

## EPISTEMIC INJUSTICE AND A ROLE FOR VIRTUE IN THE POLITICS OF KNOWING

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**ABSTRACT:** The dual aim of this article is to reveal and explain a certain phenomenon of epistemic injustice as manifested in testimonial practice, and to arrive at a characterisation of the anti-prejudicial intellectual virtue that is such as to counteract it. This sort of injustice occurs when prejudice on the part of the hearer leads to the speaker receiving less credibility than he or she deserves. It is suggested that where this phenomenon is systematic it constitutes an important form of oppression.

Keywords: credibility, epistemic injustice, ethical sensibility, historicism, internal reasons, oppression, prejudice, social identity, testimonial sensibility, virtue.

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There is a growing sympathy with the idea that epistemology should look to ethics for conceptual tools to use in solving traditional epistemological problems. My aim here is to identify a role for virtue in accounting for both the rationality and the ethics of what must surely be our most basic and ubiquitous epistemic practice – the practice of gaining knowledge by being told.

I shall try to argue that a central difficulty in the epistemology of testimony is best handled by reference to a notion that belongs in the first instance to ethics, the notion of a *sensibility*. To this end I shall advance the idea of a *testimonial sensibility*: something that governs our responsiveness to the word of others so that, given the sensibility is properly educated, we may gain knowledge that *p* simply by being told that *p*. Next, on the assumption that such a sensibility incorporates a variety of intellectual skills and virtues that govern how much credibility the responsible hearer will attribute to different sorts of speakers in different sorts of circumstances, I shall identify a phenomenon of epistemic injustice with a view to homing in on the particular virtue whose role it is, or should be, to pre-empt such injustice. The form of epistemic injustice in question happens when a speaker receives the wrong degree of credibility from his hearer owing to a certain sort of unintended prejudice on the hearer's part. The virtue I shall try to home in on, whose role it is to safeguard against such operations of prejudice, embodies a special sort of *reflexive critical openness* to the word of others. The possession of this virtue is presented

as an important regulator in the politics of testimonial practice, though I shall suggest ultimately that its powers are limited.

### 1. Avoiding Intellectualism: The Word of Others

There is a certain impasse to be detected in a traditional approach to the epistemology of testimony.<sup>1</sup> When we try to account for what goes on in an informal discursive context when someone comes to know that *p* by an interlocutor's telling him that *p*, it can seem as if we must plump for one of two epistemological stories. It can seem as if we must either endorse the idea that the hearer gains knowledge just by being uncritically receptive to the speaker's word, so long as there are no explicit signals that scepticism is in order, or else endorse the idea that the hearer gains knowledge only in virtue of rehearsing an appropriate inference – an argument whose conclusion licenses believing what he has been told. Thus the choice of philosophical pictures can seem to be between sheer uncritical receptiveness on the one hand and intellectualist argumentation on the other.

The shortcoming of each is the allure of the other. The uncritical-receptivity model surely leaves us too open to believing anything people tell us, so that, in the absence of signals of untrustworthiness, we are licensed to be entirely uncritical.<sup>2</sup> Philosophical accounts of testimonial knowledge will require the speaker to be both competent and honest with respect to her assertion that *p*. But the experience of everyday life leaves us only too aware that human beings cannot systematically be relied on in respect of either. Crudely, people often get things wrong, out of innocent error, or perhaps because they fancy they know when really they don't. And of course people can also succumb to the temptation to mislead deliberately – for instance, because it is in their interests to do so. When these two types of unreliability are compounded with the obvious fact that such mundane things as haste, or misunderstanding the inquirer's purposes, or simple carelessness can lead a speaker to mispronounce even on something he is perfectly competent and ready to be honest about, it becomes clear that a blanket policy of accepting the word of others unmediated by any critical filtering would be justificationally lax. The mere absence of explicit signals for doubt is not enough to justify a general habit of uncritically accepting what other people tell one.

This shortcoming in the uncritical-receptivity model might draw one's sympathies towards the inferential model. As C. A. J. Coady (1992, 122–23) describes it, this common picture of testimony has it “that all knowledge by testimony is indirect or inferential. We know that *p* when

<sup>1</sup> For an account of how the impasse is merely an artefact of a certain misguided conception of the philosophical options, see McDowell 1998.

<sup>2</sup> See Elizabeth Fricker 1994, and also 1987, in which she presents a powerful case against the idea that we have a “presumptive right” to believe what we are told in the absence of countervailing evidence.

reliably told that *p* because we make some inference about the reliability and sincerity of the witness.” In an alternative formulation, John McDowell presents the inferentialist model as resting on the following assumption:

If an epistemically satisfactory standing in the space of reasons, with respect to a proposition, is mediated rather than immediate, that means the standing is constituted by the cogency of an *argument* that is at its occupant’s disposal, with the proposition in question as conclusion. (McDowell 1998, 415)

On either formulation the inferential model is clearly invulnerable to accusations of justificational laxity, since it precisely requires that the hearer go in for a piece of reasoning that provides a justification for believing what she has been told. Inevitably this will usually be some sort of inductive argument – for instance, an argument about the individual speaker’s past reliability on these matters, or about the general reliability of people like that about things like this. But the trouble now is that this requirement that the hearer avail herself of such an argument seems too strong, because too laborious intellectually. It simply does not match our everyday phenomenology of informal testimonial exchange, which presents learning something by being told as distinctly *un-laborious* and spontaneous. Surely an epistemic practice as basic to human life as being-told-things-by-someone-who-knows cannot possibly require all that *activity* at the level of propositional attitudes. If the hearer were genuinely supposed to consider (in however rule-of-thumb-ish a way) the likelihood that she has been told a truth, that would take at least a moment’s hard-nosed assessment of a sort that simply does not tally with the effortless spontaneity characteristic of so much of our everyday testimonial exchange.

