

Simulation, Seduction, and Bullshit: Cooperative and Destructive Misleading

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Abstract: This paper refines a number of theoretical distinctions relevant to deceptive play, in particular the difference between merely misleading actions and types of simulation commonly considered beyond the pale, such as diving. To do so, I rely on work in the philosophy of language about conversational convention and implicature, the distinction between lying and misleading, and their relation to concepts of seduction and bullshit. The paper works through a number of possible solutions to the question of what is wrong with simulation and its difference from strategic fouling, including the argument that games and their rules operate like contracts. I conclude that the wrongness lies in the injustice of unfair advantage gained through actions that silence opposition by resort to unanswerable play.

Keywords:

deception, misleading, simulation, diving, seduction, bullshit

When we think about deception it is perhaps normal to think in terms of explicit verbal deception, for which the usual model is lying. Moreover, lying is generally taken to be a morally bad thing. So when we approach the problem of deception in sport it would seem that the moral and epistemological issues are largely settled; we have, then, only taxonomic and explicative tasks left ahead of us—how, for example, is pretending that one has been fouled when one has not a kind of lying and under what conditions could it be excused? This model of deception in sport is much too limited and the presumption of immorality attaching to it also requires a complex approach. In this paper I shall explore certain nuances of deception as they apply to sport. In particular, I shall do so in light of current philosophical literature on the distinction between lying and misleading. This distinction is pertinent here because, although there is an initial plausibility to the description of certain common acts of sporting deception, especially simulation as lying, such a designation is complicated by the widespread acceptance of other deceptive acts in sport. It might be argued that one is lying while the other is merely

misleading. Since *both* are frequently understood as deliberate attempts to get another to believe something false, however, a defence of the view that one is legitimate play and the other is not would require that we find the wrongness somewhere else than this epistemological result. In the following I endeavour to clarify some of the epistemological issues, but also to show that the most satisfactory explanation eschews the epistemological approach in favour of one based in the conversational structure and assumptions of our linguistic interactions. Such an explanation emphasises our use of language to influence and manipulate actions rather than to induce belief. The kinds of ‘deceptive’, i.e., misleading, behaviour I am concerned with here are either sub-varieties of seduction insofar as they are meant to get the victim to commit themselves to action they would not otherwise, or more akin to bullshit than to lies because they are intended to get others to *act* in certain ways regardless of whether the perpetrator or his victim *believe* what is ‘stated’. In sport, belief is not nearly as important as action.

First, I will offer an analysis of misleading practices in sport and elsewhere, including lying, ‘mere’ misleading, seduction, and bullshit, by way of some observations about cooperative principles in linguistic and play interaction. Taxonomically, we can divide deception into (at least) lying and misleading, and further divide misleading into its conversational or linguistic expressions and those that operate through mimetic behaviour, i.e., simulation. Moreover, both deceptive language and simulation, together or separately, can be used to either persuade, as in the case of seduction, or to obfuscate, as with bullshit. All of these phenomena are observable in sport, and all of them affect the sporting experience, sometimes in positive ways, but often as destructive of play as a cooperative experience. My examples will come primarily from ice hockey and association football, but are readily applicable to the North American forms of football, to rugby, basketball, racquet sports, and many others—indeed, any directly competitive multiplayer sport may, by virtue of being interactive, allow for the kind of mimetic performances explored in the discussion to follow. In particular, it should be noted that while the term ‘simulation’ is often used as a euphemism for ‘diving’ it has a wider meaning than this alone. By ‘simulation’ I mean the false pretence of having been fouled, injured, or of having suffered certain types of equipment failure during sporting competition in order to gain advantage or to avoid continuing in the contest where a postponement is in some way beneficial to the pretender and, presumably, disadvantageous to the opponent. Thus, football prohibits simulation as feigning injury or pretending to have been fouled (FIFA, *Law 12*, p. 125). In rowing, a race can be halted by any crew within the first 100 metres *if* they have suffered equipment failure, which can then be repaired and the race restarted (RCA *Rules of Racing* 10.9). While not a common practice, not least because there must be actual breakage rather than negligence in preparation, crews have been known to invent a problem in order to overcome a poor start.

