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Theorizing Epistemic Injustice: Three Essays

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Theorizing Epistemic Injustice: Three Essays

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of the
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Introduction

This thesis consists of three essays on the concept of epistemic injustice, an only partly charted territory at the intersection of epistemology and ethics. Each essay stands on its own (although Paper 3 borrows a concept introduced in Paper 1) and expands on a problem in theorizing about epistemic injustice, a term first coined by Miranda Fricker in *Epistemic Injustice: Knowledge and the Ethics of Knowledge* (2007). To challenge the ethics of our epistemic practices and interactions, Fricker focuses on two cases where we wrong others in their capacity as knowers: testimonial and hermeneutical injustice. The former focuses on how prejudice affects someone's credibility, while the latter negatively affects her ability to make sense of her social experiences.

Paper 1, "Interpreting Distributive Epistemic Injustice," asks whether there is a third kind of injustice that is distinctively epistemic. Testimonial and hermeneutical injustice are forms of discriminatory epistemic injustice, as prejudice against the speaker's identity affects their ability to communicate. In this paper, I examine the idea that there is also a form of distributive epistemic injustice, concerning the distribution of knowledge. The main challenge this paper takes on is defining the kind of knowledge that would be so essential to any knower that not possessing it would be considered a form of injustice. I examine some possibilities of the kinds of knowledge distributive that epistemic injustice might cover, before arguing that it involves propositions that enable personal autonomy and political freedom.

In Paper 2, "The Wrong(s) of Testimonial Injustice", I focus on the type of epistemic injustice that occupies most of Fricker's monograph, testimonial injustice. This type of injustice occurs when prejudice regarding someone's identity causes her testimony to be perceived as false or insincere. There is a largely overlooked gap in Fricker's account on the exact nature of

the wrong of testimonial injustice. I closely examine the relationship between the wrong of being excluded from the sharing and pooling of knowledge and what Fricker calls ‘epistemic objectification’. While Fricker does not sufficiently clarify the relationship between these wrongs, I argue that in her work they are essentially connected. I draw them apart through her examples of Marge from *The Talented Mr. Ripley* and Tom Robinson from *To Kill a Mockingbird*.

The first case of testimonial injustice is caused by Marge’s perceived epistemic incompetence (a case I call ‘*Oh sweetie*’), while the second by Tom’s perceived immorality (a case of *Bad Hombres*). I argue that while victims of ‘*Oh sweetie*’ suffer from epistemic objectification, victims of *Bad Hombres* do not. This will lead into a discussion of how other harms, i.e. practical harms, such as unfair punishment, figure into testimonial injustice.

Finally, in Paper 3, “Epistemic Justice as a Tool for Reconciliation: Lessons from South Africa” I turn to how epistemic justice fits in with other notions of justice. In this paper, I offer a partial defense of the South African Truth and Reconciliation Commission (TRC) on the ground that it furthered epistemic justice, in all three forms I have discussed. Even though two decades have passed since the South African TRC was in operation (1996-1999), it is still a fascinating example of an institutionalized effort to remedy past injustices. While the TRC has been debated and defended through the lenses of retributive and restorative justice, this novel notion of epistemic justice has not been applied to it before. I argue that, among the various political and moral ends the TRC pursued, it also had clear epistemic goals. Furthermore, these epistemic goals fit in with a perspective of transformative justice, that aims at creating stable relationships among parties with a fraught past.

Epistemic injustice is essentially a study of where identity and power intersect with knowledge, morality and politics. Fricker’s introduction of the negative space of epistemic

injustice offers a novel lens to regard various cases of epistemic exclusion. Much of the literature has so far focused on expanding the application of her concept and has provided invaluable insights into epistemic exclusions that went previously unnoticed as epistemic harms. I am hoping that we will continue with challenging and pushing the theory of what it means to be wronged as a knower.

Paper 1

Interpreting Distributive Epistemic Injustice

This essay builds on Miranda Fricker's idea that there is a kind of injustice that is distinctively epistemic. In her influential book, *Epistemic Injustice: Power and the Ethics of Knowing* (2007), Fricker defines the concept of discriminatory epistemic injustice. Its two sub-branches, testimonial injustice and hermeneutical injustice, describe the effect of prejudice on the perceived credibility and intelligibility of speakers. David Coady has since introduced a third kind of epistemic injustice, 'distributive epistemic injustice' (2010). This involves the unjust distribution of epistemic goods, which Coady defines as education and information. Although Fricker has recently acknowledged the existence of this form of injustice (2013), she has so far said little about it. In what follows, I will closely examine the notion of distributive epistemic justice in respect to the distribution of knowledge and how this conception of the wrong fits within Fricker's original account. After an investigation into the kinds of knowledge distributive epistemic injustice could cover, I will draw from Rawls' to argue that it involves knowledge that enables personal autonomy and political freedom.

Discriminatory Epistemic Injustice

Miranda Fricker largely initiated the debate on what constitutes epistemic injustice, with *Epistemic Injustice* (2007), where she explores the proposition that there is a "distinctively epistemic kind of injustice", in which an individual is wronged specifically in her capacity as a knower (2007:1). The first possibility she briefly entertains in fleshing out this idea, concerns the distribution of epistemic goods, or resources that enable access to knowledge, such as education

or information. Her intuition to turn to this kind of injustice is justified; after all, knowing is the primary function of knowers, so being prevented from attaining knowledge naturally sounds like an injustice one suffers *qua* knower. However, Fricker quickly dismisses this form of epistemic injustice, on the grounds that “there seems to be nothing very distinctly epistemic about it, for it seems largely incidental that the good in question can be characterized as an epistemic good” (2007:1). This is a surprising conclusion, since, as Coady argues, it is strange to claim that education is only incidentally epistemic, as transmitting knowledge is arguably its primary purpose (2010:101).

Instead, in *Epistemic Injustice*, Fricker focuses on two other kinds of epistemic injustice that result in ‘epistemic objectification’. The first one is testimonial injustice, which adversely affects one’s ability to communicate knowledge to others. When a person suffers from testimonial injustice, her assertions are given unjustly low weight because of stereotypes associated with her identity and thus she is wronged in her capacity as an informant. An illuminating example from Fricker’s book is Tom Robinson’s trial from *To Kill a Mockingbird*, which she employs to expose the effects of prejudice on an agent’s perception as a sincere and competent knower. Tom’s testimony of innocence is not perceived as truthful by the all-white audience, because of their identity prejudice against black people.

Fricker argues that what makes Tom’s treatment an injustice is its implication for his status as an informant; more specifically, the implication that he does not count as one. Fricker draws from Kant to clarify the distinction between being an informant and a source of information. An informant might be used as a means to get information, but they will still be treated in a manner that does not deny that they are a subject. In contrast, a source of information is treated as a mere object, without any acknowledgment of their subjectivity

(Fricker, 2007:133). Thus, when we say that someone is suffering a distinctively epistemic kind of injustice through testimonial injustice, what we mean is that they are excluded from participating in the sharing of knowledge. Or, as Fricker graphically put it, “in confining them to their entirely passive capacity as a source of information, it relegates them to the same epistemic status as a felled tree whose age one might glean from the number of rings” (Fricker, 2007:132-133).

The second kind of epistemic injustice Fricker identifies is hermeneutical injustice, which describes the structural wrong that results in a “gap in collective interpretive resources [that] puts someone at an unfair disadvantage when it comes to making sense of their social experiences” (2007:3). The example occupying most of the chapter is sexual harassment. Before the term became part of our society’s pool of hermeneutical resources, women were “cognitively disabled” from understanding a patch of their own experience (2007:151).

Fricker cites an example from Susan Brownmiller’s memoir of the women’s liberation movement, about the experience of a woman called Carmita Wood. In this story, Wood was subject to unwanted sexual advances by her boss but at the time she did not have the vocabulary to express what was bothering her. It was not until she discussed it with other women that they all realized, “every one of us [...] had had an experience like this at some point, you know? And none of us had ever told anyone before. It was one of those *click, aha!* moments, a profound revelation” (Fricker 2007:150). The initial symptom of hermeneutical injustice is the inability to gain an understanding of your own experience because the concept(s) needed to do so are not widespread in the society you are part of. Hence, the next step is coining a term for what you are experiencing, in order to be able to communicate it effectively to others. In Fricker’s example,

someone comes up with the name of “sexual harassment” and it is presented as a moment of revelation among the women (ibid).

This disablement is clearly problematic: by not being able to fully comprehend that you are suffering from sexual harassment, you do not have the means to make yourself heard and seek help. But Fricker’s argument is that there is also something beyond these negative consequences that makes hermeneutical injustice an injustice. As she points out, the primary harm of both kinds of injustice is the exclusion from the pooling of knowledge: in the case of testimonial injustice, due to identity prejudice on the part of the hearer, and in hermeneutical injustice due to structural identity prejudice (2007:162). According to Fricker, women’s exclusion from society’s meaning-making processes on the basis of their gender prevented them from being able to articulate what sexual harassment is and how it affected them. Their inability to participate in the epistemic process of adding understanding to society’s ‘pool’ of knowledge constitutes an epistemic injustice in its own right.

Fricker’s definition of epistemic injustice has been mostly accepted by other philosophers, with most criticism coming in the form of friendly amendments. Some have commented that her conception of the wrong is overly focused on interpersonal interaction, instead of situating the injustice in structural causes. For instance, Elizabeth Anderson (2012) has asked how the virtue of epistemic justice Fricker has advocated for could be applied to social institutions. José Medina (2013) also pushed for a more politically oriented conception of epistemic injustice and urged for grassroots organizing as a way to combat its effects. These scholars have accepted Fricker’s premise that one can be epistemically wronged by not being able to participate in sharing knowledge and by not being fully treated as a knower.

Here, I am concerned with a different criticism: was Fricker right to sideline in her early work the third kind of epistemic injustice that involves access to epistemic goods? Her own answer is no: in a 2013 paper she acknowledges that in addition to ‘discriminatory epistemic injustice’, which consists of testimonial and hermeneutical injustice, there is also ‘distributive epistemic injustice’, which she defines as “the unfair distribution of epistemic goods such as education or information” (2012:1318). She offers a very brief justification for this omission: “the importance of access to such goods [...] has long been an accepted feature of liberal conceptions of social justice”, whereas the concept of the discriminatory kind was more novel at the time (ibid). While it is true that social justice has long been occupied with access to education, Fricker’s omission warrants an analysis that explains why distributive epistemic justice is a wrong *qua* knower, in a similar way to discriminatory epistemic injustice. Before discussing this third kind of epistemic injustice in detail, I will make one preliminary suggestion. I think that Fricker is mistaken in selecting education and information as the relevant goods to be distributed. Both seem important, from an epistemic perspective, only insofar as they promote the good of knowledge¹. In the discussion to follow, I will focus more directly on knowledge as that fundamental good².

