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**The Nature of Epistemic Injustice**  
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*1. Introduction*

In her recent book *Epistemic Injustice: Power and the Ethics of Knowing*, Miranda Fricker sets out to explore the idea that there can be “a distinctively epistemic kind of injustice” (1).<sup>1</sup> As she observes, there are many injustices that have a bearing on epistemic matters, such as unfair distributions of goods like education or information, but that don’t look distinctively epistemic. By contrast, Fricker focuses on two injustices – she labels these *testimonial* and *hermeneutical injustices*, respectively – that are, she argues, distinctively epistemic, in the sense that each consists in “a wrong done to someone specifically in their capacity as a knower” (1). These needn’t be the only types of epistemic injustice. But Fricker’s book, drawing extensively on work in both epistemology and ethics, aims to help us understand what it might mean for there to be such distinctively epistemic injustices in the first place.

There is much to comment upon in every part of this compelling study. Here, I will focus on the nature of the injustices that are at issue in the work. By comparing Fricker’s central cases with some cases of my own, I will press the question of why some of these cases, but not others, should be treated as instances of injustice. Thus, I’ll agree with Fricker that there is injustice, even distinctively epistemic injustice, involved in her central cases, but argue that her account of these injustices needs to be complicated in response to other cases.

The paper proceeds as follows. In the next section (§2), I briefly sketch Fricker’s account of the first of her two notions of injustice, testimonial injustice. In §3, I describe a way in which the account seems too broad, insofar as it counts as testimonial injustice cases in which (roughly) we don’t owe it to the speaker to judge his credibility correctly. In §§4-5, I describe two ways in which Fricker’s account seems too narrow, one having to do with cases of epistemic bad luck, the other with her characterization of identity prejudice and identity-prejudicial stereotypes. Then, in §6, I present Fricker’s notion of hermeneutical injustice. (Fricker’s discussion of this notion is much briefer than her discussion of testimonial injustice; the latter comprises the bulk of the book.) Finally, in §7, I argue that the two notions of epistemic injustice are more similar than Fricker allows, especially with respect to the kind(s) of prejudice involved in each.

As I hope will be clear throughout my discussion, I think the notions of testimonial and hermeneutical injustice are significant contributions to epistemology and ethics generally, and to the epistemology of testimony in particular. My intention here is to investigate why the contours of these notions are drawn precisely as they are in Fricker’s work.

*2. Testimonial injustice*

I’ll begin with Fricker’s conception of testimonial injustice. Simplifying a little, a speaker suffers such an injustice when she tells a hearer something, but is not believed because the hearer is prejudiced against people like her. Fricker illustrates this notion with a pair of vivid literary

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<sup>1</sup> All page references, except where otherwise indicated, are to Fricker (2007).

examples. The first of these recalls Tom Robinson's trial in Harper Lee's *To Kill a Mockingbird* (23-26). Robinson, a black man, is on trial for assaulting a white woman. There is ample evidence that he isn't guilty: for instance, it's clear that the assailant led with his left hand, and Robinson's left arm has been disabled since birth. Nevertheless, the white jurors cannot bring themselves to believe Robinson's denials, or his explanation for why he visited the victim in the first place, because their racial prejudices infect their perceptions of the defendant. They cannot believe, for instance, that Robinson might have visited the victim just because he felt sorry for her, as he claims, for they cannot imagine that a black man could feel sorry for a white person, no matter how badly off. Because the jurors take Robinson to be lying, they find him guilty, and he is sent to prison.

Testimonial injustices occur, then, when speakers suffer *credibility deficits* due to *identity prejudices* on the part of their hearers. A speaker suffers a *credibility deficit* when the credibility they are afforded by their hearer(s) is less than the evidence that they are offering the truth (19). An *identity prejudice* is a prejudice against (or in favor of) an individual or individuals *qua* member(s) of a social group (35). Identity prejudices can be either individual (as when one individual is prejudiced against others due to their social identity) or structural (as when some collective resources or social structures discriminate against certain individuals due to their social identity). On Fricker's view, however, it's *individual* identity prejudice that's implicated in testimonial injustice.<sup>2</sup>

For Fricker, Tom Robinson's case is a "central case" of testimonial injustice, in that the credibility deficit is due to a *systematic* identity prejudice on the part of the hearer (28). An identity prejudice is *systematic* (rather than incidental) when it tracks the individuals it targets across several aspects of their lives – economic, educational, professional, sexual, and so on (27). Incidental identity prejudices can also result in testimonial injustice, and these can be quite serious for the speaker. Nevertheless, from the point of view of social justice, it's the testimonial injustices resulting from systematic identity prejudices that Fricker regards as most worthy of attention.

Prejudices can make themselves felt in a number of ways. But Fricker is particularly interested in those that operate via *stereotypes*. In particular, her cases of testimonial injustice involve what she dubs *negative identity-prejudicial stereotypes*, where such a stereotype is to be understood as

...a widely held disparaging association between a social group and one or more attributes, where this association embodies a generalization that displays some (typically, epistemically culpable) *resistance to counter-evidence* owing to an ethically bad affective investment (35, emphasis added).