I: Language, Belief, and Seductive Misleading

In recent articles, S.P. Morris and Pfleegor and Rosenberg, while arguing to different ends, have both described deceptive practice in sport as the attempt to cause one’s opponent

(or an official) to have a false belief (Morris, 178), particularly about what will happen. Consider this passage from Pfleegor and Rosenberg:

Deceivers ‘present’ expected actions to their opponents, they make their opponents believe this is what will happen, and then alter the actions....Where a deceptive act is executed with enough precision, opponents are often left helpless to respond appropriately and this becomes a sign of deceptive success. Creating the initial false image and carrying out the deceiver’s true intentions often require a high level of athletic skill, experience, and creativity (216).

Thus, deception in sport ‘is a deliberate act and a false image is initially created and displayed’ (215). Consider, a feint, head fake, deke, or dummy,¹ that is, an attempt by a player **A** to lead another player **B** to commit to an action **b** by pretending to be about to commit an action **a** for which **b** would be an appropriate response, allowing **A** to take advantage of **B**’s commitment by moving in some other way. **A** is, then, held to act in such a way as to communicate to **B** the propositional content equivalent to ‘**A**’s next move will be such-and-such’ in order to entice **B** to respond in the appropriate way, although **A** actually intends to move in another way altogether. In effect, on this view, **A** intends to cause **B** to have a false belief.

The inducing of a false belief in another, however, is a possible outcome of a number of different behaviours, some of which are more culpable than others. In any case, they are distinguishable in terms of how they go about achieving this end and even whether this *is* an end. That is, to describe an action as ‘misleading’, even one as apparently morally innocuous as deking, *suggests* that the one doing so deliberately engages in a sequence of actions designed to make the opponent believe something false. But while ‘misleading’ usually imputes intention, it may occur without it. Ordinary usage allows that physical objects and phenomena can be ‘misleading’: the mirage of water on a distant stretch of highway in

¹ In this paper I mostly use the term ‘deke’ as its range is fairly specific—a small physical movement indicating a possible or likely further movement; more common terms are ‘feint’ or ‘fake’, and to ‘fake someone out’ is a common enough expression in a number of sports. I have opted not to use ‘fake’ here because the word itself, if not its sport usage, carries enough moral tone to muddy the analytical water, and ‘feint’ often carries the connotation of failure. ‘Deke’ is a very common Canadian expression, particularly with respect to hockey (but apparently unfamiliar elsewhere) and ‘dummy’ an English one deployed especially in football; they have the same basic meaning though different physical execution. The *Gage Canadian Dictionary* defines *deke* thus: ‘a fake shot or movement intended to draw a defending player out of position...2 manoeuvre (oneself or the puck) by feinting so as to outsmart a defending player’. The Cruyff turn (in football) is a classic deke. There are a number of roughly equivalent terms such as *jink* or *juke*.

summer or sundogs in the winter prairie sky.² The effect on the one misled is perfectly analogous to unintentional misleading by humans, e.g., interpreting an involuntary eye twitch as winking. In both these sorts of cases, the false belief, if it occurs, is not the result of a project of deliberate deceit by another but a consequence of one's own mistaken, even if reasonable, inference. In the case of one player deking out another, it may be that the deker aims only to confuse, rather than induce a definite belief, or the 'deke' may be a product of idiosyncratic movement read by the opponent incorrectly as indicating an intention, or the deker may be merely showing off, knowing that the opponent can do nothing to hinder one way or the other. 'Intent to induce false belief', then, is too strong a characterisation of the sorts of actions that result in one player 'deking out' another on the grounds that intent may be lacking and belief irrelevant.

These caveats aside, I can 'mislead' you in a loose sense in at least three ways: I can *lie*, I can do ordinary things which you misunderstand entirely on your own, and I can intentionally do or say things that are not false (i.e., not lie) but which I can anticipate that you are likely to interpret as meaning p rather than $\sim p$. Of these, only the last is properly an attempt to *mislead*.³

One common view about misleading is that it is preferable to lying: lying is morally wrong under any circumstances but we may at times be constrained in what we might call 'sincerity hostile' situations and in those cases it is permissible or, at least less bad, to mislead. One then says nothing false, but one's audience infers how they choose. One remains morally clean since one does not oneself do anything wrong; there is a deception, but the responsibility for it belongs to the one that draws the insufficiently justified inference. This, however, ignores the morally significant circumstance that, where misleading is not unintentional or inadvertent, it is an *action* that the misleader does in fact *do to another person*—I have to deliberately work at misleading you, at making you believe what is not true. In such a case it is not morally neutral, even if the results may not be what we intend.⁴

Misleading, whether deliberate or accidental, requires an at least minimal level of interaction between misleader and misled through the former's statements or actions and by the latter's actively attending to and interpreting what the misleader does. The misleader makes the inference available but it must be *drawn* by the audience. Sometimes we 'mislead'

² A sundog is the appearance of three 'suns' caused by the refraction of light through ice crystals, encountered where conditions are very cold, dry, and bright.

