

Engineering Evidence

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1. Introduction

Evidence matters: the concept of evidence is central to epistemology, the philosophy of science, philosophy of law, the ethics of responsibility. Outside philosophy, the concept of evidence is highly employed as well: lawyers, judges, historians and scientists, economists, investigative journalists, and reporters, as well as ordinary folk in the course of everyday life talk and think about evidence a lot.

Both within and outwith philosophy, what we care most about is not just the nature of evidence alone, but rather about what it is for a subject to *have* evidence. We care, as it were, about evidence had. That makes sense in philosophy, because we are interested in the quality of our beliefs and our actions, and the latter will mostly be affected by the evidence we have. Outwith philosophy, evidence one has bears relevance to one's legal status, professional performance, decisions, policies, voting, plans.... Evidence one has, the thought goes, but less so evidence that one does not have, will influence all of one's walks of life.

It is interesting to note that the ways in which we think of evidence one has outwith and within philosophy are strongly incompatible with each other (Kelly 2016): in philosophy we disagree a lot about the nature of evidence, but one thing the vast majority of theorists have always assumed is that the having relation is somehow related to the limits of one's skull: one has

evidence, on this received view, when one uptakes it ‘in one’s head’ – be it via seemings, beliefs, knowings etc (Kelly 2016). In contrast, outwith philosophy, the having relation has never been about the skull: just try to tell a judge that you had no evidence that the butler did it, even though he did it right in front of you, because you couldn’t believe your eyes; see how that goes down.

Of course, one might think, what is the surprise there? Experts know best in all domains – that is what semantic externalism teaches - and philosophy is not an exception. The way in which us laymen conceptualise ‘depression’ is likely different from the way in which psychiatrists do; that’s fine, we’re wrong, and the experts are right. The same goes for evidence one has.

In what follows, I will argue that, in the case at hand, experts are wrong: the philosophical conception of the having relation – as having to do with the limits of one’s skull – fails on extensional grounds, and, as a result, it also fails to fulfil its central function in predicting accountability, and thereby loses its legal significance. Furthermore, I will argue we should adopt my preferred conception of the having relation: On this account, having evidence has to do with being in a position to know.

The paper proceeds as follows: first, I show that the vast majority of extant accounts of the having relation suffer from an in-principle theoretical problem: they cannot accommodate cases of evidence and defeat resistance – such as climate change denialism or vaccine hesitancy in the face of overwhelming expert testimony (§2 and §3). This theoretical problem, in turn, renders these views very problematic for use outside of philosophy, where the interest in the having relation mainly has to do with holding people accountable for acting in disregard of available evidence, and for the consequences of the relevant actions. In §4, I propose that we should engineer a conception of having evidence that corrects for both these problematic features, and thus is both philosophically neat and useful outside of philosophy.

This is, in a first instance, a project in conception engineering: it aims to bring the expert conception of the having

relation in line with the straightforward, laymen conception thereof as having to do with easy availability rather than the limits of one's skull.

Conceptions are not concepts: many of us have the concept of justice, but most of the theories of justice on the market will put forth the wrong conception thereof. Similarly, it is perfectly possible (and, I submit, plausible) that we (philosophers and laymen alike) host the right concept of evidence had (intuitions that something goes wrong in cases of evidence resistance do support this hypothesis), but philosophers traffic in the wrong conception thereof. In this, this is a project in conception engineering.

In a second instance, however, the project may also be one in conceptual engineering (depending on one's theoretical commitments): if we do turn out to host the wrong concept of evidence had, and if experts have causal power over meanings, expert conception change will help with meaning change.

2. Evidence Had

In previous work (Simion Forthcoming a, b) I have discussed at length cases of resistance to evidence, and I have argued that extant accounts of the nature of evidence fail to do them justice. In what follows, I will argue that the culprit lies with the way in which extant accounts unpack the having relation. Consider the following cases of evidence resistance:

Case §1. Testimonial Injustice: Anna is an extremely reliable testifier and an expert in the geography of Glasgow. She tells George that Glasgow Central is to the right. George believes women are not to be trusted, therefore fails to form the corresponding belief.