Most crucially, an identity-prejudicial stereotype is a stereotype that is marked by resistance to counter-evidence on the part of its holder. Even a true stereotype may therefore be identity-prejudicial, for the agent may be such that he would have continued to hold on to the stereotype

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<sup>2</sup> I'll return to the topic of structural identity prejudice (and question whether Fricker is right to say that such prejudice is not involved in testimonial injustice) in §§6-7. However, since most of my discussion in this paper focuses on individual identity prejudice, I'll stipulate that all further references to identity prejudice should be understood as concerning *individual* identity prejudice, unless explicitly indicated otherwise.

even had the evidence been different. The credibility deficit that is at the heart of testimonial injustice, then, will owe to the (generally sub-doxastic) operation of just such a stereotype. (I'll have a lot more to say about such stereotypes, and about identity prejudices more generally, in §5.)

Fricker draws a second central case of testimonial injustice from Anthony Minghella's screenplay for *The Talented Mr. Ripley* (14-15, 86-89). Here, Marge Sherwood suffers such an injustice when her suspicions about what has happened to her disappeared lover (Dickie Greenleaf) are ignored by the latter's father, Herbert Greenleaf. Desperate though he is to find out what has happened to his son, Herbert Greenleaf incorrectly regards Marge as a poor source of knowledge about Dickie, for he assumes that Dickie would have hidden the more insalubrious aspects of his character from his sweetheart. Greenleaf therefore dismisses Marge's well-founded suspicion that Dickie has been murdered as that of a hysterical, overly emotional female, saying "Marge, there's female intuition, and then there are facts" (14). In the face of repeated dismissals and put-downs in this vein by Greenleaf and others, Marge begins to live up to their perception of her, becoming hysterical and self-contradictory, unable to keep a lid on her emotions.

Both Tom Robinson's ordeal and Marge's clearly illustrate the severe harms that can attend central cases of epistemic injustice. Fricker offers a careful and illuminating account of these harms (43-59, 129-46), dividing them into primary harms (those that are characteristic of central cases of testimonial injustice) and secondary harms (those that sometimes, but not always, attend such cases). Here I'll mention just a few of the most significant harms, though I won't be able to do justice to Fricker's discussion. First, the primary harms: Perhaps most centrally, testimonial injustice undermines a capacity of the speaker's that is essential to human value, namely, the capacity to impart knowledge. Second, given this connection between imparting knowledge and human value, the speaker who is thus undermined is also symbolically degraded *qua* human being. Further, testimonial injustice involves treating a speaker as a *mere* source of information, rather than as a subject of knowledge, and as such, (epistemically) objectifies the speaker in a morally problematic manner.

Besides these primary harms, the speaker may also suffer any number of secondary harms, either practical or epistemic. The secondary practical harms are particularly clear and especially brutal in Tom Robinson's case: he loses his freedom, and eventually, his life. The secondary epistemic harms can also be serious: for example, as seems to happen to Marge Sherwood, when a speaker is not believed, she may lose confidence in her belief, and thus, cease to satisfy the conditions for knowledge.

What, then, can be done to avert testimonial injustices, and their attendant harms? Fricker argues that in order to avoid committing such injustices, we hearers need to inculcate in ourselves the *virtue of testimonial justice* (86-92). A hearer who has this virtue is able to *neutralize* the impact of prejudice on her credibility judgments (92). In some cases, displaying this virtue will require conscious reflection on the part of the hearer, especially reflection on the impact of his own social identity (and the speaker's) on his judgments. In other cases, the virtue may be displayed more spontaneously, as when greater familiarity with a speaker, either over the course of a conversation or longer acquaintance, dissolves the prejudice. However one manages it,

spontaneously or reflectively, the virtuous hearer will be one who can counteract the effects of prejudice “reliably enough” (98).

I’ll return later (in §6) to the other kind of epistemic injustice that Fricker discusses, namely, hermeneutical injustice. For now, with this outline of some of Fricker’s main points in mind, let’s turn to some questions about this account of testimonial injustice.

### *3. Credibility judgments and hearers’ obligations*

As we’ve seen, testimonial injustices are due to credibility deficits caused by identity prejudices, in particular, negative identity-prejudicial stereotypes. In this section, I’ll consider whether *all* credibility deficits of this type can plausibly be considered injustices to the speakers.

Imagine the following situation. Zara is working her way through the news of the day online. As usual, there are more news items than she has time to read. If she clicked on every intriguing headline, she would get nothing else done for the day. To keep things manageable, she uses several rough heuristics to cull her list of news items. For example, though she likes to read writers from a broad range of political persuasions, there are some persuasions she can’t take seriously. The tea-party movement is one such persuasion: she has seen some of their more offensive protest placards, though she doesn’t know that much about them, including what precisely they want, and how they’re different from other right-leaning groups. Today, she comes across an item that opens with the writer identifying himself as a “committed tea-partier”. As is her usual habit with such writers, Zara deletes the item, figuring she won’t be able to trust much of what the writer says anyway.

Now, suppose that the writer that Zara so cavalierly dismisses is in fact a trustworthy source on the political issue on which he happens to be writing. If so, has Zara committed an injustice against that writer?