³ One can use lies to mislead but in such cases the subject matter of the lie is not identical with that of the misleading—I lie about p because I want you to assume q and if you believe p you are more likely to draw the q -conclusion.

⁴ Saul, Ch.4, esp. 73-4; Williams, 108. See also Carson (2009) and Webber (2013).

ourselves by making judgements too hastily or without adequate information or imagination.⁵ We sometimes misinterpret the actions of another because we have already made assumptions about the meaning of certain behaviours or about that person: what they are like, what their motivations are, and so on. Sometimes, however, the other deliberately acts in such a way as to encourage us to draw inferences about their behaviour or character in accordance with (what they judge to be) our desires or expectations, knowing that these inferences will be false or ambiguous. In all these cases, it takes at least two individuals who act and interact to some degree.

Acts of deliberate interactive misleading play on the target's desires and assumptions to get them to act in a way that advantages the misleader, while concealing important elements of character or intention from the target. This is what makes much misleading describable as a kind of seduction although there are also some important distinguishing characteristics of seduction that make it a category of its own. Both ordinary misleading and seduction seek to persuade the target to accept the story being told as the correct one, to see events and statements in the way that the would-be persuader suggests. Where the two types tend to part company is that, while both the garden-variety misleader and the seducer attempt to get the other to draw an inference p , which is false, the seducer also endeavours to steer the target into committing to an action that they would not otherwise. Neither (ideally) states anything false; the target who wants to believe p reads it into the (inconclusive) evidence and fails to notice that the seducer or misleader never actually declared p . In the case of the seducer, the action is also in a critical respect transgressive: it is not only that I, as the victim of this project, don't otherwise intend to do x , but I *won't* or *wouldn't* do x .⁶ The seducer aims to change how I see the doing of x , from something not-to-be-done into something good-and-right-to-do. This is more than the merely evasive misleader aims to accomplish; seduction is a type of misleading, but not all misleading is necessarily seductive.

One of the things that occurs when we are deceived, and especially so in cases we can classify as seduction, is that we do a large part of the deceiver's work, where the deceiver does not simply lie to us. As Saul puts it, 'one of the great things about a carefully truthful misleading is how seamlessly and automatically it takes place. The audience may well not explicitly represent to itself the proposition that the speaker *said*. It is often only much later,

⁵ See, e.g., Hume (2007) III, 1, I, p. 296-7, including note (SB 461-2): others may make false judgements from observing my actions where I have no intent to deceive them, and although the false judgement can be said very loosely to be based on that action, whatever moral quality the action itself possesses cannot be derived from the observer's error, especially since all moral opprobrium would be removed by the expedient of making sure no one detects the action.

⁶ The model of *ideal* seduction I have in mind here is that exemplified in the character of Johannes in Kierkegaard's 'Diary of A Seducer', *Either/Or*, Vol. One.

upon reflection (if at all), that one realises what the speaker really *said*, in the sense relevant to the lying-misleading distinction' (Saul, 52). In other words, the misleading works *because* we do not attend to the exact meanings of what is said (and, more importantly, *not* said); if we did, it wouldn't work.

So, it is not just that the misleader 'makes' me have a false belief; *I* alter my beliefs to accommodate an interpretation of the misleader's otherwise true statements in a way that makes sense to me, that fits other things I take to be or want to be true. All the misleader need do is suggest the possibility of propositions being true that the misled person *wants* to be true, or *expects* to be true, or will *choose* as true even if uncertain because of the contributing background considerations.

