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They can’t be believed: children, intersectionality, and epistemic injustice

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ABSTRACT
Children are often perceived to be less credible testifiers than adults. Their inexperience and affinity for play can provide reason to question their credibility and sincerity as truth tellers. The discrediting of children’s testimonial claims can, however, result in an injustice when it stems from an uncritical age-related identity prejudice. This injustice can lead to several consequences varying in severity, with the worst cases leading to their deaths. More commonly, and especially when this injustice is considered in combination with other intersectional identities, it has the potential to render these children invisible. In this paper, we discuss common domains within which children can face epistemic injustice when testifying about their experiences. The heart of the paper explores the most severe instances of epistemic injustices by reviewing three cases where children with intersectional identities died after their testimony was not believed. The paper concludes by emphasizing some of the important considerations that a recognition of intersectionality brings to the current discussion.

INTRODUCTION

As adults, we tend to consider ourselves lucky if we learn something new every day. The general expectation for children is that each day they learn as many new things as possible. Aside from being identified as learners, children’s identities are also often tied to their playful nature, and rightly so. It is safe to say that children tend to embrace play, fantasy, and fearless socialization at a greater rate than most adults. Beyond simply differentiating children from adults, these skills, attributes, and characteristics are also central components to the intrinsic value of childhood (Gheaus 2015). But how do these general characterizations of children as playful learners impact adult interactions with them as knowers and transmitters of knowledge?

In this paper, we show how children often face knowledge-based injustices. While a growing literature has begun the valuable work of uncovering and explicating the often subtle and embedded epistemic injustices children face, few articles thus far have addressed the severity of harm extreme cases against children can cause. We begin the paper with a discussion of the concepts of epistemic injustice and rhetorical credibility,
followed by a characterization of youth agency. We then turn to a brief discussion of some of the ways in which children have already been shown to face epistemic injustice in varying domains, usually without life threatening consequences. The heart of the paper then examines three cases where children have died as a result of facing an unjust rhetorical credibility deficit; the paper then applies an intersectional lens to the cases, revealing the impacts of their multiple identities on the injustices and invisibilities they faced.

**Epistemic injustice and rhetorical credibility**

Miranda Fricker’s 2007 book entitled *Epistemic Injustice: Power and the Ethics of Knowing*, forcefully demonstrated how an individual can face injustice in their capacity as a knower and transmitter of knowledge. She there focused on two central kinds of epistemic injustice: testimonial and hermeneutical. In short, testimonial injustice occurs when a hearer attributes a lack of credibility to a speaker due to an identity prejudice. Hermeneutical injustice occurs ‘when a gap in collective interpretive resources puts someone at an unfair disadvantage when it comes to making sense of their social experiences’ (Fricker 2007, 1). As an example of testimonial injustice, Fricker discusses an instance where a police officer does not believe a man because he is black. To illustrate hermeneutical injustice, she discusses the experience of ‘a woman [Carmita Wood] who suffers sexual harassment prior to the time when we had this critical concept, so that she cannot properly comprehend her own experience, let alone render it communicatively intelligible to others’ (6).

Our focus in this paper is on testimonial injustice. The example above of the man not being believed by a police officer counts as testimonial injustice when the disbelief results from an identity prejudice levied against him due to the colour of his skin. The effect of the identity prejudice is the police officer discrediting him as a person who knows and could transmit the truth about what he knows. To be sure, not every case of disbelieving someone counts as testimonial injustice. There are a number of cases where it may be correct to disbelieve someone, such as a person who has recently been knocked unconscious, or who may be intoxicated, or may have a vested interest in lying or deceiving. The central case of testimonial injustice occurs when the identity prejudice is systematic, as it is when it results from racism. For Fricker, an identity prejudice is systematic when it ‘tracks’ a subject ‘through different dimensions of social activity – economic, educational, professional, sexual, legal, political, religious, and so on’. (28). As is well known, systematic prejudices like racism also allow for injustice along many other dimensions. The point here is to draw attention to this unique kind of knowledge-based injustice while recognizing that it is no doubt connected to other injustices as well.

Epistemic injustice can cause harm in several ways (see Congdon 2017). On the surface, wrongly discrediting a speaker will result in the hearer losing knowledge they could have gained. On a deeper level, testimonial injustice can cause mis- or non-recognition, thereby denying people a central part of their identity (Giladi 2018; Medina 2018), or as Fricker argues, ‘When someone suffers a testimonial injustice, they are degraded qua knower, and they are symbolically degraded qua human’ (2007, 44). This degradation is especially worrisome for young people who spend much of their time focused on learning (Goldberg 2017, 218). In some cases, facing such degradation can even cause victims to embrace the false prejudices held against them, giving them a ‘self-fulfilling power’. When this happens,
'the victim is constituted as the prejudicial stereotype depicts her’ (Burroughs and Tollefsen 2016, 365; Fricker 2007, 55). In some of the worst cases, as we aim to show below, epistemic injustice can even result in an otherwise preventable death.

Fourteen years before the release of Fricker’s landmark book, Canadian philosopher Trudy Govier wrote a paper entitled ‘When Logic Meets Politics: Testimony, Distrust, and Rhetorical Disadvantage’. There, Govier argues that stereotypes and social power dynamics affect how we accept or reject testimonial claims. She distinguishes between ‘narrow’ and ‘broad’ testimonial claims where, narrow refers to claims made by the person reporting their own experiences and ‘broad’ refers to claims made about someone by someone else.