Let’s note a few things about the case. First, Zara isn’t here merely ‘switching off’ the speaker in the way one might when the speaker has a particularly annoying speaking/writing style, or is talking about a topic in which one has no interest. Rather, Zara (we can assume) is interested in the topic, but dismisses the writer nonetheless because she finds him non-credible. Second, she finds the writer non-credible because she has negative associations with tea-partiers. Is this stereotype identity-prejudicial? It seems that it is, for by regularly dismissing tea-partiers in this manner, Zara systematically deprives herself of crucial sources of counter-evidence against her stereotype. Surely, that is one way of being resistant to counter-evidence. Third, Zara’s credibility judgment constitutes a credibility deficit, for her small amount of evidence about tea-partiers doesn’t seem to warrant dismissing them all out of hand. As such, her credibility judgment doesn’t (to borrow Fricker’s formulation) match the evidence that the writer is offering the truth.<sup>3</sup>

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<sup>3</sup> It would be useful to know more about what it takes to match one’s credibility judgment to the evidence that one’s interlocutor is offering the truth, as Fricker requires. For example, when a hearer has very little evidence about a speaker, as in Zara’s case, what credibility judgment would be appropriate? What about when a hearer possesses quite a bit of (misleading) evidence to the effect that a speaker is not very credible, but could easily acquire other evidence that points in the opposite direction? I’ll consider a case of the latter sort in §5.

Intuitively, I think, Zara does no injustice *to the writer* by dismissing him. In refusing to engage with him, she isn't being unfair to him. That's because she simply doesn't owe it to him to avoid a credibility deficit. It may be that Zara harms *herself* by depriving herself of sources of knowledge on topics she cares about. And it may also be that she fails to fulfill some obligation (to herself) to be rational. But testimonial injustice requires more than this, for it is by definition a kind of wrong done to another (the speaker). Because (intuitively speaking) Zara does no injustice to the speaker, this shouldn't count as an instance of testimonial injustice.

The situation in which Zara finds herself is not particularly unusual. In the contemporary world, we are all constantly bombarded with testimony, from a variety of sources (e.g., family members, friends, colleagues, and strangers on the street, as well as sources on television, radio, magazines, books, and the web). We have, moreover, limited evidence about many of these sources. In many such cases, I suspect, we are in fact guided by various heuristics (stereotypes), including many negative identity-prejudicial ones, about matters as varied as accent, dress, body type, political persuasion, religious persuasion, and much else. Given the pressure of time, and the barrage of testimony, it is nearly impossible for us to make credibility judgments that match the evidence in all such cases. That is more than can be reasonably expected of us.

To bolster this point, consider some further examples. For me, the typical commute to and from work includes all of the following sources of testimony: billboards (several), radio and podcasts (both on my own device and other devices played loudly in my immediate vicinity), strangers and occasionally acquaintances engaging in conversation with and around me (many), overheard cell-phone conversations (uncountably many), and public announcements (a few). In most of these cases, if my credibility judgment constitutes a credibility deficit, I surely do no harm (and no wrong) to the speaker. For example, if I dismiss the views of the stranger sitting next to me because I have negative associations with people with strong Southern accents, intuitively I don't do him an injustice.

Note, further, that time pressure isn't the only reason to think that credibility deficits, even those caused by identity prejudices, don't always result in injustices. Even when we do have enough time to make measured credibility judgments, it's not clear that we owe the necessary attention to every source of testimony that impinges upon us. Consider again the series of testimonial sources described in the previous paragraph. Several of those sources intrude upon me (the hearer) even though I would rather not engage with them. Especially (but not only) in such cases, it does not seem that it is incumbent upon the hearer to avoid credibility deficits.

If what I've been arguing here is right, then Fricker's account of testimonial injustice is too broad: not all credibility deficits due to identity prejudices result in injustices to the speakers. To put the point another way, we hearers have no *general* obligation to match our credibility judgments to the evidence in every case. Where no such obligation exists, we do no wrong in failing to avoid a credibility deficit, regardless of the reasons for the failure. But this immediately raises the following question: is there any such obligation in Fricker's central cases? In what follows, I'll argue that the answer is 'yes', but that's because those cases share certain features that aren't shared by the examples discussed above.

One feature that Fricker's central cases share is that the testimony takes place against the background of certain special interpersonal relationships that already exist between the speaker and the hearer(s). This is perhaps clearest in Tom Robinson's case, for his testimony occurs in the context of a courtroom trial. In agreeing to serve as a juror in a court of law, a person clearly (and often explicitly) undertakes to afford each witness the credibility that is demanded by the evidence. As such, in virtue of the roles they have undertaken, jurors have obligations to match their credibility judgments to the evidence. The jurors of Maycomb County fail to live up to these obligations.

A similar point can be made about Marge Sherwood's case. While Marge doesn't stand in a formal, legal relationship to Herbert Greenleaf, they do have an already existing personal, quasi-familial relationship. Given her long-standing relationship with his son, Marge is nearly a family member to Greenleaf. Now, it's a commonplace that we have special obligations to our friends and family members that we don't have to others. If an obligation to take their testimony seriously, to give them the credibility that's demanded by the evidence, is among these special obligations that we have to friends and family members, then that can also explain why Greenleaf wrongs Marge in dismissing her as he does.<sup>4</sup>

By contrast, Zara (the news reader) stands in no special interpersonal relationship to the writer she dismisses, nor do I stand in any special relationship to the various testifiers that I encounter on my commute. That lack of a special relationship can explain why Zara and I do no wrong in affording credibility in those two cases.