Case §2. Unwarranted Optimism: Mary is an optimist. When her partner Dan spends more and more evening hours at the office, she's happy that his career is going so well. When he

comes home smelling like floral perfume, she thinks to herself: ‘wow, excellent taste in fragrance!’ Finally, when she repeatedly sees him having coffee in town with his colleague Alice, she is glad he’s making new friends.

Case §3. Misdirected Attention: Professor Racist is teaching College maths. He believes people of colour are less intelligent than white people. As a result, whenever he asks a question, his attention automatically goes to the white students, such that he doesn’t even notice the black students who raise their hands. As a result, he believes black students are not very active in class.

What is epistemically wrong in these cases? Here is what my non-philosopher grandmother would say, off the top of her head: these people have overwhelming evidence available to them that p is the case (my grandmother uses p-s and q-s a lot), but they fail to believe p nevertheless. That is what is (epistemically) wrong with these cases: it’s an update failure. Let’s call this ‘the easy answer’: it’s the answer that explains the epistemic failure at stake in the resistance cases above as involving the having relation.

Unfortunately, epistemologists don’t have the luxury of the availability of the easy answer that my grandmother enjoys. That is because, according to both internalist and externalist theories of the having relation, the latter has to do with evidence being, in one way or another, within one’s skull (Kelly 2016).

2.1 Internalism about Having Evidence

Epistemic internalisms¹ (of all sorts) notably struggle with cases like the ones under discussion: according to these theories, having evidence has to do with the presence of a particular mental state – usually a seeming, or an experience of sorts. It is

¹ See (Pappas 2017) for an excellent overview of the debate between epistemic internalism and epistemic externalism, and (Kelly 2016) for internalist and externalist views of evidence..

easy to see that this way to think of the having relation cannot explain what is going on, e.g., in the case of Professor Racist: after all, this person's racist belief that people of colour are less intelligent than white people make it such that his attention automatically goes to the white students, and he doesn't even notice the black students who raise their hands. As a result, he believes black students are not very active in class. Since he doesn't even notice the black students, Professor Racist is not undergoing the relevant seemings – indeed, he fails to instantiate any mental states whatsoever with the relevant evidential content (i.e. 'Black students raised their hands'). On seemings internalism, then, he has no evidence that black students raised their hands, so the explanation of the datum that Professor Racist's belief that black students are not active in class is intuitively unjustified remains mysterious.

Similarly, internalism will predict, against intuition, that Mary, the wishful thinker, has evidence to believe that her husband is faithful – after all, it seems to her that her husband is faithful.

This latter kind of problem is a classic one for internalism – it is a problem having to do with seemings with bad etiologies. It seems that what is needed in these cases is an external difference maker between good and bad etiologies, which internalism just doesn't have access to. Given this, in what follows, I will focus on what I take to be the most prominent externalisms on the market – i.e. reliabilisms and knowledge-first accounts – and argue that their rendering of the having relation fails to explain the impermissibility datum in the resistance cases.

2.1 Evidence Had as Evidence Known

According to the prominent, knowledge-first view of having evidence (Williamson 2000), for any subject S, S's evidence is S's knowledge. Since knowledge implies belief, and since subjects like e.g. Professor Racist lack the relevant beliefs, E=K will predict that the subjects in question lack evidence. In this,

the E=K champion does not have the easy answer available to them.²

Recent work by Maria Lasonen-Aarnio and Tim Williamson suggests the E=K theorist can make good on the resistance datum – i.e., the intuitive epistemic impermissibility present in resistance cases - via employing epistemic blameworthiness. Here is the view, in rough outline: an agent is blamelessly in breach of epistemic norms only if the breach in question occurs in spite of the fact that the subject in question does what a believer with good epistemic dispositions would do. Conversely, breaches of epistemic norms that are such that a believer with good epistemic dispositions would do otherwise render the subject in question epistemically blameworthy. George, for instance, in not believing what the woman passer-by tells him, fails to do what a good believer – i.e. a believer with good epistemic dispositions - would do, and, as such, is epistemically blameworthy.