¹ I do not believe Fricker would object to prioritizing knowledge as an epistemic good. She offers a discussion of Edward Craig’s *Knowledge and the State of Nature*, in order to establish the “politics of epistemic life” (2007:130). In his genealogy, for an epistemic life to come into existence, three stages are required: (1) possessing enough knowledge to facilitate survival; (2) sharing and pooling information with others; (3) encouraging dispositions that build relations of trust (Fricker, 2007:109-11). We are not currently in a state of nature, as Craig presupposes, so we might want to expand on the first condition and think about the knowledge that would facilitate *social* survival (or even flourishing). What is meant here by social survival is multi-faceted and heavily depends on the theory of social philosophy one might find compelling. It suffices here to accept that some kind of knowledge is needed by socially situated knowers.

² We should also ask if there are there any other epistemic goods we should consider besides knowledge. In a forthcoming paper, Coady provides an affirmative answer to that question. He argues that the division of epistemic injustice into ‘discriminatory’ and ‘distributive’ components is flawed, as both types of injustice are concerned with the distribution of epistemic goods. He presents credibility and intelligibility as goods to be distributed, “like wealth, healthcare, education, or information” (2017). However, unlike in the case of knowledge, it seems difficult to make the case that the distribution of such goods is fundamentally a problem of distributive

Distributive Epistemic Justice

David Coady's first articulation of distributive epistemic injustice was presented in 'Two Kinds of Epistemic Injustice' (2010), where he also takes the good in question to be knowledge instead of education and information: someone suffers from distributive epistemic injustice when she is unjustly deprived of knowledge. What would constitute an unfair distribution? One possibility is to claim that all justice requires is that we maximize knowledge, defined as true beliefs. However, this proposal is very implausible. For illustration, I will use a 0-1 scale, where true belief has the value of 1.0, ignorance of 0.5, and error of 0 (see Goldman, 1999:89). I will use a very simplified version of this scale to prove that there are indeed questions of distribution that need to be addressed and illustrate three different considerations that a distributive theory of epistemic justice should cover. Take here four persons S at three different times t . The value shows where they stand epistemically in regard to true belief P (1.0 would be certainty in the truth of P , while 0.0 certainty in the falsity of P).

justice. The difference seems to be that there is a way to control the distribution of knowledge, through epistemic practices that make it available. On the other hand, it seems unlikely that there is a way to distribute intelligibility and credibility, besides Orwellian mind games. One could argue that these goods can be distributed indirectly, by means such as education. I will not pursue this argument further, since I want to focus on the epistemic good that Fricker has not yet discussed in detail, but I am not, however, excluding the possibility that there might be some other epistemic goods that would be suitable objects of distributive epistemic justice.

³ I will follow Goldman and Coady here and sidestep the debate on whether true belief needs to be justified to count as knowledge. This is partly for simplicity, so as to not detract from the main focus of this essay, partly because I agree with Goldman that there is a meaningful weak definition of knowledge in this context. As he has argued, people generally aim at being being "*informed* (have true belief) rather than *misinformed* or *uninformed*. The usual route to true belief, of course, is to obtain some kind of evidence that points to the true proposition and away from rivals. But the rationale for getting such evidence is to get true belief" (1999:24). If we assume that P is true, then all that is required for someone to know it, is for them to believe it.

	t_0	t_1	t_2
S_1	0.2	0.1	0.6
S_2	0.4	0.1	0.5
S_3	0.6	0.9	0.5
S_4	0.8	0.9	0.4
<i>Total</i>	2.0	2.0	2.0

In t_0 , one person is close to being in error, two in ignorance and one close to true belief. Moving from t_0 to t_1 , the two people on the lower end became worse off in terms of knowledge, while the two on the higher end became better off, in the sense that they acquired a true belief. From t_0 to t_2 , everyone is closer to ignorance, which is assumed to be better than error. If we just simply aggregate these values, all three states appear to be equivalent⁴. They do not, however, seem to be equivalent from the perspective of justice. Through a similar example, Coady concludes that if maximization is unsatisfactory, there must be valid concerns about distributive fairness. I want to add to this critique two more questions: (i) is it unjust when persons fail to have knowledge they are entitled to, or have a right to? and (ii) do our assessments of distributive epistemic justice rightly depend on whether P is a trivial or, as I will call it, ‘valuable’ belief? Finally, I want to consider (iii) how the questions discussed here connect with more familiar concerns of distributive fairness, as treated in Rawlsian accounts of distributive justice. I will argue that a conception of distributive epistemic injustice should concern itself with all three of these questions, which I will now consider in turn.

⁴ Coady expands on whether there is a meaningful reason to rank ignorance above error but it is not essential for our purposes.

I. The Right to Know

Coady connects his idea that there is a distributive kind of epistemic injustice to the ‘right to know’, which ordinary thought about rights already encompasses (2010:105). It is an established principle of justice that people should be treated in accordance with their rights and deserts and it is plausible that an unfair distribution of knowledge often leaves some ignorant or in error about things they are entitled to know. I can think of three possible cases: (i) the right to know facts about oneself, (ii) the right to know facts about communities or societies of which one is a part, and—drawing these two concerns together—(iii) the right to know how one is positioned in their social context. There are a number of debated examples for (i), including the right to know the state of your health, your genetic origins, and whether or not your friends like you (Ravitsky 2014, Leighton 2014, et al). For case (ii), we can think of rights to know the laws, social rules and historical facts that allow you to understand the nature of your society or community, for instance, how your country’s legal system functions. Finally, (iii) involves knowing your position in relation to other members of your society, both in historical, as well as generally comparative terms, and the relations of power affecting you. For instance, women arguably have a right to know that they earn less than men and to have an understanding of the causes of this situation.

In all of these examples, lack of the relevant knowledge is liable to cause significant disadvantages. The question remains, however, whether such disadvantages are properly understood as injustices. In order to answer this question, I will consider examples of the three cases I offer in turn. In the first case, there is a heated debate underway about whether there is a right to know your genetic origins through DNA testing (Ravitsky 2014, Leighton 2014, et al). The main claim in support of this right is autonomy: in Ravitsky’s argument concerning gamete

donors, “donor-conceived individuals should be able to choose autonomously what meaning they assign to the component of genetic relatedness in the construction of some of the most fundamental relationships in their lives and in their understanding of kinship” (2012:37). According to her, individuals value the knowledge of their genetic origins because it allows them to make informed decisions regarding their relations with others. We can add to this the physiological information that is made available through genetic testing. Arguably, one has a right to know if one is prone to certain preventable diseases. In this sense, the right to know enables individuals to act in their best interest by being adequately informed about their physical state.

However, there are several scenarios where individuals lack this knowledge but no injustice is taking place. For example, my great-grandfather might have been a carrier for genes responsible for Alzheimer’s disease. Unfortunately, my great-grandfather died in his early thirties, so he never had Alzheimer’s. Additionally, I have never had my DNA screened, so it would be impossible to determine whether I carry the gene or not. In this case, no one has the knowledge that would be in my interest to know, so no one is preventing me from accessing it. Therefore, a preliminary formulation of what would constitute an injustice in this case demands, at the least, that (1) the information I am entitled to know is available, (2) someone is preventing me from knowing that information, and (3) they are doing so on unjust grounds⁶. As far as

⁵ More needs to be said what would constitute ‘prevention’. A weak reading could be that it is an injustice if someone actively prevents you from knowing, for example by lying to you. On a stronger reading an injustice could occur if you are not provided with the necessary tools to attain this knowledge. On this account, being excluded from forums where this knowledge is available constitutes an injustice.

⁶ What would qualify as ‘unjust grounds’ warrants a separate essay in its own right. I can offer some possibilities here; firstly, the injustice might be on historical-causal reasons, i.e. if my prevention from knowing the information in question is a direct result of unjust background conditions. Another possibility is concerns the effects of this prevention, for example if it reinforces other inequalities or supports objectionable stigma. This is by no means exhaustive, but a suggestion on how future scholarship on the issue could proceed.

knowing facts about yourself is concerned, you are entitled to know what would enable you to act freely and autonomously, where this requires being appropriately and adequately informed.

Propositions that fall under category (ii) similarly enable you to act in a free and informed manner. Knowing your country's laws is essential to preserve your liberty, while understanding the historical context you are operating within informs your decisions and could prevent you from getting coerced into acting in a certain way. The right to know in case (ii) is subject to the same conditions. Information about social institutions is generally available and most democratic nations demand some level of transparency regarding their function. It would be considered an injustice if someone was unaware about the laws of their country because of the penalties they might face. For sure, if you were never taught that burning your country's flag is illegal and then got arrested for doing so, that would be an injustice. Similarly, if you were never told that you can run for office and as a result feel politically powerless, that would also constitute an injustice. Referring back to the criteria I formulated above, (1) the information is available, since it is part of the legal code. The examples I gave would constitute an unjust prevention⁷, in accordance to criterion (2), through exclusion from participating in forums where this information could be communicated. But what kind of exclusion would be on unjust grounds, (3)? In this example it appears that any kind of exclusion would count as unjust. On contract theory grounds, it is plausible that citizens are entitled to have certain forms of knowledge in order to validly consent to being part of a society or nation and for the state's rule over them to be legitimate. Therefore, this kind of knowledge is valuable in that it allows you to fully and freely participate in your society, thereby ensuring some kind of political freedom.

⁷ See footnote 4. Being actively prevented from receiving proper education, i.e. through segregation laws, would certainly count as an unjust prevention. However, one might object that if it just happened that you do not know, then it is merely an unfortunate omission.

Finally, in the third case, you are arguably entitled to those forms of knowledge about your place in society that are necessary for you to act in an autonomous manner. For instance, Walker advocates for a right to truth in post-conflict societies, as a way to restore relationships of trust within and among nations (2010). She argues that truth-telling can empower the victims and thus allow them to participate more fully and autonomously in their societies (2010:537). The truth and reconciliation commissions that aim at uncovering the truth in post-conflict nations, such as South Africa, provide an example of what Walker has in mind. Nelson Mandela initiated the South African commission with the intent of making public the crimes committed during apartheid and achieving racial reconciliation through shared recognition of the reality of oppression. The three conditions I have highlighted are clearly satisfied in this case. (1) As the work of the commission has demonstrated, the relevant information was available and South Africans were entitled to know it, since it would allow them to act in their best interest; (2) the apartheid regime had prevented its citizens from having this knowledge, by not making it public, and (3) the regime had concealed the relevant information on unjust grounds, in order to suppress legitimate political resistance and demands for reparations.

I lack the space to go into the complexities of each of these debates in detail. But I believe I have said enough here to motivate my central claim, which is that the distributive component of epistemic justice is plausibly partly a matter of ensuring that people's rights to certain kinds of knowledge are satisfied. Specifically, what appears to be at stake here is personal autonomy and political freedom, as informed participation.

II. Intrinsically Valuable Knowledge

Referring back to the table I used earlier, if P were the number of chairs in the city of Boston, we would probably consider it completely insignificant that S_1 is in error about P , while S_2 holds that knowledge. But, what if P were the true nature of dark matter? If we assume that knowledge of the nature of dark matter would suddenly enable us to cure certain diseases or have some other significant practical consequence, it might be covered by the right to know discussed above. But even if it did not have any major practical implications, there might be an epistemic injustice simply because some people know the answer and others do not. The previous section covered knowledge that has the instrumental purpose of establishing autonomy. In what follows, I will consider some possibilities concerning what could count as ‘intrinsically valuable knowledge’ and what kind of distribution would be unjust.

