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The Name Game: Testimonial Injustice against People Incarcerated at Stateville Prison

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Biography

Joseph Dole has won numerous awards for his writing, including most recently a first-place award in the 2017 Columbia Journal Writing Contest. He is the author of the books *A Costly American Hatred* and *Control Units and Supermaxes: A National Security Threat*. More of his work is available at his Facebook page, <https://www.facebook.com/JosephDoleIncarceratedWriter/>. He is currently serving a life-without-parole sentence at Stateville Correctional Center. He spent nearly a decade of his life in isolation at the notorious Tamms Supermax Prison. He can be contacted at: Joseph Dole K84446, Stateville Correctional Center, PO Box 112, Joliet, IL 60434, USA.

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Abstract

This essay examines a practice at Stateville Correctional Center in which students' last names are forcibly omitted from their published writings. The author argues that this practice constitutes testimonial injustice in Miranda Fricker's sense. Moreover, given the conditions of the prison, this testimonial injustice has particularly detrimental consequences.

Keywords

Testimonial Injustice, Miranda Fricker, Epistemic Harm, Bias, Prisons, Incarceration

At the behest of Stateville Correctional Center's administrators in early 2015, teachers with the Prison-Neighborhood Arts Project (P-NAP) implemented a policy of excising an incarcerated student's last name from his writings in all P-NAP publications. While the teachers may not consider this a "big deal," to the students it is. As one of those students, I consider this a severe form of testimonial injustice despotically inflicted upon us.

Testimonial injustices can occur when a person who is giving testimony in any form, such as speaking or writing, unjustly receives a credibility deficit in the mind of the hearer/reader based on some conscious or unconscious bias about the person's social identity. This can come about through various avenues: racial biases, stereotypes, deliberate misinformation, or some other prejudice either harbored by the hearer/reader, or imparted upon them by a third party. Drawing on Miranda Fricker's seminal discussion of testimonial injustice (2007), I will argue that the mutilation of an incarcerated student/writer's name clearly fits the bill.

The Prison's Argument for Excising Names

First, let us dispense with the administration's unfounded claim that including the students' full names somehow creates a threat to the safety and security of the institution. Not only does the administration refuse to explain how this creates a security threat but they are unable to point to a single instance where it created a security issue in the past. For several years, P-NAP published the students' full names with their writings without incident.

Tellingly, in all areas not associated with P-NAP, students' full names remain unmolested. For instance, the Illinois Department of Corrections (IDOC) policy requires all "offenders" (the IDOC's preferred term for all incarcerated people) to wear an identification card on their lapel displaying their full name, ID number, and even their religion (the latter of which is a practice not permitted in any other state due to it being so discriminatory). A trip to the prison law library allows anyone incarcerated to look up another incarcerated person's appellate court decisions, which not only describe the crimes they are incarcerated for in great detail but also their full name.

Incarcerated people have a First Amendment Right to write articles and books for publication, which other incarcerated people have a First Amendment Right to receive and read. The IDOC is well aware of this fact as it twice tried to prevent the publication *Stateville Speaks* from entering the prison. This engendered two federal civil rights lawsuits for violating people's constitutional rights, forcing the IDOC to back down and allow *Stateville Speaks* into the prison. Each article, poem, or piece of art in it, as well as any other non-P-NAP publications, contain the incarcerated writers' and artists' full names.

Thus, it is clear that the simple act of publishing an incarcerated person's full name with their work does not pose any threat to the safety or security of the institution in any true sense. Rather, the mutilation is done to further the true goals of Stateville's administrators: the complete control, oppression, and ostracization from society of all of Stateville's residents. That may sound like hyperbole, but I assure you it is not.

Systematic Oppression against Prisoners

Obviously, prisons are supposed to control people's bodies by preventing them from escaping or committing further crimes while incarcerated. In reality, however, that is only a small part of what the IDOC is trying to control. Forget all of the rhetoric about how prisons are trying to rehabilitate people; they're not, especially in Illinois. Prisons here are actually in the business of systematic oppression: maintaining a "criminal" underclass to keep prison bunks filled (and thereby maintain correctional job security); and controlling, in totality, society's "lowest" class of people "prisoners." The IDOC doesn't just want to control people's bodies or criminal activities. They want to control (i.e. suppress or destroy) incarcerated people's aspirations, goals, accomplishments, reputations, relationships, and any ability to successfully reenter society.