Otherwise put, the thought is that what is present in Cases 1-3 and explains the impermissibility datum is not evidence the subjects in question have, but evidence their counterparts manifesting good epistemic dispositions *would have had*.

The main problem with this move, however, concerns extensional adequacy: one need not have bad epistemic dispositions in order to fail, epistemically, in the way in which resistant cognisers do: it can be a one-off affair. Maybe e.g. Mary the wishful thinker is an excellent believer otherwise, and in all other walks of life. Since being a good believer – i.e. having good epistemic dispositions – plausibly has to do with reliability rather than infallibility, Mary will count as having good epistemic dispositions. If this is the case, Mary does do what a believer with good epistemic dispositions – namely herself – would do in this situation. A believer with good epistemic dispositions, in virtue of the fallibility thereof, sometimes gets it

² Note that Cases 1 and 2 can also be redescribed as involving lack of any beliefs – including the lack of the belief ‘the woman told me that p’, or ‘my husband is late once again’ etc.

wrong.

Furthermore, zooming in on the particular disposition involved in the formation exercise at stake will not do much to help either. Reliable dispositions, even if they are reliable for cases like the case under consideration, they need not be infallible in cases like the case under consideration. I submit that, no matter how we choose to individuate the disposition at stake, insofar as the theory demands mere reliability rather than infallibility, one-off failures are to be expected. Our theory, then, should be able to explain the intuition that something is wrong in these cases, in spite of the reliable disposition being present (and manifest). The question that remains unanswered by the blameworthiness response, then, is what normative category the impermissibility intuition in the resistance cases tracks to begin with.

2.2 Reliable Indicators

We have seen that knowledge-based externalisms about the having relation struggle to accommodate the resistance data. In what follows, I will look at reliabilist externalisms about evidence and reasons to believe, in search for the normative resources we need to this effect. In this section, I take on Juan Comesaña’s (2020) indicator reliabilism. In the next section, I will look at virtue reliabilist (e.g. Sylvan and Sosa 2018, Burge 2016) accounts of reasons to believe.

According to Comesaña’s account of evidence, an experience provides its content as a reason when the subject is justified in believing its content. The justification in question in the account, importantly, (1) is non-factive, and (2) must be *ultima facie*: if an experience of the subject S provides them with *prima facie* justification for believing its content but this justification is defeated by something else S is justified in believing, then S does not have the content of the experience as evidence (2020: 119).

This raises the question: when are we *ultima facie* justified in believing the contents of our experience? The answer to this question will tell us how Comesaña's account fares on extensional adequacy.

Comesaña favours a reliabilist account of justification. When coupled with his view of evidence, this will render the latter better positioned to distinguish good from bad experience etiologies than internalism about evidence – in that only those contents of experience that are believed based on a reliable process will qualify as evidence.

Indeed, at first glance, Comesaña's account promises to deliver the result we want in several of the resistance cases. Take, for one, Testimonial Injustice: Since on Comesaña's view an experience provides its content as a reason just in case the subject is *ultima facie* justified in believing its content, and since, by stipulation, Anna is an extremely reliable testifier, the content of George's experience as of her telling him that Glasgow Central is to the right constitutes evidence. Anna's testimony provides George with a reason to believe Glasgow Central is to the right, which he fails to take up. Similarly, Mary has evidence that her husband is cheating, that Dave, the detective has evidence that the butler did it, etc. All of these people have experiences with the relevant contents that are reliably generated, the contents of which thus count as evidence on Comesaña's view.