The first candidate comes from Goldman (1999), who claims that knowledge holds intrinsic value according to a principle of ‘interest’. He interprets such knowledge as including three kinds of propositions: (1) answers to questions the agent finds interesting, (2) answers to propositions the agent would find interesting, had they thought of them, and (3) answers to questions it would be in the agent’s interest to know (i.e. how the legal system works) (Goldman 1999:94). The third category is already covered by my earlier discussion of the ‘right to know’ so I will ignore it in this section. At first sight, the criterion of ‘interest’ seems promising, since the value of some forms of knowledge clearly depends on my preferences and interests. But this categorization does not allow us to accommodate the fact that we intuitively consider knowledge of some propositions more valuable than knowledge of others. For instance, I might be very interested in knowing the exact number of chairs in the city of Boston, whereas someone else might have an equally strong interest in knowing the nature of dark matter. If we follow Goldman’s classification, there is no way to argue that knowledge of the latter proposition is

more important than knowledge of the former, since they are both considered equally valuable according to his interest-criterion. Yet this seems counter-intuitive.

Perhaps the intuition that knowing the nature of dark matter is valuable in a way that knowing the number of chairs in Boston is not, is based on the notion of understanding. Forming a true belief about dark matter would likely offer me an understanding of the world that forming a belief about the number of chairs would not. Thomas Hurka has argued that there is knowledge that is good to have, regardless of its usefulness or individuals' degree of interest in it, and that some kinds of knowledge are better than others (2011:77). He argues that "knowing a law of nature is significantly good apart from any further benefits it brings; so is understanding a close friend's character, but knowing the number of blades of grass on your lawn isn't" (2011:76). It is generally preferable to know things with great explanatory power, since they enable us to attain more true beliefs. For instance, the pursuit of a grand unified theory of physics, a strong metaphysical theory, or the knowledge of God are motivated by their potential to explain a lot more. The more explanatory power a proposition has, whether it is an abstract theorem or knowledge that leads to many particular facts, the more valuable it is to knowers (2011:83). This view is enticing: it is intuitively of great benefit to have true beliefs that would enable you to have more true beliefs. It would be a misfortune if you never found out about the laws of the universe, as it would put you at an epistemic disadvantage.

But, as I noted earlier, disadvantage does not always constitute injustice. Understanding of the world might be intrinsically valuable and greatly beneficial but that does not necessarily mean that principles of distributive justice should be applied to it. For example, friendship is arguably intrinsically valuable, but it seems unlikely that its distribution should be subject to principles of justice. Arguably, there is something troubling about a society where knowledge is

concentrated unevenly—we might think that it is concerning if some have a deep understanding of their environment, for instance, while others do not. However, we should not leap to the conclusion that what makes such a situation troubling is that it constitutes an unjust distribution of an intrinsically valuable good. Instead, the wrong at issue might be more indirect in nature. For instance, if the wealthy know more than the poor, we might think that it is an injustice as long as it upholds the independently unjust status quo and/or is a consequence of it. I cannot fully dismiss the idea here that epistemic injustice might be present when intrinsically valuable knowledge is unevenly distributed. But I believe that the more plausible source of injustice is of this second, more instrumental kind, to which I now turn.

III. Distributive Epistemic Justice as Fairness

A helpful framework for thinking about knowledge as an instrumental good and the implications of its distribution is through Rawls' theory of distributive justice. Rawls' theory starts from the premise that justice should be informed by the needs and interests of the members of a free democratic society (Pogge, 2007:54). He proposes three such interests: (1) developing a capacity for a sense of justice and (2) a capacity for a conception of the good, as well as (3) the interest in being successful in the terms of the particular conception of the good one has chosen (Pogge, 2007:55). From the three interests he identifies, he formulates a list of primary social goods, which constitute the all-purpose means that are necessary to develop (1) and (2) and ensure (3). These primary goods are “things that it is supposed a rational man wants whatever else he wants. Regardless of what an individual's rational plans are in detail, it is assumed that there are various things which he would prefer more of rather than less” (Rawls, 1971:92). These goods include:

- (a) certain rights and liberties (e.g. “freedom of thought and liberty of conscience); political liberties (for example, the right to vote and to participate in politics) and freedom of association, as well as the rights and liberties specified by the liberty and integrity (physical and psychological) of the person; and finally, the rights and liberties covered by the rule of law” (Rawls, 2001:44)
- (b) freedom of movement and free choice of occupation;
- (c) powers and prerogatives of offices;
- (d) income and wealth;
- (e) the residual social bases of self-respect (Pogge, 2007:73, Rawls 1971:92-98).

Rawls’ theory of distributive justice is designed to regulate the distribution of these goods. It can be summed up in the claim that “All social values—liberty and opportunity, income and wealth, and the bases of self-respect—are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone’s advantage” (Rawls, 1971:62). This is more explicitly formulated in his two principles (the first of which has lexical priority over the second):

First Principle: “Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all”

Second Principle: “Social and economic inequalities are to satisfy two conditions:

- (2a) They are to be attached to offices and positions open to all under conditions of fair equality of opportunity;
- (2b) They are to be to the greatest benefit of the least-advantaged members of society (the difference principle)” (Rawls, 2001:42–43)

How might distributive epistemic justice relate to these principles? The first possibility is that distributive epistemic injustice violates certain rights and liberties that all citizens are entitled to under the First Principle. Although Rawls does not offer an exhaustive list of the rights and liberties guaranteed under the First Principle, their aim to ensure freedom and equal political participation. The political liberties are fairly straightforward: being able to vote, participate in politics, owning property, not being subject to arbitrary arrest (Rawls, 1999:61). In order to have these rights, one must be aware of them and able to defend them. This reminds us of the second and third examples of the right to know: one has the right to know facts about communities or societies of which one is a part, as well as how one is positioned in society. For instance, one needs to know that she has a right to vote, in addition to knowing what is in her best interest, based on her social position. Besides political liberties, Rawls also refers to physical and psychological integrity, in addition to liberty of conscience and thought. This can be understood as freedom from interference in regards to one's own body and mind, but there is also a plausible sense where integrity includes some degree of self-knowledge, as explained by the first case of the right to know. The rational man would want to have some understanding of his psychological and physical state. In this sense, the aim would be to guarantee autonomy, as the ability to act in an informed manner within their social context.

Autonomy in the context of a democratic society requires unrestrained social and political participation, which involves awareness of a wide range of propositions. Unequal distributions of knowledge, therefore, can violate the first part of Rawls' Second Principle, (2a), which is concerned with equality of opportunity. As Rawls has explained, this principle requires society to "establish, among other things, equal opportunities of education for all regardless of family income" (2001:44). This is necessary, in part, because education conditions access to

other privileged social roles and positions. Even though education has a number of social and political benefits, i.e. exposure to different views, socialization, and learning civic duties, Rawls' focus on education suggests that unequal knowledge can undermine equal access to social positions. Knowledge of institutions, laws, and facts heavily influences the opportunities that are available to individuals. It is difficult to specify here exactly what kind of propositions we are concerned with, as knowledge consists of more than mere propositional statements: it also includes gaining understanding and skills. It suffices to acknowledge that education is not only incidentally epistemic as Fricker has argued, but essentially so, and that it is necessary to ensure equal and free social and political participation.

Rawls' theory of justice as fairness might not directly address the distribution of knowledge, but his principles are helpful in defining how distributive epistemic justice affects our social and personal lives. We, therefore, have a tentative definition of distributive epistemic injustice:

Distributive epistemic injustice is the injustice of being unjustly deprived of knowledge that would ensure a right to autonomy, including physical and psychological integrity, and political freedom, through equal social and political participation.

Final Questions

Clearly this injustice, as just defined, is related to the distribution of knowledge but would Fricker accept it as an instance of epistemic injustice, or as she puts it, a wrong someone suffers *qua* knower? The formulation of distributive epistemic injustice above presents distributive epistemic injustice as a primarily social and political harm—you are not necessarily suffering in your capacity as a knower, but rather as a member of society. However, Fricker

follows a very specific definition of the socially situated knower. She draws from Edward Craig's *Knowledge and the State of Nature*, in order to construct the knower as primarily an informant in the "politics of epistemic life" (2007:130). She considers, therefore, that to be wronged *qua* knower is to be excluded from participating in the sharing of information. Does my formulation of distributive epistemic injustice result in a similar kind of harm? Perhaps—arguably, in order to participate in the sharing of knowledge, you must know certain propositions. It is not clear, however, whether propositions that would allow you to attain the liberties specified above are necessary knowledge for you to be an informant. At the same time, it is not obvious why this is the only way one can be harmed *qua* knower. Being deprived of knowledge, regardless of its instrumental purposes, is an epistemic issue. Thus, it does not seem unreasonable to call it epistemic injustice. If we do concede that it is indeed epistemic injustice, we need a broader definition of what it means to be wronged in virtue of being a knower.

Another lingering question concerns what I have so far defined as knowledge. For the sake of simplicity, I have assumed that knowledge concerns propositions. However, in my discussion of distributive epistemic injustice in the context of Rawls' theory of justice, it became obvious that knowledge of propositions alone does not take us very far in securing autonomy and liberties. The discussion on distributive epistemic injustice would benefit from a more detailed discussion of how additional forms of knowledge, i.e. including practical skills, contribute to political freedom and autonomy.

Conclusion

Similar to discriminatory epistemic injustice, the distributive variety of the wrong affects the socially situated knower. Whereas the first kind Fricker introduced constitutes a wrong

insofar one's ability to comprehend and communicate her own experience is compromised, distributive epistemic injustice affects one's autonomy and ability to fully and freely participate in society. This wrong occurs when individuals are unjustly ignorant or in error about propositions that would inform and enable their participation. Even though Fricker (2013) has already argued that epistemic justice is a condition of political freedom, as it is crucial to establishing non-interference, my reconstruction of distributive epistemic injustice presents a different (but compatible with Fricker's) picture of how epistemic injustice affects us *qua* members of society. I argue that distributive epistemic justice is a wrong insofar it undermines political freedom, as well as personal autonomy. We still need a clearer understanding of the kinds of knowledge, beyond propositional knowledge, and the conditions under which their ignorance is unjust.

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Paper 2

The Wrong(s) of Testimonial Injustice

In her pioneering monograph, *Epistemic Injustice: Power and the Ethics of Knowing*, Miranda Fricker aims to define “a distinctively epistemic kind of injustice [...] consisting, most fundamentally, in a wrong done to someone specifically in their capacity as a knower” (2007:1). She calls this kind of wrong ‘epistemic injustice’ and it tracks the effects of prejudice on “two of our most basic everyday epistemic practices: conveying knowledge to others by telling them, and making sense of our own social experiences” (2007:2). Fricker considers two distinct but interrelated forms that epistemic injustice can take: testimonial and hermeneutical injustice. Testimonial injustice occurs when the prejudice of an interlocutor causes a speaker’s testimony to be perceived as false or insincere. Hermeneutical injustice, on the other hand, occurs when a “gap in collective interpretive resources puts someone at an unfair disadvantage when it comes to making sense of their social experiences” (2007:3). In this essay I am concerned with the first kind of epistemic injustice, testimonial injustice. Testimonial injustice takes up most of Fricker’s monograph and describes the injustice when “prejudice causes a hearer to give a deflated level of credibility to a speaker’s word” (2007:1). Identity-based prejudice leads to epistemic dysfunction, as someone is perceived as unfairly not credible due to stereotypes associated with her identity.