The explanation I've just sketched is by no means the only possible one for why hearers are obligated to match their credibility judgments to the evidence in some cases of testimony, but not in others. (For instance, a different explanation is suggested by the fact that Tom Robinson and, to a lesser extent, Marge Sherwood each have a lot at stake in whether their testimony is regarded as credible by the jurors and Herbert Greenleaf, respectively, whereas the tea-partier and my fellow commuter have very little at stake in whether Zara or I believe them.) But the main point here is this: to avoid making testimonial injustice far too common an occurrence, Fricker's account needs to be supplemented with one or another such explanation for when the hearer has an obligation to match her credibility judgment to the evidence. Then, we can say that such an injustice takes place only when this kind of obligation is not discharged (due to identity prejudice on the hearer's part).

One advantage of making this sort of modification is that it would also explain a further interesting feature of Fricker's central cases, namely, that the hearers in those cases commit injustices against the speakers even if they merely ignore them. For example, if the jurors at Tom Robinson's trial make no credibility judgment about him at all, if, that is, they merely switch off when he testifies and ignore the content of his testimony, they still do him an injustice. Crucially, this is so regardless of whether the switching off is motivated by identity prejudice, or by sheer laziness. By contrast, if Zara switches off in this sense, and just ignores the tea-partier (instead of judging him to be non-credible), she seems to do him no injustice. On the view I'm suggesting, this difference can be explained by the hypothesis that the jurors have obligations

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<sup>4</sup> In fact, some have argued that our special obligations to friends and family members require us to go beyond what the evidence suggests. For an account of the sort of epistemic partiality that friendship demands, see Stroud 2006.

towards Tom Robinson (to afford him the credibility the evidence demands) that they fail to discharge, while Zara lacks any such obligation towards the writer.

Finally, it may be objected that the sort of modification I'm advocating here is unnecessary, because I have misdiagnosed what is going on in Zara's and my cases. According to this objection, Zara *does* commit an injustice against the writer she dismisses, but not a serious injustice; in this respect, her case is different from those of Tom Robinson and Marge Sherwood. Similarly, I do commit an injustice in dismissing my fellow commuters as I do, but again, this injustice is much less severe than the ones in Fricker's central cases. Once we recognize that not all testimonial injustices (like injustices of any other sort) are equally serious, there is no challenge here to Fricker's account. Or so the objection goes.

I'll make two points in reply. First, even if this objection were convincing, we would still need an account of what makes some testimonial injustices more serious than others. I suggested above that part of the explanation has to do with the nature of the interpersonal relationships that obtain between the speaker and the hearer, but that may not be the whole story. Be that as it may, this objection doesn't mitigate the need for *some* such explanation. Second, presumably this is not an objection that *Fricker* would find attractive. As we shall see shortly (in §4), Fricker argues that cases of epistemic bad luck shouldn't count as instances of testimonial injustice because otherwise, it would be *too easy* to commit such injustices (42). A similar worry arises here: if it is always incumbent upon hearers to avoid credibility deficits due to identity prejudices, even when the testimony is inconsequential, or is forced upon the hearer, then again testimonial injustices are going to be very easy to commit. Given that Fricker is independently committed to the idea that epistemic injustices should not be too easy to commit, that commitment should give her grounds to exclude cases like Zara's from the realm of epistemic injustice.

#### 4. *Epistemic bad luck*

In the previous section, I argued that not every credibility deficit due to identity prejudice results in an injustice to the speaker. In this section, I shall turn to a different, but related, question, namely, whether there can be testimonial injustice *without* identity prejudice altogether.

As Fricker notes, even reliable, non-prejudicial stereotypes can have exceptions. If a hearer who relies on such a stereotype mistakenly takes a speaker to be telling a falsehood, that is a matter of epistemic bad luck, not identity prejudice. Fricker argues that in such a case there is no wrong, and so no testimonial injustice, because the hearer "has not put a foot wrong" in interpreting the speaker (42). If we were to insist that a wrong is done nevertheless, then (according to Fricker) it would seem too easy to commit testimonial injustice.

To defend this point, Fricker asks us to consider a continuum of cases of epistemic bad luck. (In all of these cases, we're to assume that the stereotype used is in fact reliable and non-prejudicial.) In the first case, a hearer judges a speaker to be insincere because of his shifty manner: the speaker "avoids looking her in the eye, frequently looks askance, and pauses self-consciously in mid-sentence as if to work out his story" (41). In fact the speaker is sincere, but overwhelmingly shy. In the second case, the speaker is an honest used car salesman. In the final case, the speaker truthfully proclaims that the house is on fire, but is disregarded because of a long history

of telling deliberate lies. Fricker thinks that it's clear in the third case that the hearer commits no wrong. The same goes, though perhaps less starkly, for the second case. Finally, the first case is continuous with the last two, in that all three are cases in which the hearer commits an "innocent error", for which they have neither epistemic nor ethical culpability (42-43). Given this continuity, Fricker concludes that we should say that there is no wrong committed in the first case as well. I'll call this 'the continuity argument'.