I cannot here address the hundreds of examples, rules, regulations, etc. that clearly evidence the veracity of the above statement, as that would turn this essay into a

book.¹ For now, I'll just stick to the matter at hand: name mutilation. The name game with the P-NAP writings is yet another example of the exertion and abuse of power to oppress, violate, and discredit the powerless. It has no legitimate penological purpose. Moreover, as we'll see below, it actually works counter to the IDOC's professed goal of returning "offenders" to useful citizenship,² and can only be viewed as testimonial injustice.

Testimonial injustices perpetrated upon people in prison are especially egregious because we are powerless, already occupy the lowest societal station, and have so little left. Not only are we devoid of power, but we are at the mercy of those in power on a daily, minute-by-minute basis. Every day in America, this power dynamic results in incarcerated people dying due to medical neglect, excessive force by guards, or just plain unsanitary and inhumane living conditions (Dole 2015, 135-172). We are constantly retaliated against for exercising our constitutional rights, such as I'm doing here.

"Prisoners" are unique as a class in that we are banished from society. Incarcerated people are unable to vote (except in two states, – neither of which is Illinois),³ we find

1. For instance: if an incarcerated person becomes financially successful as a writer, artist, or entrepreneur (a rarity, granted), or even receives an inheritance or simply tries to save money to facilitate his reentry into society, he will promptly be sued to recover the costs of his incarceration (Illinois General Assembly Unified Code of Corrections 730 ILCS 5/3-7-6; and 5/3-12-2); basic education at Stateville has been so underfunded and understaffed that in a prison of over 1,600 "offenders," only a handful have been able to obtain a GED in the past 3 years; accredited college courses were, until recently, non-existent and Stateville refuses to allow staff to proctor correspondence courses making a college education impossible to obtain; non-credit courses like P-NAP and the Long-Term Offender (LTO) programs (all of which are provided by volunteers and funded by grants and donations) had their class sizes arbitrarily cut by the administration from 25 students to 15 students per class; both the regular and law libraries are so inadequately stocked and staffed they should be rechristened "moldy, out-dated, torn-up, book repositories." The myriad rules, regulations, policies, and practices of the IDOC not only discourage but make it nearly impossible for anyone to accomplish anything positive with their time, let alone lead productive lives while in prison. Each month brings stricter limits on allowable art supplies, and confiscations of allowable items is a common occurrence; as is destruction of artwork by staff. Relationships with family and friends in society are also increasingly frustrated by the lack of email, a mailroom that takes three times as long to deliver a letter a few hundred feet, than the time it took the Pony Express to deliver one across an entire continent on horseback, and both unnecessary rules and disrespectful staff make visits unpleasant to the point that they discourage repeat visits.

2. Illinois General Assembly Unified Code of Corrections 730 ILCS 5/1-1-2 (a) and (d); Illinois Constitution of 1970, Article I, Section 11.

3. These states are Maine and Vermont. See:

almost no protection from the courts thanks to the Prison Litigation Reform Act⁴, and we are dehumanized and demonized in the media daily. We thus suffer a credibility deficit far greater than any other single stereotype just by being labeled a “criminal.”

As Miranda Fricker notes: “Whenever there is an operation of power that depends in some significant degree upon such shared imaginative conceptions of social identity, then identity power is at work” (2007, 14). Identity power is clearly present in the testimonial injustice inflicted on those of us who are incarcerated. From a young age, society has told us all that “criminals” are “bad,” “evil,” and untrustworthy.

In fact, unlike many other groups that carry both positive and negative stereotypes (e.g. Jews are both misers and good with money; Asians are both terrible drivers and really smart), all stereotypes concerning incarcerated people are negative. Even the terms “prisoner,” “inmate,” “offender,” “criminal,” etc. are all used as pejorative or derogatory terms, and all related terms for incarcerated people carry solely negative connotations. All of these societal facts result in “prisoners,” as a group, receiving what Fricker terms “pre-emptive testimonial injustice” (2007, 130-131). This is where the hearer’s prejudice against a group (“prisoners”) means that the group is never even asked for its input, effectively silencing them.

While “offenders” are rendered powerless by numerous social and cultural practices, the IDOC, by contrast, has nearly unchecked power to institute rules for others. With society’s acquiescence, the IDOC feels little obligation to consider whether the people who will have to follow those rules can or should have to follow them. In fact, there is no mechanism for incarcerated people to receive notice of or provide any input concerning rules, prior to them being enacted. The IDOC has had a free hand for so long that it no longer even feels obliged to consider whether the rules infringe on incarcerated people’s constitutional rights, or even basic human rights. Our rights are irrelevant, because we (incarcerated people) are no longer viewed as human.

