

Abstract: When someone speaks but is not heard because of their accent, or their sex, or the colour of their skin, they suffer a distinctive form of injustice—they are undermined as a knower. This kind of injustice, which I call testimonial injustice, is not only an ethical problem but also a political one; for citizens are not free unless they get a fair hearing when they try to contest wrongful treatment. I shall argue that not only individuals but also public *institutions* need to have the virtue of testimonial justice. If our police, our juries, our complaints panels lack that virtue, then some groups cannot contest. And if you can't do that, you do not have political freedom.

Silence and Institutional Prejudice

Let me begin where I shall end: with the concept of *silence*. There are many kinds of silence; but at the most general level, we might say that silence has two aspects—a positive and a negative. In the negative aspect, there is the imposed silence of those who are in some way prevented from making their voices heard. This kind of silence is normally effected by way of an injustice. In the positive aspect, there is the active, attentive silence of those who are *listening*, perhaps trying to make out a voice that is seldom heard. This kind of silence belongs with a moral attitude of *attention* to others—an openness to who they are and what they have to say. Most of what I want to discuss in this paper can be brought under one or other of these aspects of silence.

There is a remark by Simone Weil that I find especially suggestive in this general connection, both politically and philosophically. Here is what she says:

Human beings are so made that the ones who do the crushing feel nothing; it is the person crushed who feels what is happening. Unless one has placed oneself on the side of the oppressed, to feel with them, one cannot understand.¹

The idea expressed here concerns a political dimension of knowledge and understanding—it expresses the thought that being in a position of social power tends to obscure or distort certain patches of reality. This broad idea is significant in two different connections that I would like to highlight and examine. The first connection concerns the contribution made by feminist work in philosophy of a certain, very general methodological insight about how to do philosophy. (This insight is perhaps beginning to take a genuine hold in the wider philosophical imagination.) Weil's remark anticipates this insight, which tells us that if we want to achieve a full

understanding of a human practice, social phenomenon, or pattern of relationships, then we must take up the point of view of those on the losing end. If *you* are the one doing the crushing (to continue with Weil's formulation) then not only are you not in a position to know what it is like to be crushed, but also—and this is a separate point—your *general* picture of the social world in which such crushings take place will be in an unhelpfully partial perspective, the perspective of the powerful.

This is an idea at least as old as Marx, but feminism gave it a new and less theoretically burdened expression; and it is principally feminism that has made a recent gift of it to English-language philosophy. Most relevantly, we find in the feminist philosophy of the 1980s and onwards an exploration of the notion of a 'standpoint' from which the world is viewed, where a standpoint is a point of view afforded (though never guaranteed) by a given social identity positioning and the range of social experience that typically attends it—social positionings that we might begin to capture with categories such as “elderly,” “woman,” “gay,” “straight,” “disabled,” “able-bodied,” “man,” and various complexes of such simple identity categories. In the macro-economic frame, the thought is if you are at the top of the heap, you are not in a position to grasp fully the situation of those at the bottom. In the domestic frame, if you have always been used to having someone else take care of your everyday subsistence—feeding you, and generally picking up after you—you are unlikely to have any realistic appreciation of just how much work goes into keeping you going. The *standpoints* of the economic underdog, or the unacknowledged provider of care, have been described as “epistemically privileged”—privileged, that is, both in terms of the greater expanse of social reality it brings into view, and in respect of the consequently less partial perspective in which the world more generally is understood.

Although these philosophical ideas were developing throughout the 1980s, I did not encounter them until 1990 when I took a Master's degree in women's studies. The B.A. in philosophy I had done previously did not expose one to any feminist philosophical literature—understandably: it was early days. But when I did get to read feminist philosophical literature, I was amazed. Manifestly this was philosophy; and yet, it seemed that this style of thinking was taking place somewhere in the silences of the English-speaking philosophical canon. Philosophy after all is, among

other things, a social-historical entity, a collective conversation extended over historical time and social space, and what I discovered as I read feminist philosophy for the first time was that to understand what philosophy is—that is, to gain a proper perspective on the historical formation of philosophy—one had to make an effort to listen to the silences. This illustrates, now at the level of philosophical canon, the methodological lesson already mentioned that is offered to us by feminist philosophy: If you want to understand a social phenomenon, you had better look at it from the perspective of those whose voices are hard to hear. One can see this as a milder application of the same idea to which Weil gives political expression when she says “unless one has placed oneself on the side of the oppressed, . . . one cannot understand.”

