

## **A PROBLEM WITH DEFINING TESTIMONY: INTENTION AND MANIFESTATION:**

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### ***Abstract***

Within current epistemological work in the field of testimony it is generally considered usual to accept cases of non-verbal testimony within definitions of testimony (testimony through manifestation); it is also considered usual to accept cases in which the speaker does not intend to testify (non-intentional testimony). In this paper I show that while considered individually these two cases are unproblematic, this is not the case when both are considered as part of a definition of testimony. I suggest a case in which a person testifying non-verbally and non-intentionally is uncomfortably close to a case which we must count as perception; this is undesirable, as we clearly want to separate cases of testimony from cases of perception. I then look at possible solutions to this problem rejecting a number of solutions; I settle on a solution based on Jennifer Lackey's work on testimony. I conclude that we need not worry about the conjunction of non-intentional testimony with manifestational testimony as long as we are careful when we are trying to define testimony.

### ***Introduction***

Epistemological work on the subject of testimony has primarily focussed on how (and if) we can be justified in gaining knowledge from testimony. However, a recent paper by Jennifer Lackey, "The Nature of Testimony" (Lackey 2006), focuses on how we should define testimony. In her paper Lackey argues that certain definitions of testimony cannot work, regardless of issues of justification. In a similar vein, I hope to show a further problem that will occur if we are not careful with how we define testimony.

In this paper I will look at two particular aspects of testimony: a person's meaning to testify (intention) and testifying non-verbally (manifestation). In §1 and §2 I will look at how intention and manifestation are handled in current views on testimony. In §3 I will show that if certain cases of non-intentional manifestation are allowed as cases of testimony we will run into problems; namely, that these cases of testimony seem to be nothing more than perception. In §4 and §5 I will further analyse the ideas of intention and manifestation to see if therein lies a clue towards a possible solution. In §6 I will briefly look at the possibility of defining testimony in a highly restrictive way that allows us to avoid the problem in §3; I will, however, reject this formulation. Finally, in §7 I will look at two solutions that can be found in existing definitions of testimony. I will conclude in §8 that we can avoid the problem from §4, but only if we are careful when defining testimony.

I will be focussing on what Coady calls 'natural' testimony; this is in contrast with 'formal' testimony, which is testimony in a legal setting (Coady 1992, p. 26). Natural testimony is the testimony of everyday life: when someone tells me their name, when a lecturer explains a theory, or when the news-reader on TV tells me the day's events. Testimony has, by certain philosophers, also been thought to include such cases as road-signs, posthumous writings, and nodding.

There are many different views on what testimony is (from hereon in I will use 'testimony' to refer only to natural testimony unless specifically mentioned): these range from the technical definitions offered by Coady (1992), Lackey (2006), and Graham (1997), to the more general concepts used by Fricker (1995), Sosa (1992), and Price (1969). I will now look at what these views have to say about two particular forms of testimony: non-intentional testimony and testimony through manifestation.

*Intention: Current Views*

Non-intentional testimony, when S testifies that p without meaning to do so, is touched upon by many of the views mentioned in the introduction. Let us see why it is an issue. Imagine that Gerry's bike has been stolen and one of the following two situations occurs:

- 1) Peter tells Gerry that his bike has been stolen
- 2) Gerry overhears Peter muttering to himself about how he just stole Gerry's bike.

Now, (1) is unequivocally a case of testimony: Peter is telling Gerry a piece of useful information and Gerry is paying full attention. But what about (2)? Intuition would, I think, suggest that this is not a case of testimony. Firstly, it was not meant to be heard by anyone, and secondly it was not aimed at anyone, least of all Gerry. The one thing that seems to be different between these two cases is that in (2) Peter has no intention that what he has said should be heard. On this subject Lackey says: "testimony is often thought of as an intentional activity on the part of the speaker... [that] a speaker cannot testify unless there is some intention on the part of the speaker to convey information" (Lackey 2006, p. 187). But there are times when non-intentional testimony does seem to be possible. Consider the following two situations:

- 3) For most of his life Albert kept a diary of everything he did, including a time when he cheated on his wife. The diary was kept in a safe and was never meant to be read by anyone other than Albert. But Albert died a number of months ago. His wife has decided to go through his belongings to check for anything important before she gets rid of them. She hires a lock-smith to open the safe and reads Albert's diary. She is horrified to find out that Albert cheated on her. Albert had no intention of his wife ever reading his diary, and yet this still seems to be Albert testifying (through the diary) that he cheated on his wife.

