

SYSTEMATIC EPISTEMIC RIGHTS
VIOLATIONS IN THE MEDIA:
A BREXIT CASE STUDY

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“Migrant crisis will cost £20BN” (*Daily Express*, 11 June 2016), “Euro judges ‘open floodgates to illegals’” (*The Sun*, 8 June 2016), “Fury over plot to let 1.5M Turks enter Britain” (*Daily Mail*, 13 June 2016), “European criminals free to live in Britain” (*Daily Telegraph*, 7 June 2016). These headlines all appeared within a twenty-day period immediately prior to the UK referendum on EU membership, held on 23 June 2016. Along with numerous similar headlines and stories, they present a stark and unified message regarding the nature, scale, and impact of immigration in the UK. With a combined print readership of approximately 4.25 million (*The Sun* and *Daily Mail* having the highest readerships of any newspapers in the UK)¹, the reach of this message was vast and penetrating. A survey conducted by the independent market research company, Ipsos MORI, two weeks prior to the referendum, found immigration to be the number one issue influencing votes, surpassing concerns about the UK economy, as well as jobs, the welfare system, and governance.² The correlation between public concern with immigration, during the run-up to the referendum, and media attention on the topic can hardly be denied. That the UK media actively shaped the beliefs and opinions of its audience during this time is also, I argue, overwhelmingly plausible. That it did so through the endorsement and propagation of vast amounts of misinformation, as well as in the biasing, concealment, and suppression of accurate

¹ https://en.wikipedia.org/wiki/List_of_newspapers_in_the_United_Kingdom_by_circulation [Accessed: 30 Nov 2016]. Figures originating from Audit Bureau of Circulation (UK).

² <https://www.ipsos-mori.com/researchpublications/researcharchive/3746/immigration-is-now-the-top-issue-for-voters-in-the-eu-referendum.aspx> [Accessed: 30 Nov 2016].

information, is, likewise, clear upon examination. The media handling of information concerning immigration in the case of Brexit provides an illustration of the widespread and systematic violation of epistemic rights. I outline the nature of epistemic rights and epistemic rights violations (Sections I-III) and demonstrate the widespread perpetration of such violations in pre-Brexit media coverage (Section IV). This provides a case study for the investigation of epistemic rights violations across national and international media in the twenty-first century; a topic of central concern for contemporary epistemology (Section V).

I. What are Epistemic Rights

Epistemic rights are, first and foremost, a form of rights. A right is a complex entitlement that provides justification for the performance or prohibition of certain actions, either by the right holder or by another party (including individuals and governments). By ‘complex entitlement’ I mean that a right is composed of several elements understood within the widely adopted Hohfeldian schema of privileges, claims, powers, and immunities (Hohfeld 1919). Property rights provide a useful example to illustrate the distinct elements of this schema (Wenar 2015). Take my mobile phone. I have a *privilege-right* to use my phone (under normal circumstances) meaning that there is nothing stopping me from using it; I have no duty or obligation not to use my phone. I also have a *claim-right* to prevent you from using my phone; I have the right to hide it from you or to ask you to stop using it, and you have a duty not to use it without my permission (again, under normal circumstances). In addition, I have a *power-right* to allow you to use it, thereby waiving my claim-right against you using it, and an *immunity-right*, which protects me from you taking away or altering my claim-right against you using it. The property rights that I have as a result of owning a phone afford me a complex set of entitlements that provide justification for the performance and prohibition of certain actions regarding my phone.

Property rights are an example of rights that pertain to particular objects, in this case, property, as opposed to rights that pertain to groups, such as children’s rights or workers’ rights. Epistemic rights, like property rights, pertain to particular objects (broadly construed), in this case, epistemic goods such as information, knowledge, understanding, and truth. Epistemic rights afford their bearer a complex set of entitlements that provide justification for the performance and prohibition of certain actions regarding epistemic goods. Again, this can be understood within the Hohfeldian schema. Imagine that I am being tested for diabetes by my doctor. Once I have been tested, I have a *privilege-right* to know

my blood-sugar levels; I have no duty or obligation not to know them. I also have a *claim-right* to know my blood-sugar levels, meaning that I have a right to prevent my doctor from misinforming me about these and my doctor has a duty to provide me with them. In addition, I have a *power-right* to waive my claim-right and thereby not to know my blood-sugar levels, and an *immunity-right*, which protects me from my doctor taking away or altering my claim-right. These elements comprise the complex set of entitlements that I have regarding information about my blood-sugar levels, after being tested for diabetes; they constitute my epistemic right to this information. The right to information, the right to know, the right to believe, and to form justified beliefs, the right to understand, the right to truth – these are all epistemic rights. Each of these can be understood according to the schema just described.

