Epistemic Justice as a Virtue of Social Institutions

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In Epistemic injustice, *Miranda Fricker makes a tremendous contribution to theorizing the intersection of social epistemology with theories of justice. Theories of justice often take as their object of assessment either interpersonal transactions (specific exchanges between persons) or particular institutions. They may also take a more comprehensive perspective in assessing systems of institutions. This systemic perspective may enable control of the cumulative effects of millions of individual transactions that cannot be controlled at the individual or institutional levels. This is true not only with respect to the overall distribution of such goods as income and wealth, but also with respect to the goods of testimonial and hermeneutical justice. Cognitive biases that may be difficult for even epistemically virtuous individuals to correct on their own may be more susceptible to correction if we focus on the principles that should govern our systems of testimonial gathering and assessment. Hence, while Fricker's focus on individual epistemic virtue is important, we also need to consider what epistemic justice as a virtue of social systems would require. My paper will indicate some directions forward on this front, focusing on the need for integration of diverse institutions and persons engaged in inquiry.*

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Transactional and Structural Injustice

Theories of distributive justice may be transactional or structural. A transactional theory of justice identifies criteria of justice for particular exchanges or interactions

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between one person and another. For example, it may specify that the exchange must be voluntary, by mutual consent, and not involve deception of one of the parties by another. While most of the criteria of transactional justice apply locally (to the individual transaction considered in isolation), some may include an historical component. For example, the theory may require that transactions begin from an initially just position. Robert Nozick's (1974) libertarian historical entitlement theory offers a paradigm of a transactional theory of justice. As long as the parties start off as legitimate owners of their property, any transactions that satisfy the local criteria of justice will confer justice on the resulting distributions.

The cumulative effects of a series of transactions, each of which satisfies the local criteria of justice, and which begins from a just starting point, may be disastrous. Asset markets can suffer from speculative booms and busts that throw millions of innocent people out of work and into poverty. Individuals may take reasonable risks that turn sour, plunging them into desperate straits. Such possibilities motivate structural or systemic theories of justice. A structural theory supplies criteria for assessing global properties of a system of rules that govern transactions, and imposes constraints on permissible rules with an eye toward controlling the cumulative effects of individual transactions that may be innocent from a local point of view. John Rawls's (1971) theory of justice offers a paradigm of a structural theory of justice. His principles of justice regulate the basic structure of society—the fundamental institutional rules that determine individuals' socioeconomic prospects. Most famously, his Difference Principle directs states to design systems of economic rules that are expected to maximize the income prospects of the least advantaged representative worker.

A transactional theory may attempt to deal with the bad cumulative effects of a series of just transactions by urging individuals to practice compensating virtues. On this view, those who are advantaged through the series of transactions should conscientiously seek out the disadvantaged and help them do better. While such conduct may be admirable, the individual practice of virtue is not up to the task of coping with the problems generated by a system of rules that regulate only the local properties of transactions and not their global effects. It is hard for individuals to acquire knowledge of who is most disadvantaged by the system, and very difficult for them to coordinate their helping efforts to maximum effect. Help will therefore tend to be maldistributed, being heaped on salient, highly publicized cases of episodic catastrophe while neglecting more pervasive, persistent, and entrenched sources of disadvantage. It is also hard for individuals to keep up the constant vigilance needed for the practice of virtue to sustain its good effects over time. Institutions may also have powers to correct or prevent problems that virtuous individuals cannot solve or avoid on their own. Central banks can alter interest rates and the aggregate money supply to prevent or reverse recessions.

These lessons apply to epistemic justice as much as to distributive justice. Answering a complex question, or interpreting some significant phenomenon, typically requires that we elicit epistemic contributions from numerous individuals and connect them appropriately. The cumulative effects of how our epistemic

system elicits, evaluates, and connects countless individual communicative acts can be unjust, even if no injustice has been committed in any particular epistemic transaction. Nor can we count on the practice of individual epistemic justice to correct for all of these global effects. Rather, the larger systems by which we organize the training of inquirers and the circulation, uptake, and incorporation of individuals' epistemic contributions to the construction of knowledge may need to be reformed to ensure that justice is done to each knower, and to groups of inquirers.

Miranda Fricker's pathbreaking account of epistemic injustice provides a useful starting point for exploring these issues. Her account recognizes both transactional and structural forms of epistemic injustice. However, her remedies in both cases stress individual virtue. I shall argue that, just as Rawls claimed that distributive justice is a virtue of social institutions, so must we scale up the virtue of epistemic justice to systemic size, and consider what it would be for our social practices of inquiry to operate justly. The result of our inquiry will chart an expanded terrain of epistemic injustice and remedies for it.