As Bernard Williams points out, what a speaker intends with an assertion and what the listener takes away from it are not necessarily the same. Even supposing that I do not lie and that I do not intend to mislead, what you take from my saying a thing may be quite other, and more manifold, than anything I intend to communicate (see Williams, 96). Bare speech underdetermines meaning for the hearer: I cannot make you take in my words alone—as I speak you will also inevitably think and conclude other things in their train. As Williams puts it:

The speaker expresses one belief, but they [hearers] acquire many. Speakers have countless beliefs and many different ways of expressing them. They could always have said something else, mentioned a different matter, made their statement more or less determinate. The fact that in a given context the speaker says one thing rather than another gives information to the hearer, and this of course is itself a means of communication. Moreover, it is an essential feature of language. There may be special circumstances in which it is understood that a hearer is to ignore everything about an assertion except its content, but they are very special. In general, in relying on what someone said, one inevitably relies on more than what he *said*. (Williams, 100)

Misleading requires interpretation of linguistic and behavioural information and the manipulation of these by the one doing the misleading. It presupposes a number of conversational or interactional conventions. This is true for both sport and non-sport scenarios. What may persuade us that the situations are different is that in a game I should be on the alert for deceptive practice, whereas outside of sport that would seem an unfriendly or paranoid attitude. But non-sporting, even friendly, exchanges are full of potentially misleading statements and actions; it is just that we know the conventions of these exchanges so well that we do not often fail in interpreting them correctly, nor do we even notice them, e.g., our use of irony, metaphor, exaggeration, and the like. Under the right circumstances, though, navigating conversation can be every bit as challenging an exercise in the interpretation of moves as a physical contest, even where we assume a nonhostile environment.

Of relevance to us here is Grice's (1989) assumption of a cooperative framework to

discourse. This cooperative assumption is significant for both the success of ordinary conversational exchanges and their manipulation through implicature (and thus in misleading). That is, we normally assume that people speak the truth, or at least what they take to be true, and thus that they also mean what they may conventionally be taken to imply. Normally, we use conversational implicature in a benign and essentially cooperative way, to refer implicitly to shared meanings and the contextual nature of the conversation in question. But we may also use implicature to direct our interlocutor into drawing an implication when we have no corresponding commitment to its truth. Our conversational partner is now an adversary in the game of truth, though the depth of ‘hostility’ may be anywhere between very mild or highly antagonistic. As Bernard Williams remarks, ‘[h]ow far people may reasonably rely on the implicatures and presuppositions of assertions, and more generally on what they imply, as much as their content, and how far a speaker has any reason to concern himself if they do rely on them, is a matter of the particular relations between these people and the speaker’ (Williams, 118). Now, Williams is talking about trust and it would be a mistake to equate cooperation with trust. There are situations where we cooperate in some enterprise without trusting our co-cooperators, games being just one example of these. The important question here is what we are cooperating *about*. In games, truth is at stake in only a very restricted sense, since what matters is whether what is disputed as truth or falsehood falls under the rules for the playing of the game. Consequently, any dispute about truth must be referred to these rules and cooperation is with reference to these rules.

If we agree to play a game together we agree to perform actions that conform to the rules of that game. This means that I give you reasonable grounds to expect that I will not cheat, i.e., break those rules, but you have no *special* grounds to expect that I will not deceive you about everything else, including whether at this moment I will go left instead of right. Bear in mind that game rules, though they may at times be plentiful and complex, underdetermine play—without the areas of uncertainty of action there would be little reason to bother with games; even highly scripted dramatic productions have multiform possibilities of play/interpretation. Indeed, the uncertainty of whether ‘what the player did there’ means ‘leftward movement’ or ‘rightward movement’ is an enhancement of the *playing* in games. Being able to anticipate which it will be is a skill developed in game-play—which becomes boring unless one encounters an opponent who can mislead one effectively once more, that is, defeat one’s learned deceit-detection.⁷

II: Simulation and Strategy

Misleading, then, is an important, permissible, and play-enhancing element in sport, provided that it does not violate the rules of that sport. It is permissible because the actions involved are not ruled out; it is enhancing because it requires a response of game-play skills and it *can* be responded to within the game-playing interactive space. Consequently, we can

⁷ Compare Suits (2014), Chapter 10.

characterise misleading play of this sort as cooperative with respect to the game-playing 'conversation'.

Simulation cannot be so characterised. A common complaint about diving is that it is pretending. On the one hand, this is obvious and trivial (to simulate just *means* to pretend to be or to do something); on the other, the charge of pretence casts far too wide a net: it would rule out *all* pretending in sport, including not only deking but the very basis of sport in make-believe.