Further, whether testimonial claims are to be believed is a matter of credibility, which relates to trust and trustworthiness. A person’s normative credibility ‘depends on a person’s sincerity, honesty, and reliability’ and they are reliable ‘if and only if [they are] honest and […] in an appropriate position to be a believable asserter of the sort of claim made’ (Govier 1993, 93). Normative credibility is contrasted with rhetorical credibility, which refers to the extent to which one is regarded as believable by others. The distance between normative and rhetorical credibility is in the ability for one to be unjustly denied rhetorical credibility due to prejudice:

People who are white and male, who dress well, look professional, appear middle class or upper middle class, speak without an accent in a deep or low-toned voice, and seem unemotional, rational and articulate, tend in many contexts to have more rhetorical credibility than others. Often those who lack such qualities are, in effect, rhetorically disadvantaged. (94)

While there is much overlap between Fricker and Govier’s accounts of testimonial injustice and rhetorical disadvantage respectively, Govier’s account is uniquely worthwhile in part because it provides a valuable nuance in the rhetorical dimension. An account of voice tone, perceived rationality, and articulation, while obviously related to stereotype and prejudice, may not always be related to identity prejudice per se. For instance, while it may be the case that a person with a particular social identity also speaks softly and appears less rational or articulate, it may not be the case that these characteristics are stereotypically attributed to that person’s social identity. Rather it is the characteristics themselves that lead to the rhetorical disadvantage. People from any social group have the potential to be prejudiced against for speaking softly, appearing less rational, or more or less articulate. This is not to say that these characteristics are not (often) stereotypically imposed, as Govier points out, as an identity prejudice against a particular social group, but the nuance here is that these characteristics can serve on their own as being imposed on anyone from any social group, thus adding another level of complexity to the notion of identity prejudice, as they can take on an identity of their own, or more specifically, intersect with other identities. Indeed, as we will discuss later, social identities are not monolithic, and on this point rhetorical disadvantage, and the nuances that accompany it, are helpful for attempting to tease apart the complexities associated with the intersectional identities we discuss below.

Another strength of Govier’s article is her ability to pinpoint where the denial of rhetorical credibility (what Fricker would call the instantiation of testimonial injustice) occurs in the process of evaluating testimonial claims. She does so by providing a universalistic model for the evaluation of testimonial claims (94) and then highlights the specific
components that may become problematic. The model is universal in the sense that it does not rely on any personal characteristics of the testifier or hearer: no mention of race, gender, age, etc. is identified as a condition upon which to evaluate the acceptability of the speaker’s assertion. The idea is that any person who follows the universalistic reflective model would have reason to believe the testifier’s assertion.

Despite this model’s attempt to be ideally universal, however, Govier points to exact premises where prejudice can enter, causing an unjust rhetorical discrediting and thus dismantling the idea that rhetorical credibility can be detached from identity. Doing so provides her analysis a level of specificity not found in Fricker’s book. Importantly, Govier then links these prejudices to our standards of rationality, specifically pointing to children among other groups who commonly face prejudice:

Standards of rationality, seriousness, and maturity incorporate norms that are not neutral as regards age, gender, race, class, culture and style. Who is likely to seem immature, irrational, or unserious? Children, who really are immature, but nevertheless sometimes tell true and important stories about what happened to them. (97)

She argues then, that children, the elderly, women (especially those who speak softly or appear small), the poor, minorities, patients, and others in positions of dependency are ‘easily dismissable – and dismissed – as incapable of making serious, reasonably articulated assertions’ (97).

A rhetorically disadvantaged person is thus generally a person facing epistemic injustice, and as Fricker remarked, ‘For something to be an injustice, it must be harmful but also wrongful, whether because discriminatory or otherwise unfair’ (Fricker 2007, 151). In what follows we rely on examples to make the case that children are rhetorically discredited and face epistemic injustice due to a systematic identity prejudice. In the extreme, but not so uncommon cases discussed below, the injustice is so harmful that it results in death, and we believe that these children’s deaths would have more likely been avoided if they were given due rhetorical credibility. Taken together, we hope that the extreme and everyday cases presented below support the claims that children too often face an unfair systematic identity-prejudice, and that the described injustices are both harmful and wrongful.

**Youth agency**

To determine if youth are capable of providing credible testimony, it will help to first set out our view of youth agency. We take our general view of youth agency from Anca Gheaus (2015) who holds that both childhood and adulthood contain intrinsic goods, making each valuable in its own right. As such, against the historically common view, children should not be thought of as unfinished or defective adults, simply enduring their imperfections until they can be corrected. Rather, they are intrinsically valuable agents with unique experiences and abilities, some of which adults are likely to have lost. On this view, Gheaus departs from a developmental view of rationality – where children differ from adults only in degree – and suggests that a more accurate characterization shows children and adults differ in the kinds of rationality they employ (Gheaus 2015, 8ff).

This view is far from mainstream. As we saw above, Govier takes it for granted that children ‘really are immature’. But Karin Murris (2013) disagrees, and argues that assuming a
child is immature without considering the empirical evidence in the specific case is a prime example of an identity-prejudice. In those cases, epistemic injustice occurs ‘because the individual is treated as a typical example of a particular social type, before she has been allowed to show who or what she is or does’ (Murris 2015, 333. Emphasis in original). Later, we will show how Purdie-Vaughns and Eibach’s (2008) similar consideration of what they characterize as prototypical identities relates to this typical example of a particular social group. For now, it is enough to say that a word like ‘immature’ calls to mind its counterpart, ‘mature’ and again suggests the developmental frame Gheaus opposes. But rather than conceiving of children as merely immature, waiting to become mature (like adults), we too understand children as maintaining differing interests and abilities rather than incomplete interests and abilities.³

In relation to questions of testimonial injustice, concerns about the status of children’s agency are linked to questions about when their credibility can and should be questioned or believed. In other words, it is related to Govier’s notion of rhetorical (as opposed to normative) credibility. Michael Hand (2015) argues that children’s epistemic stereotypes are largely accurate, but that we should be willing to abandon them in the face of countervailing evidence. Murris in her reply to Hand (2015) argues that Hand’s default of credibility scepticism is at the heart of prejudice and can cause harm. In other words, because doubt about children’s credibility comes first on Hand’s account, counter evidence may never be heard or acknowledged. Ben Kotzee (2017, 329) leaves the matter open but argues that, among other things, we should be asking, ‘how are such judgements about epistemic credibility to be made?’ and ‘what departures from this ideal are unjust and which not?’ In addition to the ‘how’, and in agreement with Murris, we think it is also important to ask about ‘when’ judgements about epistemic credibility should be made. In light of the fact that children have differing abilities, and that even when comparing their abilities with adults, children often face bias, we side with Murris in the belief that children ought not be pre-judged in terms of their credibility and that doing so can lead them to be mis-recognized, rendered invisible, and thus suffer the many harms accompanying epistemic injustice.