This characterization of epistemic rights differs from that employed previously within epistemology (either implicitly or explicitly). Most notably, I am construing epistemic rights in broad terms, as akin to rights in other domains, such as property. In contrast, a narrower treatment can be found in epistemological and ethical debates focusing exclusively on the ‘right to believe’ (James 1896; Conee 1987; Feldman 1988; Alston 1989; Audi 1991; Adler 2002; Ginsborg 2007). The term ‘epistemic rights’ is not typically employed within this literature, and as such, the right to believe is not positioned within a broader framework of rights or examined *qua* right. Debates focus on questions concerning belief and justification. The right to believe is therefore not, in general, identified as an epistemic right or considered within the context of political, societal or human rights. One exception to this is found in the work of Leif Wenar (2003). Wenar employs the notion of epistemic rights explicitly, and contrasts one’s epistemic right to believe with one’s legal rights. However, unlike one’s legal rights, Wenar contends, the epistemic right to believe is merely a privilege-right. Thus, having the right to believe X amounts to having no duty or obligation not to believe X, or, in Wenar’s terms, no ‘conclusive reason’ not to believe X (2003, p.142). Thus, whilst Wenar does consider the right to believe within a broader framework of rights, he marks it out as more restricted than other forms of rights. In his Stanford Encyclopedia entry on ‘Rights’ (2015), Wenar comments, “It is interesting to consider why [the] epistemic...[realm] contain[s] no claims, powers, or immunities” (section 5.5). Wenar overtly equates epistemic rights with the right to believe, aligning his treatment with the implicit assumption of the wider literature. By contrast, under the broader construal of epistemic rights offered above, the right to believe is taken to be one epistemic right among many and, like other epistemic rights, is understood in terms of the full Hohfeldian schema, including claims, powers, and immunities.

Ordinary language provides support for this broad characterization of epistemic rights. As well as the right to an informed medical diagnosis, you have rights to information about the food you eat, the products you buy, your child’s education, the conditions of your employment, your mortgage, your taxes, and so on. You have a right to know how much interest you are being charged on your credit card. You have a right to understand the details of any legal contract that you sign. You have the right not to incriminate yourself in a court of law and the right to remain silent. Talk of epistemic rights, whilst not in general talked of *as* epistemic rights, is commonplace. Notice, moreover, that these rights, and many others that find expression in ordinary language, are claim-rights, power-rights, and immunity-rights. One also, of course, has privilege-rights, to believe, to know, to understand, and to be informed. The privilege-right to believe in one god or another, for example, is disputed in political and legal, as well as academic contexts. The prevalence of claim-rights, power-rights, and immunity-rights in the ordinary language expression of epistemic rights, however, provides support for a broad characterization of epistemic rights that includes all aspects of the Hohfeldian schema.

Similar support is found in the legal and political realization of epistemic rights. Examples are not hard to come by.³ The *Charter of Fundamental Rights of the European Union* (2000), for example, states that, “Everyone has the right to the protection of personal data concerning him or her” (Article 8).⁴ Freedom of Information laws, such as the UK’s *Freedom of Information Act* (2000), grant individuals rights to information not made publicly available.⁵ One has a right to own one’s intellectual property, protected by the *World Trade Organization’s TRIPS* agreement.⁶ In addition, the UN’s *Universal Declaration of Human Rights* (1948) and the *International Bill of Human Rights* (1966), articulate epistemic rights intended to be recognized on the world stage.^{7,8} Perhaps most notably, the former states, “Everyone has the right...to seek, receive and impart information and ideas” (Article 19). In this case, one’s right to information is recognized as a fundamental human right. Indeed, it seems plausible that many epistemic rights are or should be considered human rights, although a full defense of this view

³ For simplicity, the following selected examples are representative of the epistemic rights of a UK citizen. The legal and political realization of epistemic rights varies significantly by country. This fact alone raises important questions concerning the legal status of epistemic rights, particularly in the increasingly internationalized arenas of media discourse. Such questions will be addressed in future work.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT> [Accessed: 13 Mar 2017].

⁵ <http://www.legislation.gov.uk/ukpga/2000/36/contents> [Accessed: 13 Mar 2017].

⁶ https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm [Accessed: 13 Mar 2017].

⁷ <http://www.un.org/en/universal-declaration-human-rights/> [Accessed: 13 Mar 2017].

⁸ <http://www.ohchr.org/Documents/Publications/Compilation1.1en.pdf> [Accessed: 13 Mar 2017].

lies outside the scope of this paper. Nonetheless, the inclusion of epistemic rights in the *Universal Declaration* and *International Bill of Human Rights* speaks to their non-trivial role in political and societal contexts, and so to their treatment as a robust and substantial form of rights.

This broad characterization of epistemic rights follows the trend of expanding epistemological discourse in recent decades, moving away from an exclusive focus on the nature of knowledge, and its component parts, such as justification and belief, towards a wider range of topics. This is seen most notably, in the movements of virtue and social epistemology, wherein knowledge, and other epistemic goods such as understanding and information, are examined from the perspectives of the individual knower and the world that she inhabits. The characterization of epistemic rights outlined above finds a natural home within this contemporary setting. Epistemic rights arise within and are bound by epistemic communities, comprised of individual's with different epistemic abilities, opportunities, and obligations. Understood in these terms, one's epistemic rights are clearly not exhausted by one's right to believe, or not, a given proposition, in isolation from one's circumstances or community. Just as one's property rights are not exhausted by one's right to own, or not, a given object, in isolation from one's circumstances and community. Rather one's epistemic rights are inextricably tied to the social world that one inhabits as a knower, believer etc. and extend far beyond the domain of belief-formation. Situating epistemic rights within this societal context illuminates the claim that they are more than mere privilege-rights. My right to know my blood-sugar levels, after being tested for diabetes, is more than the mere absence of an obligation on my part not to know them. First and foremost, it is a claim-right. My right to know my blood-sugar levels arises within the context of societal healthcare provision and imposes a duty on another individual, my doctor, to provide me with this information. Moreover, I have a power-right not to know this information and an immunity-right protecting my claim to it. Epistemic rights are as robust and substantial as any other rights.

