoral. A request can be disrespectful. A conjecture can be derogatory. A greeting can waste precious time. These conversational moves, too, fail to meet some relevant standard. Our concern, in this section, is with these latter kinds of norms – what I've called, in earlier chapters, “extra-illocutionary norms”. In this section I'll address some of the ways in which these kinds of norms bear on and interact with perspective-dependent illocutionary forces.

As in several of the previous chapters, extra-illocutionary norms on behavior play important explanatory roles. First, social pressures and general norms on behavior help explain why interlocutors come to some agreement about the illocutionary status of locutions. Second, violating the expectations of my interlocutors is, in some cases, a violation of any number of extra-illocutionary norms. Representing myself as believing that the cat is on the mat (or representing myself as having justification) when, in fact, I do not, is immoral in many cases. It may also be impractical if, for example, my interlocutors exclude me from future discussions, or punish me as a result of my misrepresentation. Regardless of the veracity with which I represent myself, I might assert rudely or verbosely. None of these norms constitute the assertion – they do not apply to all and only the members of the illocutionary type – and I can assert even if I misrepresent myself. But, all of the norms affect what sorts of reactions the participants in the conversation might have to my assertion. This is, in part, because assertions set expectations in hearers as predicted by the classic conditions for utterances with that illocutionary force.

Remember the case from section 2 in which I develop a perception of an utterance made by your partner during a fight. When I develop this perception, I do so as a means to an end. The perception is a means to a better understanding of what norms may or may not have been violated in the course of that conversation. Coming to perceive your partner's utterance as having some illocutionary status is merely instrumental. Most of the time, the main concern is with some of the *other* judgments I might then make. We use judgments about illocutionary force to inform our moral, legal, practical, etc., judgments. And our illocutionary judgments offer, at best, only part of the story – we

don't just care about how to perceive the locution, we also care how the parties to the disagreement perceived it. If I inquire about your partner's intentions in a fight, you might reasonably say something like, "However he intended it, I was offended" or "he may have been joking, but it was serious for me", and these facts alone allow us to make the relevant judgments of the interlocutors' behaviors.

In this case (and, I'd argue, in most cases), our main concern is with the familiar norms that bear on behavior in all parts of our lives. These norms are not particular to assertion, and do not constitute it. They do, of course, inform our evaluations of illocutions. However, these evaluations at no point require that a locution be *assertorically* proper or improper. Our usual concerns lie elsewhere, and we don't need this extraneous kind of propriety to distinguish assertoric force from other illocutionary forces. As before, the norms that bear on assertion are general, and bear on much of our behavior.

While, according to Illocutionary Relativism, there is no perspective-independent fact of the matter as to whether or not some speaker *has* asserted, there may well be a perspective independent fact of the matter as to whether or not her speech *should* be perceived as an assertion. In other words, if there are objective facts about what is moral, practical, or legal to do, these facts might entail that there are objective facts about how interlocutors ought to perceive speech, even without objective illocutionary forces. If there are moral, legal or practical reasons to perceive a locution as a particular illocution, then failure to do so is some kind of mistake – it's just not a mistake about the illocutionary facts.

Recall the case of Celia from chapter 3. Celia was the only female floor manager at her company. If I am one of Celia's employees, and I perceive her utterance as a request because she is a woman, then I'm plausibly making moral *and* practical errors. So, while illocutions are perspective-dependent, there can still be important judgments about illocutions and their propriety. And these are moral, legal, or practical, etc. judgments. They are not criticisms specific to an illocutionary force (qua assertion, or qua order).

The relationship between perspective-relative facts and the norms to which they are subject is familiar. Consider judgments of personal taste – that I, perhaps, ought not find something tasty does not mean I've made a factual mistake about whether or not it is tasty relative to my palate. Take the following extreme example: It can be true that human flesh is tasty relative to my perspective, and be true that I ought not find it so. I have good moral, practical, and perhaps legal reasons to attempt to change my taste. The same is true of my illocutionary count. I may find that I reflexively take speakers who describe themselves as in pain as joking or speaking sarcastically, but I have good moral, practical and perhaps legal reasons to attempt to change my perceptual habits.

Despite the fact that taste is relative to the taster, the perspective relative facts are not the only morally evaluable ones. Hannibal Lecter's taste for human flesh is morally problematic because what it does (or would, could, or might) cause him to do. The moral impropriety of *eating* human flesh means that he *ought not* have a taste for it. The moral evaluation, in some sense, dominates. While it is true that human flesh *is* tasty relative to his perspective, he *morally ought* to change his perspective. We can evaluate

perspective-relative tastes for moral goodness (or practical goodness). And in just the same way, we can evaluate perspective-relative illocutionary forces.

So, we can assess interlocutors' perceptions of the force of speech acts.

Intuitively, however, we also make assessments of speakers for *having spoken* with some particular force. If I perceive your utterance as an order when a request would be more polite, you are intuitively subject to some criticism. This, however, may be surprising, since the illocutionary force that makes you subject to criticism – the force of an order – is relative to *my* perspective. How can you be assessed for something that is generated by me?

There are two kinds of cases in which this kind of assessment might arise. First, it might be that you also perceive your utterance as having the force of an order. In this case, our perceptions align. Given that it is impolite for you to issue an order in this circumstance, your utterance is impolite given the force it had relative to each of our perspectives. If we both know the politeness norms operative in this context, then we will both perceive your utterance as impolite.

The second kind of case is one in which your utterance has the force of an order relative to my perspective, and some other force relative to your perspective. In a case like this, your utterance only had an impolite force relative to my perspective. Here, the details of the politeness norm matter. If politeness is determined by someone's intentions, then, assuming you did not intend to order, your utterance was not impolite. If politeness is determined by the consequences of someone's behavior, then your utterance

was impolite, as it had an impolite force relative to a perspective.<sup>68</sup> If your utterance had the force of an order relative to many perspectives, then, it was rude to a greater extent.

Suppose (as is likely) that there are some norms that depend on the consequences of behavior (perhaps in conjunction with intentions). Suppose further that speakers will sometimes violate these norms with the force of their utterances. We want to be able to say, in general, how this can occur if illocutionary force is perspective-relative. As a general gloss on assessing speakers for the force of their utterances, let me suggest the following: a speaker's utterance violates a norm on force to the extent that that utterance is perceived as having the force that violates that norm. If an utterance that is only perceived as having that force by a small proportion of the interlocutors, then that utterance has violated the norm to a lesser extent than one that is perceived as having that force by all or most interlocutors.

Again, the details of the norms in question will make a difference here. If norms of politeness depend on consequences, but moral norms depend on intentions, then these kinds of violations will need different treatments. For our purposes, establishing these details is beyond the current scope. Suffice it to say, the present allows that the speaker and her interlocutor can behave improperly with regard to perspective-relative force.

## §8. Conclusion

This chapter has offered a sketch of a new account of assertion. While this account has roots in traditional speech act theory, traditional inferentialism, and pragmatic approaches to conversation, the account moves beyond all of these by holding

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<sup>68</sup> It is important to recall that interlocutors do not have perfect control over their perceptions.

that illocutionary force is relative to a perspective. Belief in perspective-relative illocutionary force has been the result of thinking about speech acts and illocutionary forces in their natural habitats – the conversations in which they occur. Conversations are malleable, messy, occasionally imprecise affairs. Conversers come away from conversations with various impressions of the utterances that are made. Sometimes this variety makes no difference and goes unnoticed. Sometimes, though, the differences in impressions of the conversation make a notable difference to the lives of the conversers. The case of Celia is one such case. Other cases, discussed in chapters 3 and 4, offer other examples. Illocutionary Relativism allows us to explain these cases in an intuitive way, capturing the different impressions that speakers have.

Despite these differences, speakers often coordinate. Speakers engage in conversations because doing so allows them to affect and move about in their social situation. These movements require, and are facilitated by various degrees of social coordination. Social coordination, in turn, helps explain why speakers are so sensitive to one another's impressions of and perspectives on the conversation. By tracking one another's perspectives, speakers are able to bring their perceptions of speech acts in the conversation into line with their interlocutors' much of the time. So, while illocutionary force is perspective-dependent, the conversers' perceptions will frequently reflect the same force for a single utterance.

These perceptions can be assessed according to general norms on behavior. They can be assessed for moral goodness, as when the racist juror does not perceive Tom Robinson's testimony as trust worthy because of Robinson's race (M. Fricker, 2007). They can be assessed for epistemic goodness, as when Sebastian, the Distracted Doctor,

perceives his own speech as an assertion despite disbelieving it (Lackey, 2007). And they can be assessed for practical goodness, as when Celia's employees do not perceive her utterances as orders (Rebecca Kukla, 2012). These norms offer measures according to which we can assess perceptions of conversational moves. They are norms on conversational moves, but they do not constitute speech act types. Those types – the forces utterances have in conversations – are determined by the perceptions of the interlocutors involved in those conversations.



## Chapter 5: Failing to Count

Abstract:

In the first two chapters I argued that there is no constitutive norm of assertion. I argued, instead, that assertion was constituted in roughly the way that early speech act theorists detailed. In chapter 4, I offered more details as to the nature of assertion and its place in our discursive habits. Working out those details required and allowed for a new understanding of illocutionary force more generally. This new understanding is a variation on themes (albeit with some departures) from traditional speech act theory.