With this understanding of children’s agency in mind, we now review some of the domains where epistemic injustice has already been shown to impact children.

The everyday injustices faced by children

The three case examples of Adrian Jones, Jeffrey Baldwin and the youth in the Ontario Coroner’s Inquest that we discuss below will illustrate that denying children recognition as competent knowers and transmitters of knowledge can have extreme results, and in these cases, fatal results. For the most part, however, the repercussions children face as a result of epistemic injustice are much subtler. This is in no small part because there are often good reasons to doubt the truth or sincerity of a child’s testimony. Children are often playful, experimental, and creative – characteristics that Gheaus argues contribute to the intrinsic value of childhood. Since creativity and experimentation are heightened in children, we may experience it more often from children than we would from adults. This does not mean, however, that we should expect what they say to be the result of fantastic creative imagination before they speak. It does not mean we should assume they are less credible testifiers writ large. Maintaining and operationalizing
these assumptions, as Murris points out, constitutes unjust identity-prejudice. In what follows, we provide a brief discussion of four domains where holding such a prejudice has been argued to cause children to face epistemic injustice quite regularly.

**Law**

Children’s testimony is crucial in a number of legal situations. For example, a child may be the only witness to a crime – either unrelated to them, or a crime inflicted upon them directly – as we will see below. They are also often central testifiers in civil cases such as custody hearings, the resolutions of which depend immensely on the testimony of all involved.

Unfortunately, however, even if the voice of the child is taken into account in legal proceedings, it is seldom attributed the appropriate weight. This is in part due to the prejudice that young people have worse memories, a view so ubiquitous that it is considered common knowledge. As such, jurors seldom, if ever, receive training on the matter (Brainerd and Reyna 2012, 258). However, against such a prejudice, Burroughs and Tollefsen (2016, 366) summarize a study by Goodman, Golding, and Haith (1984),

in which groups of adults were provided with both written and filmed testimony of children (6 and 10 years of age) and adults (30 years of age) regarding cases of vehicular homicide and murder. In each case the eyewitness testimony was identical and all details of the trial were exactly the same with one exception: the age of the eyewitness. The studies showed that adult potential jurors consistently rated child testifiers as less credible than adult testifiers, especially so in the case of 6 year olds.

The results of this study clearly support the contention that children face an identity-prejudice in the courtroom on a regular basis despite the fact that, as Brainerd and Reyna (2012) point out, a number of studies have actually demonstrated a decrease in memory reliability as people age.

It should also be noted that in our view the prejudice is not a result of the design of legal proceedings. Rather, it comes in with the jurors when they are selected as a result of the prejudice being included in the broader set of societal stereotypes stemming from the adultcentrism (discussed in more detail below) present in many societies. These stereotypes of young people are so persuasive that their untrustworthiness is considered a matter of common sense, regardless of what peer-reviewed research may say. Thus, while the identity-prejudice is systematic, we do not want to argue that it is specifically tied to the legal system even if it can be found there.

**Education**

In what may be considered a hybrid between the legal and educational domain, a student in Toronto high school, who to protect his anonymity was only identified as ‘Tony’, was suspended on the first day of the Fall 2018 semester after being accused of smoking marijuana – a drug set to become legal in Canada just 6 weeks later. On that day, Tony was in the office along with a number of other students and staff so he could pick up his schedule for the semester. When the vice-principle smelled the scent of marijuana in the air, he singled out the 11th grader and sent him home with a suspension for being under the
influence of illegal drugs. Before being sent home, Tony had requested he be searched, have his breath smelled, or undergo other testing, but the vice-principal refused, and despite denying the allegation, Tony was suspended from school for three days (Teotonioe 2018).

His mother told reporters that the vice-principal ‘picked the wrong person and was not willing to listen to him’ before adding that he should have been given the benefit of the doubt. That semester, she later appealed the decision to the superintendent of education and won, resulting in the decision being removed from his record.

In this situation the facts that Tony is black and that the high school is in one of the rougher Toronto neighbourhoods could have functioned as intersectional factors contributing to the vice-principal denying him rhetorical credibility. At the same time, it is exactly this neighbourhood character that could have explained why the office smelled of marijuana in the first place, since many of the students were more likely to have walked through the scent on their way to the school. As Tony notes (Teotonioe 2018), the smell of marijuana is commonplace in the neighbourhood: ‘It’s not an uncommon sight, or smell, said the teen, who sometimes falls asleep with the scent of weed wafting in through his bedroom window’.

It is not hard to imagine how this kind of epistemic injustice could function in lower levels of education as well. For example, a student who produces work at an exceptional level may not be believed when claiming that the work is indeed theirs. Or a student may be wrongly accused of the theft of classroom supplies, when in fact a teacher previously in the room moved or (accidentally) took them. The point is that the systematic identity-prejudice against the young can and does operate quite often in the classroom leading to detrimental impacts not just on learning, but on the personal development of self-esteem as well.

In addition to school children’s credibility being doubted by their teachers, Ben Kotzee (2017) points out how epistemic injustice in education can impact what teachers teach, which students are admitted to which courses, who becomes teachers and scholars, which teachers students determine credible, and who among their peers students credit.

Health care

Carel and Györffy (2014) have astutely pointed to instances where children’s testimony being rejected led to misdiagnosis in the medical domain, sometimes resulting in death. Part of the cause, they argue, is that ‘[medical] doctors make distinctively epistemic judgements when assessing patients’ statements, even if they do not explicitly recognise this skill as such’ (Carel and Györffy 2014, 1256). If children are then stereotyped as ‘irrational, with reduced powers of reasoning, flawed or non-existent memories, [who can] be easily swayed’ (1256), it would be very easy for a physician to reject their credible articulations of their symptoms.

Alternately, unwarranted positive credibility stereotypes toward adults may also cause children harm. For example, as in the cases below, there are situations where supposed caregivers have told medical officials a different version of events regarding possible child abuse. Especially when abuse first begins, if the doctors and medical professionals carry a youth-based identity-prejudice with them, causing them to favour the testimony
of adults, it is likely that the caregivers will be believed over the children. By the time enough of a pattern has been developed to overcome the prejudice, it may be too late.