This, then, is the first idea I want to bring out in relation to Weil’s suggestive remark. To put the point quite generally: listening to silences tends to be instructive. But what is it to listen to silences when we are doing philosophy? It is one thing to take up an historical perspective on the canon in order to obtain an informed critical attitude to the business of what gets put in and what gets left out. It is quite another, someone might say, to suggest that *listening to silences* can be a useful methodological precept in philosophy, a guideline in how to proceed in the business of philosophical explanation. Let us suppose our methodological injunction to be as follows: Whatever you want to understand, try taking a look at it from the point of view of the powerless, those on the losing end of the practice you want to explain. Now it is perfectly true that for many questions or topics in philosophy this idea will find no application. If I am interested, for instance, in a metaphysical question such as, “Why is there anything rather than nothing?,” I doubt I would know what to do with the methodological suggestion that I look at the question from the point of view of the powerless. Or again, if my interest is in some obstinately abstract question in epistemology—for instance, the question whether having a justified and true belief that the cat is on the mat is the same thing as *knowing* that the cat is on the mat—here once again, perhaps, I may draw a blank if I try to look at the question from the point of view of the powerless. But not all philosophical questions are like these. Indeed, not even all *epistemological* questions are like this epistemological question (or at least they are not any more). What if we are interested in the epistemology of testimony—that is, centrally, the question what justifies a hearer in believing

something she is told by another person, thereby perhaps gaining knowledge from them. In the recent past, it did not occur to epistemologists interested in this question that it might be worth looking at the matter from the point of view of the powerless. But actually, it turns out that it is.

Getting into a position to see that this is so takes just two steps. First, we have to think of the epistemology of testimony as the epistemology of a *human social practice*, most basically, the practice of giving and receiving information, a practice in which hearers may accept what they are told with varying degrees of credence, or reject it, or perhaps reserve judgement. Coming to see testimony as a practice is actually a big step because of the historically prevalent self-conception of analytic philosophy, which casts it exclusively as inquiry into the nature of our concepts and the words we use to express them. (If the idea of practices got in at all, it was only in the form of our conceptual or linguistic practices). Fortunately, this idea that philosophy's subject matter is confined to the conceptual and linguistic has for some decades ceased to monopolize what philosophers do, and recently has come under explicit attack,² so that the linguistic turn can now be regarded as decisively superseded by alternative live conceptions of what philosophy can explain and illuminate. Now, having made this first step so that we have come to regard the subject matter of the epistemology of testimony to be *human practices of telling, and accepting (or not) what we are told*, we can begin to see how to take the second step. We can see what it might be to look at this practice from the point of view of the powerless, the point of view of the silenced. Practices of testimony involve attempts at conveying knowledge to others, but what if those others do not, cannot, or will not, hear? At this point perhaps the speaker is silenced. A first formulation might be: When a speaker *should* be heard, but is not heard, he is silenced.

This would be too quick of course. There are other ways, after all, that speakers who should be heard might end up not being heard, where it would be a mistake to characterize them as "silenced." In particular, it would be quite wrong to accuse the hearer of having *silenced* them. A case of mistaken identity might do this, for example, as would simple ignorance of someone's expertise in a given area. Imagine a situation on an aeroplane where a passenger is taken seriously ill. The flight attendant is doing his best to cope, when another passenger starts barking

instructions at him. Until the moment when the flight attendant realizes the bossy passenger is in fact a nurse (perhaps it's a few minutes before she says anything obviously medical), he might not take her suggestions all that seriously, giving her word little credence until her expertise manifests itself in some way. In examples like this, the speaker is not silenced, inasmuch as there is only innocent error on the part of the hearer.

But there are other kinds of examples. Imagine that a business executive—an attractive, blonde young woman—makes a good suggestion at a business meeting about how the company might improve one of its services, yet nobody around the table gives any serious credibility to her suggestion. Or imagine that a white police officer pulls over a black driver of an expensive car and asks him whether he is the owner, and the officer is sceptical of the driver's claim. In these kinds of examples, one person communicates an assertion of some kind (a suggestion, or a piece of testimony), and the hearer gives a deflated level of credibility to the speaker's word, but not this time through any innocent error. Rather, the deflation of credibility is owing to *prejudice*. The proper mechanism by which we receive the word of others, and gauge their credibility, is being corrupted by a prejudice in how the hearer *perceives* the speaker. The people at the meeting perceive the attractive blonde young woman in some way that is incompatible with her making useful informed business suggestions; the white police officer perceives the black male driver in a manner that makes him appear unlikely to be claiming truthfully that he is the rightful owner of the car.

Let me introduce a real example to focus our minds on the importance of the phenomenon. In the London Borough of Greenwich, on April 22nd 1993, a teenager named Stephen Lawrence was fatally stabbed by a small gang of white teenagers. Stephen Lawrence and his friend Duwayne Brooks, with whom he was waiting at the bus stop, were black, and the murder was preceded by no provocation, indeed, no hostile *interaction* at all. This was an entirely one-sided, explicitly racially motivated attack—the only thing that preceded it was that one of the five or six assailants had called out racist abuse from across the road; the gang then engulfed Stephen Lawrence, one or possibly two of its members delivering two deep stab wounds, which minutes later ended his life. The now notorious police handling of the murder

investigation was so culpably botched that an independent inquiry was commissioned, headed by Sir William Macpherson, and the report on that inquiry is known as the Macpherson report. It is from that report that I gather my information, and the basis of the interpretation of its epistemic, ethical, and political aspects that I shall be offering.