II. Epistemic Rights in the Media

What epistemic rights does one have in relation to the media. At a basic level, individuals have a right to knowledge, information, understanding, and truth in the mainstream media. Arguably, this is a human right. Without space to develop that argument here, I shall restrict this right to individuals living in contemporary democratic society. It is also notably restricted to the mainstream media meaning large media conglomerates with significant resources and audiences. Arguably, individuals'

epistemic rights extend beyond these conglomerates, but it will be sufficient to restrict this right to the mainstream media. I shall, moreover, focus on this right in its manifestation as a claim-right. Thus, individuals living in contemporary democratic society have a claim-right to knowledge, information, understanding, and truth in the mainstream media. This not only picks out the right of individuals living in democratic societies to access these epistemic goods via the mainstream media but, at the same time, imposes a duty on the mainstream media to provide these epistemic goods. Note that this claim-right, as with many such rights expressed in, for example, the *International Bill of Human Rights*, is general in scope. It does not pick out *particular* knowledge, information, etc. that an individual should have access to but identifies a general claim to these epistemic goods and a general duty to provide them.

This claim-right arises as a result of the mainstream media's role in democratic society. Broadly speaking, the mainstream media exists to provide those living in democratic societies (both nationally and, increasingly, internationally) with an accurate and informative representation of societal and political issues and events. An 'accurate and informative representation' comprises knowledge, information, understanding, and truth about societal and political issues and events, as well as opinions, views and judgments about these based, to a reasonable degree, on knowledge, information, understanding, and truth. The role of the mainstream media in providing an *accurate* representation excludes, minimally, the reporting of falsehoods and misleading information. The role of the mainstream media in providing an *informative* representation requires, minimally, that reporting does not focus on trivial or inessential features of an issue or event.⁹ The requirement of accuracy is highlighted in the 'Editors' Code of Practice' (2016) produced by IPSO, the UK-based *Independent Press Standards Organisation*.¹⁰ The first clause states; "The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text". The fourth clause states; "The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact". These clauses at least partially capture the duty that the mainstream media has to providing an accurate and informative representation of societal and political issues and events. This duty results from the claim-right that individuals living in democratic society

⁹ How to determine when information is false, misleading, trivial, or inessential is complex and contentious. *That* such information should be excluded from mainstream media reporting, I assume, is less complex and contentious. A more detailed defense of this will, nonetheless, be pursued in future work.

¹⁰ <https://www.ipso.co.uk/editors-code-of-practice/> [Accessed: 23 March 2017].

have to knowledge, information, understanding and truth in the mainstream media. I will refer to this as the *right to epistemic goods in the media*.

The right to epistemic goods in the media concerns knowledge, information, understanding and truth. An additional epistemic right concerns belief. This is the right that a person reading a newspaper or watching a news broadcast has to forming justified true beliefs on the basis of what she reads, sees and hears. Again, I focus on this right in its manifestation as a claim-right and restrict it to individuals consuming mainstream media in democratic societies. The right to form justified true beliefs based on the media grounds the right to epistemic goods in the media. Specifically, the duty of the mainstream media to provide individuals with epistemic goods is grounded in a duty to provide the conditions under which individuals can form justified true beliefs based on their consumption of mainstream media. If the mainstream media fails to provide epistemic goods, then it will also fail to provide the conditions under which individuals can form justified true beliefs based on their consumption of it. I will refer to this as the *right to JTBs based on the media*.

III. Epistemic Rights Violations

Epistemic rights, as with most, if not all other rights, can be violated. A right is violated when any requirements resulting from that right, to perform, or not to perform certain actions, are unjustifiably disregarded. One can contrast rights violations with rights infringements (Gewirth, 1981). A person's right is *infringed* when actions required by that right are not performed, or actions prohibited by that right are performed. My right to use my mobile phone is infringed if you seize it and throw it in the river. Infringing a person's right does not amount to violating their right, however. If I am about to call emergency services to falsely report a bomb threat in a public park, then you have good reason to seize my phone and throw it in the river. This constitutes a justifiable infringement of my right. A person's right is *violated* when it is *unjustifiably infringed*. In other words, when actions required by that right are unjustifiably not performed, or actions prohibited by that right are unjustifiably performed. If I am about to call a mutual friend to ask if she would like to meet us in the park, then you have no good reason to seize my phone and throw it in the river. This would constitute an unjustifiable infringement, and thereby a violation, of my right. The same can be said of epistemic rights. If my doctor misinforms me about my blood-sugar levels, after I have been tested for diabetes, then my right to this information has been infringed. If she does so in order to prevent me from some inevitable

further and greater harm, then my right has been justifiably infringed. If she does so in order to, say, laugh about it to herself later, then my right has been unjustifiably infringed, and thereby violated.

One's epistemic rights can be violated in numerous ways. A broad characterization of epistemic rights is, moreover, essential to an appreciation of the proper scope of epistemic rights violations. Your right to information about the food you eat is violated if the list of ingredients on the packet is inaccurate or incomplete. Your right to know how much interest you are being charged on your credit card is violated if your bank represents it as less than it is. Your right to understand the details of any legal contract that you sign is violated if it is expressed in complex legal jargon intended to confuse you. Recognizing that these rights are more than mere privilege-rights, and, in particular, identifying them as claim-rights, exposes the extent of possible epistemic rights violations. Claim-rights are especially significant in an examination of rights violations given their inherently social nature. A claim-right not only picks out a claim to some object or state on behalf of the right-holder but, at the same time, *imposes a duty* on another party towards the right-holder with respect to that claim. Claim-rights are violated when such duties are disregarded. One's epistemic claim-rights can be violated by companies, institutions, governments, and individuals, as illustrated by the examples.¹¹