**The home**

Finally, children readily face testimonial injustice at home. Think, for example, of a youngest child who is wrongly blamed for some mischief simply because an older sibling denied wrongdoing. Or something as simple as eating and food preferences. If a child insists that they have eaten enough or do not want to eat and or like what is made for a meal, they are often-times punished or made to finish or eat the meal anyway.

Another way involves denying or dismissing when they self-report feeling unwell or have emotional reactions. For instance, a child may report feeling too sick to go to school and be questioned as to their sincerity. Or a child may have an intense emotional response to something older children and adults in the house dismiss as an overreaction when the child indeed wholly felt the emotion.

In more sinister cases of testimonial injustice at home, a child may self-report abuse at the hands of a family member in the home to another family member and either be wrongly blamed for the behaviour or scorned and punished for ‘making up’ such stories. In one report, researchers found that child sexual abuse, specifically incest, is a prominent form of abuse within the home and that fathers overwhelming are the perpetrators. This same study reported that mothers can be psychologically incapacitated to believe or save their children: ‘Even in the face of clear evidence that her partner is abusing her child, a mother who is in denial may simply stand by and allow the abuse to continue—often for a period of years’ (Adams 1994, 520).

Children may also be told by their caregivers to lie to others either inside the home or outside of the home about abuse they experience by a caregiver or family member. If the child does indeed lie, it may perpetuate their identity-prejudice as untrustworthy even if an adult would have succumbed to the same pressure to lie within an abusive relationship, as abused women have often reported.

These brief discussions of the legal, educational, medical, and domestic domains could all be further developed in their own right. Our purpose in raising them here is simply to demonstrate that not all instances of epistemic injustice are deathly severe. For the most part, children suffer their epistemic injustice in these everyday domains, perhaps in part because they may also lack the hermeneutical resources to make sense of them. Importantly, however, we believe that this injustice can contribute to children’s deaths more readily than has thus far been recognized. We now turn to an examination of three cases where this seems to have happened.

**Adrian Jones**

Adrian Jones was murdered in 2015, at the age of seven. His father and stepmother were convicted of his murder and child abuse after images were discovered that had been kept on his stepmother’s computer documenting years of torture and injuries. Child Protective Services (CPS) became involved with Adrian’s birth mother and removed him from her care when he was three, placing him with his birth father and stepmother who subsequently petitioned for and won full custody. By age five, Adrian had already endured
horrific abuse, which included being bound, locked up behind plywood in a dirty bathroom shower stall, being tortured, tasered, beaten, and starved (Bauer 2017). His own narrow (first-hand) testimonial claims made to CPS were documented more than two years before he succumbed to a combination of starvation and being beaten to death, but they were not enough to have him removed from the home.

Adrian told a CPS worker and a police officer that his father kicked him in the back of the head until ‘a little bone come out’ and that his stepmother pulled his ears. He further asserted, ‘My daddy keeps hitting me in the head and punches me in the stomach and my mom keeps pulling on my ears and it really hurts’. And more, ‘Mommy and Daddy lock me in my room by myself. Mommy and Daddy can’t feed me’ (Schmidt 2017).

The Kansas City Star reported (Bauer 2017) that a case worker interviewed Adrian with his stepmother sitting nearby, where Adrian reported that his father and stepmother hurt him. After the report, his father was still allowed to help transport Adrian to a doctor and forensic interview. After being alone with his father during that time, Adrian recanted what he said about his parents hurting him. The County’s juvenile office then ‘chose not to remove him from the home, which Children’s Division workers thought was needed. Instead, [following policy protocol] the juvenile office recommended services for the family’ (Bauer 2017), which the parents avoided by crossing state lines. Intense media scrutiny and public outcry about the failings of CPS prompted one advocate to tell local media in Kansas City that ‘what Adrian needed was for someone along the way to fight for him … someone would have just had to say, “This child is asking for help. He’s 5 years old, he’s not making it up”’ (Bauer 2017, para. 9).

We argue that Adrian’s case demonstrates how he was denied rhetorical credibility, which led to an epistemic injustice so severe it cost him his life. His own testimonial claims about his experience of abuse, while investigated, were not taken seriously enough to remove him from an environment in which he reported being hit and injured, hurt, starved, and confined. Our contention is that a large part of the identity prejudice he faced resulted from his age. The language used by the child advocate quoted above is indicative of this contention. Adrian needed ‘someone’ other than himself to corroborate his testimony, so he could be believed. Additionally, the ‘someone’ in question that Adrian needed was implied to be an adult. Hence, as a five-year-old, Adrian’s testimony was not taken as seriously as if he were an adult.

We do not mean to claim that it is only an identity-prejudice that lead to his death. As investigations have shown there are other mitigating factors, such as his supposed caregivers crossing state lines and making other attempts to evade contact by child services. There are likely also problems with employee training. Our claim is simply that his youth was a central factor in causing state workers to hesitate and take only minimal measures to protect him from torture he testified to. We are confident that had an adult experienced the same crimes and reported them to the same authorities, the reports would have been treated much more seriously and death more likely prevented.

**Ontario coroner’s inquest**

Between January 2014 and July 2017, twelve youths from Ontario, Canada died while in the province’s child protection system. This spike in youth deaths prompted the Ontario coroner to call for an expert inquiry. On September 25, 2018, the expert report was
released. One of the key findings explicitly stated ‘Young people had minimal opportunity to have a voice in their care, their voices were not prioritized, and their attempts to communicate their needs were often overlooked, ignored and characterized as “attention-seeking”’ (Cromarty et al. 2018, 44). The experts also specifically noted that

In some cases, it was apparent that [the youth] were explicitly exercising their voice and they were ignored. For example, there was written evidence of a young person explaining their trauma, struggles and perceived barriers to improving their circumstance. This person was doing everything within their power to have a voice, ask for help and articulate what they needed – both from individuals, and from the systems. The Panel observed that the adults within their sphere of care did not prioritize the young person’s voice and did not adequately respond to their pleas for help. (47)

This second example brings out two important characteristics of injustice raised by Fricker and Govier. First, characterizing youth testimony as ‘attention-seeking’ can be seen in this instance as an instantiation of identity-prejudice. This is most clearly seen in hindsight when it is evident that the children were in fact in need and not merely seeking attention. We contend that at the time, the children’s expressions of need were dismissed as attention-seeking because the youth were pre-judged to be so, rather than assessed as default-creditable while the communication occurred.