For instance, when the new warden came in, he wrote a memo prohibiting us from taking water bottles to chow or yard, without considering that this water was our only way to prevent choking, overheating, and dehydration. When this was pointed out to him and we refused to follow it, rather than rescind the rule, the prison decided, instead, that the rule just wouldn’t be enforced, for now. The mailroom staff also has been allowed, as policy, to withhold our mail (without notification) for months and

<http://felonvoting.procon.org/view.resource.php?resourceID=000287&print=true>.

4. The Prison Litigation Reform Act is “an anti-prisoners statute which became law in 1996, [and] has made it much harder for prisoners to gain relief in federal courts” (Center for Constitutional Rights 2010, 15).

then return it to the sender, which is a violation of numerous laws and regulations. It was done to ease the mailroom staff's workload (i.e. it takes less time if they don't have to comply with the law) regardless of the violation of our First Amendment Rights.

Such indifference to our rights allows the IDOC to continue adding vague rule on top of vague rule, each of which is creatively interpreted by uneducated staff and combined with numerous unlawful policies and practices to generate an unchecked display of power over the imprisoned. Rules are never rescinded, and each one further curtails or extinguishes the incarcerated person's freedoms, privileges, and/or constitutional rights.

The power dynamic between the incarcerated and incarcerator is completely one-sided. However, it's not a mere two-party equation. The prison administration's power over prisoners is dependent on other social agents; namely society's acquiescence and the governor's and legislature's authority. Not only do prison administrations employ agential power when they act as agents of society/government, but they also coopt others (e.g. teachers, nurses, volunteers, etc.) to act as their agents to exercise that power in the rare instances when the court won't blindly support it.

Michael Foucault notes how "Power exists only when it is put into action" (cited in Fricker 2007, 10). The coopting of P-NAP teachers by Stateville's administrators to perpetrate testimonial injustices upon their students is a prime example of this. Stateville administrators lack the legitimate power to prohibit incarcerated people from publishing writings under their full name. However, the identity power society holds over "criminals," combined with the use of agential power to coerce P-NAP teachers to do their bidding, brings into existence a power the administration didn't otherwise possess. In the end, people in prison are up against a conglomerate of powers working against their interests, and they lack protections against abuse.

The Complicity of Teachers in Testimonial Injustices

One might wonder why teachers, who are also largely social justice activists, would so docilely commit injustices upon their students. The answer is multifaceted, and may involve even more factors than I am aware of, but here are the easily discernible ones.

First, the P-NAP teachers are constantly harassed by prison staff for their efforts to provide volunteer educational and art programs at Stateville. Administrators and guards alike despise the extremely modest bridge to the community that P-NAP offers incarcerated people through their art exhibits and outreach. Several teachers have been banned from the property altogether for the most innocuous reasons. This

has left the others perpetually paranoid and on the defensive, which was the likely objective of the harassment in the first place. This paranoia has even manifested itself into P-NAP teachers concealing from their students the fact that their class work got published in an independent publication, thereby denying the students that sense of pride and accomplishment, simply because the teacher feared the reaction of Stateville's administration. I was politely asked to destroy my copy of a publication that the publisher sent me (due to having separate pieces published in the same issue). I refused.

If you ask P-NAP teachers why they won't challenge any of the discriminatory or counterproductive policies, they admit to being afraid of being labeled "inmate friendly." This is a slanderous term to anyone in here other than "inmates." That term ("inmate friendly"), and its frequent use, impart a clear indication that "inmates" are never worthy of cordial treatment, let alone friendship, and teachers and others should keep them at distance. Being labelled "inmate friendly" marks the teacher as an enemy of the administration, which reinforces the societal view that "inmate," "prisoner," "offender," and "criminal" are all antonyms for "human." In effect, the term "inmate friendly" implies that people who are labelled "inmates" must be ostracized from society; mere friendly association with them is admonished. This, in turn, furthers the goal of dehumanizing incarcerated people, so that administrators can have a free hand in oppressing them.

Second, P-NAP teachers don't want to bite the hand that feeds them. Even those who don't receive a paycheck from the state for teaching here often receive grants for their work, which is dependent on having access to Stateville. If they are kicked out, they lose their grants.