Should we accept this argument? Let's look at these cases more closely. Fricker does not deny that there are differences between the cases. For example, she notes that in the third case, it's clearly the speaker's own fault that she is not believed, whereas that's not true (or true to a much lesser extent) in the other two cases. But it's not clear that this difference matters with respect to whether an injustice is done in these cases.

Other details of the cases do seem more relevant, however. For example, our judgments about whether a wrong is done to the speaker seem to depend (again) on who the speaker and hearer are, what relationship obtains between them, and what is at stake in whether the testimony is believed by the hearer. To see this, consider two variations on the first case, namely, that of the speaker with the shifty manner. In the first variation, the speaker and the hearer are neighbors and slight acquaintances, and the speaker, with his shifty manner, is explaining why he failed to show up for a lunch appointment the two of them had made. The appointment was merely an opportunity for them to get to know each other in a friendly way, and it's easy enough for the two to reschedule, if they both so desire. In the second variation, the speaker is a victim of a crime – say, a rape victim – and the hearer is a police officer to whom she is reporting her ordeal. Even granting that the stereotype here is genuinely reliable and non-prejudicial, if this police officer dismisses the victim merely because of her shifty manner, without making any further effort to check whether she is really lying, he (intuitively speaking) seems to commit a wrong against the victim. The same is not true of the first pair. Though the speakers in both versions are equally subject to epistemic bad luck (if not believed), the police officer's dismissal of the second speaker without further consideration seems much less innocent than the other hearer's.

Of course, even if the police officer were to try to put aside the stereotype, and look for other cues that might help him recognize that the speaker is telling the truth, it's not certain that he would succeed. There just may not be enough such cues. But in her discussion of the virtue of testimonial justice, Fricker argues that it's at least sometimes possible for a (virtuous) hearer to correct for the impact of identity-prejudicial stereotypes on her credibility judgments. Some of the same techniques might also help the police officer recognize that the speaker he has before him is an exception to his reliable, non-prejudicial stereotype. For instance, Fricker notes that a hearer's prejudiced credibility judgment may correct itself as the hearer gets to know the speaker better, as familiarity melts away prejudice. One way this can happen is if increased familiarity yields evidence that the speaker doesn't in fact fit the prejudice in question. For similar reasons, increased familiarity might also help the police officer recognize that the speaker with the shifty manner is in fact an exception to the stereotype he is using.

All of this suggests that whether the police office commits an injustice depends not merely on whether the stereotype in question is reliable and non-prejudicial, but also on what else he could

have done, beyond relying on the stereotype, to come to recognize that the speaker is indeed telling the truth.

Further, in at least some cases of epistemic bad luck, the harms done to the speaker are akin to the harms done to speakers in central cases of testimonial injustice. Consider the case of Simon and Arthur, who have both grown up and still live in a deeply racially segregated world. In this world, blacks are largely uneducated. When they do get to attend school, their schools are much inferior to the ones that whites attend, and they are rarely taught more than basic reading and arithmetical skills. Simon, who is white, owns a large business, and is about to hire some new employees, including someone to help him with the accounting. Arthur, who is black, has applied for the accounting position. In fact, Arthur is more than able to do what is required by the position, having taught himself the necessary skills. But Simon, relying on the reliable (in his world) and non-prejudicial stereotype that black people simply lack the numeracy skills for such accounting jobs, doesn't believe that Arthur will be up to the task, contrary to what he says.<sup>5</sup> As a result, Arthur doesn't get the job, or even a trial that might allow him to demonstrate his skills. He isn't seriously considered for the position at all.

We can easily imagine that this reliable stereotype will disadvantage Arthur very systematically, in that it will track him through a variety of spheres (professional, economic, legal, and so on). It may lead many potential employers to react like Simon, and simply disregard Arthur's claim that he can do the work. As such, the harms that result from this stereotype seem to run the full gamut that Fricker associates with central cases of testimonial injustice. Certainly, Arthur's capacity to impart knowledge, even about his own skills, is undermined, and as such, he is symbolically degraded *qua* human being. He is not treated as a subject of knowledge. The secondary practical harms here are also particularly severe, as Arthur finds himself unable to get a job.

Of course, the fact that the harms that accrue to Arthur are the same as in central cases of testimonial injustice doesn't settle the issue of whether the *wrongs* are the same. But this fact should count as further (if defeasible) reason to think that Arthur also suffers testimonial injustice.

Finally, recall Fricker's claim that the hearer does not "put a foot wrong" in interpreting the speaker in each of her three cases, because he (the hearer) has no epistemic culpability for failing to recognize that the speaker is telling the truth. Even if this is true, its relevance to the question of whether testimonial injustice is done in these cases is unclear. That's because by Fricker's own lights, it's possible to have testimonial injustice without epistemic culpability on the part of the hearer, such as (she argues) happens in the case of Marge Sherwood and Herbert Greenleaf (from *The Talented Mr. Ripley*) (98-108). Accordingly, the lack of epistemic culpability in the cases we're currently considering wouldn't settle the issue about whether testimonial injustice is done there.