The identity prejudice in this case results in a mis-recognition of the youth. Indeed, this example brings to mind Congdon’s theorizing about the possibility of connecting Honneth’s concept of love to Fricker’s concept of epistemic injustice. As Congdon (2017, 248) explains, love-as-recognition refers to those forms of care and attentiveness that express to the beloved that she deserves some degree of support and nurturing from others. Including yet extending beyond intimate familial and erotic relationships, recognition-as-loving-care affirms persons in their neediness and particularity.

In this way, denying youth as knowers-of-what-I-need, misrecognizes them and results in an epistemic injustice. Second, the scale of the expert investigation demonstrates how the identity prejudice is not an isolated identity-prejudice, but as Fricker argues, is a condition of the paradigm cases of epistemic injustice, it is systemic: they were ‘often overlooked’, both individual adults and those working in the system ‘did not prioritize the young person’s voice’. Together, these demonstrate both the frequency and breadth of the identity-prejudice, supporting our claim regarding its systematicity.

Interestingly, however, the expert panel thought it worthy to include consultations with 13 youth with lived experience of the system, going so far as to visually emphasize their input in the report (Cromarty et al. 2018, 12). Thus, on the one hand, the report clearly identifies how the voices of young people are overlooked, by both the supposed caregivers as well as the people working within the systems meant to provide oversight. On the other hand, youth are recognized as central knowers and transmitters of knowledge by the experts looking into the causes of the failures. To us, this indicates that youth voices ought to be granted credibility by default, and that with conscious effort the systematic identity-prejudice they face, which can lead to their suffering epistemic injustice, can be overcome (cf. McHugh 2017). In other words, we ought to assume first that young people are competent testifiers and then seek disconfirming evidence, rather than assume that they are they are ignorant by default and distrust their testimony without any clear
criteria for when they surpass the threshold of believability. This is not only because failing do so can result in life altering or ending consequences, but because taking the latter approach is a near textbook example of prejudice, which should be avoided for consequentialist and deontological reasons.

Jeffrey Baldwin

So far, we have discussed cases where youth testimony has been directly discredited. There are important cases, however, where a lack of rhetorical credibility may contribute to youth never being asked for testimony at all. Such is the case of Jeffrey Baldwin who lived in Toronto, Ontario. In 2002, Jeffrey was almost six when his maternal grandmother called an ambulance to report that he was not breathing. When emergency workers arrived, they found him already deceased, emaciated, and his body caked with feces and resulting sores (Jones 2013). Jeffrey and his sister had been starved, abused, and neglected since 1998 when they came into their grandmother’s care after also being removed from their birth parents by the Catholic Children’s Aid Society (CCAS).

The coroner determined Jeffrey had been severely starved for a period of no less than three years given his physical condition and lack of growth. He weighed 21 pounds at the time of his death, which is about the average weight for a one-year old. Officially, Jeffrey died of septic shock, brought on by pneumonia and prolonged starvation (The Canadian Press 2013). The pneumonia he contracted from being forced to sleep in a urine and feces-soaked bedroom and drinking water, when he could get it at all, from the toilet bowl.

In this case no one thought it worth asking Jeffery about his treatment. In its report to the Ontario Legislature, the Provincial Advocate for Children and Youth noted ‘The voice of the child was nowhere to be found in the work of the children’s aid society involved in Jeffrey’s case, hospital staff, neighbours or teachers at Jeffrey’s school’ (Ontario Child Advocate 2014, 30). In addition, a coroner’s inquest jury heard that Jeffrey’s father eventually knew about the abuse, but that he did not report it to the CCAS due to a fear of not being believed.

In these instances, the impact of a lack of rhetorical credibility is pre-empted, resulting in a silencing effect or a variation on what Kirstie Dotson calls epistemic violence. On her account epistemic violence in testimony is ‘a refusal, intentional or unintentional, of an audience to communicatively reciprocate a linguistic exchange owing to pernicious ignorance … [that is] any reliable ignorance that, in a given context, harms another person (or set of persons)’ (Dotson 2011, 238). Dotson distinguishes between testimonial quieting, where an audience fails to recognize a speaker as a knower, and testimonial smothering, where a ‘speaker perceives one’s immediate audience as unwilling or unable to gain the appropriate uptake of proffered testimony’ (244). In cases of testimonial smothering, the speaker’s testimony is truncated because ‘the speaker perceives one’s immediate audience as unwilling or unable to gain the appropriate uptake of proffered testimony’ (244).

In Jeffrey’s case, the absence of Jeffery’s testimony may be seen as an instance of testimonial quieting in that Jeffery was not recognized as a knower, and his father’s refusal to report abuse may be seen as a case of testimonial smothering in that he doubted he would be believed. In his father’s case, there had been a history of domestic violence between he and Jeffrey’s mother, which was why Jeffrey was removed from their home. In an interview with the news programme The Fifth Estate Jeffery’s father was asked to respond to a
question that laid out the concerns leading up to Jeffrey’s death, like his emaciated frame, and was asked specifically why he did not report the concerns to the CCAS. Jeffrey’s mother begins by questioning ‘who would’ve believed us?’ His father goes on to say

We were already deemed bad parents. I figured The Children’s Aid was still looking in on them as far as I was concerned … I thought that, I was told that Children’s Aid were still coming in and checking up on [the grandmother and Jeffrey]. (The Fifth Estate 2006, 31:50)

Patricia Hill Collins notes, ‘Testimonial quieting and smothering go hand in hand – those who are repeatedly told to ‘be quiet’ by more powerful social actors quickly learn the protections of self-censorship’ (Hill Collins, Medina, and Pohlhaus 2017, 122).