Speech act theory has enjoyed renewed attention, lately. Philosophers working on free speech, restrictions of speech, and oppressive speech have found a ready application of speech act theoretic tools. In some ways, however, these applications have suffered from an important difficulty: Traditional investigations of speech acts have, for a long time, ignored or explicitly excluded consideration of facts about the effect of social position on speech and speech acts. Speech act theory has been faulted for being out of touch with important social and moral facts about conversation (Pratt, 1986). Applying such a theory to explicitly moral and social questions, then, has been complicated.

In this chapter I use my new account of illocutions to offer a new account of illocutionary silencing that addresses both of these worries. According to this account, illocutionary force is a perspective-relative rather than objective matter. As a new account, Illocutionary Relativism requires some explanation and motivation. I briefly review the details from the last chapter before turning to the new account of illocutionary silencing. Perspective-relative illocutionary forces can more easily handle cases of conversational confusion, and of silencing.

While I think that questions of silencing and communicative justice are independently important, these questions are also important for the dissertation. In part this is because the discussion of restrictions on communication in general, and illocution in particular, helps to bring out details of our discursive practices. It is also, however, because methodologically, I think it is important that our account of communication be sufficiently general to cover *all* cases. Some cases, though, are made messy by social factors. Among those messy factors are facts about conversers' social positions, and facts about conversations with multiple and diverse hearers. These aspects are of great importance to the literature with which I'll be engaged in the next two chapters.

### §1. Speaking and Silencing

Subordination can restrict a speaker's ability to act by speaking.<sup>69</sup> Members of subordinated groups – like women, African Americans, etc. – do not have the same speech actions available to them as members of privileged groups do. In some ways,

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<sup>69</sup> Written or signed communications can also be silenced. I use 'spoken' here for simplicity as a general term for all these. If some content has been locuted, it has been spoken in this sense.

speech act theory accommodates this datum. According to speech act theory, membership in some groups makes speech actions available that are not available for non-members. Being a member of the clergy, for example, makes pronouncing marriages an available speech act. Being a member of the royal family means you can christen ships by speaking. In many cases, however, traditional speech act theory has idealized away from cases in which the authority in question is unofficial, or outside of an institution like the church or the government. In contemporary American society, at least, there is no official institution according to which women or African Americans lack the authority to make speech actions simply because of their group membership.

In the 1990s, as a response to philosophical work on pornography and free speech, (notably by (MacKinnon, 1985)), Rae Langton observed that one way in which subordinated speakers are restricted, compared to their privileged counterparts, is by being unable to speak with the same illocutionary force. She called this restriction *illocutionary silencing*. Langton described illocutionary silencing, particularly the silencing of women as one effect of pornography, as follows: ‘Sometimes “no” when spoken by a woman, does not *count* as the act of refusal. The hearer fails to recognize the utterance as a refusal; uptake is not secured’ (Langton, 1993, p. 321).

Langton developed her account of silencing as part of an analysis of competing free speech concerns. On the one hand, pornography is protected by protections of free speech. On the other hand, as Langton, and others<sup>70</sup>, point out, pornographic depictions of women enjoying their own sexual assault and objectification contribute to the problematic subordination of women. Langton argues that these depictions do so to the

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<sup>70</sup> (Hornsby, 1994), (Langton & Hornsby, 1998)

point that they restrict women's ability to act with their speech. So, according to what has become the standard account, silencing occurs when a speaker attempts to act by speaking, but is problematically thwarted in that attempt. I will not engage with this discussion of pornography and free speech, here. Important as these debates are, they rely on a clear understanding of the theoretical machinery at hand. We need to understand that it takes to illocute if we're to understand illocutionary silencing.

Accounts of silencing, from Langton on, have used tools from speech act theory (Langton, 1993), (Langton & Hornsby, 1998), (Wieland, 2007). We're now familiar with the distinctions between locutions, illocutions, and perlocutions. These distinctions help to pinpoint precisely where and in what capacity a speaker is restricted. Accounts of silencing have also assumed, like traditional speech act theory, that each illocution has a single objective illocutionary force. As we'll see, though the tools can be used effectively to analyze the phenomena, the assumption creates difficulties.

In what follows, I will use the novel analysis of illocutions developed in the last chapter to give a novel account of illocutionary silencing that meets these requirements. Recall that this account of illocutionary force is an independently motivated account according to which illocutionary force is perspective-relative. This new position rejects the assumption of objective illocutionary force.<sup>71</sup> This assumption is partially responsible for the difficulty speech act theory has in accommodating the effects of social power on conversational dynamics. By understanding illocutionary forces as perspective-relative, we make available the tools necessary for a more accurate and nuanced understanding of both conversational practice and of silencing. Because of this, the resulting account of

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<sup>71</sup> See, for a small sampling of views that make this assumption (Langton & Hornsby, 1998), (Rebecca Kukla, 2012), (Searle, 2009), (Camp, 2012) and (Green, 1999)

silencing two important requirements: it offers a uniform analysis of illocutions and makes theoretical space for the influence of social power on conversation. This allows it to distinguish between benign illocutionary disablement and problematic silencing. In particular, the account is able to capture the intuition that an interlocutor who silences a speaker is guilty of a moral or legal wrong, and that this failure on the part of the interlocutor restricts the speaker's ability to act with her words. I'll discuss these two requirements in more detail in the next section.

## §2. Desiderata for an Account of Silencing

Accounts of silencing use the speech act theoretic tools to pull apart some of the kinds of restrictions that subordinated speakers face: when a subordinated group member is kept from making a conversational move, she is illocutionarily disabled. This is different from a case in which she successfully makes the illocution she intends, but the perlocutionary effects are unexpected or unintended. And it is different from a case in which she is kept from uttering (or kept from uttering meaningfully) and so does not make a locution at all. The standard accounts of silencing largely, though not exclusively<sup>72</sup>, focus on illocutionary disablement – cases in which speakers are kept from making a conversational move, despite making a meaningful utterance. Silencing occurs when this disablement is problematic. Speech act theory offers the tools to make these distinctions, and so to locate precisely the various restrictions on speakers that occur.

The tools from classical speech act theory, however, come with limitations. First, there is widespread disagreement about the details of the categories. As we've seen in

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<sup>72</sup> Mary Kate McGowan, for example, has recently defended this distinction and offered an account of this second kind of silencing (M. K. McGowan, 2013).

the foregoing, philosophers disagree over just what it takes to be one illocution rather than another, and about what it takes to be an illocution at all, rather than a member of one of the other categories.<sup>73</sup> These details make a difference to the plausibility of the standard account of illocutionary silencing.

Further, silencing is morally, legally, and practically fraught, and the tools from speech act theory don't obviously lend themselves to complete analyses of such phenomena.<sup>74</sup> It is hard to capture the pernicious conversational effects of subordination with the descriptive categories that speech act theory provides. In trying to do this, the standard account of silencing has lost some of the descriptive power of the speech act theoretic tools. According to Austin, any utterance that was a move in a conversation had an illocutionary force. Illocutionary force is supposed to be a very general category. However, in order to give an analysis of what goes wrong in cases of silencing, the standard account loses the ability to give a uniform general analysis of illocutions.<sup>75</sup> And this, I think, has been the source of some of the objections to the standard view (Bird, 2002), (Jacobson, 1995), (Wieland, 2007). These objections are to the effect that the standard account fails to accommodate such illocutionary facts as uptake, and that the standard account assigns blame inappropriately.

On the other hand, to the extent that speech act theory fails to make room for account of silencing, it fails to be an adequate description of conversational practice. Historically, speech act theory has been faulted for being out of touch with important

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<sup>73</sup> See (Austin, 1975), (Searle, 1969), (Langton, 1993), (Hornsby, 1994), (Langton & Hornsby, 1998), (Green, 1999), (Alston, 2000), (Lackey, 2007), (Camp, 2007), (R. Kukla & Lance, 2009), (Maitra, 2009), (Rebecca Kukla, 2012), (Whiting, 2013), for this debate.

<sup>74</sup> Mary Louise Pratt has made a similar point. (Pratt, 1986)

<sup>75</sup> Such a uniform account of illocution is desirable so that the analysis of silencing can avoid the charge that it makes ad hoc distinctions within the category.

social features of conversation (Strawson, 1964), (Pratt, 1986), (Sbisà, 2002). According to classical speech act theory, members of subordinated groups are equally able as members of privileged groups to make illocutions like refusals. By failing to account for important effects of social position, classical speech act theory is vulnerable to the charge that it fails to describe important conversational phenomena.

Despite these difficulties, speech act theoretic tools – or something very like them – should be available to help us account for silencing. Accounts of silencing employ speech act theoretic tools for good reason, and if an improved account can avoid the above pitfalls, the theoretical pay off is promising. To do so, however, our account will need to do two things. First, we must relinquish a widely held but rarely examined assumption in the literature –that there is something importantly explanatory about the objective illocutionary force of a particular locution. Second, the account needs to make theoretical space for and accurately describe the subtle power dynamics that affect speakers and conversations. Changing the account in these ways will allow us to make full use of the tools from speech act theory.