This essay examines how the wrong can take two distinct forms depending on the prejudice that enables it: prejudice that relates to the speaker’s competence (cases that I will call *Oh, sweetie*) and prejudice that relates to his sincerity (which I will call *Bad Hombres*). Before I move on the specifics of each case, I will spend some time explaining what makes epistemic

injustice an injustice and making clear what the ensuing wrongs are. I identify two in Fricker's work: (1) the wrong of exclusion from epistemic practices and (2) the wrong of epistemic objectification. Fricker does not explicitly state the relationship between the two wrongs but her conception of the knower as essentially socially-situated suggests that (2) is essentially connected to (1). I argue through the example of *Bad Hombres* that this is not always the case. Therefore, testimonial injustice will often occur when someone is wrongfully excluded from the sharing and pooling of knowledge, even if they do not suffer the ontological violation of epistemic objectification. In this case, what Fricker defines as the secondary harms of testimonial injustice are what make the exclusion wrongful. By removing this more demanding requirement on testimonial injustice, we could potentially identify previously unrecognized cases of the wrong.

The Nature of the Wrong of Testimonial Injustice

The first task I will take on is discerning what exactly is the wrong of testimonial injustice. As I mentioned above, testimonial injustice describes the case where someone's testimony is perceived as false or insincere due to a negative stereotype associated with their identity. This is a case of epistemic dysfunction, as the speaker does not receive the credibility judgment she deserves. Epistemic dysfunction also occurs when the opposite happens and a speaker's credibility is unduly inflated. Picture a GP whose patients ask medical questions that require more specialized knowledge (2007:18). She might try answering them to the best of her ability but she is not as knowledgeable as her patients seem to think. While this may be morally burdensome for her, this example does not fit Fricker's goal of sketching a *distinctively* epistemic wrong. Inflated credibility judgments do not "undermine, insult, or otherwise withhold a proper respect for the speaker *qua* subject of knowledge; so in itself it does her no epistemic injustice

and *a fortiori* no testimonial injustice” (2007:20). Since inflated credibility is not a setback to her interest in participating in the exchange of knowledge, she is not wronged—at least not a way that concerns us here. This gives us the first clue on the kind of wrong that Fricker is describing: it is one that affects the respect a knower should be afforded.

The question that naturally follows is what makes testimonial injustice (and by extension, epistemic injustice) an injustice. While there is no established right to be believed, prejudice can make some morally neutral incidents, morally problematic. An intuitive way to see what makes epistemic injustice an injustice is to look at its consequences, both practical and symbolic. Consider the following case of testimonial injustice: Allie accuses Bella of stealing a pen from her. Bella says she did not but Allie does not believe her. Knowing nothing else about their exchange, we cannot call this an instance of testimonial injustice. However, if Allie does not believe Bella because Bella is black and Allie believes that black people are more likely to steal, then this becomes a morally problematic exchange.

An initial reaction to this example could be arguing that Allie has wronged Bella because Bella will suffer negative consequences because of Allie’s doubts. Perhaps Allie will start spreading rumors about Bella in their school, which would hurt Bella’s reputation among their classmates and teachers. As a result, she might lose friends and her teachers might be prejudiced against her. While Fricker would recognize these harms as likely to follow from testimonial injustice, she argues that they are only secondary harms. She claims that there are two broad categories of relevant secondary harms: practical (i.e. ruined reputation, loss of opportunities,

⁸ Fricker does not draw a clear distinction between the harms associated with the wrong of testimonial and those of hermeneutical injustice. Some parts of the discussion of hermeneutical injustice suggests that there are some important differences. However, here I am basing my analysis of the wrong of testimonial injustice on her discussion of the wrong of epistemic injustice, in general.

lower grades, unfair punishment etc.) and secondary epistemic harms, such as loss of confidence in one's own intellectual abilities.

The primary harm Fricker identifies is also epistemic but intrinsic to being excluded from sharing knowledge. In contrast, she considers the secondary harms extrinsic to the exclusion, as they are “caused by it rather than being a proper part of it” (2007:46). Fricker argues that even if no secondary harms follow from the testimonial injustice, it is still a wrong that one suffers *qua* knower. Since Fricker is concerned with the harm subjects suffer in their capacity as subjects of knowledge, we might also be tempted to concentrate on the receiver of knowledge, as we try to identify the epistemic harm. In this scenario, Bella knows something that Allie does not, namely that she did not steal her pen. One response could be that Allie is also harmed here because she is missing out on important knowledge—her prejudice is an obstacle to truth⁹. However, Fricker focuses on the giver of knowledge, not the receiver. The epistemic dysfunction that leads Allie to miss out on knowledge is a result of testimonial injustice but not an instance of it.

So let us shift our focus on the harm that Bella suffers as a giver of knowledge. The primary harm of testimonial injustice is exclusion from epistemic practices. Fricker takes the knower to be socially situated and argues that participating in the exchange of knowledge is an essential part of being a knower. She draws from Bernard Williams' *Truth and Truthfulness* and Edward Craig's *Knowledge and the State of Nature* to argue that knowledge is essentially cooperative. Craig assumes a minimal society and examines how knowledge is conceived and communicated within it. Going off this thought-experiment, Williams identifies three stages corresponding to three collective epistemic needs: (1) the need to have enough knowledge to survive, i.e. knowing what to eat; (2) the need to participate in a collective practice where knowledge can be shared;

⁹This would be relevant to veritistic epistemologies, such as Goldman's (1999), but Fricker focuses less on the system of knowledge 'flow' and more on the effect on the speaker.

and (3) the need to facilitate epistemic trust by encouraging relevant dispositions among individuals (Fricker, 2007: 109-111). At the center of his account emerges the notion of the good informant: to be a knower is essential to be able to share information. Consequently, epistemic injustice is a setback in an interest all knowers have: participating in the exchange of knowledge by (i) having true beliefs and (ii) conveying them effectively to others (2007:116-117). This interest often gets hindered for a number of valid epistemic reasons, when the speaker displays relevant markers of credibility (i.e. education level). When these interests get unfairly set back, we are suffering an injustice *qua* knowers, according to Fricker. We have a general interest of having our credibility assessed based on epistemically relevant factors, i.e. our record of truthfulness or educational credentials. When prejudice, in the form of stereotypes, colors how our interlocutor perceives our credibility, we are suffering an injustice by being unfairly undermined as knowers. I will refer to this as the ‘wrong of exclusion’.

It seems curious that Fricker presents the secondary harms as extrinsic to the wrong of testimonial injustice rather than as what makes the exclusion harmful. We might think that being excluded from the sharing and pooling of knowledge is not a problem in itself unless it leads to bad practical or symbolic outcomes. Instead, Fricker argues that there is another harm that is constitutively related to the exclusion from epistemic practices that makes testimonial injustice wrongful: epistemic objectification. In the book, this follows as an insight from the discussion on Craig’s and Williams’ conception of knowledge. According to her argument, epistemic objectification occurs when the subject is wrongfully deprived “of a certain fundamental sort of respect” (2007:132). Even though Fricker does not make explicit the relationship between the primary wrong of epistemic exclusion and the wrong of epistemic objectification, in this passage it seems that the latter necessarily follows from the former:

“The subject is wrongfully excluded from the community of trusted informants, and this means that he is unable to be a participant in the sharing of knowledge (except in so far as he might be made use of as an object of knowledge through others using him as a source of information). He is thus demoted from subject to object, relegated from the role of active epistemic agent, and confined to the role of passive state of affairs from which knowledge might be gleaned. He is ousted from the role of participant in the co-operative exercise of the capacity for knowledge and recast in the role of passive bystander—a role in which, like objects, he is able to exercise no greater epistemic capacity than that of featuring in potentially informative states of affairs” (2007:132)

The claim appears to be that the wrong of exclusion always leads to epistemic objectification. Additionally, the epistemic objectification is what makes the exclusion a wrong, as no one should be objectified (epistemically or otherwise). Fricker borrows the term of objectification from Kant. In his moral philosophy, using someone as an object is not morally problematic unless it is done in a way that denies their epistemic subjectivity more generally. For instance, when you are at a restaurant, you might treat the waiter as merely a means to receiving service. But we have no reason to believe you would deny her subjectivity altogether. You still recognize her personhood, even if you are currently using her to get food. For an objectification to occur, the broader relationship between the subjects in question should be generally shaped into a way that undermines one’s subjectivity (2007:134). As Fricker explains it, epistemic objectification is essentially an insult to a person’s humanity and it follows from a relationship that generally undermines them (2007:131). From now on, I will refer to this wrong as the ‘wrong of objectification’, for the sake of symmetry.

Much of this essay will be occupied by the relationship between the exclusion wrong and the objectification wrong. I argue that, in an effort to present epistemic injustice as a unified harm, Fricker has drawn an unnecessarily strong connection between the two wrongs—we do not usually think that exclusion entails objectification. I will argue that the two harms are distinct and, even though they may often occur together, they will not always. I argue that Fricker’s two primary cases of testimonial injustice result into two different variations of the wrong. She considers two features to be relevant to trustworthiness: sincerity and competence (2007:45). While the two components of trustworthiness might be both relevant to a deflated credibility judgement, they often operate separately. My claim is, then, that the objectification wrong is not a constitutive component of the exclusion wrong. Rather, in one of the cases I will describe, the secondary harms are intrinsically important, and not extrinsically relevant, to the exclusion wrong.

Two Different Kinds of Wrong

Fricker mentions that the two different causes of testimonial injustice, deflated judgement of competence and of sincerity, might result into different kinds of harms but does not follow the suggestion all the way through. She connects the former to Elisabeth Young-Bruehl’s conception of ‘hysterical prejudice’: the subject is constructed as “serflike or slavlike by nature [...], artless and unintelligent, without spiritual accomplishments” (Fricker 2007:45, quoting Young-Bruehl). Those that receive a deflated judgement of sincerity, on the other hand, are victims of ‘obsessional prejudice’, which imagines them as “both terrifically intellectual...and terrifically materialistic” in their striving for control (Ibid). However, it will become clear from her examples later that these Young-Bruehl’s prejudices do not always apply. We do not need

such a specific picture of the two prejudices, as they will significantly vary depending on the case. We should concern ourselves instead with how prejudice, broadly defined, results into wrongs one suffers as a subject of knowledge. I will assume for the purposes of this discussion that prejudices related to competence and sincerity are indeed the only two relevant causes of testimonial injustice.