IV. Epistemic Rights Violations in the Media: The case of Brexit

Media coverage during the run-up to Brexit offers a clear insight into the nature and scope of epistemic rights violations in the media. These concern, minimally, violations of the right to epistemic goods in the media and violations of the right to JTBs based on the media. The violation of these rights leads to what David Coady (2010) refers to as “unjust ignorance or error” (p.110) Limiting the examination to mainstream newspaper coverage (online and print) during the months immediately prior to the referendum, one can identify three pervasive forms of epistemic rights violations: 1) the propagation of falsehoods, 2) the propagation of misinformation, 3) the strategy of withholding information. I call

¹¹ Epistemic rights violations are importantly related to epistemic injustice, a concept brought to attention in Miranda Fricker's seminal exposition, *Epistemic Injustice: Power and the Ethics of Knowing* (2007). While there is not space to discuss the relationship here, I argue (in work in preparation) that the violation of epistemic rights is a function of epistemic injustice. In the case of the media, I argue, epistemic rights violations result from a specific kind of epistemic injustice, 'informational injustice', which concerns the unfair distribution of epistemic goods. The systematic violation of epistemic rights in the media is a function of informational injustice within that industry.

these *first-order* epistemic rights violations. In addition, one can identify two further forms of epistemic rights violations: 4) agenda-setting, 5) abuse of epistemic authority. I call these *second-order* epistemic rights violations. While first-order epistemic rights violations arise as a direct result of specific claims or content, second-order epistemic rights violations arise indirectly from these, as a result of the structure or system in which they are embedded, in this case, the mainstream media. These five forms of epistemic rights violation do not constitute an exhaustive list but an examination of each will provide a sufficiently detailed illustration of systematic epistemic rights violations in the media.¹²

The propagation of falsehoods

“Every week we send £350 million to the EU” (*Daily Mail*, 29 April 2016). This was one of the most visible and controversial claims made by the Leave campaign during the run-up to Brexit, reported here in a *Daily Mail* article written by the then Justice Secretary, and prominent Leave campaigner, Michael Gove. The claim was widely discredited as being both factually incorrect and highly misleading, by, among others, *The Institute for Fiscal Studies*,¹³ the *House of Commons Treasury Committee*,¹⁴ and the Chair of the *UK Statistics Authority*, Sir Andrew Dilnot.¹⁵ Reports on the £350 million figure published by these organizations highlighted concerns about the figure being represented as a gross not net total, ignoring the fact that the UK’s contribution to the EU is paid after the application of a substantial rebate. Consequently, it is false to claim that the UK sends £350 million to the EU each week. Despite this, the claim was repeated, without qualification, extensively throughout mainstream pro-Leave media. This was regularly coupled with the correspondingly false claim that the fabricated £350 million could be spent on UK public services, specifically the NHS. The propagation of falsehoods such as these offers perhaps the clearest illustration of epistemic rights violations in the

¹² The following examination focuses on pro-Leave mainstream media coverage during the run-up to Brexit, and, therefore, primarily on epistemic rights violations in the conservative/right-wing media. This media coverage presents some of the clearest examples of systematic epistemic rights violations that I have come across and is therefore a useful lens through which to examine this issue. It is, however, important to note that epistemic rights violations are perpetrated systematically across the full media spectrum. Work currently in preparation provides a detailed examination of epistemic rights violations in the liberal/left-wing media.

¹³ <http://www.ifs.org.uk/publications/8296> [Accessed: 22 March 2017].

¹⁴ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/news-parliament-2015/eu-referendum-report-16-17/> [Accessed: 22 March 2017].

¹⁵ <https://www.statisticsauthority.gov.uk/wp-content/uploads/2016/04/Letter-from-Sir-Andrew-Dilnot-to-Norman-Lamb-MP-210416.pdf> [Accessed: 22 March 2017].

media. A person's right to epistemic goods in the media, as well as their right to JTBs based on the media, are violated when they are unjustifiably presented with falsehoods.¹⁶

This prominent case of falsehoods reported by the mainstream media during the run-up to Brexit illustrates the high visibility of false information propagated by newspapers, such as the *Daily Mail*, during this period. Equal, if not greater, prominence was given to false information concerned with immigration to the UK. On 3 April 2016, for example, the *Daily Mail's* online counterpart, *Mail Online*, ran a story with the headline, "Report shows the NHS is nearly at breaking point as massive influx of EU migrants forces doctors to take on 1.5 million extra patients in just three years." The 1.5 million figure was taken from GP registrations data provided by the *Health and Social Care Information Centre* which does not record the nationality of patients. The figure therefore includes patients from outside the EU, as well as registrations resulting from increased life-expectancy within the UK population. Consequently, it is false to claim that EU migration has forced doctors to take on 1.5 million extra patients in three years. Unjustifiably presenting readers with false information such as this constitutes a violation of their epistemic rights. Considered alongside the false claim that an extra £350 million could be spent on the NHS if the UK were to leave the EU, also cited in the *Mail Online* story, this constitutes a violation of the reader's epistemic right to JTBs, specifically, regarding the impact of EU immigration in the UK.