### §3. Doing things with words

First, a bit of a review of the work from the preceding chapters: imagine I say to you, ‘I will be at your beck and call’. What have I done? I’ve certainly uttered some noises, likely intending that those noises be taken to be meaningful words. What kind of conversational move have I made? In order to determine the conversational move we probably need to know more about the conversation in which this utterance takes place. If I said, for example, ‘Shannon was lying when she told you ...’ and then uttered the

above, that's quite different from a case in which I say, 'These things I solemnly swear...' beforehand. Even if we fix the prior content expressed in the conversation, this same utterance could be taken many different ways. If I am your boss, and make this utterance, it may be taken quite differently from if you are mine and I make it. If we're friends in a fight over my obligations to you, my utterance may count as one kind of move. If we're pledging eternal love, it may count as another. Context and social position make a great deal of difference in what our utterances do.

Further, even within a context, with social position of the conversers fixed, competent speakers sometimes disagree about the illocutionary force of an utterance. You and I might come away from a conversation in which I utter, 'I will be at your beck and call', with very different impressions of that utterance. I may count my utterance as a joke – I may find subtle sarcasm particularly hilarious. You may count me as having undertaken certain obligations. We have two different impressions of what I've managed to do with my words. We count this utterance as different conversational moves – as different illocutions.

The category of illocutions includes such acts as commanding, promising, asserting, and refusing etc. (Austin, 1975). These are acts that can, in many cases, be done by claiming that one is doing them.<sup>76</sup> Illocutions, however, are not always as they appear. Sometimes, 'I promise...' appears in an utterance that does not, properly speaking, have the force of a promise. Take, for example, 'I promise that I went to the store'. In making this utterance I am undertaking no obligations for a specified future

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<sup>76</sup> This might be called the 'performative test', according to which asserting is an illocution while persuading is not – I can assert by saying, 'I hereby assert...' but cannot persuade you by saying, 'I hereby persuade you...'

action, as I am when I promise. Utterances like this are likely counted as emphatic assertions rather than promises. We cannot always tell an utterance's illocutionary force by the words uttered.

To complicate things further, a single string of meaningful sounds can be employed with many different forces. 'The door is open' might count as an assertion, a conjecture, a command, or even, under the right circumstances, a promise or a refusal. It is not always clear how to tell one illocution from another.

One important clue as to the illocutionary force of an utterance is the changes that utterance makes. In particular, different illocutions make different changes in the expectations and obligations of people relevant to the conversation.<sup>77</sup> When I make a promise I undertake an obligation to perform a specified future action and generate the (defeasible) expectation that I will fulfill it. And different illocutions generate different expectations and obligations. Thus, I propose, the illocutionary force of a particular utterance is at least partly determined by the obligations and expectations that it generates.

There is, as we've seen, a difficulty regarding expectations and obligations. Conversers do not always agree on which conversational move a speaker counts as making. So, when I say, 'I will be at your beck and call', we might disagree about the force of that locution. When these disagreements arise speakers will sometimes claim a particular illocutionary force for their locution. 'I was joking!' I might say. And you might respond, 'that was *not* a joke; you promised'. We disagree about the illocutionary

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<sup>77</sup> The deontic statuses, as per Searle (Searle, 2009)



force of the same locution and, as a result, about the obligations and expectations that were generated. How are we to decide the force of the locution, in this case?

As we've seen in chapters 3 and 4, there are some hefty challenges for fixing an objective illocutionary force for each utterance. Either the force is divorced from practice, the method for fixing the force is mysterious, there are intractable disagreements, or the purported objective force is counter-intuitive. These challenges pushed us toward adopting Illocutionary Relativism. This view is committed to the fact that no audience member is any more, or less, authoritative than a speaker with regard to illocutionary force itself. Each party is equally well placed to form expectations, and all parties to the conversation seem likely to get something right, namely the effect the locution has on their own perceptions of the conversation. And if, as I am arguing, those effects are the distinctive characteristics of illocutions, then these disagreements are faultless – both of us, assuming we are accurately reporting our own updated perceptions in the joke/promise case, can be right. At least, we can both be right about the illocutionary facts.

Certainly, in the case under consideration, there might be social, practical, or moral reasons to count one or the other of us as authoritative. If I am your boss, you would do well not to hold me to the promise you count me as undertaking. If you are mine, I had better be there when you beck or call. These power dynamics are extremely important, and are tied up in how our conversations proceed (and, as will become clear, in how speakers' locutions are counted). But we can acknowledge this without claiming that such dynamics dictate illocutionary force in an objective way. In the promise/joke case, it seems plausible that we are both getting something right about the conversation,

even if there are good *practical* reasons for one or the other of us to change our perceptions.

Cases like this, and the cases discussed in the silencing literature, help motivate a perspective-relative account of illocutionary force. This new account, detailed in the last chapter, has it that a locution has a particular illocutionary force in virtue of being perceived by some converser as such. A locution has a particular illocutionary force, relative to some interlocutor's perspective, when it changes the expectations of the interlocutor in particular ways.<sup>78</sup> The specifics of these expectations and obligations depend on the state of the conversation in question.<sup>79</sup> They also depend on the perceptions and dispositions of the conversers – as our perceptions differ, so too do our views of conversations. These differing views mean that a single locution can have different effects on different interlocutors, so the changes that locutions make are perspective-relative. Thus you and I can both be right in the joke/promise case.

If we disagree but both get the illocutionary facts right, then being perceived as a particular illocution is sufficient for having that illocutionary force, relative to some perceiver's perspective on the conversation. There is no property of being an assertion simpliciter. There is only the property of being an assertion relative to a perspective. This is Illocutionary Relativism. Being a joke rather than a promise, relative to some perspective, depends on being perceived as a joke and not a promise. And as long as someone does so perceive that locution, it has that force relative to that person's

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<sup>78</sup> Where 'expectations' is rather broad, encapsulating all of the perceived changes in deontic status.

<sup>79</sup> I am being fairly liberal with 'conversation' here. Any exchange that involves locutions and counts can be, for our purposes, a conversation.

perspective. A single locution, then, can be a promise relative to one perspective, and a joke relative to another.

According to Austin, some illocutionary forces rely critically on securing *uptake*. Uptake, according to Austin, is secured when, “[the locution’s] effect amounts to bringing about the understanding of the meaning and of the force of the locution” (Austin, 1975, p. 117). This is what is crucially missing, in the paradigm case of silencing, as analyzed by Langton. A speaker produces a locution, and a listener understands the locutions illocutionary force. So, uptake of force and perceptions of force are clearly related.

Perceptions and uptake are different, however for two reasons. For one, perceptions are more general – interlocutors perceive locutions as having illocutionary force, but also perceive those illocutions *as* credible or *as* rude. As in the last chapter, the perception includes myriad different reactions that an interlocutor might have, including the perception of the force, but also the volume and propriety as measured in various ways.<sup>80</sup>

The second way in which perceptions differ from uptake is that uptake is usually taken to be the hearer’s contribution to a speech act’s status. Austin says, “I cannot be said to have warned an audience unless it hears what I say and takes what I say in a certain way... the performance of an illocutionary act involves the securing of uptake” (Austin, 1975, p. 117). The uptake, then, on which illocutionary status is supposed to depend, is the uptake of the audience. Perceptions of an utterance differ in two ways. First, the speaker of an utterance herself can perceive the utterance. And second, the

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<sup>80</sup> This will become key in the next chapter.

audience or hearers of an utterance can all differ in their perceptions. So, where speech act theory locates uptake in the response of a single hearer (or the consensus of a group), Illocutionary Relativism allows for a perspective for each interlocutor – and the force-determining perception of the speech can vary from perspective to perspective. Unless uptake can differ across interlocutors, and yield different verdicts for a single locution, uptake and perceptions will differ. Perceptions, after all can differ for a single locution, without affecting the perspective independent facts about the locution's force. So, perception and uptake are distinct in at least these two ways.

Illocutionary Relativism may seem surprising. After all, many conversations do not result in misunderstandings or differences in the perceived force of the utterances therein. We seem to be able to speak and be understood with a high degree of success, and so our perceptions are, for the most part, easy to coordinate. If our utterances have illocutionary force only relative to some perspective, how can this success be explained? And similarly, what are we to say about idiosyncratic perceptions? If an interlocutor counts my utterance 'I promise to be at your beck and call' as a christening, or a request etc., must we concede that my utterance so counts?

We can answer both of these concerns by observing the motivations that conversers have for conversing. We are social creatures who coordinate our behavior, at least in part, by communicating using our words. Exclusion from this joint activity comes at a serious cost. Conversers are highly motivated to read social cues and to check

their perception of the state of the conversation against the impressions they have of their interlocutors' perceptions.<sup>81</sup>

We are motivated by social pressures to align our perceptions with our interlocutors'.<sup>82</sup> The motivations that move us to converse are often only fulfilled if our interlocutors perceive our locutions in (nearly) the same way we do. Speakers do not want to incur obligations inadvertently, even relative to someone else's perception. Violating the expectations of one's interlocutors too often or too flagrantly can result in exclusion from the conversational community.<sup>83</sup> Imagine someone who makes promises, for example, and never meets the obligations she counts as undertaking. Eventually that person's locutions will no longer be perceived as promises. She will be excluded from at least that illocutionary activity. Imagine, also, an interlocutor who consistently fails to align her perception with yours. She consistently perceives you as promising, say, when you count yourself as asserting. If that person acts on those perceptions then eventually she will, like the unreliable promisor, be excluded. These excluded interlocutors will not enjoy the benefits of conversation.