I've argued here against Fricker's continuity argument, suggesting that there are differences among cases of epistemic bad luck, that might lead us to regard *some* cases of this sort as cases

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<sup>5</sup> Though Simon's stereotype is not identity-prejudicial in Fricker's sense, there is prejudice – in particular, *structural* identity prejudice, against blacks – in this case. See note 2.

of testimonial injustice. Let me emphasize here that my point is *not* that every case of epistemic bad luck should count as an instance of testimonial injustice. Rather, my aim has been to show that the terrain here (and our judgments about cases) are much messier than suggested by the continuity argument.

### 5. Stereotypes and evidence acquisition

In §4, I considered one way in which Fricker's account of testimonial injustice seems too narrow, in that it rules out the possibility that such injustice can occur without identity prejudice on the part of the hearer. In this section, I'll look at a different way in which the account seems too narrow, in that it fails to count as prejudicial certain stereotypes that intuitively should so count.

Recall that Fricker characterizes a negative identity-prejudicial stereotype as

...a widely held disparaging association between a social group and one or more attributes, where this association embodies a generalization that displays some (typically, epistemically culpable) *resistance to counter-evidence* owing to an ethically bad affective investment (35, emphasis added).

Such stereotypes are a kind of identity prejudice, where identity prejudices more generally are understood as

...judgments, which may have a positive or negative valence, and which display some (typically, epistemically culpable) *resistance to counter-evidence* owing to some affective investment on the part of the subject (35, emphasis added).

Identity-prejudicial stereotypes, like identity prejudices more generally, are thus marked by resistance to counter-evidence on the part of the holder. But resistance to counter-evidence isn't enough to make a stereotype count as identity-prejudicial, if that resistance arises from what might be called 'a honest mistake', i.e., a non-epistemically-culpable mistake. To illustrate this idea, Fricker asks us to consider the case of Solomon, who grows up in an isolated community believing that women aren't capable of abstract thought (33-34).<sup>6</sup> In this community, Solomon never encounters a woman who is much of an abstract thinker, and his local library is full of books by men. Thus far, Fricker suggests, the case is compatible with Solomon's stereotype not being prejudicial, for he might be making an honest mistake. Suppose, however, that Solomon retains the stereotype even after leaving his isolated community, and getting the opportunity to become acquainted with women who are abstract thinkers. Then, his stereotype may be identity-prejudicial. For in that case, his continuing to hold on to the stereotype would (presumably) be due to some "ethically bad affective investment", such as dislike or contempt for women.

With this account in mind, let's consider two variations on the Solomon case. In the first variation, David thinks that black people are lazy, that they prefer collecting unemployment checks to actually holding down a paying job that might require some effort. This stereotype is based on observation of the black residents of his apartment building, who are largely unemployed, and don't seem to be making much effort to rectify the situation. Now, there are

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<sup>6</sup> Fricker attributes the case to Nomy Arpaly (2003: 103).

many other black residents in the same neighborhood who don't fit his stereotype. But David doesn't know them. Moreover, though it would have taken very little effort for him to get to know some of these neighbors, he doesn't *want* to know them, for he doesn't much like black people, and so tries not to associate with them any more than he has to. Nevertheless, *had* he come to know these neighbors, David is fair-minded enough that he would have given up his stereotype.

In this case, David's stereotype is evidence-based. At least, it is based on the evidence that is immediately available to him. Unfortunately, that evidence happens to be misleading. There is more evidence that David *could* have had, and quite easily, had he been so inclined. But crucially, David isn't at all resistant to counter-evidence, for he would have given up his stereotype in the face of counter-evidence. So, David's stereotype isn't identity-prejudicial in Fricker's sense.

Nevertheless, David's stereotype seems prejudiced. To see why, it will be useful to consider how Fricker first introduces the general notion of a prejudice.

The idea of a prejudice is most basically that of a *pre-judgement*, where this is most naturally interpreted in an internalist vein as a judgement made or maintained without proper regard to the evidence, and for this reason we should conceive of prejudice generally as something epistemically culpable (33, original emphasis).

This seems to me exactly right, especially the idea that a prejudice involves lack of "proper regard to the evidence". However, in her *official* characterizations of both negative identity-prejudicial stereotypes and identity prejudices more generally (quoted at the beginning of this section), Fricker renders this lack as *resistance to counter-evidence*. What David's case brings to light is that there are ways of lacking "proper regard to the evidence" that don't involve resistance to counter-evidence. As we've seen, due to his general dislike of black people (surely an "ethically bad affective investment"), David fails to acquire counter-evidence he could easily have had. Failure to acquire easily accessible, relevant evidence is another way in which an agent can evince lack of "proper regard to the evidence". Where that failure is also due to an "ethically bad affective investment" (as it is in both David's and Solomon's cases), there's also reason to think that the agent is epistemically culpable. (Note that I'm not suggesting that agents are epistemically culpable for *every* failure to acquire easily accessible, relevant evidence, only for some such failures.)

Moreover, there may also be further ways in which someone can lack "proper regard to the evidence". Let's consider a second variation on the Solomon case. Paul, like Solomon, has lived all his life in a small and isolated community. Also like Solomon, Paul subscribes to the view that women aren't abstract thinkers, and he bases this view on observation of the small handful of women he has known in his lifetime. But like David, Paul is fair-minded enough that, were he to be confronted with counter-evidence to the stereotype, he would not continue to hold on to it.