Duwayne Brooks was the chief witness of the crime and, though physically uninjured, a fellow victim of the attack. There is clear protocol governing how any victim of a crime is to be treated: he must be comforted, and treated according to his needs. One of the major shortcomings of the conduct of the police on that day was that Mr. Brooks was never cared for in the manner specified by the protocol. The report notes that no one tried to comfort him or calm him, even though he had manifestly experienced a horrifying trauma.³ He had presumably narrowly missed being directly physically attacked himself, he had been terrorized, and had seen his friend bleed to death in front of his eyes while waiting for the ambulance to arrive—some time after the police had got to the scene. This order of arrival of the two emergency services was unfortunate, and did not help relations between Duwayne Brooks and the police officers present; but more importantly, the police apparently proceeded on the assumption that there had been some kind of fight that culminated in the stabbing, effectively treating Brooks, not to say his murdered friend, as party to the trouble. So he was a victim who was not cared for as a victim; and was instead spontaneously perceived as part of the trouble. But there is something else in all this—namely, the *epistemic* strand of the story, which is what I want to bring out. The police perception of Duwayne Brooks helps explain why, even though he was officially a witness—the primary source of information about the crime—he was not, at the scene, treated properly as a witness any more than he was treated properly as a victim. It is clear from the Macpherson report that the way the investigating officers perceived and heard the word of Duwayne Brooks was incompatible with their receiving his testimony about the attack as possessing any significant credibility for them. At paragraph 5.11 the report states:

the officers failed to concentrate upon Mr. Brooks and to follow up energetically the information which he gave them. Nobody suggested that he should be used in searches of the area, although he knew where the assailants

had last been seen. Nobody appears properly to have tried to calm him, or to accept that what he said was true. To that must be added the failure of Inspector Steven Groves, the only senior officer present before the ambulance came, to try to find out from Mr. Brooks what had happened.

In this story of a racist murder of an eighteen-year-old man, and of a police investigation so mishandled and skewed by racial stereotyping that to this day no successful prosecution has been made (and probably never can be), we find a powerful example of the phenomenon I call testimonial injustice, whereby prejudice distorts a hearer's perception of a speaker so as to deflate the credibility given. In this case, it seems, what Duwayne Brooks had to say was barely heard at all by the police at the scene, and that prejudiced racial stereotyping was the cause. It is appropriate, therefore, to regard Duwayne Brooks as having been most unjustly silenced. Aside from the obvious ramifications of this silencing for the criminal investigation and subsequent legal procedure, there is the intrinsic epistemic injustice done to Duwayne Brooks, who was wronged in his capacity as knower—specifically, as a giver of knowledge. He was blocked by prejudice from passing on knowledge he had to give.

We might see him as blocked from passing on his knowledge in two ways worth distinguishing. First, he was *pre-emptively* silenced; that is, the police perception of him at the scene led them in large part simply not to bother soliciting much information from him. We have already seen in the Macpherson report that the only senior officer present before the ambulance arrived failed “to try to find out from Mr Brooks what had happened.” Second, insofar as Duwayne Brooks *was* given the opportunity to pass on his knowledge at the scene, it seems he was not properly heard. His agitation was perceived as hostility rather than traumatic stress, and his anxious, angry frustration at what he saw as a lack of police concern with saving the life of his friend who lay bleeding on the pavement until the ambulance arrived was taken as aggression towards the police; and so he was not properly recognized as the source of knowledge that he manifestly was.⁴ Both of these forms of silencing are central forms of testimonial injustice.

The wrong of the testimonial injustice perpetrated here might strike someone as somewhat beside the point compared with the enormity of the legal injustice of the murderer or murderers evading prosecution. There is an obvious sense in which this is true: it is more important that a murder be properly investigated, and legal justice be done, than that someone avoid one instance of testimonial injustice. The silencing of Duwayne Brooks might seem just one in a catalogue of culpable police failures that culminated in the failed prosecution. But in fact I think the testimonial and the legal injustices at stake here are not separable, since the legal injustice of a police investigation so mishandled that no successful prosecution can be made was largely owing to the testimonial injustice perpetrated against Duwayne Brooks. That is to say, the silencing of Brooks was a proper part of the failed investigation, and looks to have been a primary cause of its failure, since it was specifically this testimonial injustice which meant that the crucial opportunity for gathering evidence at the scene was missed. Insofar as legal justice directly depends on openness to what witnesses and other parties have to say, it directly depends on testimonial justice. Furthermore, if we think about the wrong involved in the testimonial injustice suffered by Duwayne Brooks, it is obvious that it is not isolated, fleeting, or singular in any way; it is part of a general pattern of prejudiced perception and credibility judgement. Indeed, he was clearly not the only black person who suffered testimonial injustice at the hands of the police during the course of the investigation. The Macpherson report quotes Mrs. Doreen Lawrence, Stephen Lawrence's mother, as she describes her encounters with the police during the time of the investigation when she and her husband, as the victim's parents, were supposedly receiving updates on progress. She states:

Basically, we were seen as gullible simpletons. This is best shown by Detective Chief Superintendent Ilsley's comment that I had obviously been primed to ask questions. Presumably, there is no possibility of me being an intelligent, black woman with thoughts of her own who is able to ask questions for herself. We were patronised and were fobbed off...⁵