In order to expand Fricker's brief analysis of how the wrong of testimonial injustice differs when it is caused by prejudice related to competence versus sincerity, I will closely examine her two main examples. Fricker offers two key examples that correspond to the two categories of stereotypes that might affect someone's credibility: Marge from the film *The Talented Mr. Ripley* as an instance where someone is thought to be incompetent in forming true beliefs and Tom Robinson from *To Kill a Mockingbird* as an example of presumed insincerity. Following the previous distinction, Tom's case results in the exclusion wrong, while Marge's results in both the exclusion and the objectification wrong. What seems to be the difference between the two wrongs is that one is considered as unable to know (and therefore excluded and objectified), while the latter as a bad participant (and therefore excluded but not objectified.) I argue that both of these constitute instances of epistemic injustice. Consequently, all that is required to prove in order to argue that a testimonial injustice is taking place, is that the exclusion from the sharing and pooling of knowledge is wrongful. The added burden of proving epistemic objectification is unnecessary. Moving on, I will call those that are wronged because of their presumed incompetence '*Oh, sweetie,*' while those wronged due to their presumed insincerity *Bad Hombres.*

Oh, sweetie

In the screenplay, *The Talented Mr. Ripley*, Marge suffers both the exclusion and the objectification wrong as a result of testimonial injustice. In a scene of the film, Marge suspects Mr. Ripley of killing her fiancé. Greenleaf silences Marge's testimony about the murder by saying 'Marge, there's female intuition, and then there are facts' (Minghella, 2000:130). He does not believe Marge's testimony because he holds the prejudice that women's views are based on 'female intuition' instead of reasoning, and therefore they are not competent to offer 'facts'. Greenleaf brushes off Marge's testimony on the grounds of epistemic incompetence, as she is perceived as too emotional to be credible. Her exclusion from contributing her perspective is an instance of testimonial injustice, according to Fricker, as she wronged *qua* knower and is excluded from participating in the exchange of knowledge.

What was the wrong exactly? Marge certainly suffered what Fricker calls secondary harms of testimonial injustice: she has her interest in finding out the fate of her fiancé hindered and she perhaps might even start questioning her rationality. But she has also suffered Fricker's primary harm. While no one has a right to be generally believed, we say that people generally have the right to be epistemically evaluated in a fair way. In this case, Marge was not allowed to participate in the pooling and sharing of knowledge based on epistemically irrelevant considerations, i.e. prejudice regarding the rationality of women. Imagine an alternate scenario where Greenleaf dismisses Marge's testimony but on different grounds: "Marge, you have a heatstroke, you cannot think rationally". There would not be no obvious injustice there, since that is a plausible statement. However, Marge's silencing here was motivated by epistemically irrelevant factors, namely her gender.

Thus Marge is suffering the exclusion wrong—does this necessitate that she is also suffering the objectification wrong? To answer this, we need to examine more closely why

Marge's testimony was not taken to be truthful. Going back to Fricker's distinction between competence and sincerity, only one of the two is in question here: competence. From the screenplay, there is no evidence that Greenleaf doubts Marge's honesty; he just thinks she is not particularly rational. Let us consider how this matches up with Fricker's description of epistemic objectification. She argues that the objectified knower is 'unable' to participate in the exchange of knowledge and 'confined to the role of passive state of affairs from which knowledge might be gleaned' (2007:132). So an important aspect of objectification is ability: Marge is excluded because she *cannot* participate in the sharing of knowledge. In the eyes of Greenleaf, she is unable to form true convictions. Therefore, she should be not allowed to participate in the sharing and pooling of knowledge. If she cannot be a subject of knowledge then, she must be an object. Her role in the exchange of knowledge is as something to know *about* or *of*, but not a subject that can know. The belief that she is to be excluded flows from stereotypes concerning women's rationality. While it is not necessary to commit to Fricker's use of Young-Bruehl's description of prejudice, it is not hard to see how stereotypes undermining women's intelligence and rationality are prominent in modern Western culture.

Marge is very clearly wronged as a subject of knowledge: she is wrongfully excluded from participating in a communicative exchange. However, in contrast to what Fricker argues, the exclusion does not cause the objectification wrong. Instead, they are both caused by the prejudice that causes the testimonial injustice. So Fricker's argument seems right here: the objectification wrong indeed seems to be linked to the exclusion wrong.

Bad Hombres

In this section, I am occupied with the example Fricker puts forth to demonstrate how perceived insincerity can lead to epistemic injustice. It comes from Harper Lee's novel, *To Kill a Mockingbird*, and it involves Tom Robinson, young black man in Alabama in 1935, who is falsely charged with raping Mayella Ewell, a white girl. To make a case for his innocence, he would have to share that she had tried to kiss him but that would lead him in a dangerous game of positing his word against hers. While obvious to the reader and any relatively unprejudiced person in the courtroom that he is innocent, his testimony is met with disbelief. Atticus Finch comes to his defense, trying to challenge the jury to dispense with "the assumption—the evil assumption—that *all* Negroes lie, that *all* Negroes are basically immoral beings, that *all* Negro men are not to be trusted around our women" (2007:25, quoting Lee). The jury holds on to its assumption and convicts Tom Robinson. Evidently, his conviction is unjust, as he is innocent. But Fricker claims that beyond this injustice, he is also wronged *qua* knower because of the persistent prejudice against the trustworthiness of black men. Specifically, what is in question here is his sincerity. Clearly, the jury believes that he accurately knows whether he raped Mayella or not. The reason they do not believe him is because of their prejudice against the sincerity of black people.

Obviously, Tom suffered the exclusion wrong as he was not allowed to participate in the exchange of knowledge. Because of the conviction of the jurors that black men lie, Tom was undermined as a knower. He was preemptively silenced, before he could even offer his version of the story. The jurors expected that anything he would say would be a lie and therefore he was decidedly excluded from the sharing and pooling of knowledge. This was clearly harmful: Tom ended up in prison for a crime he did not commit and is later killed while trying to escape. But Fricker calls these just secondary harms, extrinsic to the primary wrong of exclusion (2007:27). I

think this is wrong. These secondary harms are in fact what makes the exclusion wrong and not epistemic objectification. There is certainly something morally upsetting about the fact that Tom was not prevented from offering his testimony in *To Kill a Mockingbird*. But the exclusion is not wrong because he was morally objectified. Rather, what makes it wrong is that he suffered undeserved consequences due to his exclusion.

I argue that in the *Bad Hombre* case the wrong of exclusion and the wrong of objectification come apart. As noted above, the objectification wrong occurs when someone's exclusion from the pooling and sharing of knowledge is done because they are unable to participate. In the previous example, Marge was excluded because she was taken to be a fallible knower. Tom is not excluded because he is a bad knower; he is excluded because he is a bad participant. This is a significant difference: it is much more of an insult towards his status as a moral agent, rather than his status as a knower. Consequently, he still maintains his subjectivity and is not epistemically objectified. The objectification wrong is not intrinsic to the exclusion wrong—the latter can occur without the former and it can still be a wrong one suffers *qua* knower.

One might wonder whether Tom really is wronged in virtue of being a knower if he is not epistemically objectified. Has he really suffered a wrong *qua* knower by being silenced during his trial? This is a fair question that is pushing how we have been so far thinking about epistemic injustice. Tom is undeniably disrespected as a knower by taken to be a bad participant in epistemic practices. His status as a knower is challenged even if his ability to know is not in question. I will return to this question in my conclusion.

Fricker could take a Kantian approach and argue that Tom's rational authority is in fact undermined when his moral character is in question. In Kant's moral philosophy, what is right

and wrong is to be discovered through pure reason. By following the categorical imperative, any rational knower can deduce whether his actions are morally permissible. So, from this perspective, when the jury considers Tom to be a person that would generally lie, it implies that he is also a person unable to make moral decisions based on practical reasoning. As Fricker argues,

“The undermining of someone as a knower is, conceptually and historically, closely related to their being undermined as a practical reasoner. The two sorts of insult to their humanity are importantly distinct, however, relating as they do to two different functions of rationality, and it seems to me that moral philosophy should concern itself with both.” (2007:137)

I do not think this is a convincing argument. I doubt most people would consider someone to be immoral due to their identity because they cannot know better. Consider Martin Luther’s anti-Semitic treatise called “On the Jews and Their Lies” (1543), consisting not only of passages like this, “They are real liars and bloodhounds who have not only continually perverted and falsified all of Scripture with their mendacious glosses from the beginning until the present day”, but also enumerating Jews’ techniques for cheating Christians (Part II). As this passage suggests, there is no necessary connection between being considered immoral and a liar and being considered to lack rationality. In contrast, Luther’s treatise is ample with accusations of cunning Jews scheming and artfully deceiving Christians. In fact, Young-Bruehl’s conception of the obsessional prejudice that Fricker applied to *Bad Hombres* matches up more accurately with Luther’s treatise, as it commends the intelligence of the deceivers.

Another objection takes a simpler approach and argues that it does not matter, for diagnosing a case of objectification, why someone is excluded from the sharing and pooling of knowledge. Perhaps Fricker misspoke when she mentioned ability—all it matters is that your subjectivity is denied by not being heard. I think this objection fails as well. Fricker connected objectification to a denial of the speaker's humanity. This is clearly not the case when we consider the central example of *Bad Hombres*, Tom. Being a liar does not make you any less human. Granted, we may often talk about 'monsters' that commit horrific crimes, but lying is not usually one of them.

Conclusion

In this paper I have applied pressure on Fricker's claim that the exclusion and the objection wrongs are essentially connected to each other. Through analyzing the two distinct cases of testimonial injustice that either motivated by prejudice against the speaker's sincerity or competence, I have clarified the relationship between the two wrongs. While cases of testimonial injustice caused by presumed incompetence showcase more clearly the kind of wrong that Fricker has in mind, the cases caused by presumed insincerity result in a different kind of wrong. The exclusion from epistemic practices in both cases is wrong because it is motivated by epistemically irrelevant considerations. However, as the ability to know is not in question in the *Bad Hombres* case, I argue that in that case there is no epistemically objectification. Rather, the exclusion is wrongful because of the secondary harms that the excluded suffer, i.e. in Tom's case, undeserved punishment.

I want to briefly go back to a question I introduced earlier: are we still right to call the *Bad Hombres* case an instance of testimonial injustice? Since what makes the exclusion from

epistemic practices wrongful is not purely epistemic consequences, this is a worthwhile question. I cannot definitively answer this question here but I think there is good reason to still consider it a case of testimonial injustice. Our understanding of how identity and power intersect with both epistemology and morality is expanded by considering such cases through the lens of epistemic injustice. Such a lens allows us to bring into sharper focus how less socially powerful social groups can be preemptively silenced by prejudice. This is a problem for epistemology, as much it is for ethics, and an examination of the two in tandem holds out hope for a fuller understanding of what it would mean for a society of socially situated knowers like ourselves to achieve genuine justice for all.

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Paper 3

Epistemic Justice as a Tool for Reconciliation:

Lessons from South Africa

Miranda Fricker made an important contribution to social philosophy with *Epistemic Injustice* (2007), where she defines a kind of injustice a person suffers *qua* knower. She articulates two ways epistemic injustice can be manifested. One is testimonial injustice, which takes place when an individual's true testimony is not believed due to an existing prejudice against her identity. Consider, for example, the doubt women's testimonies about sexual assault are often met with. The other kind of epistemic injustice is called 'hermeneutical injustice' and it describes the instance when someone lacks the interpretive resources to understand their own experience. To continue with the previous example, think of a victim of sexual assault before she knew the term or that it applied to her. Since Fricker coined the term, 'epistemic injustice' has been applied to several other cases of social marginalization in virtue of gender¹⁰ and race¹¹, in contexts ranging from healthcare¹² to disability studies¹³ to literature¹⁴. These efforts have expanded our understanding of the multiple facets of injustice and also refined the theoretical applications of the concept of epistemic injustice.