So, then, the faker fails at playing by violating a cooperative principle of the play conversation. Just as someone who lies or misleads in a destructive way, i.e., not as an exercise in mutually agreed upon word-play, violates a basic assumption of normal linguistic interaction, fakers abuse the trust of their fellow interactionists that the interaction will be truthful or sincere in the relevant sense. Extending this conversational analogy, it is tempting, then, to contrast simulation with deking as lying contrasts with misleading and thus declare the wrongness of diving to lie in its apparent false declaration of fact. Does the diver not effectively *say* that a foul occurred where it did not? This seems especially plausible where the diver attempts to deceive the official. But suppose the following: a player falls in a way in which they might have if the opponent had committed a foul. The 'fouled' player does not say anything to the official, only waves their arms and offers a pleading/outraged expression in the now familiar manner. Let us suppose further that no other player saw the incident and so their own supplications to the official cannot be deemed as outright lies; they may say things like 'are you going to allow that?' 'Isn't that a yellow/red/penalty?' and so on. There are no lies here. Nevertheless, something is wrong. What the players *seem* to be doing is misleading, though, by hypothesis, none of them know the truth of the matter. They *are* engaging in a particular kind of gamesmanship. They are, in effect, either attempting to *seduce* or to *dare* the official to make a call in their favour without having seen what he is being led to interpret; that this may also utterly infuriate the opposition is a bonus. It is often claimed that what is at fault here is an attempt to *deceive* the official(s), but this is something of a red herring, first because the behaviour is not so much aimed at what the official *believes*, i.e., is it *true*, but what they will *allow*, and second because the behaviour would be just as abhorrent in a casual player-regulated pick-up game.

Simulation *may* in a given instance violate a game rule but the example of strategic fouling strongly suggests that the breaking of rules is not straightforwardly wrong. In the classic professional foul the player gambles that the risk of incurring a penalty is less bad than not interfering with the foreseeable outcome of play; it is a trade off of a possible game penalty in favour of the prevention of an immediate game deficit. Strategic foulers violate game laws but insofar as they also accept the punishment for doing so, they also accept the game laws. The strategic fouler plays in a way that the game *allows* one to play (I return to this point in Section III, below). If a game specifies a punishment for a foul that the player can serve *within* the game, then such fouling *is permitted*, albeit with a cost.

A dive is quite different to a professional foul, however; it isn't openly tripping a player on a breakaway and accepting the penalty. It may be an instance of rule-breaking but rule-breaking is clearly forgivable. So, is what is unforgivable the fact that it is a *surreptitious* attempt to gain advantage? While diving is usually condemned for its sneakiness, if it is the sneakiness that matters then we should condemn all 'sneaky', i.e., disguised or misleading play. Yet we have already seen why misleading in and of itself is not blameworthy. So, if the issue is neither the rule-breaking nor the deception on their own, could it be because the diver does both at once? This may get closer to the nub of the problem; the diver's only concern is with what advantage might accrue if the official can be persuaded to make the call. This involves a subversion of the rules to which all parties have tacitly agreed and which is the condition of meaningful play. It would appear, however, that neither rule-breaking nor deception are morally decisive by themselves.

Before leaving this section, a few comments about the interpretation of fouls. There is some tendency to excuse simulation in certain circumstances, specifically, where *some* contact has been made between players such that some observers are inclined to argue that the 'fouled' player is 'entitled to go down'.⁸ In these cases, the contact is not generally deemed sufficient to *necessarily* cause the player to fall or even be significantly impeded but it is of such a sort that it *could* do so (though this implies that the requisite conditions are not, in fact, present). There are, on the face of it, three questions here: (i) did the contact in fact occur, (ii) was it of the nature indicated by the player 'fouled', and (iii) does the official judge it to be penalisable. Some aspects of this question of entitlement should be settled by the rules themselves: for example, is *any* contact forbidden or only that which aims to impede play? Does the rule forbid *actual* or *attempted* obstruction? If *actual*, is there then a (virtue-oriented, moral or sporting) obligation on the part of the player to resist or play-through attempts at interference or are attempts at interference as bad as successful ones? Fouling of this sort, however, is subject to the judgement of the official, and therefore 'was the player impeded?' does not have an automatic response. The official judges not only where there may be doubt about what happened, but what has happened is subject to official interpretation according to the rules even where there are no doubts about the events. The problem is 'grey areas' where the rules do not specify adequately and the standard interpretation is not fixed. Under these circumstances, and even without them, a self-interested utility maximiser would certainly want to persuade the official to their own advantage in some way. But that would not necessarily make them right to do so.