Third, removing their students' names from their writings didn't seem to register as a big deal to the teachers because the teachers aren't being harmed personally, other than maybe incurring a credibility deficit with their incarcerated students, who may resent them for not doing the right thing. This harm is extremely negligible, however, due to the following facts: 1) society more often than not rewards people, rather than condemning them, for mistreating "criminals"; 2) students possess no power over the teachers because the students, as "prisoners" and "criminals," occupy a far inferior social position; and 3) with hundreds of incarcerated people jockeying for relatively few class offerings, teachers will always be able to fill classes. So the students' views and opinions of their teachers may mean very little to the teachers. This is evidenced by some teachers espousing stereotypical views of "prisoners," failing to return students' work, unnecessarily censoring students' work, and carelessly altering students' writing

in ways that include typos and illogical sentences in the final form published by the teacher.

Moreover, the teacher may actually receive an unjust credibility excess with society that outweighs any credibility deficit he or she may incur with his or her students. Think of it like this: The teacher's full name is included with all of his or her work with P-NAP. Society awards or praises them for their work with the anonymous monsters they teach. Since the reader can't identify the monster (writer/artist), the focus has nowhere else to go, but to return to the teacher, who then receives an inordinate amount of credit for the students' work.

So when P-NAP teachers were told to mutilate their students' names, they didn't object. They didn't even question it, let alone ask for evidence of any security threat. They just did it. In the end, society would praise them for supposedly risking life and limb to teach those anonymous, evil monsters.

Resulting Harms of Name Mutilation

To the incarcerated writer, forced anonymity is a big deal, for it exacerbates the numerous harms that he already suffers. Miranda Fricker "distinguish[es] a primary from a secondary aspect of the harm. The primary harm is a form of the essential harm that is definitive of epistemic injustice in the broad. In all such injustices the subject is wronged in her [his] capacity as a knower" (Fricker 2007, 44). She notes that the secondary aspects of the harm "fall into two broad categories distinguishing a practical and an epistemic dimension of harm" (Fricker 2007, 46).

The practical dimension means the writer comes across as lacking the knowledge, education, competency, or authority required to write on the subject; or it can mean a missed opportunity due to the injustice (Fricker 2007, 46-47). The epistemic dimension of harm can manifest itself where:

the recipient of a one-off testimonial injustice may lose confidence in his belief, or in his justification for it, so that he ceases to satisfy the conditions for knowledge; or, alternatively, someone with a background experience of persistent testimonial injustice may lose confidence in her general intellectual abilities to such an extent that she is genuinely hindered in her educational or other intellectual development. (Fricker 2007, 47-48)

The mutilation of students' names is a testimonial injustice that possesses all dimensions and aspects of harms noted above. Moreover, each harm is directly dependent upon

or linked with another harm so that they possess a layered effect. First, the mutilation of the writer's name denies him credit for his work. Anyone named Joe can now take credit for writing the pieces published by "Joe" in those P-NAP publications, as they are passed around. Second, without the reader being able to identify and contact the writer, it could very easily result in missed opportunities for the writer, both in terms of getting his work published and growing his audience. It could even mean a loss of income.

Here's an example. Years ago, I was asked to keep a journal for The Anne Frank Center, USA's "Prison Diary Project". They asked me because they liked an essay I wrote for a prisoner writing contest, and were able to locate me because my full name was included with the essay. Excerpts from that journal were later published in *The Mississippi Review*, and in turn, were published in the book *Hell Is a Very Small Place: Voices From Solitary Confinement*, the latter of which also garnered me a monetary "honorarium," which helped me purchase copies of legal documents and basic necessities that the IDOC now refuses to provide. Had my name been excised from that essay, the opportunity to keep the journal (both of which I won PEN Awards for) would have vanished, as would the other publishing opportunities and monetary awards. Thus, each time P-NAP conceals a writer's identity, they potentially rob him of untold opportunities.

Third, it robs the writer of the simple joy of receiving reader responses. This harms the writer whether said feedback is positive or negative. If positive, it robs him of any praise or encouragement; if negative, it robs him of constructive criticism or the knowledge of how others view his writings, both of which provide the writer with essential information to help him improve his writing in the future. The IDOC, however, sees the goal of keeping "offenders" as cut off from the community as possible as paramount.