Another falsehood regarding EU immigration, reported by the *Daily Telegraph*, the *Mail Online*, and the *Daily Express* on 17 February 2016, concerned the extent of criminality in the EU migrant population: "More than 700 offences are being committed by EU migrants every week, official figures suggest" (*Daily Telegraph* homepage), "Criminal convictions for EU migrants leap by 40% in five years: 700 found guilty every week in the UK" (*Mail Online* homepage), "EU migrants convicted of 700 crimes each WEEK" (*Daily Express* homepage). The 700 figure was taken from data regarding criminal notifications provided by the *National Police Chiefs' Council* which explicitly states that notifications do not amount to convictions. The figure includes updates to convictions, such as appeals and broken court orders. Consequently, it is false to claim that EU migrants commit 700 offences or receive 700

¹⁶ Under certain conditions a falsehood may be justifiably presented in the mainstream media thereby constituting an infringement, but not a violation, of an individual's epistemic rights. This may be the case, for example, in order to aid in an active police investigation, or where journalists/editors etc. could not have reasonably identified a falsehood as such. Neither is the case with respect to the fabricated £350 million.

convictions in the UK every week. Once again, unjustifiably presenting readers with false information such as this constitutes a violation of their epistemic rights. This case draws attention, not only to the widespread, but systematic nature of epistemic rights violations in the mainstream media. Given that each headline fails to accurately report the figure as regarding notifications and falsely attributes an overstated degree of guilt and criminality to EU migrants, the epistemic rights violations perpetrated by these different news sources are surprisingly uniform. Not only are the papers deriving the figure from the same source (which is not, in itself, necessarily objectionable), but they are distorting it in precisely the same way, albeit with differing degrees of sensationalism according, presumably, to anticipated reader tastes. Crucially, based on any one of these headlines, readers are unable to form JTBs concerning the extent of criminality in the EU migrant population. Readers consuming more than one of these news sources – or perhaps simply taking in more than one headline – could justifiably find themselves with well corroborated false beliefs. This serves to further exacerbate the original violations in a systematic way.

This systematization is revealed conspicuously by the response of a *Daily Mail* spokesperson, to a complaint against the quoted headline regarding criminal convictions, by *InFacts*, an organisation set-up with the self-proclaimed mission to make “a fact-based case for Britain to remain in the EU”.¹⁷ According to *InFacts*, when challenged, the *Daily Mail* responded that the paper had “reported these statistics in the same way as other newspapers”; a line frequently employed in media corrections and clarifications. This line, and the frequency with which it is employed, far from providing justification for the reporting of false information, instead highlights the extent to which the proliferation of such information across the media spectrum is commonplace. That the *Daily Mail* offers this as part of a *defense* of their headline, and that it *serves* as such in media corrections and clarifications, indicates a critical failure in the recognition and regulation of systematic epistemic rights violations in the media. This is particularly concerning given that the propagation of falsehoods is the *clearest* example of such violations.

The propagation of misinformation

The propagation of misinformation captures a broader and less conspicuous category of epistemic rights violations. These range from violations that fall just short of the propagation of falsehoods to subtler variations arising, for example, from the use of misleading phrasing or emphasis, quotations

¹⁷ <https://infacts.org/> [Accessed: 28 March 2017].

or statistics distorted or taken out of context, and images used or positioned to induce implied but misleading associations. All share the common feature of impeding or blocking a person's access to epistemic goods and thereby inhibiting their ability to form JTBs. In the case of media coverage concerning immigration in the run-up to Brexit, the propagation of misinformation is abundant. On 13 May 2016, for example, the *Daily Telegraph* ran a front-page banner claiming that “The *real* number of migrants we now know came to Britain” (emphasis original) between 2011 and 2015 was 2.4 million, comparing this with a previously cited ‘official’ figure of 0.9 million. The author of the page five story is quoted as claiming, “The gap between the official migrant figure and the truth is as wide as the Grand Canyon. We are owed an apology” (Allison Pearson, *Daily Telegraph*). The higher figure was generated by adding short-term EU visitors to a figure from the *Office of National Statistics* (ONS), which provided the lower figure as an estimate of long-term migrants during the five year period. Adding the figures together for five consecutive years presents a misleading impression of the nature and scale of EU immigration to the UK given that the additional 1.5 million did not stay over concurrent periods and did not continue to reside in the UK after 2015. It is not false, therefore, to claim that 2.4 million people migrated to the UK between 2011 and 2015. It is, however, misleading to combine the figure of those who stayed in the UK after 2015, with those who came for under a year, during the five year period up to 2015, and subsequently left. The emphasis placed on ‘real’ in the headline, moreover, misleadingly implies that the freely available figures provided by the ONS were either inaccurate or had been deliberately obscured. A more conspicuous suggestion to the latter effect was made by the *Daily Express*, on the same day, with reference to the same figures, in the front-page headline, “Britain’s 1.5 million hidden migrants” (*Daily Express*, 13 May 2016). Unjustifiably presenting misleading information such as this constitutes a violation of the reader’s epistemic rights.

Similar waves of misinformation concerning future increases in EU immigration to the UK can be identified in the mainstream pro-Leave media. In the weeks immediately prior to the referendum the propagation of misinformation concerning this issue was particularly intense, focusing on the prospect of Turkish accession to the EU, as well as, to a lesser extent, the accessions of Albania, Macedonia, Montenegro, and Serbia. On 29 April 2016, for example, the *Mail Online* ran a story with the headline, “EU expansion will open our borders to 88 million from Europe's poorest countries”, referring to the total populations of the five countries combined. The story goes on to state that, “The already unwieldy group of 28 [EU member countries] is due to become a throng of 33” and that “We [the UK] are actually paying to give the people of Albania and Montenegro unfettered access to the UK’s

public services”. This leads the author (Michael Gove) to ponder how Albanians are making sense of “being on the receiving end of a £2 billion Balkan bonanza”.