The advocate of the inferential model will naturally respond by emphasising that the mature hearer will normally rehearse her argument very readily and easily. But the more he is at pains to emphasise that such justificatory argumentation can be so swift as barely to be noticed, and might even be altogether unconscious, the more the model strikes one as a piece of intellectualism in a tight corner.

This problem with the inferential model now leads one back again to the picture on which the hearer is entitled, other things being equal, to be uncritically receptive to what she is told, for this picture of things can now be seen to retain something rather strongly in its favour: it more faithfully represents the phenomenology of our everyday exchanges. In the absence of explicit cues for doubt we do seem simply to accept most of what we are told without going in for any active critical assessment. An ordinary case might be that, as I make my way hurriedly to the train station, I ask a stranger what the time is, he tells me it is 4:30, and I simply, unreflectively, accept what he says. This unreflectiveness is underlined by the fact that if I do pick up on some cue for doubt – such as his saying it is 4:30 when I

already know it cannot be later than four o'clock – then I experience a sort of intellectual shift of gear, out of that unreflective mode and into some more active one of critical assessment. It is only with this shift of gear that I might start to bring some argumentation to bear on the matter of my interlocutor's trustworthiness.

But now we may feel that the intuitive relevance of the evidence of past experience in how we are conditioned to receive the word of others has gone missing from the ordinary unreflective case. Surely one's knowledge of a particular speaker's track record, or one's general background assumptions about how likely it is that someone like this will speak the truth about something like that, must be somewhere in the offing? If such inductive considerations are wholly absent from our unreflective exchanges, imposing no constraint whatsoever upon what the hearer is entitled to accept, then this does seem to leave our ordinary unreflective exchanges in an unacceptable rational vacuum. This thought, then, casts the inferentialist model once again in a more favourable light. And so, perhaps, the oscillation continues.

The conclusion I suggest we should draw from these brief considerations is that what is needed to provide a suitable exit from the impasse is a picture of informal testimonial exchange that honours the everyday phenomenology of unreflective transparency between speaker and hearer, while none the less avoiding justificational laxity. We need a positive account of how the responsible hearer may spontaneously and non-inferentially give an appropriately critical reception to the speaker's word. This critical reception must be such that, reliably, when the hearer simply accepts what he is told by someone who knows, he is justified in simply accepting it. The reception will be one of openness to his interlocutor's assertions, yet critical too – the hearer's normal stance needs to find a philosophical characterisation such that it constitutes a *critical openness* to the word of others. Such a characterisation will be able to explain how, when we are told things, we are indeed able to acquire knowledge, and as effortlessly as the phenomenology suggests.

## 2. The Responsible Hearer

McDowell argues for the view that a hearer gains knowledge by testimony in virtue of exercising "doxastic responsibility"; and what it is to exercise doxastic responsibility is explained in characteristic Sellarsian terms of a "sensitivity" to one's place in the "space of reasons." As I understand this way of putting things, the idea of a "mediated standing in the space of reasons" is the idea of a state – a state of knowledge, for example – that has been arrived at by way of an appropriate sensitivity to the reasons for and against the proposition. This sensitivity need not manifest itself in the making of inferences or arguments – precisely not. As McDowell says:

What I am proposing is a different conception of what it is for a standing in the space of reasons to be mediated. A standing in the space of reasons can be mediated by the rational force of surrounding considerations, in that the concept of that standing cannot be applied to a subject who is not responsive to that rational force. (McDowell 1998, 430)

So, if the standing in the space of reasons is “knowing that  $p$ ,” then McDowell’s proposal is that this knowing that  $p$  has as a background precondition that the knower has somehow exercised a sensitivity to surrounding reasons for and against taking it that  $p$ .

If one accepts this eminently acceptable proposal, then it is natural to move to the next question and ask, If not by our usual faculties of argumentation and inference, then by what rational capacity *is* the hearer able to be responsive to the rational force of surrounding reasons? The idea that the fulfilment of doxastic responsibility need not require argumentation is surely crucial to explaining how testimonial knowledge can be mediated yet direct (or, as I am putting it, critical yet non-inferential), but something further needs to be said to explain how the hearer does it. If she is not exercising her capacity for inference and argumentation, what rational capacity is she exercising?

McDowell is minded to say there is nothing to be explained here:

If we are not to explain the fact that having heard from someone that things are thus and so is an epistemic standing by appealing to the strength of an argument that things are that way . . . do we need some other account of it? I would be tempted to maintain that we do not. The idea of knowledge by testimony is that if a knower gives intelligible expression to his knowledge, he puts it into the public domain, where it can be picked up by those who can understand the expression, as long as the opportunity is not closed to them because it would be doxastically irresponsible to believe the speaker. That idea seems obvious enough to stand on its own epistemological feet; the formulation makes as much sense of the idea that knowledge can be transmitted from one subject to another as any purported explanation could hope to confer on it. (McDowell 1998, 437–38).

But I am not sure that nothing more is needed here. One does not have to be an advocate of inferentialism to think that something more is called for in order to explain how a hearer can count as exercising doxastic responsibility if her acceptance of what she has been told is not based on any sort of inference or argumentation.

Let me be clear that the non-satisfaction I am registering is not about what doxastically responsible behaviour *consists in*, as if I were demanding that some rule-like norms or principles be explicated. No doubt there are a number of norms general enough to be expressed as guiding principles of a hearer’s doxastic responsibility, but we don’t need them in order to have a reasonably firm idea of what that responsibility requires. Indeed,

those of us sympathetic to virtue-theoretical accounts of responsibility might be quite happy with the possibility that there were no such principles available at all. The question of what constitutes doxastic responsibility for a hearer, then, is not my worry. The worry is rather that the claim that a hearer exercises such responsibility without making any inferences leaves one wondering *how* – by what capacity of reason – she is supposed to do it.