Fricker's Prejudicial Account of Epistemic Injustice

Fricker identifies two types of epistemic injustice: testimonial and hermeneutical. The ultimate cause of both injustices, she argues, is a kind of prejudice against certain speakers. The central cases of both types of injustice involve *identity prejudice*, or prejudice against someone because of their social identity.[1] The "central case" of testimonial injustice occurs when a hearer discounts the credibility of a person's testimony due to prejudice against her social identity (Fricker 2007, 28). Tom Robinson, the black man accused of raping a white woman in Harper Lee's *To kill a mockingbird*, illustrates this central case. His testimony concerning his relations to his accuser was unjustly discounted by an all-white jury due to their prejudice against black men.

Fricker's illustrations of testimonial injustice depict it as a transactional injustice. Unjust credibility discounting can become systematic if members of a social group suffer from it across social domains, in conjunction with prejudicial discrimination in access to other goods. Nevertheless, the systematicity here appears to be reducible to the likelihood of facing some kind of transactional injustice in many domains. Deep down, the account remains episodic or transactional, with the cause rooted in identity prejudice.

An exception to this generalization may occur in the case of pre-emptive testimonial injustice (Fricker 2007, 130). In this case, members of a group are excluded from opportunities to testify because they lack certain markers of trustworthiness. This exclusion is unjust if the markers of trustworthiness are accepted as such out of prejudice. Fricker takes pre-emptive testimonial injustice to be structural because one cannot trace any prejudicial fault in the hearers, who were not in a position to unjustly discount testimony they never heard. More, however, must be shown before this can be judged a case of structural rather than transactional

injustice. The question turns on the mechanism whereby certain knowers were unfairly excluded from testifying. If an aide was charged with drawing up a list of witnesses to testify before a Congressional hearing, and passed over certain otherwise qualified individuals out of identity prejudice, this should count as a transactional epistemic injustice, because a fault can be traced to an identifiable agent. Testimonial exclusion becomes structural when institutions are set up to exclude people without anyone having to decide to do so. The Congressional committee may simply have a tired old list of witnesses reflecting the prejudices of long-retired Congressional chairs. The aides may continue drawing witnesses from the outdated, biased witness list, without knowing that it fails to represent a sound cross-section of expertise on the issues before the committee. Their Congressperson may have failed to authorize any aide to update the list, and may be unaware that it is outdated, in which case no one need be at moral fault for failing to call relevant witnesses to the stand. The custom of drawing witnesses from the list would then be a structural injustice.

By contrast, hermeneutical injustice is always structural. Hermeneutical injustice occurs when a society lacks the interpretive resources to make sense of important features of a speaker's experience, because she or members of her social group have been prejudicially marginalized in meaning-making activities (Fricker 2007, 158–159). For example, prior to the introduction of the concept of sexual harassment into public discourse, people tended to interpret women's discomfort, offense, and trauma at unwanted sexual advances at work and school as hysterical reactions to innocent flirtation, or as reflecting frigidity or humorlessness. Sexually harassed women suffered hermeneutical injustice because they lacked the interpretive resources to make sense of the injustice they were suffering, due to their prejudicial epistemic marginalization: women were not taken seriously as narrators of unjust experiences at work and school, but expected to put up with "normal" male behavior. Hermeneutical injustice is structural, because hearers are not at fault for not being able to understand what the victims are saying. Nevertheless, on Fricker's account of systemic hermeneutical injustice, prejudice against the victims lies at the heart of the injustice: there had to be an attempt on the part of the victims to articulate their experiences, which failed due to their being prejudicially marginalized (Fricker 2007, 158–161).

We might ask why credibility discounting and epistemic marginalization must ultimately be traced to prejudice in order for it to be unjust. Why not count any mistaken credibility discounting of the speaker's testimony as a wrongful injury to the speaker as a knower? Why not consider any epistemic marginalization of speakers who have, or potentially have, something to contribute to meaning-making unjust? Fricker argues that we need to distinguish nonculpable or innocent epistemic error from moral vice. An innocent epistemic error, or even mere epistemic negligence, does not do an injustice to the speaker (Fricker 2007, 22). It is simply a mistake. Prejudice is wrongful, and so transmits its injustice to harmful errors that it causes.