That the five countries cited in the story are in the process of applying for EU membership is not false. The implication that EU accession is imminent, or even likely, for these countries is, however, misleading given that the status of all five applications when this story, and many like it, was published, was (and still is) highly tentative. Focusing on Turkish accession, as much of the pre-Brexit coverage did, negotiations opened in 2005 and require Turkey to meet conditions detailed in thirty-five ‘Chapters’, eight of which were barred from the initial negotiations in 2006, and only one of which has been concluded during the twelve year negotiation. Despite strong suggestions to the contrary in mainstream media coverage, the likelihood of Turkish accession to the EU at any point in the near future is low. Likewise, while some of the money that the UK contributes to the EU is spent on aiding EU membership applications, the suggestion, as per the *Mail Online* story, that Albania is in receipt of £2 billion from the UK, or that this is intended to provide Albanians with ‘unfettered access’ to UK public services, is misleading and, of course, grossly hyperbolic. Notably, the *Mail Online* story also included an image of a boat carrying Albanian refugees, *arriving in an Italian port in 1991*, after the collapse of communism, under which it asks, both rhetorically and misleadingly, “How many more will come if Albania joins the EU?”¹⁸

The propagation of misinformation concerning the EU membership applications of these countries provides perhaps the highest profile and most widespread example of this form of epistemic rights violation in pre-Brexit media coverage. The significance of the propagation of misinformation in the media, illustrated in cases such as this, is recognized by the IPSO ‘Editors’ Code of Practice’, as per, for example, the first clause quoted earlier, which targets not only inaccuracies, but also “misleading or distorted information or images”. As with the propagation of falsehoods, however, regulation of misinformation in the mainstream media is, at best, ineffectual. At worst, the existence of regulation ostensibly designed to guard against the propagation of misinformation, combined with the failure to effectively do so, deepens and further systematizes epistemic rights violations in the media.

¹⁸ The headline to this story also claims that Michael Gove offers “piercing logic” in support of a vote to leave the EU. Anyone trained in any form of logic will recognize, upon reading the story, that this claim puts the *Mail Online* squarely back in the domain of propagating falsehoods.

The strategy of withholding information

Much of the propagation of misinformation in the media is supported by a strategy of withholding information. As such, this strategy can also be found liberally in pre-Brexit media coverage constituting a third form of epistemic rights violation. Coverage of the Turkish application for EU membership provides a useful example of the supporting role that this form of epistemic rights violation plays. Much of the pro-Leave coverage of this issue failed to provide an informative context for claims regarding Turkish accession, detailing, for example, the current status of negotiations. In addition, the fact that the UK, like all other EU member states, has a veto over any country joining the EU, as per Article 49 of the *Lisbon Treaty*, was often not stated, while the contrary and false suggestion that the UK has no control over whether or not Turkey can join, was liberally propagated. The strategy of withholding information in this way is a complex form of epistemic rights violation requiring detailed evaluation of the information provided in a given story, or in support of a given headline, in order to determine the extent to which information necessary for understanding or interpreting the story, or claims within it, has been withheld. In broad terms, however, in cases where the withholding of information seriously blocks or impedes an individual's ability to form JTBs about a given claim, there will also be a case for regarding this as an violation of her epistemic rights. This is plausibly the case with respect to mainstream media coverage on the issue of Turkish accession to the EU.

The claim that the UK sends £350 million to the EU every week provides another clear example. In addition to highlighting the falsity of the claim, those criticizing its use by the Leave campaign and pro-Leave media, stressed the fact that the EU injects a large amount of money back into the UK public and private sectors and that, as a proportion of GDP, the UK's contribution to the EU is notably lower than many other similarly wealthy European countries. Such factors, it was argued, are essential to making an informed assessment of the economic advantages and disadvantages of EU membership. The absence of any discussion of these factors in, for example, the 29 April 2016, *Mail Online* story, impedes the reader's ability to form JTBs about the economic implications of Brexit. This failure of balanced reporting is, at least arguably, unjustifiable, leading to an epistemic rights violation perpetrated by withholding significant and relevant information. Withholding information that is essential to making an informed assessment of a claim is a violation of the reader's epistemic rights. Combined with the propagation of falsehoods and misinformation, the strategy of withholding

information facilitates and further deepens the widespread and systematic violation of epistemic rights in the media.

Agenda-setting

Agenda-setting, in the case of Brexit, represents a second-order epistemic rights violation. As noted, second-order epistemic rights violations arise indirectly from first order epistemic rights violations, as a result of the structure or system in which they are embedded. Rather than highlighting specific claims made in the mainstream media, agenda-setting refers to the structural role that the mainstream media plays in determining the political ‘agenda’ and in shaping public opinion with respect to the issues that arise within that agenda. As McCombs and Shaw (1972) argue in their seminal paper on the topic:

“In choosing and displaying news, editors, newsroom staff, and broadcasters play an important part in shaping political reality. Readers learn not only about a given issue, but also how much importance to attach to that issue from the amount of information in a news story and its position” (McCombs and Shaw, 1972, p.176).