4) Consider the case of Hannah who by accident sends an e-mail not to the intended party, her best friend Jenny, but to Katie, who is the unfortunate subject of the e-mail. Now in this case it would intuitively seem that Hannah has testified her feelings about Katie to Katie. But there was no intention to do this: it is the opposite of what was intended. Again we seem to have a case of non-intentional testimony.

What do the main views on testimony have to say about such cases? Well, Fricker's view of testimony as "tellings generally" (Fricker 1995, p. 397) would seem to allow for this: it would include all communications of information, whether they were intentional or not. Sosa's view is quite general also, whereby testifying is simply stating "one's belief that p" (Sosa 1991, p.219). Sosa specifically mentions that his definition is "a broad sense of testimony that counts posthumous publications as an example" (Sosa 1991, p.219). Lackey's view is also open to the idea of non-intentional testimony: "...testimony does not depend on the intentions of the speaker but, rather, on the needs of the hearer" (Lackey 2006, p. 187). The stricter definitions of testimony offered to us by Coady (Coady 1992, p. 42) and Graham (Graham 1997, p.227) do not seem as open to the idea of non-intentional testimony: they both heavily rely on the speaker meaning to convey some piece of evidence that p. However, Coady does touch upon the matter: he says that journals and the like are "not really very far from what we have been treating as paradigm testifying since the only difference lies in the original speaker's or writer's ignorance that he will be testifying to us" (Coady, 1992: p. 50). So non-intentional testimony is widely accepted within the main views on testimony.

### ***Manifestation: Current Views***

Manifestation, when S testifies that p non-verbally, is another element of testimony that must be considered. Let us consider another two examples:

5) Shaughan walks into the sitting room and asks James if there are any cookies left. James, whose mouth is full of cookies and is unable to speak, nods his head and points towards a cupboard in the kitchen.

6) Pete is giving auditions for his choir. He wants to know which voice part each individual is; he asks each person to sing a song to him instead of telling him what voice part they are. Stewart, a bass, sings to Pete in a very low voice and Pete takes from this that Stewart is a bass. Kat, a soprano, sings to Pete in a very high voice and Pete takes from this that Kat is a soprano.

Again, both of these seem to be cases of testimony. In (5) James is telling Shaughan that “Yes, there are some cookies left, and they’re in the cupboard over there”. If this had been spoken it would certainly count as testimony. In (6) Stewart seems to be testifying “I’m a bass” and Kat seems to be testifying “I’m a soprano”. Although in this case the testifying is not quite as direct as in (5), we can still class it as answering a question with information, and so it again seems to count as testimony.

The first of these examples is based on one given by Lackey (Lackey 2006, p. 186), so it is not surprising that Lackey supports the view that you can testify through manifestation. However, it seems that Lackey thinks she is unique among the views in holding this position: “...notice that, in one form or another, all of the proposals [mentioned in the previous sections] flesh out the notion of testimony in terms of statements” (Lackey 2006, p. 185). But I do not think that this is the case.

Consider Fricker’s “tellings generally” comment. ‘Telling’ is not necessarily verbal, as in “The smile on her face told him everything”; and I think it would be quite normal for someone to say that, in (5), James told Shaughan where the cookies were and that, in (6) Stewart told Pete that he was a bass. It is also interesting to note that Coady talks about ‘institutional testimony’, which can include “road signs, maps, the measurement markings on rulers...” (Coady 1992, p. 51). Although most

of these are just forms of written testimony, road signs are an interesting case. Many road-signs cannot be fully understood just from what is written on them: a sign pointing towards Aberdeen would be of no use unless the person reading it also gets the directional information that is offered. But this directional information comes not from written testimony (the reading of 'Aberdeen') but from manifestational testimony (that the sign is pointing in some particular direction). So although it is not explicit in Coady's account of testimony I can see no reason why he would deny that testimony is possible through manifestation. I also think that cases (5) and (6) are convincing enough to sway most philosophers into thinking that you can testify through manifestation.

So far I have shown that both non-intentional testimony and testimony through manifestation should be considered under a plausible account of testimony. However, I hope to show in the next section that if we accept both at the same time we will run into problems.

### ***Intention And Manifestation: A Problem***

Consider the following example. Russell is both a talented musician and one of the world's leading experts on cars.

7) He is walking along the street and he overhears someone singing in their sitting room. He can tell that the singer is a soprano, and so he comes to rightly believe that the woman who lives at No. 52 is a soprano.

8) He continues to walk along the street when he hears a car approaching from behind. Before the car comes into view he can hear its engine. He can tell from this that the car that is about to pass is a 1953 Ford Prefect, and so he comes to rightly believe that the car that is about to pass is a 1953 Ford Prefect.