Interestingly, however, much of the evidence of the abuse in this case was later gathered through the testimony of the other children who lived in the home at the time of the abuse. The children used their own narrow testimonial claims in both the criminal trial and the coroner’s inquest to describe their experiences of witnessing and receiving abuse. Moreover, the Ontario Child Advocate noted in its 2014 report that during this inquest it sought out 12 other youth with similar experiences to Jeffreys to form an advisory panel, noting ‘Children and youth have a great deal of wisdom that comes from lived experience; we wanted the inquest jury to benefit from that wisdom’ (Ontario Child Advocate 2014, 33). We suggest that as with the Ontario Coroner’s Inquest discussed above, this is further evidence to support the claim that children’s voices ought to be trusted, especially on non-trivial matters, and that institutional change can play a significant part in supporting this trust. Further, these cases all demonstrate that we must stop conceiving of and prejudicing children as unfinished or defective adults, and begin recognizing them as agents capable of offering reliable testimony. Doing so will help reduce existing prejudice that prevents children’s testimony from being sought and trusted. A young age, however, is only one component of identity prejudice in these cases. There are other necessary considerations to explore.

**Identity prejudice is intersectional**

In her account of intersectionality, Patricia Hill Collins acknowledges that there is no one universally agreed upon definition. Nevertheless, she acknowledges that the term generally ‘references the critical insight that race, class, gender, sexuality, ethnicity, nation, ability and age operate not as unitary, mutually exclusive entities, but rather as reciprocally constructing phenomena that in turn shape complex social inequalities’ (Hill Collins, Medina, and Pohlhaus 2017, 115). As Carbado et al. (2013, 303) characterize it, ‘intersectionality is a method and a disposition, a heuristic and analytic tool’. From the analytic perspective, intersectionality can be thought of as the view that understanding the functioning of power necessitates an appreciation of how social identities overlap and interact to position people within social power structures. As a disposition, it also means appreciating the importance of how people living with overlapping social identities experience the power structures they live within.

In appreciation of intersectionality, it is important to acknowledge that identity prejudice is never one-dimensional and that the impacts can manifest in different ways for different people, the nuances of which we can only begin to address here. While the common factor in all the cases discussed thus far is a youthful age, in each case other
personal characteristics have also likely contributed to how credible the victim or witness was perceived to be. For example, the fact that Adrian was a mixed-race child from a poor economic background would also have an impact on the systematic identity prejudice he faced. Second, the experts in the Ontario coroner’s case noted that 8 of the 12 children were Indigenous, and further that ‘Many of the young people identified as LGBTQI2S’ (Cro-marty et al. 2018, 17). Finally, Jeffery Baldwin was also a poor, Indigenous child. Moreover, we know Jeffrey’s grandmother was herself the victim of child abuse growing up, was poor, and Indigenous (DiManno 2013). In each of the above cases then, there are points of intersectionality that further disadvantaged these children.

The impact of intersectionality can be seen institutionally. In the United States the racial disproportionality in the child welfare system is well known (Children’s Bureau 2016) and a study reported by the Toronto Star (Contenta, Monsebraaten, and Rankin 2016) shows similar results in Ontario, Canada. For example, Indigenous children are ‘130 per cent more likely to be investigated as possible victims of child abuse or neglect than white children, and 15 per cent more likely to have maltreatment confirmed’. Whereas ‘[b]lack children are 40 per cent more likely to be investigated for abuse or neglect than white children, and 18 per cent more likely to have maltreatment confirmed’. Importantly, however, Indigenous children are much more likely than black children to be taken from their homes and placed into care. The report cites Margaret Parsons, executive director of the African Canadian Legal Clinic, who ‘blames the disparity on an identity prejudice which results in a “harsher lens” utilized by children’s aid societies when investigating black families’ (Contenta, Monsebraaten, and Rankin 2016, para. 2–6) and the critique of the system is similar for Indigenous advocates. Citing the legacy of Residential Schools in Jeffrey’s case, Peter Choate articulates ‘the long history of systemic abuse in Aboriginal communities through government efforts to force assimilation’. He contends that the CPS large-scale apprehensions of children from reserves across Canada has resulted in the loss of inter-generational family structures including models of parenting. […] The recently released report from the Truth and Reconciliation Commission (TRC 2015) has emphasised this and calls for child protection to address their role in what the commission calls ‘cultural genocide’ and its impact across generations (DiManno 2013). (Choate 2016, para. 50)

Further complicating the devastation left in the wake of Residential Schools is Philosopher Anna Cook’s (2018) account that the Truth and Reconciliation Commission (TRC) actually reinforces colonial hegemony through what she calls ‘settler ignorance’, which effectively functions by ‘(i) distancing present testimonies to the past and (ii) by discrediting emotional expressions as signs of individual pathology’ (Cook 2018, 11). On her account, and in the ways Dotson articulates, the TRC does harm to the very testifiers it seeks because their testimony does not have an audience willing and capable of hearing it. Thus, Indigenous survivors of Residential Schools are sought out for their personal accounts about their experiences in an effort to educate settler Canadians about a history that has been ‘comfortably invisible’. However, ‘[t]he TRC assumes that the testimonies will be heard and recognized by settler Canadians in a politically meaningful way’ (5). But that does not happen. Instead, this model of recognition […] fails to transform relationships between Indigenous and settler Canadians not only because it enacts an internalization of colonial recognition [through the
state’s apparatus: the legitimization of the TRC; the normalization of Canadian sovereignty and the like] but because it fails to account for … ‘settler ignorance’ (5).

This hegemony leads to a ‘settler common sense [which] forms the affective background that legitimates both ongoing settler-colonial violence and the continued denial or forgetting of settler colonialism by settler Canadians’ (17). If this is correct, then many of the children in our examples were disadvantaged by their identity before they even had the opportunity to testify. But this account of invisibility with regard to intersectional identity is not the only way testimonial injustice occurs.

