

Testimonial injustice and speakers' duties¹

Kristin Voigt (kristin.voigt@mcgill.ca)

Final version forthcoming in *Journal of Social Philosophy*.

1 Introduction

Miranda Fricker's work on testimonial justice focuses on how individuals are perceived as 'knowers'. She describes the injustice inflicted on speakers when their testimony is given less credibility due to stereotypes or prejudice against a social group of which they are a member. While much of the debate has focused on how we can counteract testimonial injustice in our capacity as *hearers*, I argue in this paper that our actions *as speakers* can also contribute to, or reduce, testimonial injustice. So as to be able capture this concern, I suggest that we broaden Fricker's framework in three related respects. First, while Fricker focuses on epistemic *virtues* in responding to testimonial injustice, testimonial justice may also give rise to *duties*. Second, while Fricker thinks of testimonial injustice as involving the wronging of particular speakers, I suggest here that we can fail in our duties of testimonial justice in ways that do not wrong particular individuals. Finally, while Fricker's account excludes excess credibility as a form of testimonial injustice, the argument presented here strengthens the case for including not only credibility deficits but also excess credibility in our account of testimonial injustice.

¹ For helpful comments and suggestions, I am grateful to audiences at the Ethox Centre, Southampton University, Lancaster University, and the 'Understanding Epistemic Injustice' conference, Bristol University, where versions of this paper were presented, as well as the anonymous reviewers of this journal. Part of this work was undertaken while I was a Caroline Miles Visiting Scholar at the Ethox Centre, Oxford University; I am grateful to the Ethox Centre for its support. I would also like to acknowledge support from the Fonds de recherche du Québec – Société et culture (FRQ-SC) (grant no. 172569).

To illustrate these issues, I discuss so-called personal conflicts of interest. It has become standard in journals in the medical and natural sciences for authors to disclose any competing financial interests they may have. Occasionally, however, authors are also encouraged to disclose non-financial, ‘personal’ interests, such as specific characteristics they might have that could be relevant to the topic of the work they are submitting. Personal characteristics that have been disclosed by authors in medical journals include smoking status, class background and ethnicity. There have also been calls for researchers working on the link between HIV/AIDS and circumcision to disclose their own circumcision status. Publishers and journals often rely on expansive and vague descriptions of what might be considered a competing interest. This provides the starting point for considering the implications that testimonial injustice can have for speakers’ decisions about which – and how much – information to reveal about themselves in contexts where such information can be construed as relevant to an assessment of their credibility.

The purpose of this paper is two-fold. First, I argue that disclosures of personal characteristics raise problems of testimonial injustice in two ways: first, they can (unfairly) undermine researchers’ credibility and prejudice readers against the results or arguments proposed; second, such disclosures can contribute to testimonial injustice more broadly by strengthening the view that particular features or characteristics are relevant to how we assess individuals’ credibility, at least in certain contexts. This is particularly worrying when the characteristics in question (e.g. social class) are related to other forms of injustice. While there is an implicit assumption – in journal practice as well as in the literature around conflict of interest disclosures – that when it comes to potential conflicts of interest, we should err on the side of disclosing too much rather than too little, the argument presented here suggests that disclosure can involve distinct costs of testimonial injustice. The second, broader, goal of the paper is to highlight aspects of the concept of testimonial justice that have not yet been discussed in the literature. While Fricker’s account focuses on the epistemic

virtues of hearers in responding in the right way to testimonial injustice in interaction with speakers, I argue that there are also important implications for how we ought to act *as speakers* in the face of testimonial injustice.

The paper begins by outlining the debate surrounding conflicts of interests before exploring the idea of ‘personal’ conflicts of interest and introducing four examples from the literature (section 2). In section 3, I highlight two disanalogies between the cases Fricker focuses on and the cases discussed in this paper. In sections 4 and 5, I suggest that disclosures of personal conflicts raise problems of testimonial injustice. Section 6 makes the case for broadening Fricker’s framework so as to capture these problems. Once the framework is broadened in this way, we can also describe testimonial justice as creating duties incumbent on speakers; section 7 proposes three such duties. In section 8, I consider the implications of this discussion for disclosures of personal conflicts of interests and the guidelines governing such disclosures.

2 ‘Personal’ conflicts of interest: four cases

While it has become standard practice in medical and scientific journals for authors to disclose any competing financial interests,³ attention is increasingly also being paid to *non*-financial interests that authors (and, to some extent, journal editors and reviewers) may have – in particular, competing interests that are perceived as arising from specific, personal characteristics of the authors. Consider the following four cases from the scientific literature:

1. Journal articles on smoking and tobacco control disclosing the authors’ smoking status in the conflict of interest section. In Hasman and Holm (2004), the competing interests section

³ I use the terms ‘competing interests’ and ‘conflicts of interest’ interchangeably in this paper.

reads: 'Conflicts of interest: None. Both authors are non-smokers.' In Shaw et al. (2000), each author's smoking status is listed as: 'Competing interests: Drs Shaw and Mitchell are non-smokers. Dr Dorling is a smoker (20 cigarettes a day).'

2. A journal article reporting the results of a focus group study on class, sexual and ethnic differences in experiences of medical school discloses the authors' class and ethnic backgrounds, with initials identifying each co-author: 'Competing interests: No financial conflict of interest. KS is British Asian, TG and PB are British white. All authors were originally from social class III non-manual when they applied to university' (Greenhalgh et al. 2004, p. 5).⁴
3. An article calling for researchers investigating the connections between circumcision and HIV/AIDS to disclose 'personal beliefs indicative of likely biases [including] professional, religious, political and cultural affiliations, as well as [their] own circumcision status' (Boyle and Hill 2011, p. 332).⁵
4. Glenn Gaesser, the author of a book critical of current work on the connections between obesity and poor health outcomes finds that his editor would only agree to publish the book once she saw that he was thin; otherwise, the book 'would have been viewed as almost a rationalization for being fat, [as if he had] a personal axe to grind' (Saguy and Riley 2005, pp. 906, quoting Glenn Gaesser).