In (7) we seem to have a legitimate case of non-intentional manifestational

testimony: the woman at No. 52 is doing nothing differently from the singers in (6), other than that she has no intention to testify. But, as we saw with cases (3) and (4), having no intention to testify should not be a significant reason to think that (7) is not a case of testimony.

And yet (7) seems almost identical to (8). But we would surely not want to say that the car has testified; (8), in fact, seems to be nothing more than perception: Russell hears the car and combines it with his knowledge of cars to conclude that it is a 1953 Ford Prefect. This seems to be no different from any case of perception where we combine something we perceive with some background knowledge to form a new belief: for example, seeing a yellow door and coming to believe that it is yellow. So the argument (which from now on I will call the ‘non-intentional manifestation problem’ – or N-IMP) is as follows:

(7) is a legitimate case of testimony: it is simply cases (3) and (6) combined which were both valid individually.

If (7) is a legitimate case of testimony, so is (8).

Therefore, (8) is a legitimate case of testimony.

But (8) is a case of perception.

Therefore, (7), and any other case of non-intentional manifestational testimony, is a case of perception.

Clearly this is problematic. I take it that even if we are reductionists about testimony we would not want a case of testimony to be case of perception simpliciter; we would want it to be somehow reducible to perception. Take a standard instance of testimony:

9) I tell my friend that wildcats live in trees.

Although my friend has heard something, namely my uttering that wildcats live in trees, and formed a belief based on this, that wildcats do indeed live in trees, it

seems very different from (8). The information that my friend gains in (9) seems to come from hearing and understanding what has been said by someone else, whereas in (8) it seems to come from hearing alone.

I plan to use the remainder of this essay to try and find a way to avoid the N-IMP argument. There are a number of ways that this can be done:

Deny cases of non-intentional testimony. [Deny cases (3) and (4)]

Deny cases of manifestational testimony. [Deny cases (5) and (6)]

Deny the specific combination of non-intentional and manifestational testimony.

Deny that (8) is analogous to (7). [Denying premise II of the N-IMP argument]

Deny that (7) is a case of testimony. [Denying premise I of the N-IMP argument]

I will cover these in order: §4 will focus on non-intentional testimony; then in §5 I will look at manifestational testimony in more detail; having shown in §4 and §5 that we cannot reject either view completely, in §6 I will see if we can reject the combination of the two views; finally in §7 I will look at two solutions that can be found in the definitions of testimony given by Coady and Lackey, that both use strategy IV above. Finally I will conclude that strategy V, denying that (7) is a case of testimony, which I think seems intuitively most plausible, is the best way to avoid the problem.

### ***Intention: Further Analysis***

So, can we completely reject non-intentional testimony? If we could it would stop the N-IMP argument before it could even get started. If we consider cases of formal testimony, it is not unheard of to use journals and diaries as testimonial evidence, even if the person who wrote it had no desire for anyone else to ever read it. If formal testimony, the most narrow and rigidly defined form of testimony, accepts non-intentional testimony, then surely we must accept such cases in natural testimony? But perhaps it is not the case that everything formal testimony allows should be allowed under natural testimony too, so we will need another reason.



Let us look at (3) and (4) again:

3) For most of his life Albert kept a diary of everything he did, including a time when he cheated on his wife. The diary was kept in a safe and was never meant to be read by anyone other than Albert. But Albert died a number of months ago. His wife has decided to go through his belongings to check for anything important before she gets rid of them. She hires a lock-smith to open the safe and reads Albert's diary. She is horrified to find out that Albert cheated on her. Albert had no intention of his wife ever reading his diary, and yet this still seems to be Albert testifying (through the diary) that he cheated on his wife.

Can we really deny that these are cases of testimony? I do not think that we can without denying our basic intuitions of what testimony should be. In these cases someone, X, is gaining useful information as a result of something that has been said by someone else, Y. The fact that Y had no intention that this information should get to X seems unimportant in these situations. This suggests that the person who is being testified to is not necessarily determined by the person testifying.

So, with this in mind, perhaps the problem lies just in how we define "non-intentional". One suggestion might be that the person testifying in non-intentional cases is in fact intending to testify: they intend to testify to themselves.

Let us consider Albert in (3) again. Although he does not intend to testify to his wife, Albert is perhaps writing down his thoughts so that sometime in the future he can read them back to himself to see what he used to think and feel: his intention is to testify to himself later in life. So Albert does not intend to testify to his wife, but he does intend to testify to himself. Thus, Albert's testimony is not non-intentional at all, and therefore we can avoid allowing non-intentional testimony into our definition of testimony. This would mean that the N-IMP argument cannot be formulated in the first place.