Fourth, it steals even more credibility from the writer, who, as an incarcerated individual or "criminal," is already suffering the most extreme credibility deficit imaginable. When the writer is turned into an anonymous entity, it exacerbates the credibility deficit in numerous ways. This is because, whenever the writer's last name is stripped from an article or essay, and all the reader knows is that it was written by some prisoner named "Bob," the reader is left with only the negative stereotypes. Those negative stereotypes of "prisoners"/"criminals" and their negative valence then instigates a negative pre-judgment about the writer's knowledge, credibility, and motives. Thus compounding the "pre-emptive testimonial injustice" the "prisoner" already receives from society.

Moreover, forcing the writer into becoming some anonymous “prisoner X” also brings a racial stereotype with it as well where the common image of a “criminal” is of a young black male. This may result in the writer incurring a further unjust credibility deficit if the reader harbors any conscious or unconscious prejudices against African-Americans. As Fricker notes, in testimonial exchanges, readers “use social stereotypes as heuristics in their spontaneous assessments” (2007, 16-17) of the writer’s credibility. As a society, we have been conditioned by decades of tough-on-crime rhetoric to automatically view “prisoners” or “criminals” as liars, cheats, uneducated, and worthy of being despised. Without any other information about the writer, it becomes an insurmountable task to overcome such stereotypes.

For many readers, knowing the writer’s last name will not change that. However, in some instances, it can make a difference. First, the reader may have a familiarity with the writer or his body of work, which may negate the unfair credibility deficit. Without knowing the writer’s last name, however, this can’t occur. Also, knowing the writer’s full name allows the reader to research the writer’s actual credentials. (Does the writer hold a degree in the field he is writing about? Is he well-published? Who knows?). The reader is denied any other information not in the article that may be available. The less information a reader knows about the writer, the less likely he or she will be to find the writer qualified to write on the subject. Again, without the last name, the reader is left with only the negative stereotypes to make a credibility judgment. Furthermore, the reader isn’t told why the last name has been concealed. The reader may incorrectly assume that it is the writer trying to hide his own identity, which in itself may make him less credible to the reader. The reader might think, “why should I believe the writer when he won’t even reveal his name? What does he have to hide?”

All of these effects of forced anonymity further the IDOC’s goal of maximizing “offenders’” credibility deficit, so that society doesn’t ever believe them or take them seriously. This makes it much more difficult for people in prison to convey their insider knowledge of the prison system to society at large. (“Who is this anonymous ‘prisoner’ claiming that our heroic prison guards are mistreating those evil monsters? I don’t believe it?”). That, in turn, leaves guards and administrators with a freer hand to abuse people in prison.

The testimonial injustice is just one more weight wrongly placed on the incarcerator’s side of the scales of credibility between the incarcerated and the incarcerator. By possessing all of the power, and increasing the “offenders’” credibility deficit, guards and administrators obtain an unwarranted credibility excess. One of the most common tactics of oppression, or even in any debate, is to discredit your

victim or opponent, respectively. As the incarcerated person's credibility decreases the incarcerator's increases in any dispute.

This exacerbates the epistemic arrogance guards already possess due to societal misconceptions of them being protectors of society. The guards' position of authority, combined with a decades-long IDOC practice of routinely dehumanizing "offenders," failing to hold guards accountable for abusing people in prison, and societal acquiescence, has left guards with a credibility excess and epistemic arrogance similar to the example of the member of the ruling elite described by Fricker: "They render [] him close-minded, dogmatic, blithely impervious to criticism, and so on" (2007, 20). Fricker argues that this too can be a form of testimonial injustice (for the guard this time) where the cumulative effect of those token cases of injustice have malformed the elite person's (guard's) epistemic character (2007, 20-21). Here, however, while it may have malformed their character, the guard's credibility excess rarely ever actually results in any negative consequences or harm to themselves in the prison environment.⁵ Rather it manifests itself in the normative perpetration of injustice on the incarcerated and, in any dispute over an issue in prison, guards benefit directly from both their unjust credibility excess and the "offenders'" credibility deficit. Their knowledge of this dynamic increases their feelings of invincibility, which also increases the incarcerated's risk of being abused.

