

Knowledge, Justice, and Subjects with Cognitive or Developmental Disability

by

Catherine Klausen

A thesis
presented to the University of Waterloo
in fulfillment of the
thesis requirement for the degree of
Doctor of Philosophy
in
Philosophy

Waterloo, Ontario, Canada, 2019

© Catherine Klausen 2019

Examining Committee Membership

The following served on the Examining Committee for this thesis. The decision of the Examining Committee is by majority vote.

External Examiner: Jerome Bickenbach
Professor, Dept. of Health Sciences and Health Policy;
Co-Director, Center for Rehabilitation in Global Health Systems,
University of Lucerne

Supervisor: David DeVidi
Professor, Dept. of Philosophy;
Associate Vice President, Academic, University of Waterloo

Internal Member: Shannon Dea
Professor, Dept. of Philosophy, University of Waterloo

Internal Member: Tim Kenyon
Professor, Dept. of Philosophy, University of Waterloo;
Vice President, Research, Brock University

Internal-External Member: Ellen MacEachen
Associate Professor, School of Public Health, University of Waterloo

Author's Declaration

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

I understand that my thesis may be made electronically available to the public.

Abstract

This thesis includes four research papers, each devoted to a topic in philosophy of cognitive disability and its intersection with other areas of philosophy. Three focus on issues of cognitive or developmental disability and epistemic injustice, drawing from theories by Miranda Fricker, Rebecca Mason, and Josè Medina. The fourth argues that attention to people with communication disability has important implications for our understanding of human rights. Specifically, distinguishing one's right to communicate from one's right to freedom of expression. Lessons are drawn along the way for our understanding of philosophically difficult concepts like identity, decision making, social capital, inclusion, and ignorance. Throughout, the philosophical approach involves attending to the lived experience of people with communication, cognitive, or developmental disability as a way to test the suitability of philosophical theories developed with other people in mind, and as such can be described as a project in Applied Philosophy.

Acknowledgements

I am grateful for my supervisor, Dr. David DeVidi, whose support has been an ideal mixture of challenge, encouragement, and wit. I have benefited greatly from his philosophical expertise and professional wisdom. I am also thankful that he introduced me to members of Facilitation Wellington Dufferin and Bridges Over Barriers, two groups whose exceptional work in the community has been (and continues to be) immensely instructive for me.

My sincere thanks and appreciation are owed to Dr. Shannon Dea, and Dr. Tim Kenyon for their insightful feedback and thoughtful engagement with my work. Each offered perspectives and expertise that were invaluable to the success of my project. I feel fortunate to have had Dr. Ellen MacEachen and Dr. Jerome Bickenbach on my examination committee, and I am grateful to have had the opportunity to benefit from their respective areas of expertise. I would also like to express my thanks to Dr. Miranda Fricker, for her feedback on some of the ideas featured in this project.

Thank you to my fellow philosophy students, who provided philosophical discussions and lunch room banter of the highest quality. And thank you to Angela and Tawnessa, for their exceptional administrative support and inexhaustible kindness.

I would also like to express my gratitude for the financial support I received from the Social Science and Humanities Research Council (SSHRC), Mitacs, the University of Waterloo, and the Philosophy Department.

And finally, thank you to my family and friends for their encouragement through the many years of this project.

Dedication

To Paul, the giver of countless pep talks, the master of comma use, and my ever-patient sounding board.

Table of Contents

1	Introduction	1
2	Epistemic Asymmetry and Group Support: Expanding Fricker’s Trustful Conversations	7
2.1	Introduction	7
2.2	Overview	10
2.2.1	A Look at Fricker	10
2.2.2	A Look at Williams	11
2.2.3	Where the Two Meet	16
2.3	Indications of a Problem	18
2.3.1	Exclusion from what?	18
2.3.2	Hidden Barriers	21
2.4	What did Williams really say? Fixing Fricker’s characterization	24
2.5	Carrying it through	27
2.6	Conclusion	33
3	Segregation and Hermeneutical Injustice: Another step away from institutionalization	36
3.1	Introduction	36
3.2	Setting the Stage	38
3.2.1	The Rise of Institutions	38