Is Paul's stereotype prejudiced? Like David, Paul isn't resistant to counter-evidence, so his stereotype isn't identity-prejudicial in Fricker's sense. Nevertheless, there is a clear sense in which Paul is guilty of "pre-judgement" here, for he forms this stereotype on the basis of a *very*

small sample. There is something absurd about forming such a view about *all* women on the basis of such limited experience. And that would be the case even if the stereotype were *true*. It's this feature – namely, Paul's forming such a broad stereotype on the basis of such little evidence – that marks this as a case of “pre-judgment”, and of displaying a lack of “proper regard for the evidence”. If Paul's rush to judgment (of all women) is motivated by, for example, his dislike or lack of respect for women, then once again it seems that there is epistemic culpability, and hence prejudice in the stereotype.

I've argued here that Fricker's (official) understanding of identity prejudice, and of identity-prejudicial stereotypes, is too narrow. Failing to gather easily accessible counter-evidence, and generalizing too quickly from a small sample, are both genuine epistemic mistakes, for which agents can be epistemically culpable. (Things may be different if the counter-evidence is hard to acquire, or if the agent generalizes from an adequate but misleading sample.) Accordingly, there seems to be no reason not to regard credibility deficits that result from such epistemically-culpable mistakes as (further) instances of testimonial injustice. To do otherwise would have the odd consequence that a hearer can avoid committing such an injustice merely by being careless about acquiring counter-evidence, even when that carelessness arises from contempt for the target group.

#### *6. Hermeneutical injustice*

As we've seen, for Fricker, testimonial injustice occurs (roughly) when a speaker is deprived of credibility due to identity prejudice on the part of the hearer. As a result of this loss of credibility, the speaker may be unable to get across many things, including aspects of her own social experience, to others. But Fricker describes a second kind of epistemic injustice that seems, in a sense, even more basic than testimonial injustice, in that it renders an agent unable to articulate aspects of her social experience even to herself, much less communicate them to others. Roughly speaking, someone suffers the latter kind of injustice, a hermeneutical injustice, when, as a result of (structural) identity prejudice, the hermeneutical resources available are too impoverished for her to articulate (to herself and to others) certain aspects of her social experience.

To illustrate this notion, Fricker uses the case of Carmita Wood (149-50).<sup>7</sup> While working as an administrator in the department of nuclear physics at Cornell, Wood was subjected to what we would now label ‘sexual harassment’ by a senior faculty member. The stress of repeated molestations, and the burden of trying to avoid her molester produced in Wood a variety of physical symptoms, including chronic neck and back pain. As her health deteriorated, she found herself unable to work. She applied for a transfer to another department, which was refused. Eventually, she quit her job. Later, Wood applied for unemployment benefits, but, “at a loss to describe the hateful episodes” she had experienced, she listed her reasons for leaving the job as personal (150). Her application was denied.

Wood, of course, lacked the phrase ‘sexual harassment’, and perhaps the concept as well. Women like Wood thus suffer when hermeneutical resources that could articulate and illuminate important aspects of their social experiences are generally unavailable. Further, as Fricker argues, this unavailability is not merely a case of bad epistemic luck. Rather, it is the result of

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<sup>7</sup> Fricker finds this case in Brownmiller (1990: 182).

women's social inequality, especially the exclusion of women from certain practices (e.g., the professions of journalism, politics, academia, and law) via which social meanings are generated, and the interest of the men who do participate in these practices in maintaining the existing social meanings (e.g., that behavior like the professor's is nothing more than harmless "flirting").

Hermeneutical injustices are thus suffered by agents when some *significant area* of their social experiences is obscured from collective understanding by *hermeneutical marginalization* (158). A group is *hermeneutically marginalized* when their hermeneutical participation with respect to significant areas of social experience is unequal to that of other groups, and that inequality redounds to this group's disadvantage (153). Some of the ways in which women as a group have been hermeneutically marginalized were noted in the previous paragraph.

Where testimonial injustice was a matter of *individual* identity prejudice, for Fricker, hermeneutical injustice is a matter of *structural* identity prejudice (155).<sup>8</sup> Hermeneutical marginalization renders our collective hermeneutical resources structurally prejudiced, in that those resources tend to issue interpretations that obscure the social experiences of certain individuals. Where this structural prejudice affects individuals due to their social identity, it is a kind of structural *identity* prejudice.

As was the case for testimonial injustices, hermeneutical injustices can also be *systematic*, or incidental. Recall that a *systematic* (individual) identity prejudice was one that tracked its target through across several aspects of their lives – economic, educational, professional, sexual, and so on. Marginalization, Fricker argues, can do the same, such as when exclusion from certain professions (a kind of socio-economic marginalization) results in hermeneutical marginalization. For Fricker, a "central case" of hermeneutical injustice is one in which the marginalization is systematic in this manner, such as Carmita Wood's.

Central cases of hermeneutical injustice, like those of testimonial injustice, result in both primary and secondary harms (162-69). A primary harm is that such injustice prevents its victims from making communicatively intelligible aspects of their social experience that are very much in their interest to make intelligible. The secondary harms can be either epistemic or practical. Both aspects are illustrated by Carmita Wood's case. The epistemic harm to Wood included her inability to articulate and understand an important aspect of her social experience. The practical harms included the physical symptoms, as well as the denial of unemployment benefits, that resulted from the harassment.