If we look to Coady, we find tacit support for the view that something is needed on this score, since he does make a brief suggestion, albeit rather too brief to provide more than a pointer. He asserts we have a “learning mechanism” that operates critically though non-inferentially in the hearer to determine the balance of trust. He says:

What happens characteristically in the reception of testimony is that the audience operates a sort of learning mechanism which has certain critical capacities built into it. The mechanism may be thought of as partly innate, though modified by experience, especially in the matter of critical capacities. It is useful to invoke the model of a mechanism here since the reception of testimony is normally unreflective but is not thereby uncritical. (Coady 1992, 47)

This seems exactly right, but as it stands the metaphor of a learning mechanism remains philosophically and psychologically mysterious. So much so that we are not much better off with this idea of a mechanism than we were with the non-metaphorical but equally elusive idea of a hearer’s doxastic responsibility exercised non-inferentially.

It is time to take stock. What we are looking for is some mode of rational sensitivity that yields spontaneous, non-inferential judgements. And we are also looking for a mode of rational sensitivity that is learned, and learned in an ongoing way so that it is constantly developing and adjusting itself in the light of experience and critical reflection. I propose that at this point epistemology should turn to ethics for sustenance. For in ethics we find a notion that seems to me to fit the bill: the notion of a *sensibility*. An ethical sensibility yields genuine *judgements* – interpretative judgements, such as “That was cowardly,” or immediately practical judgements, such as “I ought to confess” – yet these judgements are not conclusions to arguments. (They may permit of reconstruction as conclusions to arguments, but that is quite another thing. A rational reconstruction of a human practice does not automatically constitute a proper characterisation of it.) A well-trained ethical sensibility will presumably incorporate a range of relevant conceptual and social-perceptual skills, but most importantly it will comprise ethical virtues. The central place of virtue explains how a sensibility issues in non-inferential judgements. The virtuous person does not have to *work out* that an act was cowardly, or that the culprit should own up; he just sees that this is the case; he just knows. Continuing in this broadly Aristotelian vein, we might add that the virtuous person is able to

perceive the moral colourations of things spontaneously in this way in virtue of his sensibility being formed by a proper ethical training or upbringing.

This idea of ethical training will be important for present purposes, but we shall need a more historicist or socially situated conception than we find in Aristotle. Let me suggest, then, that we think of the training of a sensibility as involving at least two distinct streams of input: social and individual – in that order. One develops an ethical sensibility by becoming inculcated with a historically and culturally specific way of life – or as Alasdair MacIntyre puts it, an ethical “tradition”<sup>3</sup> – where this is to be construed as a matter of ongoing ethical socialisation. There again, it is from an irreducibly individual life experience that one gains a particular sentimental education, and in that respect the ongoing formation of one’s sensibility is something distinctly individual. Together these two streams of input – collective and individual – continually generate a person’s sensibility.

The deliverances of an individual’s sensibility, then, are shaped by a set of background interpretative and motivational attitudes, which are in the first instance passively inherited from the ethical community but thereafter actively reflected upon and lived out in one way or another by the reflective individual. Ethical responsibility demands that there be an appropriate critical link between the traditional moment in which the individual gains her ethical socialisation and the experiences life offers her – experiences that may sometimes be in tension with her ethical socialisation so as to prompt critical reflection on the sensibility which she has otherwise simply inherited.<sup>4</sup>

This idea of a sensibility gives us a picture of how judgements can be rational yet unreflective, critical yet non-inferential. It presents us with a rational capacity that is comprised of virtues, that is inculcated in the subject through a process of socialisation, and that permits of ongoing correction and adjustment in the light of experience and critical reflection. Thus we are confronted with a rational capacity unlike anything commonly entertained in epistemology, and a version of it seems to me to fit the bill as the explanation of how a hearer might be able to give an unreflective yet critical reception to the word of another. With this in mind, we must now ask what the epistemic analogue of an ethical sensibility would be like for testimony. I would like to think that this is not only a worthwhile philosophical question in its own right but also an important question at the level of epistemic practice. For if one wants to know how to improve one’s performance as a receiver of the word of others – if one wants to become more responsible and successful as a hearer – then one had better know what, if not one’s skills of inference and argument, one should be trying better to develop.

<sup>3</sup> See MacIntyre 1981, especially chapter 15.

<sup>4</sup> I have tried to develop this theme in my 2000.

### 3. Testimonial Sensibility: Critical Openness to the Word of Others

We are setting our sights on the possibility that responsible hearers in unreflective testimonial exchanges exercise a *testimonial sensibility*. This possibility introduces the idea that our responses to the testimony of others are learned and internalised through a process of *epistemic* socialisation – a social training of the interpretative and affective attitudes in play when we are told things by other people. We might think of it as part of our epistemic “second nature.”<sup>5</sup> Here, again, I suggest there is in the first instance a passive social inheritance and then a sometimes-passive-sometimes-active individual input from the hearer’s own experience. Together these two streams of input mean that our normal unreflective reception of what people tell us is conditioned by a great range of collateral experience. Just as the experiences pertinent to the training of ethical virtues are internalised in the sensibility of the virtuous person, so the body of collective and individual testimonial experience is internalised by the responsible or virtuous hearer, rendering it immanent in her testimonial sensibility.