Fifth, by mutilating the writers' names, it not only prevents them from conveying insider knowledge about the prison system to society, but prevents them from effectively putting any knowledge they may have into the public domain through their P-NAP writings. That's because, as Fricker so cogently articulates:

The influence of identity prejudice in a hearer's credibility judgment is an operation of identity power. For in such a case the influence of identity prejudice is a matter of one party or parties effectively controlling what another party does – preventing them, for instance, from conveying knowledge – in a way that depends upon collective conceptions of the social identities in play. (2007, 28)

As noted, society has an extremely low opinion of "prisoners'" character and intelligence. When you turn the identity of the writer solely into "prisoner X," and he

5. I qualify this statement by restricting it to the prison environment as it: 1) directly relates to the harm done to people in the prison; and 2) is quite possible that this epistemic arrogance negatively effects guards' relationships with loved ones outside of the prison.

is reduced to a faceless stereotypical “criminal,” the knowledge he is trying to convey is much less effective than if the reader knew who the writer was. This effectively excludes people in prison from partaking in the national discussions on any number of societal ills or policies.

Sixth, denying the writer the ability to effectively convey his knowledge also works to dehumanize the writer further. As Fricker explains:

To be wronged in one’s capacity as a knower is to be wronged in a capacity essential to human value. When one is undermined or otherwise wronged in a capacity essential to human value, one suffers an intrinsic injustice. The form that this intrinsic injustice takes specifically in cases of testimonial injustice is that the subject is wronged in her capacity as a giver of knowledge. The capacity to give knowledge is one side of that many-sided capacity so significant in human beings: namely the capacity to reason. We are long familiar with the idea, played out by the history of philosophy in many variations that our rationality is what lends humanity its distinctive value. No wonder, then, that being insulted, undermined, or otherwise wronged in ones capacity as a giver of knowledge is something that can cut deep. No wonder too that in contexts of oppression the powerful will be sure to undermine the powerless in just that capacity, for it provides a direct route to undermining them in their very humanity. (2007, 44)

Because the insult is to a person’s values as a human, “even its least harmful instances... bear a social meaning to the effect that the subject is less than fully human” (Fricker 2007, 44). Fricker explains how it doesn’t matter if the injustice is “fairly minor,” it can still “make for a profound humiliation” (2007, 44). Moreover, “where the driving prejudicial stereotype involves the idea that the social type in question is humanly lesser⁶ the dimension of degradation qua human being is not simply symbolic; rather it is a literal part of the core epistemic insult” (2007, 44). All of this is especially true when considering the situation of incarcerated people. Society does not see “prisoners”

6. Here Fricker asks the reader to “think of the sort of racism heaped upon Tom Robinson [in *To Kill A Mockingbird*] – ‘all Negroes lie’.” However, in this context it’s more accurate to think of the sort of disdain heaped on prisoners and then recognize the multiplying effect of the racist stereotype of “prisoners” being young black males and all of its inherent connotations, and use that as your context for the testimonial injustice.

as intelligent or capable of reason, let alone capable of conveying knowledge. Instead, “criminals” are painted with a broad brush as all being violently psychotic, hell bent on destroying society.

The testimonial injustice of mutilating the writers’ names also has additional social meaning in that the administration is essentially punishing the writers for working towards their own rehabilitation by taking educational courses, being socially active, and accomplishing positive objectives. This punishment is imposed both with the acquiescence of society and the complicity of the P-NAP teachers. By doing so, the administration acknowledges that, contrary to their mission statement, they aren’t really trying to prepare people to successfully reenter society. It shows that the administration clearly has no respect for the incarcerated person’s efforts, capacity as a knower, or even his basic value or humanity, all of which are designed to further the goal of oppression.

Seventh, the testimonial injustice works to stunt the writer’s intellectual development. This is contrary both to the IDOC’s professed goals of rehabilitating and returning “offenders” to useful citizenship, as well as P-NAP’s goal of inspiring and nurturing intellectual growth in their students. This is because, as Fricker found:

Many definitions and conceptions of knowledge cast some sort of epistemic confidence as a condition or as part of a justification condition..., the implications for someone who meets with persistent testimonial injustice are grim: not only is he repeatedly subject to the intrinsic epistemic insult that is the primary injustice, but where this persistent intellectual undermining causes him to lose confidence in his beliefs and/or his justification for them, he literally *loses knowledge*. Perhaps some piece of knowledge he possesses is washed away in a one-off wave of underconfidence. Or perhaps he suffers a prolonged erosion of epistemic confidence so that he is ongoingly disadvantaged, repeatedly failing to gain items of knowledge he would otherwise have been able to gain (2007, 49).

...

Testimonial injustice, and the attack it makes on intellectual confidence, can change an intellectual trajectory in one fell blow, whether as a single event or, more likely as the final straw in an

ongoing experience of persistent petty intellectual underminings (2007, 51).