Unfortunately, on closer look, it turns out that granting the indicator reliabilist success on the resistance front is a bit fast: just like seemings internalism, indicator reliabilism gets cases that do not feature experiences wrong. The view will predict that Racist has no evidence that the black students are active in class. After all, he has no experience with this particular content, therefore no reliably generated experience with this particular content either. Furthermore, note that the case of Professor Racist is not unique in this respect: we can modify all the other cases along the exact same lines - i.e. ramping up the epistemically bad features - to get the same wrong predictions. Here is how: First, we can make it such that our characters not

only don't form the relevant beliefs because of sexism, politically motivated reasoning etc., but they don't even host the corresponding experiences. Say that George, for instance, in Testimonial Injustice, not only doesn't believe what Ann says, but he doesn't even register that she said anything at all, due to his sexist bias. In all cases like these, indicator reliabilism will predict absence of had evidence.

2.3 Virtue Reliabilist Reasons to Believe

Virtue reliabilist accounts of evidence are, to my knowledge, missing in the literature. However, the market features well-developed virtue-theoretic views of had reasons to believe (Sylvan and Sosa 2018, Burge 2016). On a view e.g. equating evidence with epistemic reasons to believe, the epistemic reasons having relation will coincide with the evidence having relation.

According to these authors, broadly speaking, competences come first in epistemic normativity: a fact is S's epistemic reason to believe for S just in case it is competently taken up and processed by S. At root, then, reliable epistemic competence is doing the work in accounting for the having relation: “[We] think [...] claims [about reasons supporting a species of justified belief] could only be true if possession and proper basing are themselves grounded in a deeper normative property of competence” (Sylvan & Sosa 2018).

In turn, epistemic competences are traditionally unpacked as dispositions to believe truly (Sosa 2016), or know (Kelp 2018, Miracchi 2015, Schellenberg 2018).

The view, whether construed along truth-first or knowledge-first lines, is too weak to account for what is going wrong in cases of resistance to evidence: Think back to the case of George, the sexist; on this view, we get the result that George has no reasons to believe what the woman passer-by tells him, since he is not uptaking the relevant facts via his cognitive competences. The same will hold for all Cases 1-3: All these facts

fail to constitute had epistemic reasons on this view, since they are not competently processed by the subjects.

But can't the virtue theorist appeal to these epistemic agents' lack of competence to explain the poor epistemic status of beliefs that they do hold, and account thereby for the impermissibility of resistance intuition?³ For instance, can't the virtue theorist argue that what is going on in cases like e.g. Testimonial Injustice is that George is an epistemically incompetent believer in virtue of his sexist bias? This, the virtue theorist may argue, is enough to explain the intuition of epistemic permissibility.

Two things about this: first, just like in the case of the blameworthiness move, note that it need not be that the subject at stake is a rubbish epistemic agent overall. Indeed, again, maybe Mary, the wishful thinker, is actually an extremely reliable believer. It's only on this particular instance that she gets it wrong (after all, competences need not be infallible, but merely reliable; thereby, their presence is compatible with occasional failures). If so, the virtue theorist cannot appeal to lack of competence to explain this datum.

One way to go for the virtue theorist here would be to blame the impermissibility on impermissible suspension. In recent work, Sosa proposes to account for what is going wrong in cases such as these by making use of a notion of epistemic negligence: he suggests that negligent failure to inquire may preclude competent judgement. If so, we could maybe avail ourselves of this normative resource to explain how negligent failure to inquire may preclude competent suspension as well. Sosa's key idea is that if you can assess your first order competence by more reliable means but fail to do so, then you are negligent. In particular, you fall foul of a kind of negligence that precludes what he calls the competent attainment of aptness.