It is through the inductive influence of this body of experience that we may learn, reliably enough, to assume trust when and only when it is in order. Our perception of speakers and their assertions comes to be informed by an inductive conditioning relating to what sorts of people are likely to convey the truth about which sorts of subject matters, just as in the ethical case our perception of agents and their actions comes to be informed by a motivational conditioning relating to what sorts of actions are ethically called for in which sorts of situations.

There is more to be said, however, about what sorts of experiences properly feed into a testimonial sensibility. They will chiefly be experiences of testimonial exchanges had by the individual and the wider community. But it must be acknowledged that these experiences can only have a rational impact on sensibility under a socially rich description. This is because the only way they can have inductive significance is by being such as to support or undermine existing habits of response concerning what sorts of people are trustworthy in what sorts of situations; which sorts of incentives to deceive are likely to be acted upon by which sorts of people; and so on. A testimonial sensibility, then, needs to be shaped by collective and individual experiences of testimonial encounters described in rich, socially specific terms relating to the trustworthiness of speakers of different social types in different sorts of contexts. These descriptions cannot but involve common cultural stereotypes of intellectual authority or its lack, perhaps by way of related characteristics, such as openness or inscrutability, steadiness or flakiness, rationality or emotionality, dependability or deviousness, logicity

<sup>5</sup> I echo John McDowell’s use of this term, which he finds “all but explicit in Aristotle’s account of how ethical character is formed,” and which he extends to apply not simply to our ethical upbringing (Aristotle’s “practical wisdom”) but also, more generally, to our epistemic upbringing (McDowell 1994, 84).



or intuitiveness. . . . I use *stereotype* neutrally, but of course stereotypes are fertile ground for prejudice, so it is easy to see how a testimonial sensibility may come to embody the prejudices of the day. Where a testimonial sensibility is informed by stereotypes that are unfair – that is, where they are empirically unfounded – the sensibility will be both epistemically and ethically defective.

We shall return to this theme, but for the moment the point is rather that such elements of the social imagination as stereotypes of authority can be a perfectly proper part of a testimonial sensibility, for the necessary social richness of the body of testimonial experience which informs sensibility means that stereotypes are positively needed to oil the mechanism of our day-to-day exchanges. Hearers need spontaneously to perceive their interlocutors in a socially fine-grained way so that they can be appropriately responsive to all the subtleties of the interaction. Without this richness of social perception, many epistemically relevant cues will be missed. Consider, for instance, what complexity there can be in cues indicating how far one should interpret an interlocutor as *taking seriously* what he is asserting. Perhaps the hearer sees the speaker as entirely competent in all relevant matters, yet still her perception of him has to be responsive to all sorts of features of social location and discursive style that would not figure in any but the richest of social-psychological descriptions of the encounter.

If these remarks provide a reasonable working idea of *which* experiences feed into sensibility, is there something further we can say about *how* an individual takes them on in sensibility? Here again the task is to develop a parallel with the ethical case. An individual's testimonial sensibility will in the first instance be passively inherited. This passivity is justified, firstly, for the a priori reason that the body of judgements and attitudes which comprise a sensibility constitute the basis *from which* a hearer's doxastic responsibility emerges. And, secondly, for the empirical reason that even a minimally successful epistemic community must be operating with a broadly functional testimonial sensibility. But once light has dawned for a hearer, she will come to find that sometimes her experiences of testimonial exchange will be in tension with the deliverances of the sensibility she has passively taken on, in which case responsibility requires that her sensibility adjust itself to accommodate the new experience.

This might happen spontaneously, without active critical reflection on the part of the hearer, but it is more likely that she will need actively to bring critical thought to bear on her internalised habits of hearer response in order to shake them up sufficiently to effect the adjustment. If, for instance, a hearer is a teenager whose testimonial sensibility has contracted the defect of not taking seriously what old people say, and if this teenager finds himself one day struck by the veracity of his grandfather's stories of the war, he may experience a small epistemic revolution that requires some significant deliberative follow-through in terms of how he receives the

word of the elderly quite generally. In so far as this teenager is doxastically responsible, he will effect an adjustment to his testimonial sensibility either directly, by way of a shift of social perception, or indirectly, by way of critical reflection. If the adjustment is direct, then he will undergo a Gestalt switch in how he perceives elderly speakers so that the adjustment to his testimonial sensibility is more or less instantaneous. If it is indirect, then active critical reflection on his habits of hearer response will first produce some sort of corrective policy external to the hearer's sensibility. (Perhaps this teenager disciplines himself when in conversation with the elderly, "Don't be dismissive. . . .") Given time, and all being well, such a corrective policy will become internalised as an integral part of his sensibility, so that it comes to be implicit in his newly conditioned perception of elderly speakers.

Whether direct or indirect, then, we can see how the responsible hearer's sensibility matures and adapts in the light of ongoing testimonial experience. Its claim to be a capacity of reason crucially depends on this adaptiveness, for otherwise it would be little more than a dead-weight social conditioning that looked more like a threat to the justification of a hearer's responses than a source of that justification.

This model for how inductive rationality can be embodied in sensibility shows that the making of an explicit inferential step is not the only way that the justificatory force of induction can enter into the hearer's reception of a speaker's word: an appropriately trained testimonial sensibility enables the hearer to respond to the word of another with the sort of critical openness that is required for a thoroughly effortless sharing of knowledge.

To sum up this section, then, the idea of a testimonial sensibility has in its favour not only that it represents a way out of the impasse with which we began (where we were stuck oscillating between the uncritical-reception model and the inferentialist model of testimonial knowledge) but also that it retains those features of each model that explained its attractiveness. Testimonial sensibility, as I have characterised it, pictures inductive rationality as the basic source of justification for hearer response, and this was the main thing we found attractive in the inferentialist model. Yet it also pictures hearer response in such a way that where knowledge is gained it is usually non-inferential. This means that the idea of a testimonial sensibility honours our everyday phenomenology of spontaneity and unreflectiveness, thus incorporating the non-intellectualism we found attractive in the uncritical-reception model.