In this essay, I focus on how principles of epistemic justice were manifested in the Truth and Reconciliation Commission (TRC) established in South Africa by Nelson Mandela in 1996. The TRC held hearings until 1998 and continued its investigative work until 1999. Even though

¹⁰ For one of many examples, see Aultman regarding transgender individuals (2016).

¹¹ See Medina (2013) for one among many.

¹² See Carel and Kidd (2017). Full citation in 'Bibliography'.

¹³ See Barnes (2016).

¹⁴ See Metzger (2016).

two decades have passed since the South African TRC was in operation, it is still of philosophical interest, as an institutionalized effort to remedy past injustices. Moreover, similar TRCs, inspired by the successful South African example, are still utilized all over the world, when truth-seeking is deemed to be essential to reconciliation. As Fricker introduced the concept of epistemic injustice in 2007, while most philosophical work on the South African TRC took place from its inception until the early 2000s, epistemic justice has not been examined in the context of the TRC. I aim to defend the TRC's reconciliation through truth efforts. There has been a lively debate about the justification of TRCs, as they appear to tread an uneasy tension between distinct values. I argue that, among other political and moral goals, the TRC aimed at creating conditions of epistemic justice. While this may not be a full defense of the TRC's process and outcomes, it is at least a partial defense. There is an argument to be made about how other shortcomings could potentially override its successes in terms of epistemic justice. I will not, however, take this on here.

Section II will go through two potential justifications of the TRC: retributive and restorative justice. Both conceptions of justice fail to fully capture the goals and process of the TRC. In Section III, I will instead argue that epistemic justice works as a justification of the TRC. I will first argue that the TRC works towards restoring testimonial justice, by establishing the equal epistemic status of all participants. Then, I will argue that it provides hermeneutical aid, which is necessary in making sense of one's experience and point of view. I will connect this to my conception of distributive epistemic justice, as I have presented it in "Interpreting Distributive Epistemic Justice". The TRC contributes to creating conditions of distributive epistemic justice as it makes available critical facts that are necessary for autonomy and political freedom.

In Section VI, I argue that there is an interesting relationship between epistemic justice and a fourth kind of justice—transformative justice. I take transformative justice to be a goal-oriented conception of justice, that aims at building relationships of solidarity, or what Medina calls ‘a community of common concerns’, as well as allowing a polyphonic narrative regarding the society’s past. I take both of these to be vital, especially in the context of South Africa, as simply erasing the tension of the past seems unlikely. I will argue that epistemic justice is a condition for transformative justice, thus defined. Testimonial justice empowers those that have been epistemically marginalized by prioritizing their voices and narratives, while hermeneutical justice enables them to make their experiences intelligible to others.

I. What are TRCs?

As the name suggests, Truth and Reconciliation Commissions are motivated by the assumption that truth and reconciliation are closely linked; the motto slogan of the South African TRC was “Truth: The Road to Reconciliation”. The United Nations recognizes the right as ‘inalienable’¹⁵ and Margaret Urban Walker (2010) has argued that truth-telling is presented as a form of reparations in further UN resolutions¹⁶ that demand that post-conflict governments (i)

¹⁵ See United Nations. 2006. "Study on the Right to the Truth: Report of the Office of the United Nations High Commissioner for Human Rights." United Nations Document E/CN.4/2006/91 (8 February).

¹⁶ See also:

-UN 2006. "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law." United Nations Document A/RES/60/147 (21 March).

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-UN 2007. "Rights to the Truth: Report of the Office of the Higher Commissioner for Human Rights." United Nations Document A/ HRC/5/7 (7 June).

verify the facts and publicly disclose the full truth, (ii) identify, locate and assist with the reburial of those executed, disappeared and abducted, (iii) offer a public apology, (iv) include an accurate account of the violations in educational material (Walker 2010).

Although the TRC in South Africa was founded before these demands were officially articulated, they are clearly reflected in its structure. The TRC was set in 1996 by the Government of National Unity to deal with the deep social divisions created under apartheid and the crimes committed in that era. The TRC was based on the Promotion of National Unity and Reconciliation Act, No 34 of 1995. It consisted of a court-like body, where anyone could come forward and share their testimony, either as a victim or perpetrator who felt the need to publicly apologize. All of these hearings are transcribed and now available online, but at the time some were also televised or broadcasted on the radio. Apart from those who conducted the hearings, the work of the TRC was carried out by three bodies:

1. The Committee on Human Rights Violations (HRV) whose mission was to investigate human rights abuses that occurred between 1960 and 1994 and confer victim status to those who had been subject to abuses. The HRV was responsible for determining the details of the crime and the harm that victims had suffered. Once these facts were determined, the victims were referred to the Committee on Reparation and Rehabilitation (R&R).
2. The R&R, which was charged with preparing a report with concrete suggestions for the government on how to restore the dignity of the victims. The Committee was also concerned with rehabilitation in the long term, as it was tasked with drafting recommendations to the President on the creation of institutions that would promote a

politically stable and just society. It also produced a series of suggestion of administrative and legislative measures meant to prevent future human rights violations,

3. The Committee on Amnesty (AC), which heard applications for amnesty by individuals who committed politically motivated gross human rights violations, on the condition that they fully disclosed the truth about relevant facts to their crime¹⁷.

Over the course of five years, the TRC conducted thousands of interviews and produced an impressive seven-volume “Final Report” detailing the crimes of apartheid¹⁸. One volume is dedicated to the role of the state in perpetrating crimes under apartheid; another examines the crimes ‘from the perspective of the victim’, including transcribed interviews. Another volume of the report “seeks to address the nature of the society in which gross violations of human rights took place, reporting on a series of ‘institutional hearings’ which sought to explore the broader institutional and social environment” (*Final Report* Vol 4). A fascinating section of the report lays out the final goal of the project by defining the reconciled South African as one who (i) forgoes racial stereotyping, (ii) believes in tolerance and pluralism, (iii) “subscribes to a set of beliefs about the universal application of human rights protections to all South African citizens” and (iv) recognizes the political institutions of South Africa as legitimate (Gibson 2004:88).

II. Justifying the TRC

The South African TRC has attracted a lot of philosophical interest as an institutionalized effort to deal with a fraught past¹⁹. The premise of truth as the road to reconciliation seems

¹⁷ Perhaps it is important to note that the vast majority of applications were rejected; out of 7,112 applications only 849 were granted. Information regarding the work of all three committees is available on the official website of the Department of Justice: <http://www.justice.gov.za/trc/amntrans/index.htm>

¹⁸ The final report can be accessed here: <http://www.justice.gov.za/trc/report/>

¹⁹ See Allais (2011), Gade (2013), Eisikovits (2006) and Biggar (2002) for some examples of recent work.

intuitively appealing. Even in daily discourse about forgiveness, we often take knowing the truth about the incident as a prerequisite for forgiveness—you cannot forgive something you do not know about. However, the TRC’s emphasis on forgiveness and truth can be found to be troublesome if we take justice to also be a prerequisite of reconciliation.

a. Retributive justice

After a conflict in which gross human rights violations have been committed, punishment of the perpetrators is often thought to be a requirement for justice. Many argue that perpetrators of wrongdoing ought to suffer a punishment proportional to the severity of the wrong(s) they have committed. For instance, the Nuremberg trials that followed WWII were an effort to bring about justice and their focus was on the punishment of leaders of the Nazi government. The process of retributive justice in this case was valuable in establishing responsibility and guilt for the crimes committed, in addition to setting a precedent that might help to deter future crimes.

By this standard, it seems that the TRC is decisively prioritizing truth over justice. Although truth-seeking could have a place in a retributive account of justice, the fact that the AC is able to grant amnesty undermines justice, even if it promotes reconciliation. Even though only a fraction of amnesty applications was granted, it is still hard to justify the TRC from a perspective of retributive justice. Some of the most powerful figures of apartheid have received amnesty, including former presidents P.W. Botha and F.W. De Klerk (*Final Report* vol. 1, p.9). The investigations that followed the reports of the crimes prioritized finding out the truth over punishment of perpetrators. Therefore, if we take truth to be necessary for reconciliation and punishment as necessary for justice, it seems that there is an uneasy tension between reconciliation and justice.

b. Restorative justice

Restorative justice “seeks to give the victims a full role in the telling of the story of a past of gross human rights. It thus seeks to make those who were most abused by the old regime full participants in the political community which is forged during the transition. At the same time, it seeks to integrate those most responsible for perpetrating the abuses into the same community” (Dyzenhaus 2000:474). On this view, the goal is not balancing a scale of harm but rather restoring moral relationships of equality and respect. This is the view that the TRC officially uses to justify itself. In the words of the Chairman of the TRC, Archbishop Desmond Tutu: “We believe, however, that there is another kind of justice – a restorative justice which is concerned not so much with punishment as with correcting imbalances, restoring broken relationships – with healing, harmony and reconciliation” (*Final Report*, Vol. 1, Ch. 1, para. 36).

Recognition is at the heart of restorative justice. The TRC did not follow the typical skepticism towards perpetrators we normally anticipate from courts dealing with gross human rights violations. Standard laws of evidence were relaxed: while in criminal trials only evidence and testimony relative to establishing individual guilt is admitted, the TRC allowed information was not bound by these rules²⁰. Additionally, in many of the transcribed sessions, the commission thanks the person coming forward for their bravery and dedication to reconciliation. Beyond this basic respect for wrongdoers, the process was focused on making the reconciliation efforts about the victims and not about the perpetrators. Compare this for instance to the Nuremberg trials, another extremely public hearing but one that was very clearly focused on the criminals and their punishment, culminating with ten executions. As I argued above, the Nuremberg trials had a very clear retributive purpose—they were not meant as a way to empower victims or restore relationships. On the other hand, as Kiss writes in relation to the TRC:

²⁰ More on this, by Mark Osiel (1997).

providing a platform for victims is one of the core tasks of truth commissions, not merely as a way of obtaining information but also from the standpoint of justice [...] Those whose lives were shattered are entitled to have their suffering acknowledged and their dignity affirmed, to know that their “pain is real and worthy of attention” [...] We affirm the dignity and agency of those who have been brutalized by attending to their voices and making their stories a part of the historical record. (Kiss 2000:73)

The restorative approach also aims to expose structures that enabled the crimes. Whereas the Nuremberg trials focused very narrowly on central figures, the TRC casts a wide net by asking anyone affected to come forward. This process is more likely to expose how these crimes occurred systematically.

Both retributive and restorative justice aim to restore the dignity of victims, hold perpetrators accountable for their crimes and restore social conditions to a standard where human rights will be respected. However, a significant difference concerns fate of the perpetrator. Whereas retributive justice aims to isolate perpetrators and make an example out of them as a deterrent, restorative justice wants to reintegrate them into society. Although in this respect the restorative approach is very appealing, the approach as a whole raises two concerns. First of all, the hope for reconciliation through revisiting the crimes seems excessively demanding on the victims. Healing and harmony can be an unreasonable expectation given the severity of the crimes committed (Dyzenhaus 2000:486). Secondly, while restoring relationships to a previous, more harmonious stage might be possible in other post-conflict societies, in the case of South Africa there was not a relationship to be restored, as the relationships of healing and harmony between racial groups had never existed. There was not a desirable previous stage that

the reconciled South African society should revert to (Dwyer 1999:83). Instead, the proper aim was to reach a new social and political compact.