⁴ The class indicator is based on a social class scheme based on occupation often used in the UK social sciences, ranging from class I (professional occupations) to class V (unskilled occupations). Class III refers to skilled occupations, further divided in manual and non-manual.

⁵ I would like to thank Kirsten Bell for calling my attention to this paper.

What these cases have in common is that a researcher's personal characteristics – such as their smoking status, ethnic and socioeconomic background, weight, their religious or cultural background or their circumcision status – are viewed or portrayed as relevant for assessing the credibility of their work. In cases 1 and 2, these characteristics are declared as conflicting or competing interests and the declaration published alongside the article; the article discussed in case 3 suggests that a similar policy ought to be applied with respect to circumcision status and religious, cultural and political beliefs; and in case 4, the author's weight could have interfered with the publication of his book. While case 4 is not straightforwardly about disclosure, what the editor's comment suggests is that the book would not have been published *at all* if the author had been obese, because his body shape would have undermined the credibility of his work.

In all of these cases, there is a link between the characteristic identified and the content of the work being published; for example, the articles indicating the authors' smoking status were concerned with aspects of smoking and tobacco control. With respect to case 2, it should also be noted that it is not unusual for researchers working with focus groups to indicate their background because focus group participants may respond differently to researchers from different backgrounds. However, in Greenhalgh et al. there is no discussion of any such effects beyond the conflict of interest statement and an indication of which authors conducted the focus group.

While many journals still focus on financial conflicts in their journal policies,⁶ some journals now operate with more expansive definitions that can be interpreted as requiring the disclosure of personal characteristics such as the ones just noted. For example, the *British Medical Journal's*

⁶ See, for example, for example, the Disclosure of Potential Interest Form issued by the International Committee of Medical Journal Editors (ICMJE), which is used by journals such as the *Journal of the American Medical Association* and the *New England Journal of Medicine*; available at <http://www.icmje.org/conflicts-of-interest> (accessed 4 September 2015).

disclosure policy includes the question, ‘Are there other relationships or activities that readers could perceive to have influenced, or that give the appearance of potentially influencing, what you wrote in your submitted work?’ (*BMJ* 2010;34:c3239). Similarly, Elsevier includes among sources of potential conflicts of interest an individual’s having a ‘belief that could affect his/her objectivity’.⁷ The publisher BioMed Central defines non-financial competing interests as ‘includ[ing] (but... not limited to) political, personal, religious, ideological, academic, and intellectual competing interests’.⁸

There has also been discussion of personal conflicts in academic publishing and how such conflicts should be disclosed. For example, Goozner et al. (2009) recommend that, for specialist addiction journals, authors be asked to disclose, on a voluntary basis, to journal editors any non-financial interests they may have. West (2009) recommends a ‘traffic light system’, in which ‘any strong religious beliefs or values *directly* relating to the [topic of study]’ (p. 1785, emphasis in original) are categorised as ‘red’ (putting them in the same category of West’s scheme as the receipt of funding from an interested party), while other financial interests (such as receipt of research funds from governmental agencies or charities) are categorised as ‘amber’.

For now, it is not clear whether these concerns represent a trend towards a broader understanding of conflicting interests that would include the disclosure of such personal characteristics. Most journal still focus on financial disclosures, and the vast majority of conflict of interest statements do not disclose the authors’ personal characteristics. At the same time, it seems that several major journals have broadened their disclosure requirements, suggesting that researchers may increasingly face decisions about which personal characteristics, if any, they should disclose when publishing their work.

⁷ http://www.elsevier.com/__data/assets/pdf_file/0010/92476/ETHICS_COI02.pdf
⁸ <https://www.biomedcentral.com/submissions/editorial-policies#competing+interests>

3 Testimonial injustice and disclosures of personal conflicts of interest

In this paper, I want to examine these cases from the perspective of what Fricker has called ‘testimonial justice’, i.e. injustices relating to how individuals are perceived in their capacity as givers of knowledge. This analysis discusses questions that are important in their own right but also helps make the case for broadening Fricker’s framework in several respects. In this section, I briefly outline the core ideas of this concept as it is presented in Fricker’s work before exploring, in section 4, how the cases presented here can be viewed as raising concerns of testimonial injustice.

Fricker’s broader concern is what she calls ‘epistemic injustice’, which includes both testimonial and hermeneutical injustice. Testimonial justice requires a hearer to ‘match the level of credibility she attributes to her interlocutor to the evidence that he is offering the truth’ (Fricker 2007, p. 19). Conversely, the existence of stereotypes and social prejudice can lead hearers to give less credibility to a speaker than the speaker ought to be given, leading to a credibility deficit. Two examples of testimonial injustice feature prominently in Fricker’s account. First, in Harper Lee’s *To Kill a Mockingbird*, Tom Robinson, a Black man, is accused of rape and his case taken to trial. Even though it becomes clear that he has not committed the crime, the white jury, because of their racist beliefs, give no credibility to his testimony. In the second example, the central female character in the novel *The Talented Mr Ripley* reports her suspicions about who is responsible for her fiancé’s disappearance and is silenced when her father-in-law-to-be responds to her concerns by noting that ‘There’s female intuition, and then there are the facts’.

Importantly, Fricker argues that testimonial injustice involves wronging of specific speakers: by giving a speaker less credibility because of prejudice against particular groups, we have wronged the speaker in her capacity as a knower. It is because of the centrality of this kind of wronging that, Fricker argues, testimonial injustice involves credibility *deficits* but not *excess* credibility, i.e. situations where speakers are given *more* credibility than they ought to be given. Even though prejudice can lead

to hearers receiving *more* credibility than they should, this does not constitute wronging because ‘it does not undermine, insult, or otherwise withhold a proper respect for the speaker *qua* subject of knowledge’ (Fricker, 2007, p. 20).