**Intersectionality and invisibility**

Purdie-Vaughns and Eibach (2008, 378) argue that one manifestation of intersectionality, which stems from ethnocentrism, heterocentrism, and androcentrism ‘may cause people who have intersecting identities to be perceived as non-prototypical members of their constituent identity groups’. In other words, ‘Because people with multiple subordinate-group identities (e.g. ethnic minority and woman) do not fit the prototypes of their respective identity groups (e.g. ethnic minorities, women), they will experience what [they] have termed “intersectional invisibility”’ (377). Thus, people with multiple subordinate identities, like those we outlined above (e.g. Indigenous child; mixed-race child; LGBTQI2S Indigenous child), who ‘do not usually fit the prototypes of their respective subordinate groups’ (e.g. Indigenous, child, mixed race [though this prototype may also be further broken down], LGBTQI2S, etc.) may have experienced intersectional invisibility – a ‘general failure to fully recognize people with intersecting identities as members of their constituent groups’. We suggest their view can be extended to include adultcentrism.4

A recent study cited by the Harvard School of Public Health (Harvard T. H. Chan 2018) demonstrates many of our claims. It shows how children with prototypically prejudiced intersectional identities are considered against each other and adults, and how those who would be identified as non-prototypical can suffer intersectional invisibility. In this study researchers found that white adults who work with children in the United States significantly racially stereotype children and youth of colour. Data from the study showed that

Black children were seen less negatively than black adults, but were seen more negatively than children from other racial groups except for Native American and Hispanic/Latinx. Young black children aged 0–8 years were almost three times more likely to be rated as being lazy than white adults, with Native American and Hispanic/Latinx young children also more likely to be considered lazy than white adults. Young black children were more than twice as likely to be rated as unintelligent or violence-prone compared with white children of the same age, with young Hispanic/Latinx children also seen as more unintelligent or violence prone than white children. (Harvard T. H. Chan 2018, para. 5–6)

 Teens were also considered in this study and compared along these race lines and then cross-referenced against the younger children:

the strongest levels of negative stereotyping reported by white adults working with children were reported toward teenagers, with black teenagers and Native Americans close to ten times more likely to be considered lazy than white adults. Black and Hispanic/Latinx teens
were between one and a half to two times more likely to be considered violence-prone and unintelligent than white adults and white teens. (Harvard T.H. Chan 2018, para. 7)

The lead researcher noted grave concerns with the findings, offering ‘that negative racial attitudes are associated with poorer quality care and services and with disparities in health, education and social outcomes’ (para. 8) We discussed many of these injustices faced daily by children and youth earlier, but the important takeaway from this study is that ‘these negative attitudes have been found toward even young children aged 0–8 among adults who work or volunteer with them [which] has serious potential consequences for these children’s outcomes throughout life’ (para. 7). These consequences can manifest, as Fricker anticipates, by causing victims to embrace the false prejudices held against them, giving them a ‘self-fulfilling power’, and causing ‘the victim [to be] constituted as the prejudicial stereotype depicts’ (Burroughs and Tollefsen 2016, 365; Fricker 2007, 55). Also, the above study demonstrates the kind of intersectional invisibility that concerns us, in that, while it focused on some intersections of identity like black adult, black child etc., it did not address people who may be of mixed races thus rendering mixed-race identities invisible from this study.

Purdie-Vaughns and Eibach note four types of intersectional invisibility, which are necessary to explore if we are to consider how to begin to address the issue: historical invisibility, cultural invisibility, political invisibility, and legal invisibility, each of which has features of Dotson’s epistemic violence. Historical invisibility ‘concerns the marginalization of intersectional experiences in historical narratives’ (Purdie-Vaughns and Eibach 2008, 383). As an example, they cite the Black feminist argument that policy-makers, scholars, and lay people implicitly associate race with African American males and gender with white females, offering this effectively renders African American women historically invisible. In the Routledge Handbook of Epistemic Injustice Patricia Hill Collins points to

the Combahee River Collective’s ‘A Black Feminist Statement’ [which lays out a] comprehensive statement of the framework that ha[s] permeated Black feminist politics […] This innovative document argued that race-only or gender-only frameworks advanced partial and incomplete analyses of the social injustices that characterize African American women’s lives, and that race, gender, social class and sexuality all shaped Black women’s experiences. The Statement proposed that what had been treated as separate systems of oppression were interconnected. Because racism, class exploitation, patriarchy and homophobia collectively shaped Black women’s experiences, Black women’s liberation required a comprehensive response to multiple systems of oppression. The Statement also developed a comprehensive argument about the necessity of identity politics for Black women’s empowerment (Collins and Bilge 2016, 67–71). (Hill Collins, Medina, and Pohlhaus 2017, 116)

If history is based on adultcentric, androcentric, ethnocentric, and heterocentric narratives, the analogy can be easily mapped onto children’s historical narratives as well.

Cultural invisibility ‘refers to the failure of cultural representations to capture the distinctive experiences of intersectionally subordinate groups’ (Purdie-Vaughns and Eibach 2008, 383). We use cultural schemas and narrative tropes as interpretive tools to try and make sense of ourselves and other people; as a way to explain human experiences and behaviour. However, if these schemas are organized around heterocentric, androcentric, ethnocentric, and as we suggest adultcentric prototypes, ‘they will do a particularly poor job representing people who have intersectionally subordinate identities’. As a consequence, ‘such people will often be mischaracterized and misunderstood’ (383) as Fricker claims of
epistemic injustice generally. As we have demonstrated above, this is also problematic for intersectional children.

Political invisibility can be understood by recalling the Harvard publication from above. So-called ‘inclusive advocacy groups’ neglect the issues that predominantly affect people with intersecting subordinate identities. They claim to represent the needs of all those in marginalized communities and to advocate for their rights and welfare. Despite all good intentions, however, ‘advocacy groups often wind up devoting proportionately less attention and resources to constituents with multiple subordinate identities than they do to their more prototypical constituents’ as these issues are more easily framed (385). This is especially important to consider as we look to institutional change and Gheaus’ (2018) suggestion of increasing children’s access to varying institutions. For instance, the Harvard study was meant to show points of fracture and failure within the public health system as related to systemic identity prejudices. However, while African-American children were considered in the study, along with Hispanic and Indigenous children, mixed-race children (and other intersectional child identities) were absent from the report. Their invisibility will likely result in a lack of advocacy by the necessary political actors needed for institutional change.