The kinds of pressures that explain our coordinated conversational perspectives bear on much of our behavior. Conversation is not the only activity in which we must rely on our impressions of other participants' perceptions of the state of the activity: in

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<sup>81</sup> Notice that this does not mean that all who converse are cooperative. We're familiar with those adept conversers who are, we find out, not cooperating (with us anyway). Nonetheless, artful manipulative conversation, perhaps most of all, requires checking one's perceptions of the state of the conversation against one's impressions of the perceptions of one's interlocutors.

<sup>82</sup> Kukla observes this, calling speech a 'fundamentally collaborative project' (Rebecca Kukla, 2012, p. 16)

<sup>83</sup> Related work is being done in sociolinguistic accounts of politeness. I have in mind work from Brown and Levinson (P. Brown & Levinson, 1987) and the subsequent literature.

improvisation, both musical and comedic, we see the same thing. In any unscripted cooperative activity, we can coordinate without referring to objective measures. And we do so because failure comes at a cost, and success brings a reward. These costs and rewards are largely external to the practices in which they are engendered. The important benefits are social, aesthetic, moral or legal. And this will become key in what follows.

#### §4. Failing to Count

Section 3 was largely a review, to recall some important features of the general account of illocutionary force detailed in the last chapter. We are now in a position to offer a precise analysis of illocutionary disablement and silencing in the terms of Illocutionary Relativism. We can then support this analysis by demonstrating that it meets the requirements we laid out at the start. Illocutionary disablement, in this new vocabulary, occurs when there is a mismatch in conversational perspectives that is *due to* the subordinated status of a speaker.<sup>84</sup> In other words, when a speaker is a member of a subordinated group, that speaker may perceive her own locution differently from how her interlocutor perceives it. If that difference is caused by the speaker's social status, she has been illocutionarily disabled.<sup>85</sup> It is a further question whether or not she has been

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<sup>84</sup> It has been pointed out that interlocutors might mistakenly perceive speakers as members of historically subordinated groups. I might appear to be young, and so be perceived as a minor. This perception might cause an interlocutor to misalign her count with mine. This would, I think, be a case of silencing. For simplicity I will leave this sort of case aside, though a full analysis of silencing would have to take it into consideration.

<sup>85</sup> A case can also be made for a related phenomenon of problematic illocutionary *amplification* that is due to the subordinated status of a speaker. Imagine a case in which a speaker counts himself as asking a question while his interlocutor counts him as making a threat because the speaker is the member of a racially subordinated group. This is a case of mismatched counts due to subordinated status, but it is not clear that it ought to be

silenced. Silencing, in these new terms, occurs when a speaker is illocutionarily disabled because of pernicious social subordination.

Here is an example: A female undergrad in a philosophy class develops an objection to the theory under discussion. She raises her hand and voices the objection. Her professor does not recognize her contribution as an objection and the discussion moves on. A few minutes later, when a male student utters the same locution, the professor recognizes the objection. The female speaker's membership in a subordinated group causes a difference between how she perceives her own locution and how other conversers perceive it. She has been silenced.<sup>86</sup>

In another example, one that initially motivated the silencing literature, a woman is silenced in the course of being raped. In this case, a woman utters the locution 'no'. She perceives her utterance as a refusal. Her attacker does not. By some accounts he might even perceive it as an invitation because of his experience with the glamorization of sexual assault in pornography (Wieland, 2007). The mismatch between perspectives is due to her subordinated status assuming that if a man uttered that meaningful sound in the same way, the rapist would perceive his utterance as a refusal.

For a third example of silencing consider an African American man attempting to testify about his own experience. He perceives his locution as having the force of an assertion. Imagine that, because of racial prejudice, a member of the audience – a police officer – does not perceive the man's locution as an assertion, taking it to be a joke or a story instead. In this case, the man and the police officer disagree over the illocutionary

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called 'silencing'. Perhaps a more general label should be adopted. I leave that to future work.

<sup>86</sup> This is similar to an example from (Maitra, 2009) in which a student is silenced because of his subordinated racial position.

force of the utterance because of a history of racial subordination. The man has been silenced.

The analysis of illocutionary disablement and silencing from Illocutionary Relativism meets the requirements with which we began: first, the analysis of illocutions is uniform. Every locution has an illocutionary force relative to a perspective, and that force is determined by the perception of an interlocutor. This is the case for fully successful illocutions, partially successful illocutions, and silenced illocutions. The objections that the standard accounts of silencing bifurcate illocutionary force, or fail to accommodate the illocutionary facts, do not arise here. This analysis can speak to uptake and to the difference in illocutionary perceptions between interlocutors.

Second, the account makes room for the range of wrongs done to speakers in all and only those cases of illocutionary disablement that are blameworthy. These are cases of silencing. The illocutionary force of an utterance is a descriptive matter, determined by the expectations of the interlocutors. The discussion of Illocutionary Relativism in the last chapters highlighted the importance of moral, legal and practical factors for aligning counts. By recognizing the importance of these factors, instead of idealizing them away, the new analysis of silencing can separate the illocutionary facts from normative claims, while still taking into consideration moral, legal, and practical norms. I will say more about each of these in turn.

First, Illocutionary Relativism offers a uniform analysis of illocutions. Some object to the standard account claiming that, to accommodate cases of illocutionary disablement, the account must misdescribe other illocutions as always requiring uptake. Alexander Bird, for example, argues against the standard account of silencing on the



grounds it fails to offer a uniform analysis of illocutions (Bird, 2002). To account for what goes wrong in cases of silencing, we must require uptake for successful illocutions. But, Bird argues, speakers can make successful illocutions without uptake. If speakers can illocute without securing uptake, then the failure to secure uptake seems innocuous, even in rape cases – illocutions proceed without them, and the purportedly silenced parties' speech-acts are unrestricted. The rape victim, in other words, is not silenced because her locution is a refusal even if it fails to achieve uptake.

Bird argues that locutions need not secure uptake using several examples.<sup>87</sup> One example involves a judge who passes a sentence on an inattentive defendant. That the defendant pays no attention, Bird argues, has no effect on the success of the sentencing. 'The conditions for successful illocution', he says, 'do not include uptake' (Bird, 2002, p. 8). And if a speaker successfully illocutes, in what sense has she been illocutionarily disabled?

One benefit of the new understanding of silencing is that it accommodates Bird's observations but also explains why uptake is important. According to this understanding, all illocutionary force is relative to a perspective, and speakers themselves perceive their utterances as having some force or other. So, as long as a speaker – in Bird's example the judge – perceives *her own* utterance as having some particular force, her utterance has that force, *relative to her own perspective*. Bird is right that this is a case of illocutionary force without uptake if uptake is to be obtained from the hearer alone. Bird is wrong, however, that uptake on the part of the hearer is the sole determiner of illocutionary

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<sup>87</sup> Examples that have their roots in (Strawson, 1964)

force. Because the judge perceives her own utterance as sentence, it has that force relative to her perspective. But this is only part of the story of a case like this.

Speakers are rarely only interested in their own perspectives. We want to influence our interlocutors' perspectives as well.<sup>88</sup> This is what the judge and rape victim are kept from doing. Bird is quite right that the inattention of the defendant is largely immaterial – because of the relative social statuses of the judge and the defendant, the defendant's attention makes no practical, or legal difference. But, importantly, while Bird's case might be one of illocutionary disablement, it is not one of silencing according to the current account – the mismatch is *not* due to the subordinated status of the speaker, but to the inattention of the defendant. So, this understanding of illocutions gets the intuitions of the case right: the judge makes a successful illocution (relative to her own count) and the case is clearly one in which the defendant has good practical, moral, and legal reasons to change his perception of the utterance. The understanding also offers a way to account for the failure of uptake in silencing cases: silenced speakers are kept from influencing (at least some of) their interlocutors' perspectives. The perceptions the speakers are most concerned with do not reflect the changes they intended to bring about. The speakers are kept from fulfilling the very goals that motivate them to speak in the first place. So, my account offers a uniform analysis of illocutions, where the standard account does not.

Other objections have been raised to the standard account of silencing and its use of speech act theoretic tools. Daniel Jacobson and Nellie Wieland point out that silencers and those who are silenced seems to stand in similar positions relative to the

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<sup>88</sup> This point is emphasized in (M. K. McGowan et al., 2011). There the authors discuss silencing in terms of communicative interference.

*conversational* facts – where one is illocutionarily disabled, the other is interpretively disabled (Jacobson, 1995), (Wieland, 2007). It is not clear that speech act theory offers the right tools for appropriately describing the wrongs done in cases of silencing. According to the standard account, the silenced speaker's utterance does not have the force she intends. As Wieland puts it, 'the problem the Langton-Hornsby view faces is that if they are correct that women are "silenced", then the rapist's claim to having obtained his victim's consent must also be correct' (Wieland, 2007, p. 453). The woman did not refuse – the rapist counted her as consenting, and thereby kept her utterance from having the force of a refusal. The standard account, therefore, seems to reduce how much and for what we can blame the rapist.