I will argue that the novel conception of justice introduced by Fricker, epistemic justice, provides a better way of characterizing the achievement of the TRC than do either retributive or restorative justice. As I will demonstrate, a main goal of the TRC was to create fair relationships between knowers. The following section shows how the TRC brought about three different brands of epistemic justice: testimonial, hermeneutical and distributive. I will later, in section IV, argue that epistemic justice is also a condition for a fourth kind of justice, transformative justice.

III. Epistemic Justice as Justification of the TRC

a. Restoring testimonial justice

Testimonial injustice is a wrong an individual suffers when she is perceived as not being a credible informant because of stereotypes associated with her. Fricker's examples illustrate how racism and sexism can lead to testimonial injustice. The main case she explores is Tom Robinson's trial from *To Kill a Mockingbird*, where Tom has been wrongfully accused of raping a white woman. Even though he is innocent, it is his word against hers. The all-white jury does not take his testimony seriously because they hold the implicit belief that "*all* Negroes lie, that *all* Negroes are basically immoral beings, that *all* Negro men are not to be trusted around our women" (Fricker, 2007:25, quoting Lee).

Fricker calls this systematic testimonial injustice, as it is "produced not by prejudice *simpliciter*, but specifically by those prejudices that 'track' the subject through different dimensions of social activity—economic, educational, professional, sexual, legal, political, religious, and so on" (2007:27). Systematic cases of testimonial injustice are connected with a range of other kinds

of actual or potential injustice. Those that suffer testimonial injustice due to their gender or race are likely to also suffer other kinds of injustice because of their identity. Compare this to Fricker's example of incidental testimonial injustice: a panel of referees on a science journal, who have a strong dogmatic prejudice against a particular research method, receive an entry that follows that method (2007:27). They are immediately skeptical towards the findings, even if there was no obvious error in reasoning. Even though their prejudice might be a significant setback to this scientist's career, since it would not track her in other domains of her life (i.e. legal, economic, or political), we might call this an incidental kind of testimonial injustice.

When we consider the apartheid era in South Africa, it is obvious that these systematic injustices happened all the time. As Charles Mills has argued in *The Racial Contract* (1997), racism mandates a certain epistemology that upholds the supremacy of whites while decisively silencing minorities and producing a kind of 'active ignorance'. For whites to be psychologically comfortable while oppressing black and 'colored' people²¹, the "preemptive restriction of knowledge to European cognizers" is essential, "which implies that in certain spaces real knowledge (knowledge of science, universals) is not possible" (Mills, 1997:44). Europe and what has come to be considered 'the West' emerge as "the global locus of rationality" (Mills, 1997:45). In a society as overtly racist as apartheid South Africa, it is not hard to imagine how pervasive these epistemic beliefs would be. Black people were considered unfit to participate in politics and propaganda often portrayed them closer to animals than humans, and thus much better equipped for menial labor—in fact, the "Mines and Works Act" of 1911 limited black South Africans to *just* menial labor. Schools and universities were formally segregated starting in 1953. The implications of such decisions for their perceived epistemic status are clear: black people did not

²¹ Note that by 'colored' I refer to the racial classification in South Africa of people of mixed ethnic origin (also known as Bruin mense or Kleurlinge), not people of color in general.

have access to the production of knowledge. If we take Mills' argument to be true, the justification for this exclusion was that they were simply not able to participate in the exchange of knowledge; in the actively ignorant minds of white South Africans, unequal epistemic abilities justified unequal access to epistemic resources. We can imagine that cases like Tom Robinson's took place routinely, as both sides were significantly prejudiced against the word of the other.

The TRC's public court function worked towards reversing that. Most obviously, it was operating on a premise of credibility for everyone. As noted earlier, the evidence submission standards were more relaxed than in a normal court and all cases were investigated based on the testimony of those that came forward. This public acknowledgement of agency is essential in reversing the epistemic status of the victims from sources of information to informants (Fricker 2007: Ch. 6). The difference between the two is morally significant. What is at stake here is the recognition of subjectivity: while an informant might be used in a way the privileges getting information over other characteristics, their subjectivity is not denied. A source of information, on the other hand, is treated purely as an object. Ethical theorists have recognized this as a moral violation since Kant's categorical imperative and references to it permeate Fricker's work. The objective for restoring testimonial justice in cases of epistemic objectification is reaffirming the oppressed person's status as an informant. By operating with a public, open platform where anyone could share their grievances, the TRC decisively and publicly aimed at doing exactly that. Those who have suffered gross human rights abuses become more than a statistic from which information is gathered. Their subjectivity is recognized through seeking out their individuality and allowing them to express their stories on their own terms.

This is clearly immensely important when it comes to victims of racial violence. Their consistent epistemic degradation, as I have argued above, has been a constant in societies like

South Africa. However, it is interesting to consider how advancing testimonial justice through the TRC might correct an epistemic injustice towards the perpetrators as well. Here it is important to remind ourselves that one might suffer from epistemic injustice while being seriously morally culpable in other ways. Is it possible that those guilty of committing gross human rights violations under apartheid were also victims of testimonial injustice?

While it is possible to make the argument, it would be a more minor point in restoring testimonial justice, as white were generally testimonially privileged compared to non-white South Africans. Arguably, criminals often receive deflated credibility judgments because of their convictions. Switching back to the U.S., let us consider the following excerpt from a lecture given by Stephen S. Trott, a Senior Circuit Judge at the US Court of Appeals for the Ninth Circuit:

“A cooperating criminal is far more dangerous [...] because an informer has a mind of his own, and almost always, it is a mind not encumbered by the values and principles that animate our law and our own Constitution. An informer is generally motivated by rank and frequently sociopathic self-interest and will go in an instant wherever he perceives that interest will be best served. By definition, informer-witnesses are not only outlaws, but turncoats. They are double crossers, and a prosecutor not attuned to these unpleasant truths treads without cleats on slippery ice.”²²

This passage suggests that cooperating criminals / informants (a category into which the perpetrators who submitted to the judgment of the TRC fall) should be treated as untrustworthy until proven otherwise, as they do not live by the values that credible people follow. The cooperating criminal is to be given a deflated credibility judgment in virtue of being a cooperating criminal.

²²Lecture supplement from October 2007 by Stephen S. Trott.

One could argue that this is not an instance of testimonial injustice, because in many cases, the credibility judgment at issue will not be *unwarrantedly* low. Some of those coming forward to the TRC are double-crossers that only testify, sometimes against others, to gain amnesty. But presuming that their intention is to lie to advance their interests would be a testimonial injustice. Until the hearing, any presumption of deflated credibility would have no epistemic basis (unless someone is known to consistently lie). Rather, perpetrators are given access to a forum to establish their credibility. Again, the main mechanism of achieving testimonial justice is the public nature of the proceedings. Allowing perpetrators to share their own stories is an acknowledgment of their status as informants.

b. Hermeneutic justice through hermeneutic aid

Fricker's second conception of epistemic injustice, hermeneutical injustice, takes place when "a gap in collective interpretive resources puts someone at an unfair disadvantage when it comes to making sense of their social experiences" (2007:1). Fricker explicates this notion of epistemic injustice through examples where the lack of certain critical concepts inhibited individuals from fully comprehending their experiences, such as sexual harassment, post-natal depression and the queer experience. In these cases, those suffering from hermeneutical injustice recognized that they were experiencing something outside how we commonly understand flirting, motherhood or love, but did not yet have the vocabulary to fully understand it.

The application of hermeneutical injustice, as articulated in *Epistemic Injustice*, is not obvious when we consider the crimes the TRC covered. There does not seem to be a missing *concept* that epistemically disadvantaged either party in the apartheid-era conflict. But there is another way of formulating hermeneutical injustice that is helpful in this case, which frames injustice in terms of the unequal access to hermeneutical tools. In an unpublished manuscript,

Alex Prescott-Couch pushes against the idea that hermeneutical injustice is caused by the absence of a concept (18-20). Instead, he formulates a conception of hermeneutical injustice where the injustice occurs in the process of gaining understanding instead of lacking a concept.

Prescott-Couch asks us to imagine an introductory ethics course, where two students have to debate their views on abortion. The student who is pro-life, meets with the professor and they have an engaging conversation. Even though she is passionate about her view at this point, her reasons are pretty inchoate. The professor, who is also pro-life, helps her in “formulating her arguments, grasping the rational interconnections among them and relating those arguments to her broader worldview” (10). He helps her identify what she was “trying to get at”. She then leaves with a deeper understanding of the issue and her attitude towards it. The pro-choice student also approaches the professor and her rational justification for her view is also rudimentary. However, the professor does not go to the same lengths to help her make better sense of her view. The student is at a stage of hermeneutical disadvantage; however, it is not her experiences that are obscured, (as Fricker would have to argue), but rather her view or perspective about how the world is. Importantly, the injustice need not be motivated by prejudice here. For Prescott-Couch, all that matters is that the two students are receiving arbitrarily unequal help in clarifying their points of view and that they are, therefore, unable to participate as equals in the resulting debate.

This injustice is overturned by offering what Prescott-Couch has called ‘hermeneutical aid’. As he defines it,

This is aid in “making rational sense” of what [people] inchoately believe. This aid can take the form of supplying a concept that enables a person to provide a more refined description of what they are thinking. But it can take a number of

other forms as well: helping people organize their thoughts, grasp inferential connections among their beliefs, see how basic ideas can be elaborated, distinguish what is central from what is peripheral, etc. What unites these various forms of help is that they all fulfill a particular function: helping the students come to a more articulate grasp of their inchoate thought, i.e. to “self-interpret.”

(10-11)

He argues that failures to provide hermeneutical aid occur constantly on a social level. Societies build conceptual frameworks that are tailored to certain points of view, usually those espoused by the socially powerful. Their points of view get privileged by being taken more seriously by various social institutions, “which develop and disseminate conceptual tools useful in articulating and reconstructing them, while other points of view remain comparatively unexplored” (17). For this to be an injustice, the unequal treatment of points of view needs to be either be due to arbitrary causes or lead to objectionable circumstances. Prescott-Couch argues that the latter is the case, as some hermeneutical disadvantages prevent individuals from standing in relations of social and political equality. By not receiving aid in fully articulating their point of view in a way that is intelligible and compelling to others, they might be disadvantaged within or excluded from decision-making.

The concept of ‘hermeneutical aid’ is purposefully vague, so as to cover a wide range of cases, but needs to be refined for our purposes. Prescott-Couch focuses on cases where rational aid is needed, in order for someone to make logical connections between points or refine “what she is getting at”. An important point that is missing from this approach is that knowledge of certain social facts might be the missing piece. Effective hermeneutical aid might require not only provision of a sounding board for inchoate points of view, but also making available the facts

that would substantiate these points of view. For instance, consider again the student that was pro-choice but did not receive hermeneutical aid for the professor. What could he say to make her point of view clearer? Perhaps he could have pointed her to relevant statistical information, testimonies of women that have had an abortion, or better articulated theories in philosophy or politics. This is more than drawing ‘rational connections’—it is also seeing the bigger picture and finding appropriate evidence for your view.