Most importantly for present purposes, given that competent suspension requires that one suspends based

³ Many thanks to Ernie Sosa for suggesting this route to me.

sufficiently on one's lack of the competence required in order to answer the question aptly, negligence precludes competent suspension: sexist George does have sufficiently available means that would enable a more reliable assessment of the aptness of his suspension – Anna's testimony. Since he ignores it, George will count as a negligent suspender. (By now, the details of this account of negligence should sound very familiar to the reader from back when we discussed the Alternative Reliable Process account of defeat).

The problem with this account of negligence is that it makes negligence too easy to come by. To see this, consider a case in which I ask my flatmate who is currently in the kitchen whether we have any milk left. He tells me that we do. Now, I do have several more reliable means of assessing my first order competence available to me. For instance, I could go to the kitchen and have a look myself. Crucially, however, failure to avail myself of these means doesn't make me negligent. And, most importantly for present purposes, it doesn't preclude my judgement that there is milk in the fridge from being competent.

Sosa's account of negligence is insufficiently normative. What matters, according to Sosa, is the *availability of alternative means* that would lead to a more reliable assessment of first order aptness and competence. However, the difference maker is normative, not descriptive: what matters is not (only) whether one has alternative means available that would have led one to a more reliable assessment of first order aptness and competence, but (also) whether one *should* have availed oneself of these means. In the case of sexist George, he should have taken the woman's testimony into account in making up his mind on the location of Glasgow Central. Similarly, e.g. Mary should not have ignored all the evidence suggesting that her husband is having an affair. In contrast, in the milk case, it is not the case that I should have had a look myself.

3. Evidence One Should Have Had

The above results suggest that one way to attempt to explain the datum in resistance cases is by arguing that what is at stake in these cases is not evidence had, but rather evidence one *should* have had.

One such view in the literature is championed by philosophers who think that resistance cases are not cases of genuinely epistemic failure, or rather cases of moral failure. On this account of the data, the intuition of impropriety in the resistance cases has a non-epistemic normative source: we think, for instance, that George is doing something wrong in the Testimonial Injustice case because he's doing something morally wrong in not listening to the female passer-by: the testimony from the female passer-by is not evidence he has, but is evidence he (morally) should have had. Epistemic injustice, the thought would go, is the stuff of intellectual ethics, not of theory of knowledge proper. However, our intuitions are not fine grained enough to see the difference: theory is needed. Indeed, here is Richard Feldman:

It's surely true that there are times when one would be best off finding new evidence. But this always turns on what options one has, what one cares about, and other non-epistemic factors. As I see it, these are prudential or moral matters, not strictly epistemic matters (2004, 190).

I don't find this move particularly plausible: the failure in question in Cases 1-3 is a genuinely epistemic failure (compatibly, of course – and plausibly – it is also a moral failure). To see this, note that, while some of these cases exhibit ethically problematic features (e.g. Case #1, Case #3), Case #2 does not. To the contrary, Case #2, can even be construed as a case of moral success: placing more trust than the evidence supports in a member of one's family has been long discussed in the literature on partiality in friendship as morally permissible, if not even mandatory. It's hard to find moral flaws with Mary's epistemic ways. This suggests that the source of the intuition is,

indeed, epistemic failure (absent other normative constraints at the context).

In recent work, Sandy Goldberg has taken up the task of developing an account of the normativity of evidence one *should have had* that vindicates the thought that what is at stake in these cases is epistemic failure – i.e., whereby the should in question is an epistemic rather than a moral should - , but that grounds the epistemic failure at stake in social normativity. One key thought that motivates Goldberg’s project is that social roles – for instance, being a medical doctor - come with normative expectations. These normative expectations may be, and often enough are, epistemic. For instance, there is a social epistemic expectation that medical doctors are up speed on relevant literature in their field. Another key thought is that to believe that p justifiably one must live up to all of these legitimate expectations. Doctors who fail to be up to speed with the most recent research in their field are not justified in their corresponding beliefs, in virtue of being in breach of the social expectation associated with their role. For instance, a doctor who believes that ulcer is caused by stress, in ignorance of the widely available evidence that it is caused by bacteria, is not justified to believe that ulcer is caused by stress. As such, Goldberg grounds the normativity of evidence one should have had in the social expectations associated with the believer in question’s social role.