Perhaps enough has now been said to show that the idea of a testimonial sensibility is able to explain how everyday testimonial knowledge can be non-inferential. But more needs to be said about what constitutes such a sensibility. I would like to think that introducing the notion opens up some new terrain for work of a virtue-ethical kind in exploring which virtues are properly incorporated into such a sensibility – work that could

be regarded as either replacing or complementing more technical, probabilistic approaches to these matters. My next task here, then, will be to home in on one virtue in particular, which – although it is in a certain way thoroughly familiar – does not have a name. The role that this virtue has to play in testimonial practice comes into view only if we follow through the implications of our historicist, socially situated conception of the epistemic socialisation that forms testimonial sensibility. More particularly, it comes into view if we return to the role of social stereotypes in how a sensibility determines habits of hearer response. I have said that such stereotypes, where empirically founded, are a perfectly legitimate heuristic and a necessary determining factor in how a hearer perceives a speaker. But we must also confront the fact that in any actual human society, human societies being what they are, it is inevitable that such speaker stereotypes are susceptible to distortion by the prejudices of the day. Stereotypes informing testimonial exchange will tend to imitate relations of social power at large in the society. Our everyday, face-to-face testimonial encounters bring to bear a whole social consciousness in an instant, and this creates a deep structural liability to prejudicial dysfunction in our testimonial practices.

#### 4. Epistemic Injustice: The Word of *Others*

Broadly speaking, prejudicial dysfunction in testimonial practice can be of two kinds. Either the prejudice results in the speaker's receiving more credibility than she rationally deserves – *credibility excess* – or it results in her receiving less credibility than she rationally deserves – *credibility deficit*.<sup>6</sup> Consider the immediate discursive impact of accent, for instance. Not only does a speaker's accent carry a great deal of baggage in terms of how a hearer perceives the speaker socially; I would suggest that part and parcel of this social perception are implications for how the hearer perceives the speaker epistemically. Accent can have a significant impact on how much credibility the hearer affords the speaker, especially in a one-off exchange.

<sup>6</sup> Someone might ask how far the idea of a credibility excess or deficit depends on there being some exact degree of credibility which the speaker is due. I share Coady's scepticism about there being any precise science here, any precise credibility ratio to determine what degree of belief the hearer is entitled to. As Coady says, people are not like coins, exhibiting quite general tendencies to be right and honest about things (see Coady 1992, 210). And I see no reason to think this difficulty can be made good by building a sensitivity to subject matter into one's calculations, for the likelihood of speaker veracity is always dependent on which of an indeterminate number of discursive contexts the interlocutors happen to be in (including maximally contingent shifts of context that depend, for instance, on whether the speaker is in the mood for being undetectably sarcastic, and so on). This dependence on such finely differentiated contexts seems not merely to indicate that if there is a precise probability available then it can hardly be available to the hearer. Rather, it would seem to indicate that there is no such precise probability available at all, and that the matter is in some significant degree indeterminate.

I do not mean that someone's accent is especially likely to lead a hearer, even an intensely prejudiced one, simply to *disbelieve* some perfectly believable assertion, or simply to *believe* some otherwise incredible assertion. Given that it is overwhelmingly in the interests of hearers in general to believe what is true and not believe what is false, it would have to be an unusual prejudice to be strong enough to have that sort of effect. (We should note, however, that social contexts structured by relations of systematically unequal social power do have a habit of generating situations in which a hearer with the greater social power is in a position such that it costs him nothing to disbelieve a manifestly believable speaker, as one of my examples will demonstrate.)

More usually, however, power will influence hearer-response in a less obvious way. Rather than turning belief into non-belief or vice versa, it will surreptitiously raise or lower the hearer's *degree* of belief, by inflating or deflating the credibility he affords the speaker. Epistemic trust, like other kinds of trust, has an affective<sup>7</sup> aspect that is influenced – sometimes rightly, sometimes wrongly – by how the hearer perceives the interlocutor. Its key affective aspect is a kind of minimal interpretative sympathy with the speaker that allows signs of her trustworthiness to be picked up on in the hearer's perception of her. Even such a minimal sympathy will be signally uneven across differences of social identity and especially where those differences of identity are characterised by dramatically unequal relations of power. Both of the examples I shall present illustrate how the social "otherness" of the speaker is fundamental to the prejudiced reception their word is given – the hearers re-enact their general social advantage in the reception they give the speaker's word.

To the examples, then. Both present cases of credibility deficit (rather than credibility excess), since that is the phenomenon that most urgently calls for the specific anti-prejudicial virtue I aim to identify. My first example is drawn from a novel, *To Kill a Mockingbird*, by Harper Lee (1974); the second is drawn from a screenplay, *The Talented Mr Ripley*, by Anthony Minghella (2000).<sup>8</sup> I offer the first as an example in which the epistemic failings on the part of the hearer (or rather hearers) is clearly culpable, the second as an example in which it is plausible to suggest that the hearer inflicts the injustice non-culpably. Each presents an instance of epistemic injustice in testimony – an instance, then, of *testimonial injustice*.

*First example:* The year is 1935, and the scene a courtroom in Maycomb County, Alabama. The defendant is a young black man named Tom Robinson. He is charged with raping a white girl, Mayella Ewell, whose family's run-down house he passes every day on his way to and

<sup>7</sup> See Jones 1996.