But I do not think that this suggestion will work in all (or even most) cases. While some people may write diaries to read back to themselves later in life it is likely that many people write diaries for different reasons: perhaps just for therapeutic purposes; getting their thoughts out to see what they really think. In cases such as this it does not intuitively seem like the content of what is being written is aimed at anyone – even the author. Because this possibility exists, the idea that all cases of seemingly non-intentional testimony are really just instances where someone has written something down for their future self seems unlikely.

***Manifestation: Further Analysis***

Perhaps, then, the problem is with manifestation. Maybe we should just reject the idea of testimony through manifestation completely: just reject the idea that we can testify non-verbally. What would be lost if we were to do this? Firstly, we would lose the cases like those mentioned in (5) and (6), and I think this would be a loss to an account of testimony: someone nodding to say “yes” or pointing to say where something is seems to be desirable in a definition of testimony. But more importantly, we might lose things like sign-language if we were to reject manifestational testimony. This definitely seems like a bad result: it is not unusual for sign-language to be used in cases of formal testimony. And, if we understand sign-language, we can have very informative conversations with someone using it: but sign-language is certainly non-verbal.

Manifestation can also have an essential part to play in understanding some testimony. For example body language can be very important when trying to work out what someone means. And directional road-signs, as mentioned in §2, cannot be fully understood without some manifestational quality. I do not, therefore, think we can reject all cases of manifestational testimony.

Maybe, then, there is something about the particular cases in (7) or (8) that make them somehow different from the other cases of manifestation. One suggestion might be that normally someone is responding to a question through manifestation, but that this is not the case in (7) or (8). In (5) James is answering Shaughan's question and in (6) the singers are responding to Pete's request. If this were the case we could reject cases (7) and (8), as neither are responses to questions, and so N-IMP would fail as an argument.

But notice that this suggestion would have to be limited to manifestational testimony. If we were to restrict all instances of testimony to cases where a question is being answered, we would not be able to count lectures as testimony, many everyday conversations, or cases such as (3) where someone is reading a journal. But these are often the situations that are most likely to give us knowledge. This means that the 'answering a question' suggestion must apply only to manifestational testimony. But this seems like an ad hoc requirement, so I will not consider it any further.

A final attempt might be to point out that cases (5) and (6) are very different. Singing to testify what voice part you are is not really the same as nodding and pointing. If we count (5) as a case of testimony but not (6) then we could avoid the N-IMP argument simply by saying that the woman singing in (7) is not testifying through manifestation. While I do think that the answer to the N-IMP argument lies in denying (7) as well as (8), I do not think that we can do this by rejecting (6). Perhaps I am wrong, but it seems to me that (6) should be counted as a case of testimony: the singer is answering a question in some way that gives the information that was needed – we would need a detailed account of why this does not count as a case of testimony given that it fits these conditions.

***Intention And Manifestation: Rejecting The Synthesis***

So we do not want to reject all cases of non-intentional testimony and neither do we wish to reject all cases of manifestational testimony: there do seem to be cases when each is desirable. Maybe, then, we can just reject the synthesis of the two by adding something like the following to our definition of testimony :

T': It is only a case of testimony when it is either non-intentional or manifestational, but not when both are combined.

This would avoid the N-IMP argument, by saying that (7) is not a case of testimony, so neither is (8), because (7) combines the two ideas, which is not allowed. But, much like the 'responding to a question' suggestion in §5, this seems to be a totally ad hoc solution which has only one purpose: to avoid the N-IMP argument.

***Intention And Manifestation: A Solution***

So we cannot reject non-intentional testimony or manifestational testimony, and we cannot justifiably say that it can be one or the other but not both. This leaves two options: we can deny that (7) and (8) are analogous, or we can deny that (7) is a case of testimony. I will now look at two solutions that can be found in the literature on testimony that may help us to deny that (7) is analogous to (8).

The first possible solution is hidden away in a comment made by Coady: he thinks that in cases of 'institutional testimony' (the use of road signs or maps) it is obvious that what makes these cases different from others is that the signs and maps were made by other people (Coady 1992, p. 51). So perhaps what makes cases of testimony different from Ford Prefects and yellow doors is that the information that they offer is provided by other people (albeit indirectly). So, let us add a new proposition to our definition of testimony:

T+: And it is only a case of testimony when the information that is provided comes from other rational agents.<sup>1</sup>

However, this new definition is not sufficient for our purposes. For example, consider Bob who is very angry: it is clear to anyone who sees Bob that he is angry. Yet, even though Bob is angry and anyone looking at him can see that he is angry, this does not seem like a case of testimony, unlike one of our standard cases such as (6). So even when the information that is being provided comes from another person (or other rational agent) we do not always face a case of testimony; this means T+ will not do as an addition to our definition of testimony.