The relativistic account of silencing from Illocutionary Relativism offers a different understanding of the paradigm case of silencing. According to this new account, the speaker *did* refuse. Her locution had the illocutionary force of a refusal as long as she perceives it as such. Granted, it also may have counted as consent, relative to the rapist's perspective, but *it should not have*. He practically, legally, and morally should have aligned his perspective with hers.

Perhaps point this is surprising. After all, according to illocutionary relativism, interlocutors' perceptions are on a par. By what measure, then, should his perspective be different? Illocutionary Relativism cannot make use of any *illocutionary* or *speech-act-theoretic* sense in which an interlocutor should perceive a locution as having a particular force. I spent chapters 1 and 2 denying that these are useful. All we can say about the illocutionary facts is that these facts are perspective-relative, so each interlocutor's

perception (though not necessarily their *report of their perception*) determines a perspective relative force.

But accuracy is not the only measure for the goodness of a perception. Certainly two people could both get the facts of some case right, but not be acting, all things considered, equally properly. Indeed, that measures we care about in cases of problematic silencing are not measures of illocutionary accuracy, but rather measures that go well beyond illocutions and perceptions. The prescriptions for perceptions come from moral, practical or legal considerations. And this is, in the end, not surprising. These are the norms we're concerned with in cases of problematic silencing.

On the other hand, mismatches of perceptions, even those due to subordinated status, are not always problematic. The standard view of silencing has been criticized for being unable to offer different diagnoses of problematic and unproblematic cases. As Ishani Maitra points out, not all interlocutors who illocutionarily disable speakers are subject to blame (Maitra, 2009). To see that, consider a case in which a military private utters, "drop and give me 50" to a general. The private perceives his own utterance as having the force of an order. The general, of course, does not perceive it as such. In this case, there is a mismatch in perceptions due to the private's status as a subordinate. It is a case of illocutionary disablement, on our definition, but there is no intuition that it is problematic. There is no sense in which the general *should* change her perception.<sup>89</sup> In this case the disablement is unproblematic because the general has not violated any moral, practical or legal norms. A difference in perception is merely a difference unless

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<sup>89</sup> This is only true *ceteris paribus*. If the general has good practical (etc.) reasons for treating the utterance as a command, then, of course, there is a sense in which she should change her perception.

it is a difference that implicates a converser in other kinds of violations. These are the costs and rewards that motivate us to align perceptions and to converse. They also explain the blame for mismatches, when mismatches are blameworthy.

Notice that this means that illocutionary disablement, by itself, is not wrong. As we've defined it, illocutionary disablement occurs when there is a mismatch in conversational perspectives due to subordination. Some kinds of subordination are good – consider the subordination of a minor to her parents. She might perceive some of her utterances as a marrying, or a promising or as entering her into a binding contract. We would not perceive her utterances in these ways for goofy moral, legal, and practical reasons. Here, the silencing is well motivated and legally (also morally and practically) appropriate. Subordinating a minor in this way is unproblematic, and so too is the associated illocutionary disablement. Illocutionary disablement is only problematic, when it is a violation of moral, legal, or practical norms. When these norms are violated the illocutionary disablement is a case of silencing. And that seems exactly to capture our intuition. We don't care, in cases of problematic silencing, about whether or not the silencing party is a bad conversationalist. We care, instead, about what *other* norms the silencer thereby violates.

One final benefit of Illocutionary Relativism's account of silencing is that allows us to clarify the extent to the wrongs experienced by silenced parties are distinctly speech-related. When a speaker is silenced we want our analysis of the phenomenon to describe a problematic restriction of speech action. Maitra has argued that the standard view of silencing fails to address the distinctly speech-related wrong inflicted on victims of problematic silencing. The standard view, according to Maitra, struggles to 'make

clear why a speaker who is silenced is thereby unfairly deprived of (some of) the benefits that lead us to place a special value on speech in the first place' (Maitra, 2009, p. 310).

Illocutionary Relativism's account of silencing can explain why this restriction is particularly speech-related. According to Illocutionary Relativism, legal, moral and practical considerations are influential and important to our experience as conversers. These are the considerations that motivate us to convers, and to align our conversational perspectives. So, the legal, moral or practical wrong done to the silenced party is speech-related – the silenced party is not able to do with her words what someone of the unsubordinated group could do, namely influence an interlocutor's perspective. If the subordination is problematic, so too is the silencing. So, silencing is distinctively speech-related, and, where problematic, is a wrong. The action by which the silencing party violates some norm is an action that has distinctly to do with speech – thus the wrong is distinctly speech-related. To see this clearly, we will have to look more closely at cases of silencing.

In all cases of illocutionary disablement, there is a mismatch between the speaker's perspective and that of the interlocutor who disables her. And, in all cases of illocutionary disablement, this mismatch is due to the speaker's membership in a subordinated group. The speaker is thwarted in her attempt to influence her interlocutor's perspective, and this influence may be of great import. Her interlocutor fails to perceive her utterance as having the force she perceives it (and intends it) to have because she is a member of a subordinated group. Silencing occurs in a subset of illocutionary disablement – in only those cases in which the disablement is a wrong. If membership in such a group *should*, legally, morally, or practically, make no difference, the converser

who fails to perceive the speaker's locution as the speaker does is failing to do what he or she ought. And this failure is objective, as long as the norm it violates is objective.

It might seem counter-intuitive that objective norms could govern our reactions to perspective-relative facts. However, while being an illocution is perspective-relative, as long as there are objective moral, legal, or practical norms, the rightness or wrongness of a count can be objective. Consider, for comparison, the following. Taste in food is intuitively perspective-relative. Broccoli may not be tasty relative to an infant's tastes; nonetheless, there are good practical reasons for that infant to learn to enjoy broccoli – to change his tastes. Hannibal Lecter finds human flesh tasty, but he *ought not to* for practical, moral, and legal reasons. And as long as these reasons are perspective-independent, so too are the norms on the perspective-relative perceptions of illocutionary force.

The perspective-independent norms on perspective-relative perceptions help explain the problematic cases of illocutionary disablement. The professor did not perceive the student's speech as an objection, because the student is a woman. Her utterance does not, relative to his perspective, have the force of an objection – but it does relative to hers. If she'd been a male, their perceptions would have aligned. Because there are moral and practical reasons to count student contributions alike regardless of gender, morally and practically, he *ought not* silence her. She ought to be able to do the same things with her words that male students can do. The professor's perception, while correct with regard to the perspective-relative facts, ought to be different.

Similarly, the rapist and his victim have mismatched perceptions because the rapist fails to behave as he morally ought *with regard to her speech* (in addition to his

other failings). There are moral norms on how a person's 'no' should be perceived, and, according to those norms, gender should not make a difference. And this is true regardless of the pornographic glamorization of sexual violence that that rapist may have consumed. The rapist fails to perceive as he *morally* ought and this failure constitutes a restriction on what the speaker is able to do with her words. It is a moral and distinctly speech-related wrong.

So, the wrong in the cases of silencing is objective if the silencing violates an objective norm. The silencing is a failure, on the part of the silencer, to perceive the speaker's speech as he morally, legally, or practically ought. The speaker's utterance should count as a refusal, but the silencer fails to perceive it appropriately. He is therefore guilty of irrationality, of a mistake, *even though he gets the illocutionary facts right, relative to some perception*. The silencing is a failure because the subordinated status of the speaker should, by the relevant norm, make no difference in the illocutionary force of her utterances.

From Illocutionary Relativism, then, emerges an account of illocutionary disablement that offers a uniform analysis of illocutions. Illocutions perceived by conversers with matching perceptions, conversers with unproblematically mismatched perceptions, and in those case in which conversers problematically silence their interlocutors all get the same treatment. Also, because extra-conversational considerations play an important role in the motivating alignment of perspectives, the account makes theoretical space for the range of wrongs done to problematically subordinated speakers. Advocates of accounts of illocutionary silencing should,



therefore, adopt Illocutionary Relativism over accounts of illocution that require a single, objective, authoritative conversational scoreboard.

## §5. Conclusion

The goal of this chapter was to demonstrate that there are advantages to adopting Illocutionary Relativism, if we want to account for restrictions on conversational moves faced by subordinated speakers. One thing left almost entirely aside, though, were the epistemic considerations that have been so important in the previous chapters. One among the many norms on assertion, I've argued, is an epistemic norm. This chapter, concerned as it was with other illocutions (like refusals and commands) was not much concerned with epistemic norms. We'll turn, in the next chapter, to the intersection of concerns about silencing and concerns about epistemology: we'll look at what happens when speakers are systematically silencing in their attempts to testify.

## Chapter 6: Communicative Injustice

### Abstract:

In the last chapter, I began to tackle questions of unjust restrictions on communication. There, I was focused on restrictions on making conversational moves – illocutionary restrictions. I'm again concerned with the restrictions that speakers face when they are members of socially subordinated groups; however in this chapter I will expand my focus to include other kinds of communicative injustices as well. In particular, I engage with work from Miranda Fricker on testimonial injustice. Fricker has contrasted her work on epistemic injustice with Langton's work on illocutionary silencing. According to Fricker, these two accounts are incompatible and competing candidates for the best analysis of communicative injustice. Part of the project of this chapter is to demonstrate that these two projects are compatible. To do so, however, will require the same kind of shift in traditional speech act theory that I recommended in the last chapter. The other part of the project in this chapter, then, is to explain and argue for this shift.