As I argue below, there are reasons to broaden our understanding of epistemic injustice by making wronging less central than it is in Fricker’s account. This opens up the possibility that excess credibility (or, as I call it here, *unfair credibility advantage*) could *also* be an instance of testimonial injustice. On such an interpretation, a speaker may have expertise that should give her more credibility on particular issues than a non-expert; I would consider this an unproblematic credibility advantage. However, when speakers are given *too much* credibility, however, this would be an *unfair* credibility advantage. I defend this departure from Fricker’s conception of testimonial injustice in section 6.

As I argue in the next section, disclosures of personal interests, where authors disclose personal characteristics such as class and ethnic background, are problematic from the perspective of testimonial justice for two reasons. First, those who declare such interests can become subject to unfair credibility deficits (or, in some cases, gain unfair credibility advantages). Second, to the extent that such disclosures contribute to the view that certain characteristics undermine speakers’ credibility with respect to particular topics, they contribute to testimonial injustice by adding an epistemic dimension to already existing prejudices about particular groups.¹¹

Before going into more detail about these concerns, two disanalogies between Fricker’s cases and the disclosures I am interested in here are worth highlighting. First, there may be relevant

¹¹ I have not seen any empirical investigation of these kinds of effects so it is difficult to say how significant they will be in the real world. There may also be countervailing effects, for example if reading disclosures makes readers more aware of their own biases. I’d like to thank an anonymous reviewer for pointing this out to me.

differences between instances where speakers provide testimony (e.g. Tom Robinson in the court case) and situations in which speakers provide arguments for particular positions, which is – to at least some extent – what research papers do. Whereas for the former, we must rely almost exclusively on the speaker’s truthfulness in reporting facts that only she has access to, we often have independent criteria with which to evaluate the positions and arguments offered in research papers.

However, while this may be the case for purely normative or conceptual arguments, this is different for empirical work. First, there is often reasonable disagreement about how particular research questions should be framed, what methodologies should be chosen and how data should be gathered and interpreted. Arguably, decisions taken at each of these steps could be influenced by specific interests of the authors.¹² Various biases may operate when data are analysed and interpreted by researchers: Kaptchuk highlights that ‘evidence does not speak for itself’ and that interpretation of the data ‘is never completely independent of a scientist’s beliefs, preconceptions, or theoretical commitments’ (Kaptchuk 2003, p. 1455). Second, many readers will not have the required expertise to fully evaluate the quality of the work they are reading and must rely on the authors to report truthfully what their work shows and what its limitations are. Finally, there are also concerns about misconduct on the part of researchers; in case 3 above, for example, researchers investigating the possible protective effects of circumcision on HIV transmission were accused of unethical and unscientific conduct in an effort to make circumcision appear more effective in reducing HIV

¹² There may also be considerations that make truthfulness on part of researchers problematic. Cooper (2006) discusses this in relation to archaeological research, where findings may contradict particular groups’ interpretations of their past. In such cases, the virtue of truthfulness can come into conflict with other virtues, such as respect for the sensitivities of others. Truthfulness may therefore be undermined not only by researchers’ personal interests but also by their consideration of, and respect for, other relevant values.

transmission. Even for many research papers, then, we cannot fully avoid having to rely on the authors' trustworthiness in conducting their research and presenting their results.

A second – and highly instructive – disanalogy between Fricker's cases and those discussed here relates to how information about speakers is conveyed and how assessments of credibility are made in different kinds of situations. Fricker is concerned primarily with testimonial injustices arising in face-to-face encounters. In such encounters, interlocutors have access to a wealth of information about speakers – such as their sex, skin colour, accent, demeanour, appearance, etc. – on which they can base their assessments of how credible the speaker is. It is on the basis of such factors that the kind of social identity prejudice that, for Fricker, underlies testimonial injustice can begin to operate. When work is published, however, much (though not all) of this information is not directly available to the audience, protecting researchers to at least some extent from these kinds of processes. While disclosure requirements are clear with respect to certain conflicts, especially financial ones, they can be less clear when it comes to non-financial conflicts. As some of the disclosure requests cited in section 2 suggest, there is considerable scope for interpretation of what counts, or does not count, as a personal conflict of interest. This means that it is often *up to the researcher* to determine which characteristics, if any, are captured by a journal's policy and must therefore be disclosed. Situations in which we have some control over how much and what kind of information our interlocutors have about us raise interesting questions of what testimonial justice requires of us as *speakers*.

4 Disclosures can create testimonial (dis)advantage for authors

The first problem of testimonial injustice arising in relation to disclosures of personal characteristics as competing interests refers to the possible implications of such disclosures for authors. The testimonial justice concern is that disclosure of certain personal characteristics puts authors at a testimonial disadvantage: they experience an unfair credibility disadvantage. (As I mentioned earlier,

there is also the possibility of unfair credibility *advantage*; I discuss this in section 4.2 below.)

Declaring such a characteristic as a conflicting interest implies a lack of objectivity caused by a particular characteristic. The implicit ‘message’ of at least some of the disclosure statements listed in section 1 is that the authors, in virtue of having a particular characteristic, should be regarded as a less credible source of information on a particular topic. For example, implicit in case 3 is the idea is that when someone is circumcised and/or their background culture endorses circumcision, they cannot be trusted to report accurately on the benefits of circumcision in reducing the risk of HIV transmission.