<sup>8</sup> Minghella's screenplay is closely based on Patricia Highsmith's novel, though, crucially for present purposes, the character of Marge Sherwood and her relationship with Dickie Greenleaf is developed differently.

from work. It is obvious to the reader, and would be obvious to any relatively unprejudiced person in the courtroom, that Tom Robinson is entirely innocent. For Addicus Finch, our politely spoken counsel for the defence, has proved beyond doubt that Robinson could not have beaten the Ewell girl so as to cause the sort of cuts and bruises she sustained that day, because whoever gave her this beating led with his left fist, whereas Tom Robinson's left arm is disabled, injured in an accident when he was a boy. The trial proceedings present a fairly clear-cut struggle between the power of evidence and the power of racial prejudice, with the all-white jury's sympathies ultimately succumbing to the latter. But there is a great complexity of social meanings at work in determining the jury's perception of Tom Robinson as a speaker. In a showdown between the word of a black man and a white girl, the courtroom air is thick with the do's and don'ts of racial politics. Telling the truth here is a minefield for Tom Robinson, since if he casts aspersions on the white girl he will be perceived as a presumptuous, lying Negro, yet if he does not publicise Mayella Ewell's attempt to kiss him (which is what really happened), then a guilty verdict is even more nearly assured. (This discursive predicament mirrors his practical predicament at the Ewell's house when Mayella grabbed him. If he pushes her away, he will be found to have assaulted her; yet if he is passive he will equally be found to have assaulted her. So he does the most neutral thing he can, which is to run away, though knowing all the while that this action too will be taken as a sure sign of guilt.)

At a pivotal moment during the prosecution's interrogation, Tom Robinson makes the mistake of being honest about his motivations for stopping off at Mayella Ewell's house as regularly as he did to help her out with odd jobs. The scene, like the whole story, is reported from the point of view of Scout, Addicus Finch's little daughter, who is secretly surveying the proceedings with her brother Jem from the "Negro gallery." Mr Gilmer, the prosecutor, sets him up:

"Why were you so anxious to do that woman's chores?"

Tom Robinson hesitated, searching for an answer. "Looked like she didn't have nobody to help her, like I says —" . . .

Mr Gilmer smiled grimly at the jury. "You're a mighty good fellow, it seems — did all this for not one penny?"

"Yes suh. I felt right sorry for her, she seemed to try more'n the rest of 'em —" "You felt sorry for *her*, you felt *sorry* for her?" Mr Gilmer seemed ready to rise to the ceiling.

The witness realised his mistake and shifted uncomfortably in the chair. But the damage was done. Below us, nobody liked Tom Robinson's answer. Mr Gilmer paused a long time to let it sink in. (Lee 1974, 201)

Here the "damage" in question is done to any interpretative sympathy the white jury has so far been human enough to feel towards the black defendant. For *feeling sorry for* someone is a taboo sentiment if you are black

and the object of your sympathy is a white person. And the fact that Tom Robinson has made the sentiment public raises the stakes in a way that is disastrous for justice, disastrous for him. The trial is a contest between the word of a black man against that of a white girl, and there are those in the jury whose testimonial sensibility is such that the idea that the black man is to be trusted and the white girl distrusted is virtually a psychological impossibility – Robinson’s expressed sympathy for a white girl only reinforces that impossibility.

As it turns out, the members of the jury stick with their prejudiced perception of the defendant, formed principally by the racial stereotypes of the day. Addicus Finch challenges them to dispense with these stereotypes, 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” (Lee 1974, 208). But when it comes to the verdict, the jurors go along with the automatic distrust delivered by their corrupted testimonial sensibility. They find him guilty. And it is important that we are to interpret the novel so that the jurors really do find him guilty. That is to say, they do not privately find him innocent but cynically convict him anyway. They really do fail to do what Finch in his summing-up describes as their duty: they fail to *believe Tom Robinson*. Given the evidence put before them, their immovably prejudiced social perception of Robinson as a speaker leads at once to a gross epistemic failure and an appalling ethical failure.

*Second example:* It is the 1950s, and we are in Venice. Herbert Greenleaf, a rich American industrialist, is visiting, accompanied by a private detective he has hired to help solve the mystery of the whereabouts of his renegade son, Dickie. Dickie Greenleaf recently got engaged to his girlfriend, Marge Sherwood, but subsequently spent a great deal of time travelling with their “friend” Tom Ripley – until Dickie mysteriously disappeared. Marge is increasingly distrustful of Ripley because he seems to be obsessed with Dickie and suspiciously bound up with his strange disappearance. She also knows very well that it is unlike Dickie – unreliable philanderer though he undoubtedly was – simply to do a bunk, let alone to commit suicide, which is the hypothesis Ripley is at pains to encourage. Ripley, however, has all along done a successful job of sucking up to Greenleaf senior, so Marge is entirely alone in her suspicion – her correct suspicion – that Tom has in fact killed Dickie.

Herbert Greenleaf has just asked Ripley to be as helpful as he can in “filling in the blanks” of Dickie’s life to Macarron, the private detective, and Ripley responds:

*Ripley:* I’ll try my best, sir. Obviously I’ll do anything to help Dickie.

*Marge looks at him in contempt.*

*Herbert Greenleaf:* This theory, the letter he left for you, the police think that’s a clear indication he was planning on doing something . . . to himself.

*Marge:* I just don't believe that!