Just as in the last chapter, issues of communicative justice are interesting and important in their own right. They are also, however, of particular interest given the overall project of the dissertation. If we're to understand illocutionary force in the context of actual conversation, we should bear in mind the myriad ways that conversations go – including those that don't go at all well. And, given how important assertion is to testimony (as discussed in chapter 2), our understanding of assertion will need to make room for an analysis of testimonial injustice.

### §1. An Apparent Conflict

I argued, in the last chapter, that Rae Langton's account of illocutionary disablement could be improved by adopting Illocutionary Relativism. If an interlocutor perceives a speaker's utterance as having or failing to have a particular force *because* of a prejudiced belief about those who share the speaker's social status, then that speaker has been unfairly restricted with regard to influencing that interlocutor's perception. I demonstrated that shifting our attention to the forces utterances are perceived to have allowed Langton's account to escape and avoid a wide variety of criticisms leveled against that account.

I've not yet addressed all of the criticisms a view like Langton's faces. Miranda Fricker has developed what she takes to be a competing and more empirically likely

analysis of restrictions on communication – in particular those restrictions that agents face when they attempt to communicate their knowledge. Fricker calls this restriction testimonial injustice, and it occurs when a speaker is perceived to be insufficiently credible to add her knowledge to the epistemic economy. Langton's target cases, Fricker argues, are not importantly different – they are properly understood as extreme examples of this kind of injustice. If Fricker is right, and if Fricker's analysis is both broader and more empirically likely, then Langton's analysis is in trouble.

The concern, in Fricker's own words, is as follows.

“On [Langton's] account, silencing occurs prior to the moment at which a speaker's credibility is at issue, for the silenced woman's problem is not that her interlocutor regards her word as so worthless that when she says ‘No’ he doesn't hear her; rather, his stance towards her in the context is such that she is prevented from (fully successfully) performing the illocutionary act of refusal in the first place. His silencing her does not turn on any epistemic attitude he might have towards her, for the whole question of her credibility simply does not arise. On [this] account, then, silencing does not feature as a form of testimonial injustice. By contrast, on the construal I have put forward, according to which there might be social climates in which women lack credibility so drastically for certain subject matters that their word fails altogether to register in male hearers' testimonial sensibility, we can see how silencing might take the form of an extreme testimonial injustice. Either conception of silencing presents a coherent social possibility, but ... the epistemic model describes the more empirically likely possibility, simply because it requires less erosion of women's human status before the silencing effect kicks in. (M. Fricker, 2007, pp. 141-142)

In this chapter I propose to resolve this concern by demonstrating that the choice between Fricker's and Langton's accounts is a false one. The views only appear to be in conflict. The reason for this apparent conflict is that the accounts use very different vocabulary. By casting them both in speech act theoretic terms we will be able to dissolve this apparent conflict, and take advantage of the tools from each.

This is a worthwhile project in part because these tools can all be of use in developing a more accurate and nuanced account of the restrictions speakers face. There is, however, a complication: recall in the last chapter, that to address the objections to Langton's account we had to adjust our analysis to focus on perceptions of communication, rather than objective facts about communication. In order to demonstrate that the views are compatible and that the shift is well motivated, I'll have to also demonstrate that the shift is tenable and desirable for Fricker's account. I will, in the last section of this chapter, argue that there are benefits to be had from such a shift for Fricker's account, and, more broadly, for a general account of the unjust restrictions faced by subordinated speakers.

## §2. Rival Analyses

It is not surprising that Fricker's and Langton's views differ, as their analyses of unjust restrictions on communication develop in the pursuit of different projects. Langton's project is to use speech act theory to bring to light the pernicious subordinating effects of some kinds of pornography. The relevant tools are the categories of things that speakers can do by speaking. These are familiar from chapter 1, but to review, consider the various things speakers can do by speaking. First, speakers can make meaningful utterances – this is the locution. Second, a speaker can, by uttering meaningfully, also make some particular conversational move. Making an utterance as a conversational move is making it with some illocutionary force. Illocutionary force is what makes an utterance a question, or a promise, or a refusal. Third, a speaker can bring about certain distal effects. These effects, called perlocutionary effects, are what speakers do *by*

making conversational moves. I might, by saying “shut the door”, bring it about that you shut the door. I might bring it about that you slam the door. I might bring it about that you scoff in disgust. These are all candidate perlocutionary effects of my speech.

Langton’s focus is on illocutionary force, and how able various speakers are to speak with the force they intend. Pornography that portrays women as unable to make certain conversational moves, she argues, contributes to a restriction on women’s ability to make those moves.

According to Langton’s original discussion, this restriction goes as follows: illocutionary disablement occurs when a speaker is kept from making the conversational move she intends because her interlocutor does not recognize it as such. Langton’s standard case is one in which a woman intends to refuse sex with a man, and that man, because he has consumed objectifying or violent pornography, interprets her “no” as something other than a refusal. Langton claims that this is because of a failure of uptake. Uptake is a feature that, according to Langton and Austin (Austin, 1975), is necessary for some illocutions to be “fully successful”. The rapist fails to count her locution as a refusal because she is a member of a socially subordinated group. When social subordination causes a restriction in conversational moves in this way, illocutionary disablement has occurred – uptake fails, and the speaker’s locution does not count as having the illocutionary force she intends.

Fricker, on the other hand, develops her account of unjust restrictions on communication as part of a different project. Fricker’s project is to describe the moral and epistemic wrongs experienced by members of subordinated groups who are kept from (fully) participating in the epistemic economy. She has in mind the wide variety of

restrictions subordinated group members face in their “capacity as knowers” (M. Fricker, 2007, p. 1). The most pertinent of these, for our purposes here, is testimonial injustice. This kind of injustice occurs when a speaker’s social status either keeps her from testifying at all, or makes it so her testimony isn’t taken seriously. Fricker’s paradigm case of this is that of Tom Robinson in *To Kill a Mockingbird*. Robinson attempts to testify in his own defense in a trial. Because he is an African American in Alabama in the 1930’s, his membership in a socially subordinated group and the prejudice of the jurors keep him from effectively defending himself. When social position affects testimony in this way, testimonial injustice has occurred.

Putting this in speech act theoretic terms, Robinson is able to make a locution – he is able to make a meaningful utterance – and he is able to make an illocution – he intends his utterance to have assertoric force, and his audience uptakes the utterance as such – but he is not able to have the intended perlocutionary effects. He intends, by asserting, to convince his audience of his innocence, or at least to let them know the truth. Despite taking him to be asserting that he is innocent, the jurors do not take his assertions to be giving them evidence as to his innocence. They do not believe him, because they do not take African Americans to be credible (at least with regard to their own innocence or guilt). Because of this, his speech act does not have the perlocutionary effects he intends.

It is much easier to see, with both accounts cast in the same vocabulary, that they are accounting for different restrictions. There are three ways in which an agent’s attempted communication might be restricted. First, she might not be able to make a meaningful utterance at all – she might be literally silenced, or unable to speak the relevant language. She is not able to make a locution. This would keep her from making

conversational moves and from having perlocutionary success. Second, the agent might be able to make a meaningful utterance, but not be able to have it count as having the force she intends. She can make a locution, but not one that has the intended illocutionary force. Here, too she would not have perlocutionary success (except by very strange accident). This is the kind of scenario Langton's original account makes salient. Third, the agent might be able to make the conversational move she intends but nonetheless be perlocutionarily restricted. She can make a locution that counts as having a particular illocutionary force, but not be able to enact the other effects she intends. This is what's happened in the Tom Robinson case. And we can imagine a case like this involving rape: an assailant recognizes his victim as refusing, but rapes her anyway.

Fricker claims that her account better captures the restrictions speakers face. However, these three restrictions on attempted communication are distinct, and Fricker would need to motivate any claim that our analysis should treat them the same. To me, it seems that treating all of these cases alike would obscure important differences between the cases. For example, the distinct restrictions may be enabled or reinforced by different systems of subordination. Social systems can restrict perlocutionary effects without restricting either of the other kinds of speech action. A situation in which a rape occurs after a recognized refusal is, at least conceptually, distinct from one in which a rape occurs after an utterance that is perceived to be a demurring invitation.<sup>90</sup> Langton's analysis makes this distinction available. Analyses that ignore illocutionary disablement do not. Fricker's first criticism depends on her account covering the same phenomena

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<sup>90</sup> These situations are also practically distinct. We could teach a rapist or a potential rapist that 'no' means "no" contrary to the pornographic depictions Langton specifies. This education would have little effect on someone who does or would rape a victim after recognizing a refusal.

that Langton's covers, and this need not be the case. There can be multiple locations for unjust restrictions. Some are aptly described by Fricker's account. Langton's better captures others. Both analyses can be right, but not to the exclusion of the other. This is one way in which the choice between Fricker's and Langton's analyses is a false one – the accounts can each be used to describe different restrictions subordinated speakers face.