It is easy to see that Goldberg’s key thoughts promise to give us the ideal resources to handle cases of resistance to evidence. Take, for instance, the case of Professor Racist. Recall that this fellow is biased against people of colour, and as a result, whenever he asks a question, his attention automatically goes to the white students, such that he doesn’t even notice the black students who raise their hands. In virtue of occupying his social role, by the first key thought, Professor Racist is subject to normative expectations that are associated with this social role. In particular, he is subject to the expectation to fairly distribute his care and attention in the student population. Since Professor Racist doesn’t live up to this expectation, by the second key

thought, he does not believe justifiably that the black students are not active in his class.

This is a very rough description of how Goldberg aims to deal with the kind of case of resistance to evidence that we are concerned with here. Even so, here is a worry that arises immediately: social expectations can be legitimate social expectations, but also, illegitimate social expectations. Women, for instance, are often illegitimately expected to carry most of the household burden, and to underperform in leadership roles. If so, it would seem as though social expectations cannot play the normative grounding role that Goldberg wants them to play, since they seem to require further normative unpacking themselves: we seem to need further normative notions to help distinguish between legitimate and illegitimate social expectations. When it comes to epistemic normativity in particular, things aren't looking much better: consider societies in which women are considered to be unreliable testifiers because intellectually inferior: in these societies, hearers will be expected to disbelieve women's testimony. Clearly, this social expectation is epistemically illegitimate. If so, the question that arises is: Isn't the good variety of social epistemic expectations that Goldberg appeals to in order to explain intuitive epistemic failure grounded in epistemic norms? And if so, won't we have to invoke the relevant epistemic norms in the final analysis of what goes wrong in cases of resistance to evidence? As a result, Goldberg's story will struggle to offer a satisfactory account of resistance cases.

4. Having Evidence as Being in a Position to Know It

This section argues we – philosophers – should conceive of the having relation in the same way in which my grandmother does: as having to do with easy availability rather than the limits of one's skull.

Here are a few reasons to do so: first, such a conception should be preferred on counts of simplicity and extensional

adequacy. Recall: being able to say that the subjects in the resistance cases have the relevant evidence has the major advantage of opening the way towards what I called ‘the easy answer’ concerning what goes epistemically wrong in the resistance cases: it’s an update failure. These subjects have evidence that supports that p and fail to correspondingly update their beliefs.

Second, we have already seen that there are major difficulties involved in trying to account for the impermissibility datum in terms of evidence one should (morally, socially, epistemically) have had. If so, we have further reason to suspect we should get back to the drawing board, and start with the straightforward, folk intuition of what goes wrong in these cases (as per, e.g., Keith De Rose’s (2006)) preferred ‘methodology of the straightforward’).

Third, note that a conception of the having relation that fails to account for resistance cases is fantastically mal-equipped for moral and practical societal functions, in virtue of its incapability to predict accountability. What evidence we have matters for the permissibility of our actions in all walks of life, and crucially in accountability-centric fields such as law, public communication, politics, healthcare, and so on.

The first and second reason for preferring the layman conception of the having relation suggest conception engineering is warranted on strict theoretical grounds: our current conception fails to reliably track the entity in the world. The last reason has to do with conceptual ethics: we should engineer a conception of the having relation that does the important moral, social, practical work that we need it to do.

In previous work (REDACTED 2018, 2020), I have defended a view according to which conceptual engineering (broadly construed – be it about concepts, concepts, intensions, words, etc) is obligatory in cases in which there is all-things-considered reason to do so, and no epistemic loss is involved. In what follows, I will follow suit. I propose that, in line with folk conception of the having relation, we should think of evidence one has as evidence that one is in a position to know.