Consider the nature of the epistemic wrong involved here. The intrinsic wrong of testimonial injustice is the *epistemic insult*: the subject is undermined in their capacity as a knower, and so as a rational being. The insult goes deep. If we

accept that our rationality is part of the essence of human beings' distinctive value, then to be perceived and treated as lesser in one's capacity as a knower is to be perceived and treated as a lesser human being. After the trauma of the murder, Duwayne Brooks sustained this extended epistemic insult from the police. That treatment of him is an ethical injustice. It is also a gross epistemic dysfunction, for the police lost out on knowledge they needed to build a case. Here we observe the curious hybridity of testimonial injustice, for it is at once ethical and epistemic: Duwayne Brooks was morally wronged, and the police (not to say the Lawrence family and society as a whole) lost out on knowledge that should have been taken from Mr. Brooks for the purposes of legal evidence.

I have written elsewhere about the nature of this kind of wrong and of the hope for how we, as individuals, might try to cultivate in ourselves a corrective virtue of *testimonial justice*, whereby we correct for any impact of prejudice in our judgements of credibility.⁶ I cast it as a corrective virtue because there is no sensible general hope of plain freedom from prejudice in our judgements. This is because I take the (perhaps rather pessimistic) view that prejudicial stereotypes are in the social air we breath—that is to say, they persist in the collective social imagination—and so even if we do not have any sexist or racist *beliefs*, we are nonetheless susceptible to letting prejudicial stereotypes enter into our judgements of credibility so that we unwittingly allow a deflation of the credibility we give speakers of certain social types (depending to some degree, of course, on which social types *we* may belong to). Someone sitting on an appointments panel, for instance, may possess no ageist beliefs, and yet spontaneously perceive the younger applicant as therein more favourable, where the explanation may be nothing more than the surreptitious influence of a prejudicial stereotype of the slower, less flexible, less eager to please, older worker.

What individuals must aim to achieve is a certain *critical openness* to the word of others by way of an unprejudiced perception of those others as individuals. We might conceive this capacity to listen as a special kind of *attention* to others. Inspired by Simone Weil's notion of "attention," which Weil conceives ultimately as associated with the *unfocussed* form of contemplation that she regards as distinctive of prayer, Iris Murdoch develops her own, more specifically ethical notion of "loving

attention” as directed towards human persons and other individuals.⁷ Despite the focussed nature of Murdoch’s loving attention, it shares with Weil’s concept a kind of vision that is unobstructed, unprejudiced by any aspect of self—a kind of perception or, I want to say, *perceptiveness* that is fundamentally passive in nature, in the sense of being free from interference by the will.⁸ In Murdoch’s well-known, if now slightly dated, illustration of this sort of attention, she presents us with a mother-in-law at first perceiving her new daughter-in-law as “a silly vulgar girl,”⁹ and lamenting that her son has married “beneath him.” She manages to betray none of this in her behaviour, so that no one aside from herself is aware of how she feels. And then over time she comes around to see her daughter-in-law differently. In particular, she achieves a new, non-snobbish perception of her through an admirable process of self-discipline. Murdoch imagines this woman saying to herself: “I am old-fashioned and conventional. I may be prejudiced and narrow-minded. I may be snobbish. I am certainly jealous. Let me look again.” She then observes and reflects deliberately about her daughter-in-law, “until gradually her vision of [her] alters.”¹⁰

What Murdoch describes here captures the essence of how we should think about the individual virtue of testimonial justice. First, it requires reflexive awareness that one might be prone to this or that prejudice; second, it exploits a stable motivation to overcome any such prejudice; and third, it ensures a reasonable degree of success in doing so. In the case of testimonial justice, the overcoming of the prejudice is a matter of readjusting one’s perception of the speaker sufficiently to restore the proper level of credibility, or where it remains unclear what level that is, we may seek further evidence, or simply reserve judgement. This capacity for attention—the ability to see through prejudice to real human individuals—is indispensable in ethical life. It is indispensable in personal relations, as between Murdoch’s mother-and-daughter-in-law; and it is indispensable as part of social, institutional life too. If just one effective police officer present at the scene after Stephen Lawrence’s murder had had any such capacity for this kind of attention, then Duwayne Brooks would have been *listened* to; he would not have suffered the epistemic injustice he did, and more evidence could have been gathered before opportunities were lost. But I shall not elaborate further on the business of individual virtue here, because virtuous individuals working within an institutional body are obviously only part of the story. Sometimes institutions have deeply entrenched

vices, such as racism, even while the individuals working in them do not independently *as individuals* have the vice as such. Some of the most important instances of testimonial injustice concern the treatment of individuals by collectives, and in particular, institutional bodies such as appointments panels, corporations, juries, and, of course, police forces. And the fact is, there is more to such institutional bodies being racist (or whatever the vice might be) than the sum of racist individuals that work in it. What I would like to focus on, therefore, is the *collective* dimension of the racism that is at work in the story of racial prejudice on which we have been reflecting.