It is important to distinguish concerns about the disclosure of personal characteristics *simpliciter* and disclosures that implicitly ‘label’ certain characteristics as making the speaker potentially biased and therefore less credible. In many research contexts, it may well be an advantage to be from a particular background or to have certain characteristics. For example, for work such as that of Greenhalgh et al., it may well be helpful for authors to be from a working-class or ethnic minority background because of how this might affect how focus group participants respond to the researchers, or because it gives researchers greater insights into the experience of working-class or ethnic minority students. Similarly, it is not unreasonable to think that smokers (or former smokers) would have certain insights into nicotine addiction or the experience of smoking than those who have never smoked; with respect to case 4 reported above, we could make similar arguments about obesity. While it may be possible to disclose such characteristics in a way that leaves it open to readers to decide in what ways the feature in question would affect the researcher’s perspective, labels such as ‘conflict of interest’ or ‘competing interest’ suggests a particular interpretation to the

reader.¹³ These labels are important because they distinguish these disclosures from a neutral reporting of the author's background.¹⁴ Such reporting may simply reflect an understanding that, as feminist epistemologists have argued, there is no 'view from nowhere' and that authors' perspectives are shaped by their personal characteristics and social location (Code 1993). From this perspective, it may be helpful for readers to have some knowledge of an author's background. In this vein, anthropologists, for example, typically provide some information about their background and personal histories to allow the reader to understand how they approach the subject matter at hand.¹⁵ If the argument presented here is correct, there is a possible flip side to such disclosures: they can expose researchers to testimonial injustice.

Of course, any testimonial disadvantage suffered by individual researchers would be less unfair (and perhaps not unfair *at all*) if (a) the researchers can in fact be shown to be biased towards a certain perspective and presenting data and arguments to make their own conclusions more likely; or (b) they benefit from countervailing, unfair testimonial *advantage*. The remainder of this section considers these possibilities in turn.

4.1 Bias vs. 'perspective'

Disclosures of personal characteristics can lead to *unfair* credibility advantages or disadvantages only if these characteristics should not, in fact, legitimately be seen as boosting or undermining an

¹³ Even less explicit labels, such 'perspectives of interest' as suggested by Cook (2010), are problematic to the extent that they single out particular characteristics as suggesting that the speaker has an 'interest' in any particular conclusion being drawn.

¹⁴ Not all of the examples make clear what the 'neutral' and what the 'biasing' characteristic would be. Consider the disclosures of smoking status (section 2, case 1). Whereas the statement in Hasman and Holm (2004) makes clear that the authors' being non-smokers means that they do not have a conflict, the disclosure statement by Shaw et al. (2000) leaves open whether they consider being a non-smoker, being a smoker, or both, to constitute a conflicting interest. The argument here applies to disclosures where it is made clear (implicitly or explicitly) that having a certain characteristic constitutes a conflicting interest.

¹⁵ I would like to thank Anat Rosenthal for discussion of this.

author's credibility. This means that we need to distinguish between, on the one hand, the characteristics that could indeed give rise to the kind of problematic bias that disclosures are usually thought to identify and, on the other, the kind of characteristics that are merely an unproblematic part of a person's perspective. And, indeed, when declarations of 'personal' interest are called for, this is often on the basis of a concern for objectivity and avoiding bias (see, for example, Goozner et al., 2009, and the Elsevier statement mentioned above).

There is, in fact, some empirical research suggesting that various kinds of biases can affect researchers' interpretations of the data they collect and how they present their results. One particularly relevant concern is about 'confirmation bias', which leads individuals to interpret data supporting their preconceptions differently from data that challenges their pre-existing beliefs (Kaptchuk 2003). Similarly, there is concern about so-called 'white hat bias', i.e. a 'bias leading to distortion of research-based information in the service of what may be perceived as righteous ends' (Cope and Allison 2010a, p. 84). Cope and Allison argue that this type of bias 'seemed to be consistently pushing conclusions in a single direction and systematically distorting the research record' (Cope and Allison 2010b, p. 1615). This includes selective inclusion of references that support a particular conclusion, 'spinning' of conclusions that are not supported by the data presented and that mislead the reader (e.g. in the abstract), and incorrectly reporting the conclusions drawn in other studies. For example, they found that in studies on breast-feeding, results were presented in such a way that the beneficial effects of breast-feeding appeared stronger than was in fact warranted by the available data. The bias Cope and Allison detected could not be explained by researchers' funding sources, leading them to conclude that it must result from researchers' own commitments. More broadly, researchers also have career-related interests in publishing in prestigious journals, which may, for instance, give them an incentive to overstate the importance of their results (e.g. Saver 2012; Sollitto et al. 2003).

However, this concern is different from the kind of ‘personal interests’ I have been considering here. Concerns about confirmation or white hat bias reflect the worry that researchers are more likely to draw conclusions of which they are already convinced, rather than approaching the evidence with fresh eyes. A similar concern seems to play a significant role in Boyle and Hill’s argument, when they point out that the authors of one of the studies they were criticising had already published several articles suggesting that circumcision could reduce the likelihood of HIV transmission. Of course, as noted above, readers of academic articles must to some degree be able to rely on researchers to adhere to the relevant scientific standards when it comes to conducting their studies and to interpreting and presenting their findings; this would also include guarding, as far as possible, against the possibility that we might unconsciously be drawn to particular conclusions that we would like to be true, or think – for independent reasons – to be true. This seems like a fairly standard requirement of research: it is certainly not unusual for studies to test connections that its authors suspect exist and to have a hypothesis about what the study will reveal.

The concern, then, appears to be that researchers already hold particular views – e.g., as in Cope and Allison’s work, that breastfeeding is beneficial or, as in Boyle and Hill’s article, that male circumcision can reduce HIV transmission – and that they are prone to see these views confirmed by the data. However, we cannot infer from researchers’ characteristics what their views on particular issues are. The idea that people with certain characteristics would be more likely to lean towards certain views seems unwarranted: for example, it does not seem plausible that someone would be more likely to think of circumcision as protective against HIV transmission simply because they are themselves circumcised. A more appropriate response to evidence about these kinds of biases might be to view *anyone* writing about a particular topic as potentially biased.