I would argue that the Final Report of the TRC, as well as the constant public process that led to its creation, is a form of hermeneutical aid to victims of apartheid. For instance, consider someone with the view that apartheid was cruel. They might have had some personal examples of cruelty, but it was not clear to them if they were just incidents of racist behavior or part of a larger structure. Their view probably got clearer once apartheid was over. But undoubtedly learning more about it helped them even more. Consider, for example, Volume 2, Chapter 1 of the Final Report, which “seeks to provide an overview of the context in which the conflict developed and gross violations of human rights occurred. It outlines the social and political background to the southern African conflict, highlighting the role of racism, decolonization and the Cold War as determining features of the conflict”. Revealing the background conditions of apartheid makes more transparent the mechanisms that enabled its existence. In a similar vein, the report also offered a theoretical framework for understanding disproportional violence, by outlining the principles of just war theory in Volume 1. Therefore, the view that apartheid was cruel, for instance, makes more rational sense. This is just one example of the sort of hermeneutical aid that was offered by the TRC. I believe, however, that many such examples could be given. Plausibly, the exposure of facts and other hermeneutical resources filled a large gap in the conceptual resources of South Africans.

c. Distributive epistemic justice

I have refined a gap in Prescott-Couch's account of hermeneutical aid by adding 'exposure to facts' to his 'making rational sense of points of view'. I want to quickly address a different conception of epistemic justice, called distributive epistemic justice, that I have introduced in a different essay, as the two might sound somewhat similar at this point. In "Interpreting Distributive Epistemic Injustice", I defined the concept as "the injustice of being unjustly deprived of knowledge that would ensure a right to autonomy, including physical and psychological integrity, and political freedom, through equal social and political participation". One could potentially read distributive epistemic injustice as the unjust distribution of hermeneutical aid, where hermeneutical aid is knowledge.

The difference is that hermeneutical injustice occurs when one is unjustly deprived of *understanding*, regardless of its use. The wrong of distributive epistemic injustice occurs when one is deprived of knowledge that is useful for instrumental purposes, i.e. for establishing autonomy and political freedom. To see that hermeneutical disadvantage might constitute a hermeneutical injustice, even if it had no impact on your autonomy or actions, imagine that you have grown up in apartheid South Africa and you remember hearing about disappearances of members of your community. You knew they were politically motivated but you did not know other important facts about the case, such as the group that was orchestrating the killings or perhaps that some members of your community were complicit in them. When you find out these facts, you get a better understanding of what was happening around you and you have a renewed understanding of the community you grew up in. This need not affect your political or social standing, but just

give you ‘the whole picture’. However, it is plausible that you had been suffering from a genuine injustice (of the hermeneutical kind) by not being given access to this information.

The distinct wrong of distributive epistemic justice concerns accessing information that would significantly affect your ability to fully participate socially and politically in a free and autonomous manner. For example, consider relevant facts about how apartheid was institutionally maintained. Not understanding the mechanisms of oppression significantly limits one’s ability to challenge them. This problem—in addition to the distinct wrong of inadequate hermeneutical aid—clearly applies to the South African case. Distributive epistemic justice was plausibly pursued by the TRC, as it made the functioning of apartheid more transparent and thereby made reversing oppressive structures and achieving freedom, more likely to happen.

Epistemic justice, in its three varieties, is an outcome of the TRC. I believe that epistemic justice is an important element of just societies: a necessary condition for relationships of respect, trust and equality. While it is, therefore, a form of justice worth pursuing in its right, it is also a condition for a distinct, “transformative”, form of justice. In the following section of the paper, I will draw on Jose Medina’s *The Epistemology of Resistance*, to argue that the goal of transformative justice is to establish a diverse community of common concerns. I argue that for such a community to exist, epistemic justice is necessary, since solidarity requires respect, truth and equality.

IV. Transformative Justice

A perspective of transformative justice, as presented by Dyzenhaus (2000), holds that justice is to be achieved through the creation of a new social and political compact. It is focused on transforming the conditions under which previous injustice took place and regarding the

reconciliation process “as a moment in the creation of a new political and legal order” (2000:494). Instead of focusing on *restoring* (as in the case of the restorative justice perspective), it shifts the emphasis to building. Dyzenhaus argues that this necessarily comes with debate and compromise. He favors the view advocated by Jonathan Allen in “Balancing justice and social unity: political theory and the idea of the TRC” (1999), which argues for a “principled compromise” between justice on the one hand, and social unity and reconciliation on the other (1999:338). This compromise is to be achieved through seeking common ground between those who demand a focus on punishing past crimes and those who seek to achieve social unity.

Allen and Dyzenhaus leave open to interpretation how the common ground is to be identified. What I am more concerned with here, is what is meant by social unity. It might suggest the need for a shared identity and a consensus about the past, present and future of South African society. I take the requirement of the Final Report that the reconciled South African recognizes the political and social institutions as legitimate to be a minimal requirement of social unity. However, things get more complicated when we consider shared identity and consensus more broadly. South African society is defined by multiple identities and consensus building is a really strained process. (In 2006, Gibson attempted to measure reconciliation post- TRC in South Africa by examining consensus regarding propositions the TRC accepted as true. To the statement “Despite abuses, apartheid ideas were good ones”, 36% of Africans and 51% of whites said yes (2006:94).) Consensus cannot be a reasonable requirement of social unity if the idea is to have any application.

We, therefore, need a different conception of social unity that focuses on the process of reconciliation. I will argue that social unity is (at least in part) a matter of creating conditions where respectful debate can take place. Recall from the first section of this paper that the TRC

defined the reconciled South African as one who believes in tolerance and pluralism. These should be the guiding principles of transformative justice. This process would require the negotiation of a new relationship, instead of the restoration of a previous one. This new relationship depends not only on the symbolic force of the TRC, but also through the creation of new institutions, as demonstrated by the existence of the R&R. However, for this negotiation of the new order to occur, recognition of the status of all citizens as equal and free, in addition to being credible knowers, is of paramount importance. In transformative justice, the goal is not to strictly favor one narrative over others but rather to find a way for groups that have engaged in violent conflict to coexist, without erasing the past. As José Medina has argued, epistemic justice “involves more than the mere pooling of information; it also involves negotiating processes of mutual interrogation and the collaborative generation of meanings and interpretative possibilities” (2013:95).

Let us try to parse out this statement. The TRC has done a good job of pooling information, as well as interpreting the background conditions that enabled and sustained apartheid. However, universal public acceptance of these findings has not been achieved, as Gibson’s research indicates. The interpretive work on the past and present, as well as how the future of South Africa will look like, is not over. Since ascribing to a preconceived identity and understanding of the past seems unlikely and unproductive, creating the conditions for constant, open-minded dialog is essential in redefining the nation and national identity.

I think it is becoming clear where I am going with this. If we take dialog to be a condition for transformative justice, we need to say more about the circumstances that would enable it. I believe that epistemic justice is crucial for this to occur, since just relations between knowers allow for free, respectful and informed participation. As Medina has put it, the goal is for a

community to become one of 'shared concerns' (2013:280): people do not have to have identical ideals with each other, but need to realize, acknowledge and appreciate the diversity within their community and treat every group's concerns as community problems. This would lead to reconciliation by creating social unity that is not synonymous with unqualified group-identification. It would promote constructive dialog on how institutional reform should proceed, by taking the problems of the entire community as the shared basis.

I have argued in this section that the TRC promoted testimonial, hermeneutical and distributive epistemic injustice. Let me now summarize how these three different forms of epistemic injustice are essential in creating the conditions for transformative justice to occur.

(a) Testimonial justice aims at establishing the credibility of individuals. Transformative justice relies on open-dialog where people are seen as equal participants in society regardless of their identity. Unwarranted credibility deficits are detrimental to this goal, as they exclude people from adding their voices and concerns to the narrative. To craft a concise but representative interpretation of the past, present and future of South Africa, dialog that would partly rely on testimony is essential. Being able to discuss the experiences of South Africans of all races and backgrounds would be essential to crafting policy, as well as achieving the more symbolic goals I have outlined above. A presumption of deflated credibility due to these identity markers would stand in the way of understanding the state of the nation and would isolate groups.

(b) Hermeneutical justice is also essential in securing dialog, as it aims at establishing the intelligibility of speakers. By providing hermeneutical aid, the TRC aimed at giving everyone involved a better understanding of their current and past-experiences. Access to information, such as statistics, conceptual frameworks, interpretive comparisons, etc., as well as the unedited interviews, has enabled South Africans to better communicate their points of view and

experiences. They are, therefore, better able to make them intelligible to those that do not share their experiences or opinions. Showing concern for others would be impossible if you failed to understand the problems they are facing.

Showing equal hermeneutic concern is also important as an acknowledgement of the equal status of all citizens. Unequal hermeneutic concern would not only reinforce unjust background conditions, where some perspectives are prioritized over others. It would also rest on the assumption that not all experiences and points of view are worth fully developing and articulating. That would certainly detract from the goal of reconciliation, as it would reinforce stereotypes about the integrity or honesty of certain groups. Similar to credibility, dialog cannot take place under the presumption of unintelligibility.

(c) Finally, distributive epistemic justice aims at establishing autonomy and political freedom, goals that any just society should have. The TRC took a step towards establishing conditions of distributive epistemic justice by making critical facts available. However, in the process of reconciliation that would extend well beyond the TRCs work. Even today, the gap in education and public representation in South Africa is staggering²³. As I have argued in “Interpreting Distributive Epistemic Injustice”, learning certain propositions and skills is necessary for political participation. To be able to participate in the negotiation of the past and the current South African identity, equal access to relevant knowledge is of paramount importance.

Conclusion

²³ See Branson, N., Garlick, J., Lam, D., Leibbrandt, M. (2012)

This paper has contributed to the filling of two important gaps in the literature on epistemic justice. One gap concerns the relationship of epistemic justice to other kinds of justice. I believe that epistemic justice is worth pursuing in its own right. However, it is also plausible that epistemic justice can further other kinds of justice, a possibility that scholarship on epistemic justice has so far only lightly addressed. Here, I have explored how the TRC in South Africa, probably unintentionally, pursued conditions of epistemic justice, in its testimonial, hermeneutical and distributive form. I have also defined a conception of transformative justice that aims to build relationships among knowers that would lead to a community of common concerns, informed by a polyphonic narrative. Thus defined, transformative justice requires conditions of epistemic justice.

A further gap in the literature concerns political solutions to epistemic injustice. So far, proposals for resolving epistemic injustice have focused on development of a kind of virtue or stable disposition. Initially, in Fricker's work, the virtue was conceived of as one that individuals would display in interpersonal interactions. Medina's work significantly added to this argument by stressing the political dimension of epistemic injustice. However, his argument only covered acts of grassroots 'epistemic activism'. As a whole, the literature so far seems to assume that epistemic justice is to be achieved only through individuals acting as virtuous knowers, with no or just vague suggestions as to how institutions can factor into this. The TRC is a fascinating example of what kind of action the government could commit itself to in order to address systemic epistemic injustice at a more institutional level.

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