The other claim, in Fricker's criticism, is that her analysis of restricted speech is more likely than Langton's. She claims that her account, which locates the cause in a credibility deficit, is "more empirically likely" than Langton's. Admittedly, Langton's account makes no mention of credibility, tracing the cause of the injustice to a failure of uptake. Again, however, I think that this choice between the causes is a false one. We need not decide between credibility deficit and failure of uptake because the two are not mutually exclusive – the one can cause the other. I will return to this point in the next section, but it is important to notice that uptake might fail because of a credibility deficit. If the rapist, in Langton's example, does not take the woman to be credible with regard to her own sexual desires, he might well take her to be insufficiently authoritative to make a refusal of his sexual advances. There is no need for us to choose between Langton and Fricker's accounts because there is no need to choose between failure to illocute and credibility deficits.

### §3. Perceptions, forces, and effects

In the last chapter, I argued that an account like Langton's benefitted from from objective facts about illocutionary status, to facts about how attempts to communicate are



perceived. Here, I will argue that the same is true for an account like Fricker's. There are, as I see it, two main benefits to shifting focus in this way. First, this shift allows us to see even more clearly how much Fricker's and Langton's accounts have in common. Second, this shift will allow us to account for a spectrum of restrictions on speech in a way that is unavailable if we focus only on objective facts about communication. Most of the literature on these topics assumes that our theories must crucially involve the objective facts about attempts at communication. Fricker's own account, like the other critiques of Langton discussed in the last chapter (Bird, 2002), (Jacobson, 1995), assumes this as well. Assuming this, however, obscures important facts about cases of unjust restrictions of communication.

To see the effects of this assumption, consider again the apparent disagreement over the rape case. According to Fricker's account, the woman refuses – after all, she says “no” to a sexual advance and this seems clearly to be a refusal. She is not able to bring about the desired perlocutionary effects, though, because the rapist does not think she is credible. Langton says that despite the woman's making a meaningful utterance, that utterance fails to secure uptake from the rapist. She is kept from fully successfully making the conversational move. So, if Langton is right, the woman is restricted because she is kept from making a conversational move. If Fricker is right, the woman made the conversational move, so the restriction must be at the level of the perlocutionary effects (caused by a credibility deficit). Either her utterance had the force of a refusal or it did not.

The assumption about the importance of the objective facts forces this choice on us. If the woman refused, then that refusal is crucial to our analysis. If she was thwarted

because of a failure of uptake, that fact must be crucial to our analysis. I think it just isn't.

Instead of focusing on the objective facts about attempts to communicate, we should focus on the ways those attempts are perceived. The perceptions interlocutors have of speech acts *are* crucial for our understanding of attempts to communicate. I will argue that we can get a much more subtle and accurate account if, instead of focusing on objective facts about communication, we focus on perceptions of that communication. In other words, shifting our focus from objective facts about communication to perceived facts about attempts to communicate promises theoretical pay offs. In the case in question, the woman is both perceived to have refused (by her own lights) and perceived not to have (by the rapist's). Both of these perceptions are important and do important theoretical work.

When a speaker speaks, her interlocutors form a perception of that speech. Recall the discussion of perceptions in chapter 3: by *perception* I mean a complex intentional state involving the perceiver's expectations, attitudes, and dispositions to respond to the speech they perceive. Perceptions include impressions of content, volume, tone, trustworthiness, propriety and illocutionary force. These perceptions are informed by the perceiver's interpretation of meaning of the locution, but also by their beliefs (attitudes etc.) about the speaker. The jurors' prejudices against Tom Robinson, as an African American, involve the belief that he is untrustworthy and violent, etc. This affects how they perceive his testimony. The assailant's attitudes toward women involve the belief that they are sexually duplicitous, coy, etc. This affects how he perceives the illocutionary force of her locution.

Recall, too, that our perceptions of speech are largely automatic – when we engage in conversation we smoothly and mostly unconsciously perceive speech acts in a variety of ways. If my experience with a speaker leads me to believe she is a liar, this belief automatically influences how I perceive her speech. I might perceive her as promising but as making a false promise. I don't have to consciously bring my experiences to mind in order to have this perception. My knowledge of children automatically influences how I perceive a toddler's speech. I might not perceive a toddler as able to make a promise, even if she utters the sounds "I promise". I don't have to consciously remind myself of facts about toddlers in order to do this. Perceptions of speech, like the attitudes and beliefs that affect them, are largely automatic and unconscious.

Nonetheless, like our other habits of thought, our perceptions of speech can be influenced and changed. If I join a new discursive community, I might learn a new joke. I might learn that when a member of a community says the word "chrysanthemum", that member is (barring botanical coincidence) joking. At first, when I'm told these jokes, I might perceive them as serious assertions, questions or commands. I can train or teach myself, however, to perceive these utterances as jokes instead. My perception is largely automatic, but is also subject to influence, and therefore, is not entirely out of our control.

Because our perceptions are influenced by our beliefs, the qualities of those perceptions will be affected by the qualities of those beliefs. Some of our beliefs are justified – sometimes when I believe a speech act to be funny, or trustworthy, or insensitive, I have excellent reason to do so. The perceptions that result from these beliefs are reasonable and probably just. I would perceive similar speech made by any

similarly behaving agent just as I perceive the speech in question. Say that I justly believe some speaker to be untrustworthy because they've behaved duplicitously in the past. This justly formed belief of the speaker, then, makes me perceive their speech as less trustworthy. I don't take their testimony to offer evidence because I don't expect them to tell the truth – I justly perceive their speech act as untrustworthy.

Sometimes, however, our beliefs are not just. The jurors are wrong to believe that Tom Robinson is untrustworthy (though they're right to believe he is African American). A white person who behaved the way Tom Robinson behaves would not be regarded as untrustworthy.<sup>91</sup> Because race makes no difference in trustworthiness, the attitudes and prejudices the jurors have toward Tom Robinson are unjust.<sup>92</sup> This is a difference that should make no difference. It does, and so the perception that results from their unjust beliefs is unjust as well. These unjust perceptions of his speech help explain their behavior in a way that the perspective-independent facts about his speech cannot. And, because perceptions are, to some extent, in the perceivers' voluntary control, those who perceive unjustly can be held (to some extent) responsible.<sup>93</sup>

We can rephrase both Langton's and Fricker's target phenomena with a focus on perceptions. As is now familiar from the last chapter, a speaker is illocutionarily disabled

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<sup>91</sup> It doesn't actually matter if Robinson has been entirely untrustworthy in the whole of his existence. What matters, here, is the cause of the juror's perceptions. The counterfactual allows us to test for the cause. If they do not trust him because he is African American, then if he *were* white, they *would* trust him. And we can iterate this test for as many categories as we want. If they do not trust him because he is a man, we should be able to run the counterfactual – they would trust him if he were a woman. Etc.

<sup>92</sup> I have in mind a roughly Rawlsian account of justice, here. That the perceptions are unfair renders them unjust. This unfairness is illustrated by the counterfactual regarding the white testifier. (Rawls, 1985)

<sup>93</sup> Fricker discusses the various ways in which someone might be more or less culpable for the epistemic injustices they perpetrate (M. Fricker, 2007).

to the extent that her locution is not perceived to have the illocutionary force she intends. It is a further question whether or not this is unjust.<sup>94</sup> A speaker's testimony is restricted to the extent that she is taken to be insufficiently credible, causing her testimony to be perceived as unreliable. That restriction constitutes testimonial injustice to the extent that she is *unjustly* taken to have a credibility deficit and so her testimony is *unjustly* perceived as worthless in the epistemic economy. And any particular case of communicative injustice might be one, or the other, or both of these. Sometimes perceptions will make a difference at the illocutionary level and sometimes perceptions make a difference at the perlocutionary level.

So, take Langton's version of the rape case. Here the woman perceives her communication as a refusal. The assailant, however, does not perceive her as refusing. He perceives her as demurring. Perceptions like this could have a number of causes, including his consumption of objectifying pornography, or assigning her a credibility deficit, or some combination of both.

The assailant might fail to perceive her locuted "no" as a refusal because he believes she fails to have the requisite authority. Speech act theory tells us that one way in which an illocution can fail is if the speaker doesn't have the authority required to make the illocution in question. I, for example, cannot successfully baptize a child into the Catholic Church. And, if a priest's position is not recognized (if, for example, he is not wearing his vestments, and is a stranger), we won't take him to successfully baptize

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<sup>94</sup> There are examples of perfectly just illocutionary disablements – perhaps the mistaken captain case is one. Surely 12 year olds' being unable to marry is another. See (Wieland, 2007), and (Maitra, 2009)

either – we won't *perceive* his locution as a baptism – we will perceive it to have misfired.

We can even imagine a case in which there are (perhaps pernicious – though this is not necessary) popular portrayals of laypeople dousing infants with water to cause them harm. If these portrayals have affected our perceptions, then we might react quite strongly to the unrecognized priest's behavior. In a case like this, the priest's acts won't prompt any of the desired or intended perceptions in us.

An analogous treatment is available for the rape case. If the assailant thinks that the woman is epistemically ill-placed to make a happy refusal, then he will not perceive her speech as having that illocutionary force. He will perceive her attempted refusal to have misfired. And if this is systematic and not idiosyncratic, the woman may find herself unable to influence a wide variety of perceptions in the ways she'd like. If anything is illocutionary disablement, this is.