Fricker's stress on tracing identity-based epistemic injustices to identity preju-dice has two consequences. First, it appears that identity-based epistemic injustice, even when structural, must ultimately trace its origins to one or more transactional injustices grounded in identity prejudice. Second, if prejudice is the cause of testi-monial injustice, then it would seem that the remedy would require taking steps to check prejudice. This is the function of the virtue of testimonial justice (Fricker 2007, 92–95). While this virtue may operate naively, in the case of someone who simply never acquired the prejudices of her social surroundings, usually it operates in corrective mode. An individual who possesses the virtue of testimonial justice will be disposed to critically reflect on the possible operations of prejudice on her credibility judgments, and discount her own credibility judgments to counteract her prejudices. Similarly, Fricker proposes that the virtue of hermeneutical justice is what is needed to correct for hermeneutical injustice. This virtue consists in a disposition to attribute the inarticulate struggles of speakers to make sense of their experiences to hermeneutical injustice rather than to innate epistemic deficiencies, and thus to guard against prejudice in assessing what they say or in dismissing the speakers (Fricker 2007, 169).

Two General Challenges to Individual Virtue-based Remedies for Epistemic Injustice

Fricker's stress on individual epistemic virtues as remedies for epistemic injustice may be challenged in two ways. First, they may not effectively counteract even transactional epistemic injustices. Second, they may not address certain structural epistemic injustices that may have locally innocent (non-prejudicial) causes, but require structural remedies. The first challenge accepts Fricker's diagnosis of the injustice; the second aims to expand our view of causes and remedies alike.

To appreciate the first point it helps to know more about what we are up against. In social psychology, "prejudice" denotes a kind of motivated cognitive bias, characterized by: stereotypes and attributions (causal explanations of actions and events connected to the group) that represent a group in a negative light; neg-ative affects that appear to be merited by these stereotypes and attributions; and discriminatory behavior that reflects these affects (Brown 1995, 8).[2] In Fiske's clas-sic typology, these biases vary along two dimensions: competence and warmth (Fiske et al. 2002). In testimonial contexts, this means that prejudicial hearers may discount the credibility of speakers either because they perceive them to be igno-rant or stupid (the competence dimension), or dishonest (the warmth dimension, reflecting the affective coldness of distrust), or both. Cognitive biases tend to be deeply entrenched in our minds, and operate automatically, unconsciously, and more rapidly than conscious thought (Fiske 1998, 364–365; Greenwald and Banaji 1995). They can even cause discriminatory conduct in people who consciously and sincerely reject them (Gaertner and Dovidio 2004).

These features of cognitive biases make them difficult to control even by the most conscientious and well-intentioned agents. We usually are not aware of when

our credibility perceptions are affected by prejudice. Even when we suspect our-selves to be affected by prejudice and take measures to block its discriminatory effects, the virtue of testimonial justice is largely forced to operate in the dark: we do not know how much we are prejudiced against a speaker, and so do not know how much to correct for this bias. Reflection, which lies at the core of testimonial justice, is cognitively taxing and impossible to keep up in environments that demand rapid responses.

Fricker (2010), responding to similar criticisms by Linda Alcoff (2010), offers three replies. First, virtuous agents can train themselves to use the cognitive disso-nance between their prejudicial perceptions of credibility and their conscious endorsement of nondiscriminatory norms of judgment as a resource to trigger crit-ical reflection on and discounting of their perceptions. Second, virtue itself can be practiced enough to be habitual and automatic, so that it does not tax our cogni-tive resources. Third, structural remedies (such as blind reviewing) may be deployed to prevent bias.

Fricker is right to point out that, when cognitive dissonance is manifest, this provides an occasion for critical reflection and the practice of virtue. Often, how-ever, the operations of our unconscious stereotypes and avowed beliefs are so insu-lated from each other that we do not feel dissonance from our contradictory mental states. And while virtue can become habitual, we first need to know how to practice it consciously—a challenge when we do not know exactly where or how much we have gone wrong. This is one reason why I, like many others who have studied these issues, believe that structural remedies need to be stressed even when the injustices at issue are transactional. This is a friendly amendment to Fricker's proposals. As she rightly argues: "we should do whatever works" (Fricker 2010, 166).