*Herbert Greenleaf:* You don't want to, dear. I'd like to talk to Tom alone – perhaps this afternoon? Would you mind? Marge, what a man may say to his sweetheart and what he'll admit to another fellow –

*Marge:* Such as? (Minghella 2000, 120–21)

Here Marge is being gently, kindly, sidelined by Greenleaf senior, who pathologizes her disbelief that Dickie would kill himself as a sweetheart's wishful thinking. He also seems to assume that Marge is generally innocent of the more tawdry facts of Dickie's life, so that his primary attitude towards her on the one hand and the-truth-about-Dickie on the other is that *she* needs protection from *it*. Greenleaf's everyday theory about what a man may say to his sweetheart, et cetera – though in itself quite possibly true enough – has the effect of undermining Marge as a possessor of knowledge about the lover she had been living with for some time. Greenleaf is only too aware how little he knows of his son – pathetically enthusiastic as he is at the prospect that the private detective might help make good this ignorance – and yet he fails to see Marge as the source of knowledge about Dickie that she manifestly is.

This attitude has the knock-on effect that Greenleaf fails to trust one of Marge's key reasons for her correct hypothesis that Dickie has died at the hands of Ripley. Even when Marge finds hard evidence back at Ripley's place, coming across a ring which she had given Dickie and which he had sworn never to remove, still she receives no credibility. Ripley's deliberate tactic is to dismiss her as "hysterical" – a line he continues to peddle in front of Greenleaf in order to get him to share this interpretation. The tactic works, not only on Greenleaf but also on her friend Peter Smith-Kingsley, so that the result is a collusion of men against Marge's word being taken seriously. The theme of knowledge ever to the fore in the dialogue, we at one point hear her off-screen, soon after she finds the ring, saying emphatically to the incredulous Greenleaf, "I don't know, I don't know, I just know it," and Greenleaf replies with a familiar put-down: "Marge, there's female intuition, and then there are facts –."

A number of these sorts of exchanges build up to the scene in which Marge, being taken back to America, is ushered on to a boat but breaks away to lunge at Ripley, saying, "I know it was you – I know it was you, Tom. I know it was you. I know you killed Dickie. I know it was you." Macarron, the private detective, comes out of the waiting boat to restrain her, and the stage direction reads: "Ripley looks at him as if to say: What can you do, she's hysterical. Macarron nods, pulls her onto the boat." As the viewer is aware, however, Marge was right: she did know; she knew Dickie well; and she knew Ripley had killed him. Her suspicions should have been listened to; *she* of all people should have been given some credibility. But Ripley cynically exploits the gender attitudes of the day so that the kindly and well-meaning men around her effectively collude with him to make her seem epistemically untrustworthy.

What both these examples present us with, in their different ways, is a case of a hearer failing to correct for one or another sort of prejudice in his testimonial sensibility. Both Greenleaf and the members of Maycomb County's jury fail to distrust their own distrust<sup>9</sup> of the speaker. They fail to adjust for the way in which their testimonial sensibility is badly trained. In the formal courtroom context of Tom Robinson's trial, they have ample opportunity to sense the dissonance between the distrust that their defective sensibility spontaneously delivers and the trust that attention to the evidence ought to inspire. Even if members of the jury were to be forgiven for the way their sensibility is saturated with the prejudices of the day, they remain starkly culpable in failing to respond appropriately to the new testimonial experience afforded by the trial. In the case of Herbert Greenleaf, he fails to correct for the way in which his habits of hearer response are saturated with the sexist constructions of gender – notably, ideas of women's innocence concerning the truths of men, and their need to be protected from such truths; ideas of feminine intuitiveness being an obstacle to rational judgement; and even ideas of a female susceptibility to hysterics.

But it is not simply a matter of failure properly to accommodate the speaker's social identity. In both examples, the hearers fail to adjust for the way in which their *own* social identity affects the testimonial exchange. The jury fails to account for the difference it makes to Tom Robinson's "performance" as a speaker (in the wide sense of performance, to include both what he does and how the audience responds) not only that he is black but equally *that they are white*. What Greenleaf fails to account for in his sceptical responses to Marge is the difference it makes to her performance not only that she is a woman but also that *he is a man*. The relation – a relation of power – between the social identities of hearer and speaker influence both how the speaker expresses herself and how the hearer responds.

Our two examples, then, demonstrate that testimonial responsibility requires a distinctly reflexive critical awareness. Had Marge shouted her accusations in the presence of Mrs Herbert Greenleaf, one speculates that she might have received from her some greater degree of credibility. That things would have gone differently at Tom Robinson's trial if the members of the jury had been black goes without saying.

Thus we have arrived at the final feature of the anti-prejudicial testimonial virtue we have been looking for: it is essentially reflexive. Its possession means that the hearer reliably succeeds in correcting for the way testimonial performance can be prejudiced by the inter-relation of the hearer's social identity and the speaker's social identity. In testimonial exchanges, for hearers and speakers alike, no party is neutral – everybody has a race, everybody has a gender. What is needed on the part of the

<sup>9</sup> I borrow this formulation from Jones 2002, in which she explores the themes of power and credibility specifically concerning astonishing reports.



hearer, then, in order to avert an epistemic injustice (and in order to serve his own epistemic interest in the truth) is a virtue of *Reflexive Critical Openness*. This is the virtue we have been aiming to identify by attending to the phenomenon of testimonial injustice.

### 5. The Virtue of Reflexive Critical Openness – Historicism

The virtue of Reflexive Critical Openness is an especially hard virtue to achieve at the best of times, inasmuch as prejudice is a powerful visceral force, functioning less at the level of propositional attitudes and more at the level of the social-imaginative and emotional commitments that colour one's perceptions of speakers. (Even if one were only faced with correcting for prejudice at the level of belief, this can still be very hard while those beliefs are propped up by motivational attitudes in this way. As Christopher Hookway [2001, e.g., 182] has argued, there is the usual room for *akrasia* in the practical business of managing one's epistemic habits.)