4.2 Do academics start from an unfair credibility advantage?

A second reason why we might not be overly concerned about the impact of disclosures of personal conflicts of interests on authors' credibility is if academics whose work is published in reputable journals have an unfair credibility advantage. Researchers do of course have genuine expertise in virtue of their training, and journals generally apply various mechanisms to ensure that publications are of high quality; this means that academics and their published work should have greater credibility than non-experts. In other words, as experts on particular issues, academics have a credibility advantage that is entirely *fair*. At the same time, academics may also benefit from *unfair* credibility advantages. For example, researchers may benefit from 'prestige bias', whereby the prestige of their institution or academic 'pedigree' influence how the quality of their work is perceived.¹⁶ Moreover, it can be difficult for non-experts to determine which issues fall squarely within a particular academic's area of expertise and which do not, allowing academics' credibility advantage to 'carry over' into areas in which they have no particular expertise. Arguably, not all of this 'extra' credibility is justified. If, relative to non-academics, researchers benefit from an unfair credibility advantage, then whatever credibility they *lose* as a result of disclosures of personal interests might in fact bring them closer to the level of credibility they ought to have.

If at least some of the additional credibility researchers have vis-à-vis non-experts constitutes an unfair credibility advantage, does this mean that we should be less worried about any credibility losses associated with disclosures of personal characteristics? There are, I think, still good reasons to be concerned. Note first that in many real-world examples, researchers find their credibility undermined because of certain characteristics to a degree that likely exceeds any unfair credibility

¹⁶ For an account of prestige bias in academia, with particular emphasis on how it may contribute to the underrepresentation of various groups in philosophy, see de Cruz (2017). I would like the reviewers of this journal for drawing my attention to this literature.

advantages they might also have in virtue of being researchers. For example, Abigail Saguy describes how in the obesity debate, being obese is often seen as discrediting those who are critical of mainstream obesity discourses, *whatever their qualifications*: ‘regardless of how many advanced degrees they have, researchers run the risk of being discredited if they themselves are fat, not only for all of the reasons that fatness is generally discrediting but also because they are perceived as being biased’ (Saguy 2013, p. 35). In extreme cases such as the one reported about obesity researcher Glenn Gaesser in case 4, it is not only a relative credibility deficit we must worry about but the possibility that the book might not have been published *at all*. This would amount to what Fricker calls ‘epistemic exclusion’, whereby

those social groups who are subject to identity prejudice and are thereby susceptible to unjust credibility deficit will, by the same token, also tend simply not to be asked to share their thoughts, their judgements, their opinions. (If the word of people like you is generally not taken seriously, people will tend not to ask for it.) This kind of testimonial injustice takes place in silence. It occurs when hearer prejudice does its work in advance of a potential informational exchange: it pre-empts any such exchange. Let us call it pre-emptive testimonial injustice. The credibility of such a person on a given subject matter is already sufficiently in prejudicial deficit that their potential testimony is never solicited; so the speaker is silenced by the identity prejudice that undermines her credibility in advance. Thus purely structural operations of identity power can control whose would-be contributions become public, and whose do not. (Fricker, 2007, 130)

These kinds of mechanisms lead to those with certain characteristics being given less credibility when they seek to contribute to scientific debates, sometimes up to the point where they are excluded from the debate altogether, irrespective of their qualifications and expertise on the matter at hand.

Second, many academic debates are, at least in part, debates *among* academics (or experts more broadly); the relative credibility of individual academics therefore matters irrespective of whether or not academics *as a group* benefit from an unfair credibility advantage. Thus, if disclosures reduce some researchers’ credibility but not that of others, this raises concerns of testimonial injustice, even if academics as a group have a credibility advantage. Again, Saguy’s observations about the obesity debate illustrate these concerns. She notes that Gaesser’s book was published at the same

time as two other books presenting similarly critical positions; however, it was Gaesser's work that gained significant attention and, Saguy reports, other members of the research community felt that this was precisely because Gaesser, but not the authors of the other books, is thin.

The purpose of this section was to establish that when researchers declare certain personal characteristics as a conflict of interest, the negative effects of such disclosures on their credibility are unfair and for that reason an instance of testimonial injustice. While, as I discussed in section 4.1, there are concerns about researchers' general cognitive biases, it is not clear that these relate to researchers with specific characteristics rather than to *all* researchers. What is more, as I argued in section 4.2, the relative credibility of individual researchers vis-à-vis other researchers matters even if academics as a group benefit from unfair credibility advantages. Thus, disclosures of personal characteristics as conflicting interests can expose the researchers involved to unfair credibility deficits and thus to testimonial injustice (or, if the disclosed characteristic is regarded as enhancing rather than detrimental to credibility, such disclosures allow the author to benefit from an unfair credibility advantage).

5 Broader effects of disclosures of 'personal' conflicts of interest: adding a testimonial dimension to existing prejudice

The second problem of testimonial injustice arising with disclosures of personal conflicts of interest relates, not to effects on the authors disclosing the information, but rather to the broader implications of labelling certain characteristics as conflicts of interests. Disclosures of certain characteristics as conflicts of interest signal to readers that speakers who share that characteristic should be given less credibility than others when it comes to a particular topic.

In Fricker's account, what drives testimonial injustice is identity prejudice, in which prejudices are tied to membership in particular social groups, e.g. racialised groups or gender. Many

of the characteristics disclosed in the examples in section 1 (such as fatness and working-class background) are also the targets of prejudice. One concern about these disclosures is that they may contribute to and/or strengthen that type of prejudice. More specifically, they can add a *testimonial dimension* to existing social identity prejudice by suggesting that, in addition to whatever negative traits are already associated with members of particular groups, we should also question their credibility when it comes to certain topics. For example, in addition to negative stereotypes about fat people as lazy and irresponsible, such disclosures imply that we should also consider them (but not thin people) as biased and lacking credibility when it comes to obesity and its impact on health. This also relates to concerns about certain characteristics – typically those associated with advantage, such as being white or being thin – being perceived as ‘neutral’ (or, as Saguy 2013, 36, puts it, ‘unmarked categories’) and therefore not declared by researchers or perceived as relevant by audiences. To the extent that disclosures of the sort discussed here affect perceptions of credibility and therefore shape how the credibility of hearers is perceived in particular interactions, they contribute to testimonial injustice.