I am not in a position to address the question to what extent there were, or are still, racist individual officers in the London Metropolitan Police Service. But the most resounding and most publicly discussed conclusion of the Macpherson report was that London's Metropolitan Police Service was "*institutionally racist*,"¹¹ an idea which (at least in its pure form) is distinct from the claim that there were any number of individual officers who were racists. Indeed, the concept of institutional racism is as ethically important as it is hard to pin down, and the accusation against the Metropolitan Police Service inspired much confused and conflicted public discussion at the time. The confusion is anticipated in the publicly expressed advance fear on the part of the then Commissioner of the Metropolitan Police Service that if the report were to label the police institutionally racist, then the average police officer and member of the public would understand the accusation to be that the majority of police officers "go about their daily lives with racism in their minds and in their endeavour."¹² The possibility of continued public misunderstanding of the role that police racism had played in the case, and the wise efforts made in the Macpherson report to improve that understanding, underline the social importance of the philosophical distinction between attitudes held at the level of the individual and attitudes held at the level of the group. More recently there was renewed discussion of institutional racism in the UK media (occasioned by the tenth anniversary of the report's publication), and my impression is that our collective public understanding, at least in the UK, is still underdeveloped. I will attempt to say something useful about this kind of institutional vice, so that we may gain a firmer philosophical grip on it, and therefore on the causes of the kind of testimonial injustice that Duwayne Brooks suffered.

Many forms of institutional racism surely involve some significant number of racist individuals. But in order to isolate the institutional aspect, let us imagine an example where a group of co-workers in a given institution are not racist as private individuals, but still there is institutional racism. How can this be? One explanation relates only to procedures: certainly it is possible for an institution to have bad procedures that result in discriminatory outcomes, even while no individual workers have supporting discriminatory attitudes. Sometimes this is called indirect discrimination. An example is the existence of a height requirement for a certain profession, which indirectly discriminates against members of ethnic groups whose average height is lower than the national average. Procedures can be well-designed or poorly designed in relation to their outcomes. But it is not procedures themselves that I want to focus on. Rather, I want to focus on the tension there can be between individuals' private attitudes and attitudes held at the level of the group of which they are the members.

The primary source of such a disconnect between group-level attitudes and individual-level attitudes is that human agents are social agents, with multiple social roles that generate distinct "practical identities."¹³ Practical identities can generate role-specific reasons for action, so a single person can be in a situation of tension--even contradiction-- between commitments and reasons generated by two different practical identities. I may have reasons to do something *as* a mother, *as* a teacher, *as* a university employee, *as* a daughter, *as* a friend, and all these would be practical identities of mine. Obviously, the reasons generated by my role as a teacher can come into conflict with reasons I have as a mother, as when a troubled student needs some last-minute help to prepare their dissertation in time, but the children are ill. Or, to take a quite different example, imagine a long-serving administrator of a local music society. As the administrator he may be genuinely committed to the furtherance of the society, while as a local resident who is repeatedly inconvenienced by the fact that all the parking spaces get filled up early on the society's rehearsal nights, he may equally hold that it would be no disaster if the society folded. The mechanism here turns on our various commitments being *relative* to one or another practical identity we may have. The administrator's personal misgivings about the continuation of the music society are real, but even while he has these misgivings, he may still put on his hat as

a music society member, and ingenuously join in with the collective commitment to the furtherance of the society. This is because he is committed, jointly with the other members, to going along with the enterprise of working for the future of the society.¹⁴

I think professional and semi-professional commitments to goals, values, and even beliefs often take this practical-identity-relative form. And this is a good thing too, for otherwise the only such commitments of which we would be capable would be those we had already taken on personally, independently from practical identities that go with our membership of professional or recreational groups. It must be said that very often the role-specific commitments may spill over into personal commitments, which can be helpful in shoring up our professional and similar commitments. Furthermore, if these roles are ethically significant ones, this can be part of a process of personal moral development—a process of expanding one’s moral horizons in some way. For instance, a teacher may take care of his students’ interests first out of sheer role-responsibility under the idea of professional duty; but soon this commitment may grow on him, so that it takes new root in the ground of more personal commitment. This might bring him to a more compassionate, more humanly informed outlook on, for instance, the significance that studying for a higher degree can have for students from non-standard university backgrounds. Given that such developments in moral consciousness are gained not instantly but over time, it is a good thing that such a teacher might be able to take on the attitudes of a conscientious giver of student pastoral care before he comes (if he does) to care in a more personally integrated capacity.

This general model of how people incur commitments as part of their different practical identities is applicable to our institutional racism case. Let us ask how there can be bad collective attitudes—for example, racism at the level of the group—without this stemming from racist attitudes possessed by officers as private individuals. My suggestion is that it works like the case of our music society administrator, as a matter of different practical identities bringing with them certain attitudes and commitments, whose character is irreducibly collective. Such commitments are instances of we-thinking, and the attitudes are irreducibly “we-attitudes.”¹⁵ As a private individual, an officer may personally have no active racial prejudices, and yet with his uniform on he joins in with, or goes along with, a

workplace culture of racism. Such a culture might be characterized by superficially friendly racist jokes and nicknames, a tendency to trade in racial stereotypes that affect how officers perceive black people at the scene of a crime, or in the interview room. In the Macpherson report, members of the Black Police Association talked of just such a racist “occupational culture” in the Metropolitan Police. Let me cite two crucial points made about the particular nature of police work, and about the power of the workplace occupational culture to draw racially prejudiced attitudinal commitments from just about everyone, white or black. The officer is quoted as follows:

Given the fact that these predominantly white officers only meet members of the black community in confrontational situations, they tend to stereotype black people in general. This can lead to all sorts of negative views and assumptions about black people, so we should not underestimate the occupational culture within the police service as being a primary source of institutional racism in the way that we differentially treat black people.