By denying the student/writer credit for his work and thereby subjecting him to testimonial injustices and minimizing what he can accomplish with his work, it discourages him from participating in future courses. Why bother if at any time the administration and P-NAP can implement any rule to deny him full credit for his hard work? It also discourages him from continuing to write and pursue other intellectual studies when his hard work was rewarded with injustice and a reinforcement of the societal perception of him as not fully human. This could easily be that final straw in the long series of “petty intellectual underminings” that causes him to abandon any further intellectual pursuits.

It’s hard to believe that this could be anything but an intentional design of the overall system of oppression. After all, the administration is well aware of incarcerated people’s constitutional rights, especially considering that many in the administration have backgrounds in law. As Fricker notes, “in contexts of oppression the powerful will be sure to undermine the powerless [in his or her capacity as a knower], for it provides a direct route to undermining them in their very humanity” (Fricker 2007, 44).

According to Miranda Fricker, the loss of epistemic confidence can “prevent him from developing certain intellectual virtues” such as “intellectual courage, the virtue of not backing down in one’s convictions too quickly” (Fricker 2007, 49). As she notes, “[t]his is an important feature of intellectual function” (2007, 49). This is especially true in a prison environment where strangling one’s ability to develop intellectual courage can mean an increase in one’s oppression.

The last thing the IDOC wants to see is the people they are oppressing develop intellectual courage. They much prefer “prisoners” who easily back down and never challenge authority. They rely on prisoners backing down in the face of violations of their constitutional rights, in the face of daily dehumanization, and in the face of overwhelming petty injustices. It makes it much easier on the administration when they have a free hand to abuse people in prison without any opposition from society, P-NAP, and especially the oppressed themselves. Each testimonial injustice just adds to the accumulation of other injustices and has a deleterious effect on the person experiencing them to the point where he lacks the will to stand up for himself and challenge injustice. In short, he becomes, in the eyes of the IDOC, the “perfect prisoner.”

While this may be great news for the oppressor, it is detrimental to the incarcerated person's humanity and intellectual potential. It facilitates his transformation into a punching bag. Each unlawful or unethical act perpetrated upon him by guards or administrators that isn't challenged encourages more of the same, increasing his victimization. As Fricker found: "The implication for persistent testimonial injustice is that the subject's intellectual performance may be inhibited long-term, their confidence undermined, and development thwarted" (2007, 58). Nor does it matter whether it is done intentionally or inadvertently. The result is the same. If done inadvertently, an extremely unlikely proposition, however, that only reduces the perpetrators' culpability. It doesn't reduce the resulting harms suffered by the incarcerated individual. This is especially true when testimonial injustices are perpetrated upon people in prison, because the administration sees oppression as part of its job description, and the goal of rehabilitation was long ago relegated to the status of a fairy tale used as a façade to cover the permanent alienation of the "criminal" underclass. "Prisoners" have no escape; they are trapped in an environment where the injustices continue to compound daily.

Eighth, by denying the writer credit for his work, it also denies him his identity as a writer, one of the few identities he may have remaining to him. This is no minor injustice either. People in prison have had nearly everything imaginable taken from them; or some may argue, have forfeited nearly everything by committing a crime. Either way, they have very little of an identity left other than being a "prisoner," which is purely negative.

Now when they are trying to develop a positive identity, the administration wants to take that away as well by mutilating their names to discourage it. This is rich in irony. Since the day of his arrest, the State and media have done nothing but slander the person's name, and now the State wants to deny him even the ability to use his own name. If that person committed another crime while in prison, rest assured that his entire name, mug shot, etc. would be plastered all over the news – provided to the media by the administration. The newspaper articles and media reports would be available on both sides of the wall, full name included.

Miranda Fricker hits the nail on the head when she writes:

Testimonial injustice excludes the subject from trustful conversation. Thus, it marginalizes the subject in [his] participation in the very activity that steadies the mind and forges an essential aspect of identity – two processes of fundamental psychological importance

for the individual...the prejudice working against a speaker in a given discursive exchange may concern a category of social identity (racial, political, sexual, religious) that is *essential* to his identity, *essential* to who he is. Thus, we now understand better how, when this is the case, the injustice cuts him to the quick. Not only does it undermine him in a capacity (the capacity for knowledge) that is essential to his value as a human being, it does so on grounds that discriminate against him in respect of some essential feature of him as a social being. Keeping one's identity, in the face of such a double assault on one's personhood can take great courage, especially if the assault is persistent and systematic (2007, 53-54).