The extent to which this concern comes into play in the real world and how significant such effects are will depend on empirical connections: to assess the magnitude of such effects, we need to know which kinds of practices affect perceptions of credibility and through what mechanisms. It certainly does not seem implausible, however, that describing certain characteristics as relevant to credibility assessments could be an important mechanism through which the credibility of members of certain groups is unjustly undermined.

6 Testimonial injustice: broadening the framework

The case of disclosures of personal conflicts of interest allows us to think through some conceptual aspects of testimonial injustice that have not yet been addressed in much detail in the literature. In

this section, I suggest that, once we move outside the interpersonal context on which Fricker focuses, two extensions of her framework seem appropriate. First, I suggest that we consider not only *virtues* of epistemic justice but also *duties* of epistemic justice. Second, I argue that whereas Fricker makes the wronging of specific agents central to epistemic injustice, there are reasons *not* to require wronging of this sort as a necessary condition for epistemic injustice. In particular, we can violate requirements of epistemic justice by *failing to fulfil our duties* of epistemic justice; this can happen without our wronging specific agents. Extending the framework in this way also lets us capture, as part of epistemic justice, duties that we may have *as speakers*.

Consider, first, the inclusion of duties of testimonial justice. Fricker focuses on the virtues that hearers should cultivate and what they can do to prevent their inflicting testimonial injustice on the speakers with whom they interact (e.g. by trying to counteract prejudice and stereotype that may affect their judgement). A ‘virtuous hearer’, on Fricker’s account, is ‘someone who reliably succeeds in correcting for the influence of prejudice in her credibility judgements’ (Fricker 2007, pp. 5-6). Fricker is also open to the idea that institutions may have to display certain virtues if they are to be epistemically just (Fricker 2012; 2013).¹⁷

Seeking the remedy to testimonial injustice in the capacities of the hearer seems the right approach when we are concerned with face-to-face interactions between speaker and hearer, which is the focus of Fricker’s account. However, the questions I have been discussing in the previous sections arise, not in interpersonal interactions, but rather with respect to broader social effects. In this context, individuals’ capacities to anticipate how stereotypes might influence their credibility judgements is likely to be insufficient. In such scenarios, we have to go beyond a virtue-based account to consider what individuals can *do* to counteract testimonial injustice. This consideration

¹⁷ This idea is also developed, in a different direction, by Anderson (2012).

can be captured within the idea that epistemic justice can give rise to certain *duties*: at the most general level, we can say that epistemic justice gives us reasons to act in ways that contribute to epistemic justice and/or help prevent or reduce epistemic injustice.

Moving from a virtue-based account to one that also makes room for duties of epistemic justice certainly involves a substantial shift from Fricker's framework; at the same time, including duties in the framework is not, I think, by itself inconsistent with her approach. Duties of epistemic justice can *supplement* the virtues in important ways. It seems to natural to think, for example, that as hearers, we have a duty of testimonial justice to grant the right level of credibility to a speaker. Furthermore, if certain virtues can help us do this, then we arguably have a *duty* of testimonial justice to cultivate these virtues.

While there is, I think, no inherent conflict between the virtues of epistemic justice and duties of epistemic justice, the shift to duties allows for extensions of the framework that are at odds with other aspects of Fricker's approach. For Fricker, it is crucial that testimonial injustice involves a (specific type of) wronging: the hearer *wrongs* the speaker by giving her testimony less credibility than she should. Once we allow duties of testimonial justice into the framework, we may fail to fulfil our duties of epistemic justice, even if we cannot identify a specific agent who is *wronged* by this failure.¹⁸ If, for example, we have a general duty to speak out against epistemic injustice (for example by educating others about the influence of stereotypes on how we assess the credibility of members of different groups), then there may not be specific, identifiable individuals who are wronged when we fail to meet this duty. For example, consider a situation in which we become aware of a racist jury

¹⁸ A related argument is developed by Li (2016). She argues that instead of focusing on whether or not credibility is reduced as a result of *prejudice* (which, for Fricker, is central to the wrong of testimonial injustice), we pay attention to how a particular credibility deficit contributes to broader structures that devalue the ways in which members of particular groups (in her account, people with certain disabilities) communicate knowledge.

that fails to give appropriate credibility to a black witness, as in the *Mockingbird* example Fricker discusses. On Fricker's account, the testimonial injustice would be exclusively in the jury members' wronging of the witness. However, if we allow duties of testimonial justice to enter the framework in the way I have suggested here, we could also describe the bystander's failure to call attention to the racism of the jury members as an instance of someone failing in their duties of testimonial justice. In this scenario, even though we can identify an individual who is subject to testimonial injustice, whatever wrong *we* have done to the witness by not speaking out is not the specific kind of testimonial wrong that Fricker identifies.

As mentioned above, making wronging less central to testimonial injustice than it is in Fricker's account also means that *excess* credibility can be an instance of testimonial injustice. When a speaker is given *too much* credibility by a hearer, it would be odd to say that the hearer has wronged the speaker. We can, however, describe this as the hearer failing to act in accordance with her duties of testimonial justice. This view of testimonial injustice moves it closer to a 'distributive' interpretation, according to which we are interested in a fair distribution of credibility; Fricker explicitly rejects this view because it does not capture the specific kind of wronging she regards as central to testimonial injustice (Fricker 2007, pp. 19-20).¹⁹ As I suggested here, however, there might be important advantages to such an interpretation.

¹⁹ Fricker discusses two different kinds of distributive conceptions of epistemic injustice. On the first, it refers to an unjust distribution of *epistemic goods* such as education (Fricker, 2007, 1); this conception is also discussed in contrast to 'discriminatory' conceptions of epistemic injustice by Fricker (2013) and Coady (2010). The second, distributive conception of epistemic injustice refers to an unfair distribution of *credibility* (Fricker, 2007, 19). It is the latter conception that I am interested in here.