Interestingly I say we because there is no marked difference between black and white in the force essentially. We are all consumed by this occupational culture. Some of us may think we rise above it on some occasions, but, generally speaking, we tend to conform to the norms of this occupational culture, which we say is all powerful in shaping our views and perceptions of a particular community.¹⁶

This comment alludes to the particular mechanism of institutional racism that I am trying to highlight (I don’t doubt there are others). The institutional vice stems from group members effectively committing to a practice of racial stereotyping by going along with that practice as a matter of workplace culture. The collective commitment to the practice thereby becomes part of the very practical identity of a police officer in that force. And once that commitment is made, the group identification it helps define can make it costly to withdraw. Dis-identification with the racist attitudes comes to be tantamount to dis-identifying as a member of the force, given how that practical identity has been locally constructed. It is almost to say “I am not *one of us*” any more, not part of “we” anymore. This, at any rate, seems

to be one way that a vice like racism can take hold in an institution, even without its necessarily being the case that any of the officers *as private individuals* could reasonably be described as racists. Needless to say, my aim is not to exonerate, but only to explain. Passively going along with a set of racist attitudes as a matter of professional identity *is* a way of being racist; but it is different from having pre-existing actively racist attitudes that one brings to the collective from an independent practical identity. The passive phenomenon is consistent with personally having non-racist attitudes, and even anti-racist attitudes, but lacking the courage to stand up to the peer pressure from one's colleagues. It can take great courage to refuse to go along with an up-and-running workplace culture, however repellent it may be. And the difficulty can only be exacerbated by the fact that in going along with the values, goals, or beliefs of the group, one has actually made a *commitment* to the other group-members so to do. So dis-identification with the bad attitudes involves renegeing on a real commitment—the commitment a person becomes party to by going along with those jokes, that way of talking, that set of attitudes. Of course, it is a commitment that should not have been made, and given that it has been made, should now be renegeed on; but the fact remains that the commitment has some psychological force. Therein lies the internally coercive power that this sort of “we-attitude” can have.¹⁷ It may well be that the best a good person can be expected to do in such a situation is to achieve an unspoken non-participation in that culture, still risking paying the price, no doubt, in terms of isolation.

If this is indeed how institutional vice can take hold, then we have also learned something about institutional virtue. For each can gain sway courtesy of the same mechanism. If the members of an appointments committee, a jury, or a police force jointly commit to a virtuous goal such as non-racist professional conduct, then that commitment can become associated with the practical identity that goes with membership of the group. This is one way of thinking about how an *ethos* establishes itself in an institution: value-related commitments that are worn on one's sleeve as part of one's identity as an officer of that institution.

The ethical importance of the institutional virtue of testimonial justice has been manifest in the discussion so far (Duwayne Brooks was wronged in his capacity as a giver of knowledge). And I have also tried to bring out its epistemic importance

in terms of knowledge missed (the police missed out on valuable evidence at the scene). But there is also a *political* dimension to it that I would like at last to draw attention to. On one mainstream conception of political freedom, namely the republican conception, freedom is a matter of non-domination.¹⁸ If, for example, you are married to a man in a society where there is no criminal category for rape within marriage, then you are dominated even if you can take it entirely for granted that your husband would never dream of hurting or coercing you. Your status as unfree is established by the counter-factual: *If* he were to hurt you, he would do so with impunity. The truth of that counter-factual means you are dominated, and to that extent not free. Similarly, if you are employed by someone who could sack you without due reason, leaving you with no redress, then you are dominated, and to that extent not free. What is doing the work here is the question of your safety or non-safety from certain forms of arbitrary interference, where what makes a form of interference count as arbitrary is that it is not geared to collective interests. Taxation is interference, but it is not arbitrary; being arrested for a crime is interference, but done properly it is not arbitrary. Now of course, in any society, bad things happen: people get assaulted, mugged, sacked without due reason, and so on. But what is crucial to such interference not counting as arbitrary is the victim's ability to *contest* the wrongful treatment. One might contest a crime by reporting it to the police, or a wrongful sacking by taking one's case to an industrial tribunal. So long as one can contest it, the treatment no longer counts as arbitrary. On this conception of political freedom as non-domination, then, we are free insofar as we are properly protected from arbitrary interference, and being properly protected is a matter of our being able to contest it if it were to happen.