Agenda-setting itself is a broad and complex issue within media ethics. The question of if and when it is objectionable on ethical grounds has been a topic of debate in this field for several decades (McCombs and Shaw 1977; Baumgartner and Jones 1993; Matsaganis and Payne 2005; Edwards and Cromwell 2006). Certainly agenda-setting does not always amount to an epistemic rights violation. For the present discussion, I will restrict the conditions under which agenda-setting constitutes an epistemic rights violation to those in which the agenda is one that is itself based on falsehoods and misinformation.¹⁹

Increased media attention on Turkish accession to the EU during the final weeks of pre-Brexit coverage provides a useful example of this kind of agenda-setting in the case of Brexit. As noted, negotiations for Turkish membership began in 2005 and had, therefore, been ongoing for eleven years at the time of the referendum. The prospects of Turkey joining the EU did not suddenly improve immediately prior to the referendum, just as they have not done since. It is plausible, therefore, that

¹⁹ Future work will address the conditions under which agenda-setting constitutes an epistemic rights violation in greater depth.

intense coverage given to this issue, at this time, was the result of editorial decisions to raise the profile of the Turkish application for EU membership in order to feed into a pro-Leave narrative in the run-up to Brexit. Likewise, many newspapers, gave prominent position to stories concerning negotiations to grant visa-free access to the Schengen Zone, for Turkish citizens. On 2 May 2016, for example, the *Daily Telegraph* ran a story on its homepage with the headline “75 million Turks on course for visa-free travel in EU”. Similarly, on 17 May 2016, a front-page headline in the paper’s print edition declared “Visa-free Turkey ‘terror threat’”. These stories, along with many like them, were given prominent space despite the fact that the UK is not part of the Schengen Zone and so any decision to grant visa-free travel for this area to Turkish citizens would have no direct impact on the UK, regardless of whether or not it remained in the EU. It is, again, plausible that coverage of the Schengen Zone negotiations was intended to corroborate and intensify the same pro-Leave narrative surrounding coverage of Turkish accession to the EU.

The prominent positioning and extensive coverage of these stories in the mainstream media in the run-up to Brexit provides compelling reason to regard this as agenda-setting. Support can be found by looking at a key finding from the Ipsos MORI survey mentioned at the start of this paper.²⁰ The survey found that, “Forty-five percent think it is true Turkey will be fast-tracked into the European Union and their population of 75 million people will have the right to free movement to the UK”. Given that the likelihood and imminence of Turkish accession to the EU was the focus of intense media coverage at the time of the survey, it is plausible that this media coverage contributed significantly to just under half of those surveyed believing that Turkey would, indeed, join the EU in the near future. Crucially, it was (and still is) false that Turkey will join the EU in the near future. This is what makes agenda-setting regarding the Turkish accession a form of second-order epistemic rights violation. It is the fact that justification for setting the agenda in this way cannot be found by appealing to epistemic goods that renders it an epistemic rights violation. The salience of the issue of Turkish accession to the EU was not based on information concerning any sudden or relevant change in the likelihood of Turkish accession, in the weeks immediately prior to the referendum. Rather, it was based on the propagation of falsehoods and misinformation concerning the likelihood of Turkish

²⁰ <https://www.ipsos-mori.com/researchpublications/researcharchive/3746/immigration-is-now-the-top-issue-for-voters-in-the-eu-referendum.aspx> [Accessed: 30 Nov 2016].

accession, in the weeks immediately prior to the referendum. As such, setting the agenda in this way is unjustified, constituting a second-order epistemic rights violation.²¹

Abuse of epistemic authority

Abuse of epistemic authority, in the case of Brexit, represents another form of second-order epistemic rights violation. As with agenda-setting, this violation arises not from claims made directly in and by the media, but as a result of the structure or system in which they are embedded. Specifically, the abuse of epistemic authority is made possible by the status afforded a given claim, or set of claims, within an epistemic community. When my doctor misinforms me about my blood-sugar levels, after I have been tested for diabetes, in order to laugh about it to herself later, she violates my right to this information, at the first-order level, by providing me with false information. In addition, she violates my right, at the second-order level, not merely by providing me with false information, but by abusing her position of epistemic authority with respect to that information. Not only does she have access to information about my blood-sugar levels, which I do not, but her role as my doctor makes it more likely that I will believe the information that she gives me regarding this. If a patient in the waiting room tells me that he has just seen my blood-sugar levels on my doctor's desk and shares the information with me, I am unlikely to simply believe him. I certainly wouldn't cancel my appointment and leave without getting the information from my doctor. Moreover, if the information my doctor gives me conflicts with the information I received in the waiting room, I would be very likely to dismiss the latter. If my doctor has misinformed me, then she has taken advantage of the added credence that I am likely to give to the information that she provides, amounting to an abuse of epistemic authority.²²

Just as my doctor, in this case, is in a position of epistemic authority with respect to my blood-sugar levels (and many aspects of my health), the mainstream media is in a position of epistemic authority with respect to societal and political issues and events. That is not simply to say that the mainstream media has access to privileged information concerning these, although journalists and editors often do

²¹ The same Ipsos MORI survey found that “just under half (47%) think it is true that Britain sends £350 million a week to the European Union compared to 39% who think it is false”. This provides support for the idea that intense media coverage of this claim also represents a case of agenda-setting, and ultimately, given that the claim itself is false, a second-order epistemic rights violation.

²² If my doctor provides me with accurate information concerning my blood sugar levels, then she has *exercised* but not abused her epistemic authority.

have access that the general public lacks, precisely because of their roles in mainstream media. In addition, this epistemic authority derives from the added credence that the mainstream media is granted with respect to claims concerning societal and political issues and events, precisely because of its role within democratic society to provide the public with an accurate and informative representation of these issues and events: such as the question of EU membership. In a functioning democratic society the mainstream media would be a reliable source of information on these issues. The existence of systematic first-order epistemic rights violations in the case of Brexit, however, indicates that the UK, at least, is not a functioning democratic society in this regard. Nonetheless, in the case of Brexit, the mainstream media still played a pivotal role in setting the political agenda and shaping public opinion, as indicated by the existence of agenda-setting. The mainstream media, in the run-up to Brexit, thereby enjoyed an unwarranted degree of epistemic authority in the UK, and, in particular, within the restricted epistemic communities of individual newspaper readerships. In essence, despite the widespread and systematic propagation of falsehoods and misinformation, and the withholding of (accurate) information, many people continued to believe what they read in the papers in the run-up to the EU referendum, and voted on this basis. A comment posted by one *Mail Online* reader, below the 29 April 2016 story, written by Michael Gove on the fabricated EU expansion, captures this well. The comment reads, “This has finally made my mind up - I shall be voting for Brexit.”