7 Testimonial injustice and speakers' duties

With these considerations in mind, we can consider the duties that testimonial justice can create when individuals are acting as *speakers*. As I noted above, there is an important disanalogy between the examples of testimonial injustice that Fricker focuses on and the cases I am considering here. In situations where speakers and hearers interact face to face, identity prejudice can operate on the basis of features of the speaker that are evident to the hearer, such as the speaker's gender or ethnic background. In many situations, however, speakers do not directly face hearers; for example, when researchers publish their work, they are typically protected to some degree from these kinds of mechanisms. The first two of the duties I describe here arise in situations where it is – at least to some extent – up to individuals which information about them they make available to others.

The first duty of testimonial justice that plausibly falls on speakers is not to give information about themselves in a way that would give them an unfair credibility advantage. If we think that people have duties of testimonial justice, then a duty not to exploit the potential for unfair credibility advantage seems like a likely candidate. In many instances, it will be beyond the control of individuals that particular characteristics – e.g. accent, appearance, demeanour – give them an unfair credibility advantage. However, there are also many situations in which we can make choices that prevent unfair credibility advantage. For example, we can refrain from using academic titles when talking about issues that do not fall within our area of research expertise. Similarly, when publishing or describing our work, this concern gives us reason not to reveal characteristics that would result in unfair credibility advantages. For example, Saguy recounts how a publicist described her in a press release covering one of her articles as 'petite': 'When I protested, [the publicist] explained that this would reduce the likelihood that I would be "dismissed as some crazy person," and I sheepishly relented' (Saguy, 2013, 35). To the extent that her body shape gives her an unfair credibility advantage, Saguy has reason not to mention that she is thin and to resist attempts by others to make this information

available. This also requires that we determine whether any credibility advantage we might have in a particular situation or in relation to a particular topic is fair or unfair.

Second, duties of testimonial justice may also include a duty not to provide information about one's personal characteristics *in a way that allows these characteristics to be construed as epistemically relevant*. This can include, as I have argued here, disclosures of competing interests published alongside research articles but also more informal situations. For example, consider again Saguy's exchange with the publicist. It is important to resist the inclusion of information about Saguy's body shape, not only because of the unfair credibility advantage this is likely to confer on Saguy, but also because of the possible broader consequences of describing information about a speaker's body type as relevant to our assessment of their credibility on debates around obesity. This means that speakers must evaluate requests for information about personal characteristics in terms of whether or not these characteristics are being construed as epistemically relevant even though they are not, refuse to reveal this information and, perhaps, also explain what made the request for information about personal characteristics problematic.

Beyond this, there may also be a third duty incumbent on speakers. I already mentioned that there might be a general duty to speak out on epistemic and other kinds of injustice and, conversely, to seek to contribute to the reduction of injustice. This may apply in both interactional contexts (e.g. calling out a colleague who makes a sexist remark) and institutional settings (e.g. contributing to institutional campaigns to reduce gender bias). With respect to testimonial injustice, there may also be a more specific duty for speakers to speak out on broader injustices *when they benefit from an (unfair) credibility advantage with respect to the issue at stake*. Such a duty could be grounded in the idea that we have special responsibilities to seek to reduce injustices from which we benefit; or we could argue that agents have a general duty to seek to reduce injustices and that in areas where we have a credibility advantage, our contributions will be more effective than they might be with respect to

other injustices. Consider again Saguy's experience with her work on obesity. She describes how members of the National Association to Advance Fat Acceptance told her that 'they were pleased that I was doing this research because, as a thin woman, I would be taken more seriously' (Saguy, 2013, 35).

At the same time, any such work would have to be sensitive to the possibility that, despite the general perception of being *less* credible when it comes to obesity, fat people might in fact be epistemically *advantaged* when it comes to speaking about many aspects of being fat. This consideration, of course, also applies to many other areas where social identity prejudice may lead to members of particular groups being considered less credible, such as ethnic minority membership or gender. As Alcoff puts it,

what if identity is not merely the source of unearned merit or undeserved demerit, but a general epistemic resource – not simply because one is in a momentary position to see something I cannot, but because one is structurally positioned in society to tend to see what I cannot? (Alcoff 2010, p. 134, emphases omitted)

A balance will therefore need to be struck so as to leverage one's unfair testimonial advantage to further social justice issues without appearing to be 'speaking for', and failing to recognise the epistemic advantage of, the people who are most directly affected by the injustice in question.

Would such a duty be in tension with the first duty, i.e. the duty not to take advantage of unfair credibility advantages? While speakers would be leveraging an unfair credibility advantage, an important difference here is they are doing so in an effort to address broader injustices (which will typically also have a testimonial dimension to them) rather than for the benefit of the speaker; the duty is to speak out on the kind of injustice that (unfairly) makes one more credible when speaking about the issue at hand.

8 Disclosures of ‘personal’ conflicts of interest as testimonial injustice

Where does this leave us when it comes to disclosures of personal conflicts of interest in scientific publications? Much of the literature on conflicts of interests assumes that disclosures are valuable because they help us identify possible sources of biases among researchers. Implicit in much of the debate is the assumption that we should err on the side of caution when it comes to disclosures: better to disclose too much than to fail to disclose a potentially relevant competing interest.