This account of the having relation is, in principle, compatible with a variety of views of the nature of evidence itself (facts, propositions), and the nature of evidential support (probabilistic, modal etc). My preferred view (Simion Forthcoming a, b) takes evidence for p to be facts that enhance one's evidential probability that p is the case. In turn, evidence one has, on this account, will consist in probability enhancers that one is in a position to know. Here is the account in full:

Evidence as Knowledge Indicators: a fact e is S's evidence for a proposition p just in case S is in a position to know e, and S's evidential probability that p is the case conditional on e is higher than S's unconditional evidential probability that p is the case.

The having relation has to do with being in a position to know. What is it for me to be in a position to know e? A certain availability relation needs to be instantiated. On my view (Simion Forthcoming a, b), availability has little to do with the limits of my skull. Evidence may consist of facts ‘in the head’ or facts in the world. Some facts - whether they are in the head or in the world, it does not matter – are available to me, they are, as it were, ‘at hand’ in my (internal or external) epistemic environment. Some – whether in the head (think of justified implicit beliefs, for instance) or in the world, it does not matter – are not thus available to me.

My notion of availability will track a psychological ‘can’ for an average cognizer of the type at stake; generality problems aside, for the vast majority of us, the relevant type will be ‘human adult cognizer’: the ‘can’ will track what someone with an average adult human cognitive architecture can do.

There are *qualitative* limitations on availability in this sense: we are cognitively limited creatures. There are of *types* information that we just cannot access, or process: the fact that there is a table in front of me is something that I can easily enough access. The fact that you’re dancing in the flat next door is not something I can easily access: I can’t see through walls. I

am in a position to *come to* know it – should I walk down the hallway and ring your bell - but I am not in a position to know it, as things stand (henceforth also *Qualitative Availability*).

There are also *quantitative* limitations on my information accessing and processing: the fact that there's a table somewhere towards the periphery of my visual field - in contrast of it being right in front of me, in plain view - is not something I can easily process: I lack the power to process everything in my visual field, it's just too much information: easier availability gets epistemic priority. Similarly, while I might easily access facts $f, f_1, f_2, f_3 \dots f_n$ independently, I might not be able to easily access their conjunction due to my processing limitations (henceforth also *Quantitative Availability*)

The availability at stake here will be further restricted by features of the social and physical environment: we are supposed to read the newspaper on the table in front of us, but not the letter under the doormat. That's because we can't read everything, and our social environment is such that written testimony is more likely to be present in the newspaper on the table than under the doormat (henceforth also *Environmental Availability*)

I take the availability relation to have to do with a fact being within the easy reach of the knowledge generating cognitive processes of cognizers of the type I belong to. A fact F being such that I am in a position to know it has to do with the capacity of my properly functioning knowledge generating processes to take up F :

Being in a Position to Know: S is in a position to know a fact F if S has a cognitive process with the function of generating knowledge that can (qualitatively, quantitatively, and environmentally) easily uptake F in cognizers of S 's type.

Note, crucially, that the account features is an important distinction between being in a position *to know* a fact – where all that needs to happen is that one's cognitive processes pick

out the relevant fact – and being in a position *to come to know it* – where more than this is needed: if I need to open my eyes, or turn around, or walk to the other room to pick up the relevant fact, and on the assumption that I can do so, I am in a position to come to know it, but not in a position to know it.

This will help with worries that readers might have that my view makes having evidence too easy, and thereby overgenerates evidence had. It will also help with common worries for broader views than mine, that take potentially knowable facts to be evidence/reasons to believe:⁴ On a view like this broader view, the following seems possible. I don't believe p, but I'm in a position to know p (e.g., if I just paid attention to my experience, I'd come to know), I'm in a position to come to know that I know p (e.g., if, having paid attention to my experience I came to know, I'd believe and know that I knew), and I'm in a position to know that I don't know that p (e.g., I know that I don't have an opinion about whether p). If my evidence includes each potentially knowable fact, my evidence includes: p, I know that p, I don't know that p. This, however, is inconsistent and it seems that inconsistent evidence is bad: an inconsistent set of propositions entails everything.