To ameliorate the harms of hermeneutical injustice, Fricker argues that we need *the virtue of hermeneutical justice*. Most centrally, this virtue requires increased sensitivity to the possibility that what a speaker is struggling to communicate is obscured due to hermeneutical marginalization, not because she is confused or just producing nonsense. As such, the virtuous hearer would seek to neutralize the impact of this marginalization on his interpretation of the speaker.

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<sup>8</sup> As mentioned in note 2, the discussion of identity prejudice until this point in the paper has largely focused on individual identity prejudice.

Having now sketched this second kind of epistemic injustice, I will, in the next and final section, contrast it with the first kind, looking especially at the kind of identity prejudice involved in each.

### *7. Identity prejudice, individual vs. structural*

We now have two notions of identity prejudice before us, individual and structural. As we've seen, Fricker thinks that testimonial injustice is a matter of individual identity prejudice, whereas hermeneutical injustice is a matter of structural identity prejudice. In this section, I'll briefly consider whether we should accept this asymmetry, instead of saying that each kind of epistemic injustice can (and often does) result from a combination of the two kinds of prejudice.

Hermeneutical injustice, for Fricker, is a matter of structural prejudice because whether there is such an injustice turns on a structural matter, namely, on the availability (or unavailability) of particular hermeneutical resources in our collective understanding. Thus, Carmita Wood suffers this injustice partly because the resources needed to understand her experiences are unavailable in the collective understanding. But much the same can be said about testimonial injustices as well. After all, Tom Robinson and Marge Sherwood both suffer as they do because certain racist and sexist stereotypes are so easily accessible and so powerful in the collective understanding. Had these stereotypes not been such an important part of their hearers' "*imaginative social coordination*" (to borrow a phrase from Fricker), it is far less likely that those testimonial injustices would have taken place (14). But what stereotypes are available, how powerful or accessible they are, seems in large part a structural matter. If so, whether there is a testimonial injustice also seems to depend (at least in part) on a structural matter.<sup>9</sup>

On the flip side, individual prejudices can surely contribute to hermeneutical injustice as well. Imagine that Carmita Wood had attempted to articulate her experiences to a particularly unsympathetic colleague, one who thought that women who complain about male advances in the workplace are really just nervous ninnies, liable to become hysterical at the slightest provocation. This colleague greets Wood's fumbling attempts to describe what had happened to her (and why she found it so painful and unsettling, why she couldn't merely brush it off and continue as before) with contempt and derision. The colleague accuses Wood of being over-sensitive and prudish. Such a reaction might well set back Wood's attempts to understand what had happened to her. It might even convince her that she did just over-react to some harmless flirting, that it's unreasonable for her to complain. But that would just further obscure the experiences in question.

The case just imagined is an instance of individual identity prejudice on the part of the colleague. Recall (from §5) that Fricker thought that such prejudice involves both a kind of "pre-judgement", and a (typically epistemically culpable) resistance to counter-evidence. In having decided at the outset that women who complain about (what we now call) sexual harassment are merely being over-sensitive, and by not even attempting to understand why Wood may have something to complain about, the colleague appears to display both aspects of individual prejudice.

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<sup>9</sup> Both Alcott (unpublished) and Langton (2010) have made related points. Alcott emphasizes the contribution of cultural factors (such as advertising culture) to the occurrence of testimonial injustice, while Langton recommends a structural solution to both kinds of epistemic injustice discussed by Fricker (Langton 2010: 462-63).

Thus far, I've argued that the two kinds of epistemic injustice Fricker discusses are more similar than she allows, in that each can be a result of some combination of individual and structural identity prejudice. Against this, it may be objected that there is still a crucial difference between the two, in that testimonial injustice necessarily involves a perpetrator (namely, the hearer), whereas hermeneutical injustice needn't. Hermeneutical injustice can take place when an agent tries to understand her own social experiences for herself, without any contribution from an interlocutor.

This difference between (some) hermeneutical and testimonial injustices doesn't seem dispositive of the issue before us. For even if I'm right to suggest that both kinds of prejudice can contribute to each kind of epistemic injustice, token injustices (of either kind) will still vary with respect to the degree to which each kind of prejudice is involved. Thus, for example, some instances of testimonial injustice may be largely due to individual prejudice, while others will be largely due to structural prejudice. Similarly for hermeneutical injustice. If that's right, then we can regard hermeneutical injustices in which no interlocutor contributes to the injustice as on the structural end of the spectrum. But to say that isn't to deny that other token hermeneutical injustices can involve individual prejudice as a contributory factor.

Finally, on this way of thinking, if some token testimonial injustices are located on the structural end of the spectrum, then we will have testimonial injustices with no (or little) contribution from *individual* identity prejudice. Once we allow this, then (to return to a question discussed in §4) there's no reason not to allow that some instances of epistemic bad luck (e.g., the Simon and Arthur case from the end of §4, in which there is structural prejudice but no individual prejudice) do count as instances of testimonial injustice after all.<sup>10</sup>

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