Freedom as non-domination, then, depends crucially on the power to contest. But what does contestation require? Besides the basic linguistic conditions of communicative success, contesting wrongful treatment crucially requires that one be properly heard, without prejudice.¹⁹ It requires, therefore, that the industrial tribunal, the complaints committee, the investigating police force, or whatever the relevant institutional body may be, *possess the virtue of testimonial justice*. Duwayne Brooks was not properly heard, he was silenced. Needless to say, he would not have been so silenced had the police possessed the institutional virtue of testimonial justice; that is to say, had they been jointly committed to hearing without prejudice the testimony of

witnesses. But in addition to the testimonial injustice Duwayne Brooks suffered, and because of it, he is revealed as significantly politically unfree. His susceptibility to testimonial injustice means that his ability to contest is radically impaired. Indeed, on the night of his friend's murder, he was, among other things, trying to contest the attack in which *he* was a fellow victim; but he could not contest it, because the police at the scene were not ready to hear him without prejudice. In addition to the ethical and epistemic significance of testimonial injustice, then, we can now see its political dimension. On the republican conception we are considering, the institutional virtue of testimonial justice (for those institutions to which citizens may need to contest) is revealed as a constitutive condition of political freedom.

I have made this point in relation to a conception of freedom as non-domination. But the point can be generalized to other conceptions of political freedom insofar as they involve the power to contest. If freedom is conceived as negative liberty, then you are free insofar as you are not blocked from doing things you want to do. On this sort of liberal conception, freedom is a matter of *de facto* non-interference. Here, if your boss has the power to sack you without due reason, you are not *thereby* unfree. You remain free, unless and until he or she actually sacks you without due reason. On this kind of view, the power to contest is not built into freedom as a constitutive condition, but still we can see a direct causal connection: if you are a member of a group that is susceptible to testimonial injustice at the hands of institutions such as employers or industrial tribunals, then your boss knows he or she is more likely to get away with sacking you without due reason than the next employee. That makes your risk of such violations of your liberty significantly greater. So, on any such liberal conception of political freedom, we can see that a susceptibility to testimonial injustice generates a special vulnerability to infringements of political freedom.

It is now time to come full circle. I began with the idea that silence has positive and negative aspects. I have explored a negative kind of silence that comes with a certain injustice, namely, testimonial injustice. And I have discussed a positive kind of silence that goes with the kind of loving attention to an individual that allows one to *listen through* the white noise of prejudice. So let me now end by returning to my first thought about philosophical method, and the value of looking at any social

practice from the point of view of those on the losing side when things go wrong. The very theme of testimonial *injustice* already signals a certain attention to the underbelly of epistemic practices—attention, that is, to how our various practices by which we gain, retain, or indeed lose knowledge can go wrong and do wrong. This is in itself a departure from the norm. Philosophy tends to be focussed on what it takes for a given practice to go well—what it takes for there to be justice, for instance. And the assumption tends to be that once we have got a clear account of what it takes for there to be justice in society, then injustice will just fall out of that positive account as the failure of one or another of its conditions.

But this makes the implicit methodological assumption that all the phenomena we are looking to explain in our philosophy will be present in the situation of justice, so that attention to mechanisms of injustice could never throw any light on the positive constitution and maintenance of justice. While I have allowed that this may be a sound principle for some topics, in the case of testimonial practice I have tried to show that there are aspects of the fully functional practice—the ideal practice even—which become visible only when we look at what goes on when things go wrong. The traditional philosophical ideal of testimonial exchange says only that the hearer's credence in what he is told be proportionate to the likelihood of its being true. Let us reflect, by contrast, on what ideal of testimonial practice has emerged from the present discussion. The ideal that has emerged is one in which everyone with something relevant to say has the opportunity to communicate it, and be heard without prejudice. Such a situation would be one in which speakers could be confident they would encounter no testimonial injustice. Not only would hearers be intellectually and emotionally open (critically open, as I have put it) to the *content* of what is said, but they would also be open (“lovingly attentive,” to use Murdoch's phrase) to the *person* of the speaker. A shorter way of describing what this involves is that hearers exercise an ability to neutralize the impact of prejudice in their judgements of credibility. On any given occasion that we achieve this—if we can achieve it: remember I am describing an ideal—achieving it might take significant self-critical effort and acquaintance over time, in the way it does for Murdoch's character of the mother-in-law who deliberates and disciplines her perceptual efforts so that she gradually learns to perceive her daughter-in-law differently, more passively, more truthfully. Let me add that it might also take some proper effort from

the daughter-in-law, since the achievement of listening properly and attentively to someone may reasonably require that the speaker try to make themselves heard, try in effect to disrupt the hearer's normal patterns of perception and credibility judgement so that she is *enabled* to hear what is being said.