III: The Contract Argument

Simulation as a practical-conversational strategy employed by players signals a shift in

⁸ This question was put to me by Carwyn Jones; I fear that I am still not answering it. I favour the view that the player has an obligation to play through attempts to foul, though I cannot argue that here. Even so, that leaves the problems regarding official judgement.

the way in which they relate to the sport and its conventions. In resorting to this strategy, the participants violate a basic expectation of sincerity in communicative interaction. As suggested above, they withdraw from the set of conversational rules by which the rest have agreed (implicitly) to abide and opt for a different set of their own. Thus we have an overarching structure of a conventional practice of interaction with general adherence to behavioural expectations, combined with a sub-practice of subversion of those expectations. A familiar philosophical objection to simulation is that it violates a kind of contract between participants. Kathleen Pearson makes this claim in her 1973 paper 'Deception, Sportsmanship, and Ethics'. For Pearson, 'definitional deception' occurs 'when one has contracted to participate in one sort of activity, and then deliberately engages in another sort of activity' (Pearson, 116). The player who simulates a foul is playing a different game than the one that they and the other participants agreed to play. Doing so violates the underlying condition of the game, and of game-playing in general, which requires that the participants agree (possibly even contract) to play by *these* rules, which then rules out players introducing their own, especially those forbidden by the previous agreement. As she declares, 'deliberate betrayal of the rules destroys the vital frame of agreement which makes sport possible. The activity even may go on in the face of such fatal deception, but neither the logic of analysis nor the intuition of experience permit us to call whatever is left a game—for that is shattered.' (118).

This is persuasive, but we need to remember that extra-lusory or definitional 'deception' includes a number of behaviours that can't really be seen as attempts to mislead, pretend, or deceive in any normal interpretation of the term. While many forms of professional foul, such as handling or moving the ball surreptitiously, incorporate deceptive practice, many, such as blatantly tripping a player on a break-away, are not attempts to deceive anyone, but only to prevent an opponent from capitalising on an opportunity to win. Strategic fouls constitute a rule violation well outside the concerns of the present paper as they are committed openly and normally entail acceptance of the penalty thereby incurred. Whether they can be in some respect incorporated into game-play is a matter of dispute and a question I do not intend to pursue here.⁹ They are commonly classed as extra-lusory or definitionally outside the game because they impede the use of game skills through application of non-game, i.e., forbidden, actions.

More significantly, however, if a game incorporates specific *in-game* punishments for certain actions it is arguable that a player who commits those actions and then takes the punishment *is*, in fact, playing *that* game. Why, after all, would one consent to sit in a penalty-box or take a deduction in points unless one was still playing the game? Unless the player who commits such a foul incurs immediate ejection and the team is disqualified from competition, that is, unless the game actually is caused to *end* as a result of the foul, it is difficult to see how such fouls can be considered to be game-breaking, all the more so since teams have, in

⁹ See, e.g., Fraleigh (2003), Simon (2005), and Russell (2017).

response to the frequency of such penalties devised specific in-game strategies to compensate that have in turn encouraged further development of specialised game skills. In these cases, then, so-called ‘definitional deception’ is neither necessarily deceptive nor game-breaking.¹⁰

While Pearson is surely correct to place the emphasis she does on participant agreement to determine what is inside and what outside the pale in play, this agreement is constrained by her prior assumption that the purpose of a sport contest is ‘to determine who is more skillful in a particular game’ (116)—hence the resort to ‘definitional deception’ is self-contradictory, and ‘destroys the vital frame of agreement which makes sport possible’ (118). Whether determining who is better is the telos of sport is an argument I cannot pursue here. If the moral boundaries of acceptable play are determined by participant agreement, however, we must recognise that agreements change over time, place, and constituency. If agreement defines rightness then there is no basis for ruling out as legitimate games that involve rampant deception, cheating, and simulation if the participants consent to such behaviour, which they may do by tacit rather than explicit acceptance of such behaviour.¹¹

So, if the contract argument doesn’t rule out simulation, what does?