We should not think of structural remedies as *competing* with virtue-based remedies for epistemic injustice. Many structural remedies are put in place to enable individual virtue to work, by giving it favorable conditions. In employment contexts, for example, structural remedies to prevent employment discrimination include institutional requirements that hiring, firing, and promotion decisions be based on explicit, objective measures rather than subjective assessment; that man-agers be given enough time to make such decisions carefully; that the evaluation context avoid priming stereotypes; and that managers be held accountable for dis-criminatory outcomes (Reskin 2000). These arrangements are designed to prevent cognitive biases from being triggered and to facilitate the conscious exercise of counteracting dispositions to fair assessment. Similar arrangements could be expected to check the operations of prejudice in epistemic contexts by providing occasions for the exercise of testimonial justice, at least in institutional settings such as criminal and civil trials. Moreover, structural remedies may be viewed as virtue-based remedies for collective agents. Nearly any type of mental state that individuals have can also be manifested by collectives (Gilbert 2000). When the members of an organization jointly commit themselves to operating according to institutionalized principles that are designed to achieve testimonial justice, such as

giving hearers enough time to make unbiased assessments, this is what it is for the organization itself to be testimonially just.

The second challenge to Fricker's analysis is that structural forms of testimonial injustice are more pervasive than acknowledged in Fricker's work, and that such structural injustices require structural remedies. To see this, we need to get past the prejudice model of testimonial injustice and consider other ways in which disadvantaged social groups can be unjustly denied credibility. This is the analog in epistemic contexts to the move long since made by theorists of socioeconomic inequality, in demonstrating multiple institutionalized paths to the reproduction of group inequality besides prejudice and discrimination (Anderson 2010, 1–66). Let us consider three structural causes of group-based credibility deficits: differential access to the markers of credibility; ethnocentrism; and the "shared reality bias."

Fricker rightly observes that human minds need to rely on stereotypes, and that this is true when making credibility assessments. We rely on various markers of credibility (Fricker 2007, 71). While some of these markers are explicitly group-based and prejudicial, others have legitimate epistemic uses. These uses are therefore not intrinsically epistemically unjust. Education is a legitimate marker of expertise and credibility in matters where educated judgment is called for. Using standardized grammar is a marker of education, and hence of credibility. It follows that hearers commit no transactional testimonial injustice if they take lack of education, or even speech using unstandardized grammar, as markers of low credibility in contexts calling for educated judgment. Yet in societies that systematically deprive disadvantaged social groups of access to a decent education, the use of such markers in assessing credibility will tend to exclude those groups from further participation in inquiry. An original structural injustice—denial of fair opportunities for education—generates additional structural inequalities in opportunities for exercising full epistemic agency, which is an injustice to the speakers. This is analogous to the socioeconomic injustice of a group suffering from poor employment opportunities because it has been denied decent educational opportunities. Although there is no transactional injustice in refusing to offer a job to an unqualified applicant, the fact that members of a disadvantaged group cannot get good jobs because they have been unjustly denied opportunities to qualify themselves for these jobs justifies the judgment that their lack of access to good jobs is a structural injustice.

Ethnocentrism is the bias in favor of groups to which one belongs. It is a pervasive feature of social life, and most probably is deeply rooted in human psychology. It is conceptually and causally distinct from prejudice: ingroup favoritism does not imply or cause outgroup antipathy (Brewer 1999). Ethnocentrism need not be based on the social identities that track systematic social inequalities. Experiments have triggered ethnocentric biases on the basis of arbitrary and randomly assigned group identities (such as being assigned to the "green" group) that have no meaningful content, no history, and no future outside the lab (Dawes, van de Kragt, and Orbell 1990). The mere accident of being thrown together in a group, or merely being labeled by others in the same way, is sufficient to generate ingroup

favoritism. One of its epistemic forms involves giving higher credence to the testimony of ingroup members over outgroup members. According to Fricker, granting credibility excess to someone is not a testimonial injustice (2007, 19). There are reasons to doubt this in contexts where one person's word must be weighed against another's, and both are equally credible by objective criteria. In such cases, the credibility excess granted to one speaker may be a testimonial injustice against the other. Outside of such contexts, however, epistemic ethnocentrism is, considered in itself (transactionally), morally innocent. It is also epistemically useful: ingroup trust is necessary for successful group inquiry on the basis of a division of epistemic labor.

As in the case of markers of credibility, however, ethnocentrism can transmit structural injustice from one setting to another. If the different groups engaged in inquiry are segregated along lines of salient social identities that are also the basis of systematic unjust group inequalities, then ethnocentrism will cause the advantaged groups to discount the testimony of disadvantaged groups. This will reinforce the epistemic disadvantages of the latter groups and damage the epistemic standing of their members. Ethnocentrism thereby causes a form a structural testimonial injustice.

The shared reality bias is the tendency of individuals who interact frequently to converge in their perspectives on and judgments about the world (Hardin and Conley 2001). Such convergence helps people coordinate their expectations and behavior with respect to each other, reduces social conflict, and facilitates social bonding and cooperation toward common goals. It is epistemically useful for individuals engaged in joint inquiry, as it keeps them "on the same page." In itself it is innocent from the point of view of transactional justice.