My view escapes this worry, in that it takes evidence to consist of facts that one is in a position to know rather than the broader category of potentially knowable facts, which include facts one is in a position to come to know: if I don't believe p, but I'm in a position to know it, I am not in a position to know that I know p, since it's false: I don't believe it. Compatibly, I may be in a position to come to know it – but that alone does not render p part of my evidence.

But isn't the view too permissive still? Isn't it implausible to think that all the millions of facts that I am in a position to know (think only of the amount of stuff happening within my visual field!!!!) are part of my evidence? No: quantitative

⁴ Many thanks to Clayton Littlejohn for pressing me on this.

limitations on being in a position to know will only deliver *disjunctive* epistemic obligations: Recall: since I can only take up a limited number of facts with my knowledge-generating processes, I will most often be in a situation where I can take up any of F₁, F₂, F₃....F_n, but not their conjunction. In these cases, I will shoulder an epistemic obligation to take up a subset of F₁, F₂, F₃....F_n that is as large as my quantitative take-up limitations. The question that arises is: which is the set that takes normative primacy, and thereby delivers my set of evidence? Availability rankings will deliver the relevant set, on my view: the most easily available subset of facts that I can take up delivers the set of evidence I have: in the case of visual perception, for instance, facts located right in front of me, in the centre of my visual field, which are the brightest, and clearest etc – in general facts that are most easily available to the cognitive processes of a creature like me.

Finally: It is easy to see that this view of the having relation delivers the easy answer to what is going wrong in resistance cases: the woman passer-by's testimony in Case 1; the partner's behavioural changes in Case 2; the hands raised by the black students in Case 3, they all constitute facts that are evidential probability enhancers for our subjects and that the subjects in these cases are in a position to know: They are easily available to creatures such as our protagonists, to be taken up by their knowledge-generating processes. These subjects are members of a type of cognizer (human adult cognizer) that hosts cognitive processes with the function of generating knowledge that can easily uptake these facts. Since they fail to do so, their epistemic processes are malfunctioning. This explains the impermissibility intuition. As my grandmother well (hypothetically) put it in the beginning of this paper: what is wrong with these folks is that they have evidence but they fail to update their beliefs accordingly. Finally, it is also clear that this conception of the having relation, in line with the folk notion, will excel at fulfilling its social, moral and political function of predicting accountability: being in a position to know and

refusing to take up information will not excuse one from wrongdoing.

5. Conclusion

Evidence one has matters, in epistemology and beyond: most centrally, it tells us what information people have available to them when they make their decisions and act, and thereby helps us figure out their accountability status: did they have evidence that what they were doing was wrong? Could they have known that theirs was the wrong decision? If so, they are accountable for what they did. If not, *ceteris paribus*,⁵ they may be blameless wrongdoers. The view defended here aims to vindicate this picture, by going against tradition and proposing that we should conceive of evidence had as facts one is in a position to know. The limits of one's skull shouldn't matter for whether one has evidence. Negligent lack of uptake shouldn't give one a free epistemic lunch.

Again, this is, first and foremost, a proposal in conception engineering: as the argument goes, philosophers traffic in the wrong conception of the having relation, and this should change. In a second instance, however, the project may also be one in conceptual engineering: it will depend on one's theoretical commitments (about e.g. the nature of concepts and their permeability to engineering), as well as on whether the current mistaken conception also coincides with us hosting a bad concept of evidence had. If expert accounts have causal power over meanings, expert conception change will help with meaning change.

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⁵ This clause is important here: one can also be blameworthy for having been an irresponsible inquirer, which resulted in them not having evidence to begin with.

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