¹⁰ Pearson rejects this sort of reasoning: ‘Someone might argue, at this point, that the penalties for fouling also are contained within the rulebook for a particular game, and therefore, fouls are not outside the rules for the game. The obvious rebuttal to this position is that penalties for breaking the law are contained within the law books, but no sensible person concludes, therefore, that all acts are within the law. If this were the case, there would be no sense in having laws at all. Similarly, if this were the case with games, there would be no sense in having rules for games. However, since the definition of a game is its rules, if there were no rules for that game there would be no game. Therefore, even though the penalties for fouling are contained within the rulebook for a game, the act of deliberate fouling is, indeed, outside the rules for that game.’ (117) The analogy with law is faulty, I would argue, in the same way that the claim is not sustainable with games—breaking a law does not put me outside of human society or cost me my citizenship; it makes me liable to paying the penalty *because* I am a legally recognised member of the group to whom those laws apply. Thus I can violate provincial election laws but my cat cannot.

¹¹ Weimer (2016) makes much the same point: ‘The ethical status of competitor-competitor deception therefore primarily depends upon the content of the agreement that obtains between players. If by means of that agreement players authorise opponents to deceive them in various ways, it is *prima facie* ethical for these opponents to do so; otherwise it is not. And this is true regardless of how the deceptive acts in question relate to sport-specific skills’—because this agreement is what determines their ethical relationship (194, also 195).

IV: Bullshit and Bullies

Insofar as we agree to play a game together we agree, or contract, to play according to certain rules but the content of play is otherwise underdetermined and so, as long as I don't break those rules, there is no reason why I cannot mislead you in the manner of my lawful play. But the diver does not simply mislead; they do something much more destructive with respect to our agreement to play.

Once again, the liar analogy is *prima facie* persuasive. Just as the liar needs others to have a basic concern for truth, the diver needs others to have a commitment to the rules of play. After all, whereas deking is an action not forbidden by the rules, diving alleges or calls attention to by exaggeration an action that is a violation of the rules, and relies on the general will to uphold those rules. One *can* lie, or dive, without this condition¹², but both generally require the conventional expectation in order to produce the corresponding behaviour in the intended audience, whether that is acceptance of the lie as truth, or the dive as a genuine foul. The diver, like the liar, does *seem* to present a falsehood as if true. Crucially, though, the diver needs the general adherence of others to the rules of the game but *may have no such concern themselves* and this adds to the likelihood that the diver's defence of their actions is without regard to the truth of the matter, guided only by what will succeed. It is in this sense that what occurs here is a kind of practical rhetoric, a sophistry designed for effect rather than clarity. This renders the diver's attitude one better described in terms of bullshit rather than lying, given the relative lack of concern with truth and the fact that the perpetrator may have little further concern with whether they are believed, as opposed to whether they can get away with it: bullshit is often known to be bullshit and the bullshitter knows that we know. That doesn't necessarily matter. As Frankfurt argues, this is why the bullshitter is worse than the liar—the indifference regarding the truth or falsity of what one says, threatens epistemic integrity in a way that even outright lying does not, because even the liar is committed, in a perverse way, to the distinction between truth and falsity.¹³ Again, however, what matters is the effect the strategy has on opponents and officials. Hence, bullshit can be a central feature in a campaign of gamesmanship: for example, you and I both know that there was no foul but I bullshit about it because I know that doing so agitate you and disrupt your concentration, allowing me to take advantage. Bullshitting over important fouls may succeed in gaining an immediate advantage; over minor ones sows the seeds of later advantage.

This still, however, fails to get to the deep root of what offends about simulation. Lying as well as misleading are commonplaces in sport as elsewhere; it is not lying, or misleading, *as such* that offend our sense of justice.¹⁴ Focussing on the diver's insincerity simply plays into the

¹² See Sorensen (2007).

¹³ See Frankfurt (1998).

¹⁴ See Sorensen, p. 261.

strategy by distracting us from what the diver gains by doing it, which is a game advantage that has not been earned through game rule sanctioned play, though it may be gained through game relevant skills. Nevertheless, the advantage is unfairly acquired and, moreover, the other player thus victimised by the simulation cannot respond constructively to that injustice.