Clearly, however, it is in principle achievable, and the virtue will be an integral part of any well-trained testimonial sensibility in so far as the risk of prejudice-induced credibility deficit is an inevitable feature of epistemic life. The human condition is a social condition, and social relations inevitably create space for prejudice.

Yet, there are circumstances under which the virtue cannot be achieved, for it is a notable and ethically significant feature of this virtue that it displays a special sort of cultural-historical contingency. In order to explain this, let me follow Linda Zagzebski's (1996) definition of virtue such that virtues have both a motivational component and a component of reliable success in bringing about the end of that motivation. In the case of intellectual virtues there will always be a motivation to achieve truth, but usually there will also be a more proximal aim to achieve something that is conducive to truth – notably here the aim of ensuring that one's levels of trust are untainted by prejudice. As a matter of definition, then, the intellectually virtuous subject will be reliably successful in fulfilling that proximal aim of ensuring against prejudice, and she will succeed in this by achieving reflexive critical awareness of the prejudicial distortions in her existing testimonial sensibility and by correcting for those distortions.

It must now be acknowledged, however, that the ability to do that is dependent upon the cultural-historical setting. A setting in which there is little critical awareness of gender is a setting in which no-one is in a position to possess the virtue of Reflexive Critical Openness *vis-à-vis* gender prejudice of any subtle kind. While the Herbert Greenleafs of this world were always at fault in failing to exhibit the virtue, I would suggest they were not *culpably* at fault until the requisite critical consciousness of gender became available to them. They were not culpably at fault until they were in a position to know better. Now there will of course be no precise answer to the question of at what point a Herbert Greenleaf comes

to be in a position where he should know better than to overlook the possibility that Marge was right. But no doubt someone like him will be in that position long before he actually lives up to it by taking on board the gender-critical insights newly available to him. Thus there will tend to be some period of historical transition in which a Herbert Greenleaf, well-intentioned and paternal as he may remain, moves from innocent fault to culpable fault. He lacked the virtue of Reflexive Critical Openness with regard to women speakers all along, but the relevant advance in collective consciousness will mean that this shortcoming in his epistemic conduct, and in the testimonial sensibility behind it, will have become blameworthy.

This shows that the power to possess the virtue of Reflexive Critical Openness depends upon the social-historical context. The case of Herbert Greenleaf, as I have characterised it, exemplifies the idea that one cannot be blamed for failing to do something one wasn't in a position to have reason to do. Essentially this is an instance of the maxim that "ought" implies "can," since in our example the "can" part is a matter of whether Greenleaf could reasonably be expected to *achieve* the critical perspective on gender that would have given *him* a reason to cast doubt on his lack of trust in Marge's word. More specifically, and more controversially, we might think of ourselves as having arrived at an insight into the structure of responsibility that is advanced by Bernard Williams (1995, 35) in terms of the internality of practical reasons. It would not be right to blame someone for an action or omission unless there existed a "sound deliberative route" from that person's actual motivational set ("the set of his desires, evaluations, attitudes, projects, and so on"). Whatever one thinks about the disagreements between so-called internal and external reasons theorists, it is worth noting that our intellectual case could not be controversial in anything like the way the ethical case is. This is because it could not be controversial to presume that all epistemic subjects possess in their motivational set a general motivation to aim at truth, and *a fortiori* to aim at more proximal ends which are in the service of that general motivation (such as correcting for prejudice in one's habits of trust, for instance).

Given this, it is clear that not just Herbert Greenleaf but even the most virulent, dyed-in-the-wool sexist version of Herbert Greenleaf possesses a motivation (the motivation to truth) from which there might be a sound deliberative route to distrusting his lack of trust in Marge. It is not the lack of a motivation, then, that explains why Greenleaf "cannot" do what he ought – cannot exhibit the appropriate virtue. It is rather the unavailability to him of a sound deliberative route from that veridical motivation to the conclusion that he should doubt his lack of trust in Marge. There is no such sound deliberative route available to him, in as much as the critical concepts in which that deliberation would have to be couched are genuinely not yet available. On this (perhaps rather charitable) interpretation, then, Greenleaf is unlucky, epistemically and morally. His non-culpable inability to exhibit

the virtue of Reflexive Critical Openness not only means that he misses out on a truth that he is especially interested in acquiring (Marge is right; Ripley is Dickie's murderer) but also means he inflicts a significant injustice on Marge. She is treated as a hysterical female who cannot handle the truth, someone who deserves protection and sympathy but not epistemic trust. If one's rationality is an essential part of one's humanity, then Marge is gently undermined in her very humanity.

Evidently testimonial injustice will tend to imitate the broader structures of power in society, and where it is systematic we should recognise it as a face of oppression. In an essay on the nature of oppression Sandra Lee Bartky (1990, 30) quotes Frantz Fanon's notion of "psychic alienation," where the alienation in question consists in "the estrangement of separating off a person from some of the essential attributes of personhood." I take it that basic forms of epistemic agency, such as functioning as an informant on everyday matters, is indeed one of the essential attributes of personhood – it is part and parcel of being accepted as a compatriot in the community of the rational. If this is so, then an epistemic climate in which some people suffer systematic testimonial injustice must be regarded as seriously defective both epistemically and ethically. It is the site not simply of error and frustration, advantage and disadvantage, but of a distinctively epistemic kind of oppression. We have seen that the virtue of Reflexive Critical Openness (and doubtless many other virtues besides) has an important role in combating this sort of oppression. But as something possessed of mere individuals whose social-historical situation can deprive them of the very resources they need in order to attain the virtue, its anti-oppressive power remains hostage to the broader social structures in which our testimonial practices must take place.

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