Finally, legal invisibility occurs ‘when the court cannot provide the same legal protections [for intersectional identities] as it provides for people with a single subordinate-group identity’ (Purdie-Vaughns and Eibach 2008, 386). There are two sides on which legal invisibility focuses: the law’s ability to protect intersectional victims of discrimination; and emphasizing who is perceived to be a credible and convincing victim. The former is of general overall interest to our project and the latter strikes at the heart of our claims of testimonial injustice and rhetorical disadvantage, though we do not limit these claims to the legal domain despite finding evidence of them there, as discussed above.

Earlier, we foreshadowed a connection between Purdie-Vaughns’ and Eibach’s prototypicality and Murris’ account of a ‘typical example of a particular social type’; both constitute cases of identity prejudice. Here, the claim is that intersectionality further disadvantages individuals who exist on the margins of already marginalized groups, which results in their being relegated to a ‘position of acute social invisibility’ (381). We suggest, in terms of the cases above, that this intersectionality, of which their age is a part, may have effectively rendered our subjects invisible. Their invisibility may also be a consideration, then, in why they were either not believed when they testified or were not given the opportunity to provide their testimony.

However, we further contend that despite their other intersectional attributes, children from any identity group are nearly always measured by adult standards (Petr 1992). That is, that they are all measured as still ‘becoming’ rather than ‘being’ and measured against adult rationality rather than being recognized for their own rationality. Whereas adults who suffer intersectional invisibility are variably compared to other adult stereotyped ‘criteria’ along race, class, sex lines, and the like, children are held to adult comparisons no matter their other intersectional identities. Thus, in our view, a youthful age cannot generally be extracted from the other intersections of children’s identities, thus rendering children prototypical for their youth while their other intersectional identities can fluctuate between receiving prototypical and non-prototypical judgement.

If the theory is correct, then it is predominantly this youthful prototypicality that sees children held to the identity prejudice that they are less credible than adults as testifiers.
and knowers. We agree with Petr (409), who elegantly characterizes the influence of adult-centrism: ‘The negative consequences of adult-centrism can be the same as those of ethnocentrism: miscommunication (with children), inaccurate judgments (about children’s intents and motivations), misuse of power (to limit children’s self-determination), and undermining strengths and competencies’. In combination with other intersectional identities, these tendencies can regularly relegate children to intersectional invisibility.

Conclusion

We are aware that all of our examples have originated from the North American context. This is in part because they are the most accessible to us given our locations, but we also restrict our reach to avoid recklessly projecting our views onto unfamiliar cultures. We do suspect, however, that many of the issues raised above will bear relevance in other cultures as well. This is in part because the nature of the relationship between young people and adults is such that there is a fundamental imbalance of power. Children rely on adults for their basic survival needs, love, guidance, and more. Morally, the asymmetry of power can be considered ‘desirable because without it adequate care for children may be impossible’ (Gheaus 2018, 62). Epistemically, when there is no harm, this relationship is one of what Kotzee (2017) refers to as Epistemic Authority and is a feature of epistemic justice.

However, when the asymmetry of power is accompanied by a systematic epistemic identity-prejudice, children are at risk of suffering epistemic injustice. We have provided examples and discussion of the extreme consequences that epistemic injustice against children can cause, as these seem to be lacking in the literature. We have also been careful to acknowledge the intersectional considerations involved in the injustices faced by these children and that should be considered in an assessment of epistemic or other injustice.

While the individual characteristics and abilities associated with a person’s young age may be part of an explanation for why a specific instance of testimony may be discredited, i.e. a person has not yet gained a certain required knowledge to lend credibility to their claim, it does not warrant the acquisition of the default belief that all children are reliably ignorant. However, even if children were considered reliably ignorant generally, in Dotson’s sense, reliable ignorance is not in itself harmful. For Dotson, determining what counts as reliable ignorance requires an analysis of context (Dotson 2011, 238–239). This context-specific assessment

requires not only identifying ignorance that would routinely cause an audience to fail to take up speaker dependencies in order to achieve successful linguistic exchange, but it also requires an analysis of power relations and other contextual factors that make the ignorance identified in that particular circumstance or set of circumstances harmful. (239)

Thus, ignorance here is a matter of degree. It can be benign or pernicious depending on the epistemic agent and social location of power of the testifier and the audience (Dotson 2011).

Further, we agree that ‘Pernicious ignorance should not be determined solely according to types of ignorance possessed or even one’s culpability in possessing that ignorance, but rather in the ways that ignorance causes or contributes to a harmful practice’ (239). As adults it is our responsibility to navigate the contextual differences between naïve behaviour and credible testimony and not to prejudge the testifier. Lest our own ignorance of
children’s lived experience become pernicious, it is our responsibility to be consciously critical of our generalizations about young voices and their capacities to tell us what they know.

Notes
1. In this paper, we will restrict our focus to instances of testimonial injustice. This is not to say that our reflections will have no bearing on issues relevant to the hermeneutical injustice faced by children. It is only to say that such an important topic is deserving of an article in its own right and to keep our conversation focused, it will not be discussed in any detailed way in what follows.
2. While providing a characterization of agency is important, we only do so in broad strokes here so as not to stray too far from our focus in this paper. We are thankful to an anonymous reviewer for emphasizing the importance of this component of the discussion.
3. This conception is meant to account for the fact that all people maintain differing social, cognitive, and practical competencies. A three-year-old is surely different than a seven-year-old who is surely different than a twelve-year-old, but the 12-year-old is not necessarily better or more developed than the others in all things. The three-year-old may be the best of the group at playing a certain instrument, for example. We also acknowledge that there are in fact differences in physical development and maturity between many people, but we will not here generalize those effects on the social and cognitive lives of children and youth.
4. According to Petr:

‘adultcentrism is the tendency of adults to view children and their problems from a biased, adult perspective’ (Goode 1986). This bias does not typically stem from some blatant, pernicious, or even conscious intent. Adultcentrism is subtle and, although the analogy is not perfect, it can be understood as being similar to ethnocentrism, which Sumner (1906) originally defined as ‘a view of things in which one’s own group is the center of everything, and all others are scaled and rated to it.’ With respect to children and adults, adultcentric bias is evident when we measure children by adult standards, when we fail to suspend our assumptions about them, when we decline to see the world from their point of view. (Petr 1992, 408–409)

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