The most obvious point of injustice is, first, that the diver gains an advantage to which they are not entitled, which they deliberately go about obtaining. Simple mistakes of officiating and, indeed, luck, also give competitors unfair advantages but, galling as these may be, they do not normally excite the kind of opprobrium attached to simulation. Notice also that we are outraged by diving that does gain an advantage but tend to regard diving that fails to do so as merely contemptible. But, secondly, at least as important as the simple injustice of the unfair distribution of rewards is the non-answerability of the diver's play. The injustice in the diver's actions is less in the breach of the contract to play a *specific* game than in the breach of a more fundamental element of *play*, namely, the extra-lusory denial to the opponent of the option of response within the game. The diver simulates a foul by an opposing player, who is then penalised for the falsely imputed infraction. Unlike misleading play such as deking, for which there is a direct in-game response of play, in this case the penalised player has no direct recourse within play but must accept the disadvantage imposed or in some way leave the game.¹⁵ Simulation stops play, and in order for it to resume, the penalised player must accept the illegitimate play of the diver, accept that the contest is unfair, and choose either to continue under these conditions or to subvert them as well.

We could here continue the contract analogy and suggest that the game that fails to punish divers is like a corrupt marketplace that allows swindlers to prosper, and perhaps in that case, the best option might be to look to one's own interest: '*caveat ludor*'. But I think that the conversational analogy is the more useful here, not so much with respect to the falsehood/truth distinction but in terms of a principle of conversational equity. That is, what the diver does in committing an act in play for which the opponent has no available response is comparable to silencing: acting in such a way that a conversational partner is prevented from participating in a real or effective way, taking them out of the conversation for no fault of their own. This makes diving a kind of bullying. The injustice at the heart of simulation, then, is not so much a failure to deliver certain goods, though it is that as well, but the disregard of the other as a being worthy of a particular kind of respect, which is itself the basis of a moral

¹⁵ I owe this basic point of the non-answerability (within the game) of diving versus deking to Caleb Scott and Patrick Brannen, students in my seminar on pretence and deception in the winter of 2016. The point is essentially that a legitimately misleading move is something I can get better at detecting, thwarting, or recovering from through the use of game skills; if someone fakes an injury or foul I can do nothing save protest my innocence and accept the penalty. I or my remaining team may later respond by scoring more points perhaps but the simulation excludes me from the current continuum of play.

interaction. The diver treats the other as someone who need not be respected as an equal partner. This is not the case for the deker; that action suggests an invitation to heightened engagement— ‘let’s see if you can stop this’—rather than an attempt to shut it down. The opponent may, in fact, not be able to respond to the deke, but there is a moral difference between not being able to succeed in response and being wrongfully prevented from the endeavour to respond. The injustice here is that one is not simply denied a good but that one is denied the opportunity to compete fairly for that good.

So, finally, what makes deking acceptable and diving not is not that one of them incites false belief; they both may do so—and either may be engaged in without any interest whatever in the opponent’s beliefs. That one is analogous to lying and the other misleading doesn’t in the end help either, as both (tend to) aim at false belief and, insofar as they do, may be equally bad. Talk of lying and misleading, though, highlights the extent to which sport play is analogous to linguistic interaction. There is a strong analogy between conversational rules of implicature and the rule-based structure of games. This manifests in part in the basic assumption on the part of participants about how interaction is governed but also in the circumstance that the meanings of what is said and what is done extends beyond what rules or conventions specify: subjects interpret as they will and the artful misleader exploits the indeterminacy of meaning and interaction. This can be productive and cooperative, as where the participants engage in an open game of mutual challenge.

Simulation of the sort we have been considering here qualifies as misleading but does so as a destructive and disruptive interaction, one that threatens the cooperative basis of playful communication. As seductive it seeks to persuade that what is false is true; as bullshit it eschews all concern for either truth or falsity. In either case, it endeavours to mislead in a way that disregards the obligation to the other to enable playful communication as a mutual exchange. The wrongness of the diver’s play can be understood as an attempt to gain an unearned benefit but this tells only part of the story. The diver does profit unjustly, but this can happen in many other ways as well—injustice is no more a stranger to sport than any other human endeavour. What is wrong is *how* the diver inflicts or causes the injustice to be inflicted. Again, to understand this solely in terms of a kind of contract violation misses the deeper wrong that the diver commits. One can cheat in many ways: doctoring equipment, feigning illness, doping, falsifying accreditation, etc. All of these contravene the conditions of play, but diving does more than this because it not only gains an unjust advantage but it excludes an opponent from the interactive situation without cause. In doing so it prevents the opponent’s possibility of response. In common with bullies everywhere, the diver ‘wins’ the argument by preventing the other from participating in it, by silencing opposition, and in doing so the diver kills the play.

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