For the person in prison who basically has no identity left, it is more often not about keeping his or her identity, but overcoming an environment designed to oppress in order to develop and maintain a positive identity. By denying him any positive identity, you force him to be identified solely in the negative as an "offender," "prisoner," and "criminal." Fricker "do[es] not think it an exaggeration to suggest that persistent cases of this sort of wrongful epistemic exclusion could, especially if they are also systematic, genuinely inhibit the development of an essential aspect of a person's identity" (2007, n 54). I tend to agree. I have witnessed firsthand the pride an incarcerated individual takes away from receiving recognition for his work. It changes his own view of himself from being a "prisoner" to a "published writer," or "author," or "award-winning artist," etc. This completely transforms his identity. Forcing him into anonymity by mutilating his name (or even denying him knowledge of his accomplishments) may deny him this transformative experience, inhibiting the development of his positive identity.

I've strived for many years to develop my positive identities as a writer, artist, and activist. Society, for the most part, will never recognize any of them and will always relegate me to having one identity – "criminal". My identity as a father, a provider, a son, a brother, a lover, a friend, a voter, a citizen, an employee, and even as a human being, have all been stolen from me by my wrongful conviction and life-without-parole sentence.

As an activist, I will continue to be retaliated against for opposing mass incarceration from the wrong side of the wall. As an artist in prison, my work will always be relegated to the category of "outsider art" by the art community, no matter how skillful or successful I might one day become as an artist. Thus, my identity as a

writer is a large part of how I self-identify, and any testimonial injustices perpetrated against me to try and take that identity as well, can “cut to the quick.”

Conclusions: Questioning Power

Recently, NBA star Thabo Sefolasha was severely and unlawfully assaulted by police for challenging an officer. As usual, he, not the police officer, was charged with a crime. At the close of the trial, the Assistant District Attorney roared at the jury “Imagine a world where we are allowed to say no to an officer...that’s chaos!” See, in her world, she’s in power. Just like the prison guards and administration. Just like the police. In their minds, they should never be challenged. Each one is almost never held accountable for his or her actions either, which reinforces his or her feelings of invincibility and belief that they need not respect the rights of others.

As Miranda Fricker poignantly points out, though, “whenever power is at work, we should be ready to ask who or what is controlling whom, and why” (2007, 14). Unfortunately, in a correctional setting, it is arbitrarily portrayed that the answer is always that the prison administration is controlling the prisoners for the safety and security of society or the prison environment. The veracity of that rote answer is almost never tested.

The truth is that much of the power exerted has little to nothing to do with either safety or security. Instead, it is often done solely in furtherance of keeping “criminals” permanently and completely ostracized from society. The “why” of the above questioning of power is never asked on a micro level. Rules are never questioned, new ones are constantly implemented, and the injustices continue to accumulate, defeating any chance at accomplishing the professed goal of “corrections.”

Miranda Fricker concludes that:

Testimonial injustice may, depending on the context, exercise real social constructive power, and where such construction ensues, the primary harm of the injustice is grimly augmented – the epistemic insult is also a moment in a process of social construction that constrains who the person can be. Putting the primary harm together with the extensive secondary harms it can cause, we now have a portrait of an injustice that shows it capable of running both deep and wide in a person’s psychology and practical life. Where it is not only persistent but also systematic, testimonial injustice presents a face of oppression (2007, 58).

As noted above, incarcerated people face persistent testimonial injustice simply by being labeled an “offender,” “criminal,” etc. Add to this the innumerable instances of additional, often closely related or interdependent testimonial injustices (like name mutilation), which, while they may vary from day to day, are cumulatively persistent, and one can easily see how they clearly present a face of oppression and constrain who the “offender” can become.

Thabo Sefolosa was right in challenging an out of control cop. Maybe if more people were willing to challenge authority, there would be fewer people being murdered by police across the country; fewer people being wrongly convicted by overzealous, corrupt, and unethical prosecutors; fewer people being oppressed; and fewer people being abused and medically neglected to death in prison. Kudos to Thabo Sefolosa, and kudos to the jury that found him not guilty of the officer’s trumped up charges.

If society ever truly comes around to believing in rehabilitation again, and becomes serious about returning people who are in prison to useful citizenship, we, as a society, need to start asking: why each new rule, each exertion of power, is necessary; and how it furthers the goal of returning people to useful citizenship. We also need to acknowledge that persistently dehumanizing people, stealing their identities, and obstructing their intellectual trajectories are surefire ways to defeat that goal.

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