Next, consider the Robinson case. Fricker aptly describes this case as follows, “when it comes to the verdict, the jurors go along with the automatic distrust delivered by the prejudices that structure their perception of the speaker. They find him guilty” (M. Fricker, 2007, p. 25).<sup>95</sup> They perceive his speech as untrustworthy. They perceive his testimony as failing to add to the evidence at hand, because he is the member of a subordinated group. This, by Fricker's description, is despite perceiving him to be asserting – to be making the conversational move he attempts.

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<sup>95</sup> Fricker also emphasizes perceptions in another discussion of testimonial injustice. She says, “in a case of ‘stop and search’ by the police, where a racial prejudice affects the *perception* of the police officer so that a young black male driver receives a prejudicially deflated level of credibility when he declares that he is the rightful owner of the car” (M. Fricker, 2013, p. 1319) (emphasis added).

The restrictions faced by Robinson and the raped woman are different – as discussed above, they face restrictions of different parts of their attempts to communicate. These two restrictions, however, are also importantly similar – they are both caused by unjust perceptions. In both cases the speakers’ interlocutors have an unjust perception of their speech. These restrict both speakers in being fully able to communicate, albeit in different ways. Shifting to focus on perceptions allows us to capture this commonality.

The other benefit of shifting focus to perceptions is that doing so allows us to capture subtleties in the cases that might otherwise go unnoticed. The jurors’ perceptions are not the only salient perceptions in the Robinson case. The audience at the trial has a wide variety of responses to Robinson’s testimony. Atticus Finch, defense lawyer, takes it to be a sincere and true assertion. Scout, his young daughter, doesn’t know what to make of the testimony. Her perceptions are mixed. And some members of a prejudiced audience might perceive Robinson’s speech as failing to even meet the preparatory conditions for testifying. He might be perceived as not even able to make such a conversational move. Robinson’s case makes it clear that there can be a wide range of perceptions of a single communicative act. By focusing on the perceptions interlocutors have of the communication rather than on the status of the communication itself, we can countenance the full range of reactions to Robinson’s attempt to testify. And this, in turn, allows us to understand the full range of restrictions that speakers face.

If a speaker’s speech is perceived in a variety of ways, that speaker might face a number of related restrictions. Each perceiver’s perceptions, together with their social position relative to the speaker and the other interlocutors, will affect the speaker’s ability to communicate. Scout doesn’t have much power relative to the other perceivers, but if

she did, her ambivalent perception might be a powerful factor in Robinson's situation. No one audience member's perception outweighs the jury's, but if enough people perceive Robinson's utterance as trustworthy testimony, there might well be social or political consequences for the judge or jury. These perceptions all matter, even if they don't determine a unique objective fact about Robinson's attempt to communicate.

With this understanding of perceptions in mind, we can trace distinctions between different kinds of restrictions on communication. While the restrictions that Robinson and the raped woman face are clearly unjust, others are intuitively appropriate. I might perceive some speech as untrustworthy for good reason. I might form the relevant attitudes, beliefs, etc. about that speaker based on my experience with them. Those experiences might make me form that opinion independent of my various attitudes and prejudices. In this case, that speaker might face a restriction on communication, but that restriction would not be unjust. It is because the jurors unjustly perceive Robinson, and the rapist unjustly perceives his victim, the restrictions these speakers face constitute communicative injustice.

Further, I might unjustly restrict someone's communication without anyone realizing. I might form an unjust belief about some speaker, which colors my perception of their speech act. This unjust perception of the speech act might go entirely unnoticed if I have very little power, or if the speaker also unjustly perceives herself. Nonetheless, if I would not perceive a privileged but otherwise similar speaker in that restricted way, my perception is unjust.

Why is it important to capture the varied perceptions of audience members? In part it is important because these perceptions are often the source or cause of the further



wrongs committed. In both Langton's and Fricker's standard cases, interlocutors' perceptions play a much heftier causal role than the other facts about the communication's status. And this makes a lot of sense. A speaker need not be kept from doing an action at all to experience a restriction in her ability to perform that action. Speakers are restricted if it is more difficult for them to act with their speech than it would be for someone else.

Think of it this way: imagine a conversation in which one of your interlocutors perceives you as making a threatening remark, while you, and the other conversational participants perceive you merely complaining. That one person's perceptions of your communication will, in many cases, not make a lot of difference. In most situations like this, you and your interlocutors will resolve or ignore this difference in perceptions without much difficulty. Certain kinds of social relationships, however, can make that different perception very important. Imagine that that interlocutor is your employer, or your commanding officer, or your child. All of these social relationships can make a difference to how much a mis-matched perception matters.

Now imagine that that interlocutor is actually in the majority – you are, let's say, alone in perceiving your communication as a complaint. Your interlocutors all take what you've said as a threat, and proceed with the conversation accordingly. Perhaps they're so incensed by what they perceive to be a threat that you cannot convince them you were merely complaining. This would be more serious, especially if this group contains your bosses, commanding officers, or parents. It is likely to have further reaching consequences than the initial case. You might suffer socially. You might have to take extra care in how you complain in this company. You might even be restricted in terms

of your power to influence your interlocutors' perceptions of your speech – they might not be disposed to converse with you in the ways they were before.

Now imagine that it is not just your interlocutors in the conversation at hand, but also large proportions of your linguistic community. Imagine your complaints are systematically perceived as threats. Here the restriction on communication becomes even graver. You are, in effect, disabled with regard to influencing the perceptions of those interlocutors in the ways you intend. Perhaps this is incidental – perhaps it is a coincidence that your interlocutors systematically perceive your locutions differently from how you perceive them. But perhaps something more insidious is at work – perhaps *people like you*, that is, members of a particular social group, aren't allowed to make complaints like that.

As the restrictions get more systematic and widespread, it becomes more difficult to imagine that they are accidental. As in Robinson's case, large numbers of similar perceptions probably have a similar cause. The jurors' prejudices cause them to perceive Robinson's testimony as unreliable. They all have those prejudices because they all inhabit the same unjust social system. To the extent that the restriction on communication is caused by an unjust social system, or by the speaker's membership in an unjustly subordinated social group, the restriction is unjust.

To be clear, the injustice is not simply a matter of the numbers – imagine that a mostly sympathetic audience hears Robinson's case, but that the jury, because of prejudice, finds him guilty. The audience believes he is innocent, but because of the prejudiced jury, the verdict is the opposite. The jury then acts on this prejudiced perception. The cause of the perception is unjust, the perception is unjust, and, because

of their social position, the jurors are able to enact unjust effects. It doesn't matter that the jurors (in this variation of the case) hold a minority position. Their perceptions are the ones that will matter going forward because they are in a position of social power.

Similarly, the assailant in the rape case has some kind of power over the woman he rapes. It is less institutionalized than the power the jurors have, but it still has real effects. Either by physically overpowering her, or by some other threat, or misbalance of social power, his perception of her communication is privileged going forward. It does not matter whether or not her communication has a particular status, what matters in this case is that he *perceives* her communication in a particular way, and then is able to act on that regardless of her perceptions. The rapist's history with pornography causes him to perceive the woman's "no" as an invitation. If he didn't have any power over her, that perception would be impotent. Inhabiting the unjust social system of which his perception is a part might harm her; however, his particular perception would not cause her harm unless he is in a position to act on it. He is in such a position, so his unjust perception, together with his unjust power over her, causes her grave harm.

So, for both Fricker's and Langton's paradigm cases, the cause of the injustice is similar – the interlocutors who restrict their victims' communicative capacities do so because of their perceptions of those communications. Those perceptions, in turn, are caused by injustice. That injustice might be a systematic credibility deficit, it might be problematic depictions of a subordinated social group, or it might be some combination of both. But by casting both accounts in the same vocabulary and focusing on the important causal factor (the perceptions of interlocutors and particularly the perceptions

of powerful interlocutors), we can see just how much these accounts have in common, and how little conflict there is between them.

#### §4. Conclusion

In the last two chapters, I've put my new account of illocutionary force, Illocutionary Relativism, to work. By applying Illocutionary Relativism to debates over illocutionary silencing and testimonial injustice, some of the payoffs of the new position are coming to light. One key feature of Illocutionary Relativism that has helped in these last two chapters is that the theory is very careful about the relationship between descriptive and normative facts. Illocutionary force is a category created to capture some features of our conversational practice. The category alone is not suited to saying how we *ought* to converse. Illocutionary Relativism, however, keeps in mind that speakers are sensitive to a wide variety of norms. This sensitivity is important if we're to describe conversations and moves in conversations accurately.

According to Illocutionary Relativism, one of the things that speakers do with words is create, control, and coordinate the expectations and obligations that they and their interlocutors have. And, according to Illocutionary Relativism, we should expect there to be difficulties, problems, and misunderstandings when this kind of coordination fails. Some of these failures are benign, and easily resolved. Some are the pernicious effects of histories of subordination and violence. In these last two chapters, I've attempted to demonstrate that Illocutionary Relativism can help us better understand these mismatches, and to tell the benign from the pernicious.



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