Here again, a transactionally innocent cognitive bias can be the vehicle for spreading structural injustice to new contexts. As in the case of ethnocentrism, when groups of inquirers are segregated along the same lines that define group inequalities, the shared reality bias will tend to insulate members of advantaged groups from the perspectives of the systematically disadvantaged. From the perspective of the advantaged, what the disadvantaged are saying may make no sense, because the interpretive resources they have developed to make sense of the experiences the advantaged share with one another are inadequate for comprehending the experiences of those from whom they are isolated. The latter's complaints of mistreatment and disadvantage may fall on deaf ears, not out of prejudice but out of sheer incomprehension. Thus, the shared reality bias, in conjunction with inequality-grounding group segregation—itself an injustice, as I explain in Anderson (2010, 1–22, 67–88)—is a cause of hermeneutical injustice. This epistemic injustice may in turn cause a structural testimonial injustice, as it is hard to give credence to people whom one finds unintelligible. This account of hermeneutical injustice amends Fricker's account, in that it allows that marginalized communities may succeed in developing coherent accounts of their experience. They may nevertheless suffer from hermeneutical injustice in that the more advantaged are unable to understand them (Mason 2011).

Towards Institutional Epistemic Justice

In each of the cases above—the use of credibility markers, ethnocentrism, and the shared reality bias—an inspection of the local properties of any given communicative transaction involving these biases may find no epistemic or moral injustice. Yet the global properties of the epistemic system may be seriously awry, from both an epistemic and a moral point of view. Injustices in the distribution of access to credibility markers undermine the epistemic standing of the disadvantaged and block the contributions to inquiry they could have made had they been able to participate on terms of equality with others. Group segregation along lines of social inequality turns otherwise innocent ethnocentric and shared reality biases into vectors of hermeneutical injustice and structural testimonial injustice.

It is not wrong to promote practices of individual testimonial and hermeneutical justice in these contexts. Such individual virtues can help correct epistemic injustices. But in the face of massive structural injustice, individual epistemic virtue plays a comparable role to the practice of individual charity in the context of massive structural poverty. Just as it would be better and more effective to redesign economic institutions so as to prevent mass poverty in the first place, it would be better to reconfigure epistemic institutions so as to prevent epistemic injustice from arising. Structural injustices call for structural remedies.

A structural remedy for epistemic injustice is a virtue of large-scale systems of inquiry. Just as individuals are accountable for how each acts independently, we are accountable for how we act collectively. Epistemic virtue is needed at both individual and structural scales. But how can epistemic justice be embodied at the level of global systems of inquiry?

A complete answer to this question would require many books. We can start to construct a partial account by returning to our partial diagnoses of structural epistemic injustices that go beyond Fricker's central cases. Recall that, in the cases of ethnocentrism and the shared reality bias, group segregation along lines of social inequality is the key structural feature that turns otherwise innocent, if cognitively biased, epistemic transactions into vectors of epistemic injustice. In the United States at least, segregated schooling along lines of race and class is also a fundamental mode by which educational opportunities are unequally distributed, with profound effects on the ability of marginalized groups—African-Americans, immigrants, the poor—to acquire the markers of credibility.

If group segregation is the structural ground of the types of epistemic injustice discussed above, then group integration is a structural remedy—a virtue of epistemic institutions. When social groups are educated together on terms of equality, they share equally in educational resources and thus have access to the same (legitimate) markers of credibility. When they engage in inquiry together on terms of equality, members of disadvantaged groups can gain epistemic favor in the eyes of the privileged by taking advantage of ethnocentric biases (Gaertner and Dovidio 2000). Shared inquiry also tends to produce a shared reality, which can help overcome hermeneutical injustice and its attendant testimonial injustices.

In shorthand, we could say that the virtue of epistemic justice for institutions is otherwise known as epistemic democracy: universal participation on terms of equality of all inquirers (Anderson 1995, 2003, 2006, 2010, 89–111). Stated so bluntly, this is a leaping conjecture. I hope to have given it enough credence to merit further development.

Notes

[1] Individuals may suffer epistemic injustice for idiosyncratic reasons. I set such cases aside because my focus in this paper is on structural injustice, which is typically identity-based.

[2] "Prejudice" in social psychology thus corresponds to what Fricker calls "identity prejudice"—that is, group-based prejudice. It excludes other sorts of motivated bias, such as wishful thinking.

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