What I argued in this paper is that, when it comes to personal characteristics, such disclosures involve the risk of testimonial injustice at various levels. First, researchers may be exposed to unfair testimonial disadvantages when they disclose characteristics that are likely to undermine their credibility even though the disclosed characteristic is not in fact a source of bias. Conversely, some authors may be able to benefit from an unfair credibility advantage as a result of these disclosures. Second, as I have argued, explicitly labelling certain characteristics as conflicts of interest (and perhaps already the requirement that they be disclosed as such), signals that these characteristics ought to be seen as epistemically relevant, i.e. that our assessment of a speaker’s credibility would be enhanced by access to this information. This can help sustain the kinds of prejudices on which testimonial injustice is based. In fact, labelling certain personal characteristics as a competing interest may add a testimonial dimension to certain stereotypes: in addition to whatever stereotypes might already exist about individuals with certain characteristics, such disclosures imply that we should also take these individuals’ arguments and testimony with a grain of salt, at least when it comes to certain topics. If disclosures of personal conflicts of interest come with risk of testimonial injustice, then assuming that it would be better to encourage authors to disclose ‘too much’ rather than ‘too little’ is a problematic approach. While it does not follow that such disclosures would be impermissible all things considered, the possibility of testimonial injustice provides a reason for publishers not to require such disclosures and for authors not to comply with such guidelines.

9 Conclusion

The idea of testimonial justice has drawn attention to how prejudice and stereotypes affect interactions between speakers and hearers, the harms that testimonial injustice do to speakers, and how hearers might respond to testimonial injustice. In addition to the virtues that hearers may have to cultivate to ensure that they give speakers the appropriate level of credibility, I argued here that testimonial justice may also have implications for how we should act *as speakers*. I illustrated these issues by considering questions around disclosures of personal conflicts of interest, which occasionally appear in the academic literature and are sometimes encouraged by journals and publishers. I argued that disclosure of so-called ‘personal’ conflicts of interest – where researchers disclose certain personal characteristics – come with distinct risks of testimonial injustice: they can lead to unfair testimonial advantages or disadvantages for the authors and they can contribute to broader social prejudices and perceptions of the credibility of certain groups. Disclosure is not costless; these costs should feature in decisions about what information we disclose about ourselves when acting as speakers as well as in debates about which disclosures of personal interest to require of authors. More broadly, we should consider how our actions can contribute to testimonial injustice, not just when we are engaged with others as hearers but also when we are acting as speakers.

10 References

- Alcoff, L. (2010). Epistemic Identities. *Episteme*, 7(2), 128–137.
- Anderson, E. (2012). Epistemic Justice as a Virtue of Social Institutions. *Social Epistemology*, 26(2), 163–173.
- Boyle, G., & Hill, G. (2011). Sub-Saharan African randomised clinical trials into male circumcision and HIV transmission: Methodological, ethical and legal concerns. *Journal of Law and Economics*, 19(2), 316–334.
- Coady, D. (2010). Two Concepts of Epistemic Injustice. *Episteme*, 7(2), 101–113.
- Code, L. (1993). Taking subjectivity seriously. In L. Alcoff & E. Potter (Eds.), *Feminist Epistemologies* (pp. 15–48). London: Routledge.
- Cook, C. (2010). Perspectives of beliefs and values are not conflicts of interest. *Addiction*, 105(4), 760–761.

- Cooper, D. E. (2006). Truthfulness and “inclusion” in archaeology. In C. Scarre & G. Scarre (Eds.), *The Ethics of Archaeology: Philosophical Perspectives on Archaeological Practice* (pp. 131–145). Cambridge: Cambridge University Press.
- Cope, M. B., & Allison, D. B. (2010a). White hat bias: examples of its presence in obesity research and a call for renewed commitment to faithfulness in research reporting. *International Journal of Obesity*, 34(1), 84–88.
- Cope, M., & Allison, D. B. (2010b). White hat bias: a threat to the integrity of scientific reporting. *Acta Paediatrica*, 99(11), 1615–1617.
- de Cruz, H. (2017). Prestige bias: an obstacle to a just academic philosophy. Unpublished manuscript.
- Fricker, M. (2007). *Epistemic Injustice: Power and the Ethics of Knowing*. Oxford: Oxford University Press.
- Fricker, M. (2012). Silence and institutional prejudice. In S. Crasnow & A. M. Superson (Eds.), *Out from the Shadows: Analytical feminist contributions to traditional philosophy* (pp. 287–304). Oxford: Oxford University Press.
- Fricker, M. (2013). Epistemic justice as a condition of political freedom? *Synthese*, 190(7), 1317–1332.
- Goozner, M., Caplan, A., Moreno, J., Kramer, B. S., Babor, T. F., & Husser, W. C. (2009). A common standard for conflict of interest disclosure in addiction journals. *Addiction*, 104(11), 1779–1784.
- Greenhalgh, T., Seyan, K., & Boynton, P. (2004). “Not a university type”: focus group study of social class, ethnic, and sex differences in school pupils' perceptions about medical school. *British Medical Journal*, 328, 1541.
- Kaptchuk, T. (2003). Effect of interpretive bias on research evidence. *British Medical Journal*, 326, 1453–1455.
- Li, Y. (2016). Testimonial Injustice without Prejudice: Considering Cases of Cognitive or Psychological Impairment. *Journal of Social Philosophy*, 47(4), 457–469.
- Saguy, A. C. (2013). *What's Wrong with Fat?* New York: Oxford University Press.
- Saguy, A., & Riley, K. (2005). Weighing both sides: morality, mortality and framing contests over obesity. *Journal of Health Politics, Policy and Law*, 30(5), 869–921.
- Saver, R. S. (2012). Is It Really All about the Money? Reconsidering Non-Financial Interests in medical research. *Journal of Law, Medicine & Ethics*, 40(3), 467–481.
- Shaw, M., Mitchell, R., & Dorling, D. (2000). Time for a smoke? One cigarette reduces your life by 11 minutes. *British Medical Journal*, 320, 53.
- Sollitto, S., Hoffman, S., Mehlman, M., Lederman, R. J., Youngner, S. J., & Lederman, M. M. (2003). Intrinsic conflicts of interest in clinical research: a need for disclosure. *Kennedy Institute of Ethics Journal*, 13(2), 83–91.
- West, R. (2009). Conflict of interest declarations: could a “traffic light” system work? *Addiction*, 104(11), 1785–1786.