This abuse of epistemic authority is made possible by the status afforded a given claim, or set of claims, within an epistemic community. When a newspaper, such as the *Daily Mail*, misinforms its readers about, for example, the likelihood of Turkish accession to the EU, in order to feed in to a political narrative, it violates the readers’ rights to this information, at the first-order level, by providing them with false or misleading information. In addition, the paper violates its readers’ rights at the second-order level, not merely by providing them with false or misleading information, but by abusing its position of epistemic authority with respect to that information. Not only do journalists and editors at the *Daily Mail* plausibly have access to information about the likelihood of Turkish accession to the EU, which the paper’s readers do not, but the paper’s role within democratic society, as a source of information on precisely these kinds of issues, makes it more likely that its readers will believe the information that the paper provides. If a fellow member of society without the apparent epistemic authority of, say the elected government’s Justice Secretary, writing in one of the most widely read newspapers in the country, tells a reader of that paper that the claims made within it regarding Turkish accession to the EU are false, they are unlikely to be believed. At most, if particularly diligent, the

paper's reader might look to other sources with an equivalent degree of epistemic authority in order to confirm or disconfirm their beliefs on this issue and, upon doing so, in the case of Turkish accession to the EU, find large amounts of corroboration. If this information conflicts with the information received from a fellow member of society without the apparent epistemic authority of these, now multiple, sources, the *Daily Mail* reader would (I think, reasonably) be very likely to dismiss the latter. Crucially, if the paper has misinformed its readers about the likelihood of Turkish accession to the EU, then it has taken advantage of the added credence that they are likely to give to the information that it provides on this issue, amounting to an abuse of epistemic authority. The example, of course, is not hypothetical. Rather it *describes* a significant portion of mainstream media coverage during the run-up to Brexit. Second-order epistemic rights violations in the media, consisting in agenda-setting and the abuse of epistemic authority, compound and further systematize the first-order violations.

V. Role for contemporary epistemology

The existence of systematic epistemic rights violations in the mainstream media in the run-up to Brexit presents a real and pressing challenge for contemporary epistemology. This is particularly so if the case of Brexit is taken to be symptomatic of national and international media discourse in the twenty-first century, as I believe it should be. One does not have to look far to find evidence for this: international media coverage of September 11th 2001, the Iraq War 2003, the financial crisis of 2007, the ongoing climate change crisis, and coverage of the 2016 US election are just some of the more prominent examples of the past two decades. That is to say nothing of the media's approach towards and coverage of more personal and private tragedies and injustices. Numerous questions arise from the consideration of epistemic rights violations perpetrated by the media industry for contemporary epistemologists, particularly those concerned with intellectual virtues and the social role of epistemic goods such as knowledge and information. Which intellectual virtues are required in order to reduce epistemic rights violations in the media? Can we, and should we, educate or train for these, in schools, in journalism colleges, or in the media industry itself? Where do responsibilities for belief-formation lie – with individuals consuming mainstream media sources, with the media sources, or both? If the latter, where and how do we draw the line between individual and industry responsibilities for epistemic rights violations? The media frequently mishandles information and propagates falsehoods. Can it therefore be characterized as a defective (if not fully unreliable) belief-forming mechanism? Which media sources are bound by a duty to provide an accurate and informative representation, as

opposed to a speculative, entertaining, or fictionalized one? Most glossy magazines in the UK are signed up to the IPSO ‘Editor’s Code of Practice’. Can they realistically be held to account over inaccuracies and misinformation, and should they be subject to the same guidelines as news media? What role does testimony play in the perpetration of epistemic rights violations? What distinctive forms of epistemic injustice are perpetrated by the media industry? These questions, and many others, can be addressed by epistemologists, through the further investigation of epistemic rights and epistemic rights violations in the media.

While there is not space to address any of these questions individually here, it is worth noting two broad approaches to questions such as these, regarding systematic epistemic rights violations in the media. The first concerns the orientation of the media industry towards epistemic goods. This approach primarily addresses first-order epistemic rights violations, drawing on the resources of contemporary virtue and social epistemology to identify and provide tools for the education of intellectually virtuous and socially responsible media practices, based on the recognition of epistemic rights and epistemic rights violations. Identifying these practices and incorporating education or training for these, in schools of journalism, or in the media industry itself, offers one means of highlighting and working towards the reduction of epistemic rights violations in the media. Likewise, further analysis of epistemic rights and epistemic rights violations may provide a useful conceptual framework for improving the implementation and effectiveness of existing media regulation and legislation, as well as suggesting new regulation and legislation, also aimed at reducing epistemic rights violations in the media. The second approach concerns the orientation of the public towards the media. This approach primarily addresses second-order epistemic rights violations, drawing again on the resources of contemporary epistemology to identify the intellectual skills, virtues, and practices, required within the general population to effectively navigate, consume, and critique media sources. This approach aims at reducing systematic epistemic rights violations in the media by educating citizens in best practices for the critical identification and autonomous pursuit of epistemic goods. Both approaches operating in tandem constitutes, I believe, the most promising means of addressing an issue of increasing and pressing urgency in the twenty-first century. This represents a critical challenge for contemporary epistemology.

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