This conception of the ideal testimonial practice is a far cry from the skeletal traditional conception which emphasizes only that one's credence must somehow be proportionate to the likelihood of the testimony being true. That is the thinnest possible epistemic ideal of testimonial exchange, and in some guise or other it should remain present as the essential goal of the more fulsome ideal I have presented. But on its own it is hopelessly methodologically under-informed. It is like advising people that the ideal adventure holiday is one in which nothing goes wrong and no one gets hurt, never bothering to mention any of the things that actively threaten to go wrong on an adventure holiday. An intelligent ideal of a practice is one informed by risk, and what it takes to guard against it. By contrast to the traditional ideal of testimony, our more informed ideal includes crucial information about a type of risk that is endemic to testimonial practice—namely, the risk that prejudice is allowed to depress the level of credibility given to certain speakers, with the result that an injustice is done and knowledge is missed. The ever-presence of this risk has emerged from our discussion only because of the richly socially situated conception of speakers and hearers that is imported by our methodological commitment to looking at testimony from the point of view of those who lose out when things go wrong. Without that conception, none of the above could have made itself philosophically visible.

Attention specifically to these sorts of *dysfunction* in testimonial practice, then, is the key to a fuller understanding even of the ideally functional case. We can come to see that there is such a thing as testimonial *justice*, come to appreciate its ethical significance, and its connection to political freedom, only by exploring the phenomenon of testimonial *injustice*. I have presented this project as rooted in the feminist methodological insight with which we started, and which was anticipated in the opening remark recalled from Simone Weil. Philosophy that takes that insight as a guide hopes to achieve a more socially informed and so more philosophically rich picture of whatever human practice it aims to understand, by listening to silence.²⁰

¹ Simone Weil, *Lectures on Philosophy*, trans Hugh Price (Cambridge: Cambridge University Press, 1978), 139. I thank Clark Elliston for assistance in sourcing this quotation. This paper was first given as the 2009 Simone Weil Lectures on Human Value in Melbourne and Sydney, and it benefited greatly from discussions on those occasions. I would particularly like to thank C. A. J. Coady, Karen Jones, Martin Krygier, Genevieve Lloyd and Michael Smith for helpful discussion; and most of all Raimond Gaita—for the invitation, for philosophical insight on tap, and for his endlessly kind hospitality.

² See Tim Williamson, *The Philosophy of Philosophy* (Oxford: Blackwell, 2007), though unfortunately his impressive defence of ‘armchair philosophy’ substitutes something no more diversified than the linguistic conception he supplants.

³ See Chapter Five of the Macpherson Report, especially 5.10-12 and 5.3. The report was published in 1999 and can be found at <http://www.archive.officialdocuments.co.uk/document/cm42/4262/4262.htm>

⁴ The report makes clear (at 5.14) that while police treatment of Mr. Brooks at the scene, and even later at the hospital, was thoroughly inappropriate and inadequate, the way he was treated later at Plumstead Police Station was better, with one officer seeing him, giving him the opportunity to see his mother, and to go home (which he declined), and taking a long statement from him through the night.

⁵ Macpherson, 4.4.

⁶ Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford: Oxford University Press, 2007), see Chs. Four and Seven.

⁷ Murdoch, *The Sovereignty of Good* (London: Routledge & Kegan Paul, 1970), 34.

⁸ ‘Simone Weil says that will does not lead us to moral improvement, but should be connected only with the idea of strict obligations. Moral change comes from an *attention* to the world whose natural result is a decrease in egoism through an increased sense of the reality of, primarily of course other people, but also other things. Such a view accords with oriental wisdom (and with Schopenhauer) to the effect that ultimately we ought to have no will’ (Iris Murdoch, *Metaphysics as a Guide to Morals* (London: Chatto & Windus, 1992), 52.

⁹ Murdoch, *The Sovereignty of Good*, 17.

¹⁰ Ibid.

¹¹ The Macpherson report deals with racism principally in Chapter Six, and places great emphasis on the distinction between individual racist attitudes and unintentional racism of outcomes in terms of how black and ethnic minorities are treated by the police. At 6.34, it defines for the purposes of the report the concept of institutional racism as follows:

“The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.” The paragraph continues: “It persists because of the failure of the organisation openly and adequately to recognise and address its existence and causes by policy, example and leadership. Without recognition and action to eliminate such racism it can prevail as part of the ethos or culture of the organisation. It is a corrosive disease.”

¹² He is quoted in the Macpherson report at 6.46.

¹³ I borrow this term from Christine Korsgaard (*The Sources of Normativity* (Cambridge University Press, 1996), Chapter Three).

¹⁴ I am making allusive use of the joint commitment model of group agency that Margaret Gilbert has developed, most particularly what she says in relation to collective belief. See, for instance, her “Remarks on Collective Belief,” *Socializing Epistemology: The Social Dimensions of Knowledge*, ed. Frederick F. Schmitt (Lanham, Maryland: Rowman & Littlefield, 1994), 251); or “Collective Epistemology,” *Episteme* 1 (2) (October 2004), 95-97: 102.

¹⁵ This evocative label is used by Raimo Tuomela in his work on collective intentionality. See, for instance, *The Philosophy of Social Practices: A Collective Acceptance View* (Cambridge: Cambridge University Press, 2002).

¹⁶ Macpherson report, Paragraph 6.28.

¹⁷ This point about the internal coercive force of joint commitment is made by Margaret Gilbert, whose model of plural subjectivity I am implicitly using.

¹⁸ See Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Clarendon Press, 1997).

¹⁹ This is an explicit commitment of Pettit’s account (op. cit., 63.)

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