The second possible solution can be found in Lackey's paper "The Nature of Testimony" (Lackey 2006). In this paper Lackey offers her definition of testimony:

"S testifies that p by making an act of communication a if and only if (in part) in virtue of a's communicable content, (1) S reasonably intends to convey the information that p, OR (2) a is reasonably taken as conveying the information that p." (Lackey 2006, p.193)

The important feature of Lackey's definition of testimony is that she splits testimony into two kinds: speaker testimony and hearer testimony. However, for our purposes, it is another part of her definition that is important; it is her focus on the idea of an "act of communication":

"In my proposal, I shall focus on the notions of an act of communication, a, conveying the information that p. ...I am construing the concept of an act of communication broadly so that it does not require that the speaker intend to communicate to others; instead, it requires merely that the speaker intend to express communicable content." [Emphasis Lackey's] (Lackey 2006, p.187)

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<sup>1</sup> This would be preferable to 'people', which would rule out possible exceptions such as intelligent aliens, etc. Another option here might be 'beings capable of holding beliefs'.

Lackey makes an important distinction between the speaker's intent to communicate to others and the speaker's intent to express communicable content. Consider (3) again: Albert's diary seems to testify about his cheating even though he had no intention that anyone should read it, hence it seems to be a case of non-intentional testimony. But if we use Lackey's distinction we can say that there was no intention to testify to anyone else, but there was intention to express communicable content (the words in English); the fact that later on someone reads this and takes it as testimony is due to the reader's interpretation of the material as testimony, and not the intentions of Albert.

This distinction might allow us to avoid the N-IMP argument. In (7) the soprano intends to make an act of communication, but does not intend for it to be taken as testimony. This can still count as testimony in Lackey's account. However, the car has no intentions at all, so it cannot even intend to express communicable content. Hence, case (7) is a case of testimony, but (8) is not. N-IMP seems to be solved.

However, to me this solution is still lacking something. Intuitively I feel that the best solution is to deny that (7) is a case of testimony. Even though (7) was, I think, legitimately constructed from cases that we definitely do want to count as testimony, I think there is something very unusual about it being accepted. I do not want to deny that (6) is a case of testimony, as, to me, it seems to be legitimate. But (7) comes quite naturally from it when taken with cases like (3) or (4). So how might we avoid this?

A first attempt might be to say that the woman singing in (7) is not even intending to make an act of communication. It is quite possible that she might have spontaneously burst into song with no intention of communicating anything. This is unlike the singers in (6) who are singing with the deliberate intention of showing what voice part they are. But I do not think this will work; after all it is only a possibility that

she has no intentions to communicate. It is also quite possible that she does. Maybe she thinks that she is communicating “Look at me, I’m such a brilliant soprano”. In this case we could, using the Lackey fix, still take this to be a case of testimony.

Or could we? There is one other important part of Lackey’s distinction which has remained unnoticed . Her definition says: “[...] OR (2) a is reasonably taken as conveying the information that p.” (Lackey, 2006: p.193). The important part here is the use of ‘reasonably’. On this Lackey says, “Roughly, reasonably taking a as conveying the information that p requires that a normal hearer in similar circumstances would take a as conveying the information that p..” (Lackey 2006, p.190).

Now, going back to (7) it is now clear why we should not count it as testimony. Russell is both a talented musician and a leading expert on cars. He can hardly be called a ‘normal hearer’. So (7) no longer counts as a case of testimony and we can finally legitimately avoid the N-IMP argument. By using some aspects of Lackey’s definition of testimony we can now say that non-intentional manifestational testimony cannot be reduced to perception.

### ***Conclusion***

To conclude then, if we do not define testimony carefully we run the risk of having cases where testimony is not just reducible to perception but actually is perception. This is not desirable to even the reductionist on testimony. We can, however, avoid this problem if we are careful in our definition of “non-intentional”: if we use Lackey’s distinction between the speaker’s intent to communicate with others and the speaker’s intent to express communicable content, as well as her idea of a ‘normal hearer’ no problem arises. Although we should, I think, focus on the more important issue of justification in testimony, we must always be aware that our definition of testimony can be important and should not simply be ignored.

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