3.2.2	The End of an Era	40
3.2.3	Ongoing Separation	42
3.2.4	Fears of Re-institutionalization	44
3.3	Lack of Social Integration as Friction	45
3.3.1	Friction in a Post-Institutional Era	49
3.4	Hermeneutical Injustice	51
3.4.1	According to Fricker	52
3.4.2	According to Mason	55
3.4.3	Complementary Ideas	58
3.5	Hermeneutical Injustice and Hermeneutical Friction	60
3.5.1	According to Mason	61
3.5.2	According to Fricker	62
3.6	Hermeneutical Friction	63
3.7	What Can We Do?	66
3.8	Conclusion	67
4	Communication as a Supportive Right	69
4.1	Introduction	69
4.2	An Overview	72
4.3	What Does This Right Entail?	76
4.3.1	Procedural Rights in Legal Proceedings	77
4.3.2	Procedural Rights and Communication	78
4.3.3	What Kind of Right?	79
4.4	What Duties?	82
4.5	On the Ground	86
4.5.1	Original Intent for Lundy’s Concepts	87
4.6	Next Steps	93
4.6.1	Method (Voice)	93

4.6.2	Interpretation (Voice)	94
4.6.3	Trajectory of Development (Space/Audience)	95
4.6.4	Uptake (Influence)	97
4.7	Residual Concerns	98
4.8	Conclusion	101
5	Filling Out Medina’s Cognitive Minimums: Role Sensitivity and Prox-	
	imity to Information	103
5.1	Introduction	103
5.2	Summary of Medina	106
5.3	Using Medina’s Ideas	114
5.4	A Case Study: The Canadian Down Syndrome Society Campaign	118
5.4.1	“Endangered Syndrome”	118
5.5	Medina Case?	124
5.6	Who is to Blame?	126
5.6.1	First Lesson: The Role of the Subject	128
5.7	A Second Misstep?	129
5.7.1	Species Hierarchy	130
5.7.2	Second Lesson: The Subject’s Proximity to Information	133
5.8	In the Meantime	138
5.9	Conclusion	140
6	Concluding Remarks and Open Questions	142
	Bibliography	146

Chapter 1

Introduction

Each of the four chapters of my dissertation is strongly united by theme, and exemplifies a common philosophical approach. However, each is intended to be a standalone argument, self-contained, and in a format sometimes referred to as a “sandwich thesis.”

Thematically, each chapter addresses issues of epistemic injustice in connection with the lived experiences of agents who are atypical in certain ways, *i.e.*, those considered to have communication, cognitive, or developmental disability. Each of the chapters involves an in-depth interaction with different important aspects of the theories of epistemic injustice developed by Miranda Fricker (2007), Rebecca Mason (2011), and José Medina (2013), while also complementing these theories, where appropriate, with concepts from other research literatures (*e.g.*, segregation, speech language pathology).

The unifying approach might be described by saying the chapters are all exercises in Applied Philosophy, provided that phrase is properly understood. Each chapter focuses on philosophical issues and challenges involved in treating atypical agents as *knowers* and *sharers of that knowledge*. I use the theories of epistemic injustice already in the literature as a starting point to gain more nuanced understanding of issues facing citizens with communication, cognitive, or developmental disability and, by doing so, reveal new avenues for redress. Conversely, though, by bringing philosophical theories to bear on practical issues that confront a disadvantaged group other than the ones the authors of the original theories had in the fronts of their minds as they wrote — issues such as exclusion, securing means to communicate, and public representation — I am also able to provide lessons that motivate and inform changes to the theories themselves. Paying close attention to how theories of epistemic injustice fail to include the “facts on the ground” experiences of agents with communication, cognitive, or developmental disability, ultimately requires

modification of theories to properly encompass the diversity of real-life knowers. This two-way interaction between theory and practice is found in each chapter.

In the first chapter I argue that an aspect of Miranda Fricker’s theory of Epistemic Injustice, what Fricker calls *testimonial injustice*, implicitly requires agents to perform exceedingly abstract and complex thinking privately in order to participate in what Fricker calls “trustful conversations” (Fricker, 2007, 52). Such conversations cover topics Fricker flags as essential to one’s identity (sexual, religious, political, and ethnic group affiliation), and taking part in the conversations contributes to forming one’s identity in some way (52). The presumption of high intellectual capacity unwittingly excludes agents with cognitive or developmental disability — agents who have a unique need to distribute or externalize aspects of trustful conversations — from qualifying as agents who can suffer this injustice: they cannot be unjustly excluded from trustful conversations because they are not able to participate in them. After identifying this issue, I offer a remedy that widens the understanding of “trustful conversations,” allowing notions like deliberation and decision-making to be multi-agent affairs, and that includes supported decision-making about a more diverse range of topics than Fricker initially proposes.

In the second chapter I argue for a more nuanced understanding of the present-day social isolation of people with cognitive or developmental disability, using Ontario’s institutional past to frame the severity of this issue. Although I do not argue that people with cognitive or developmental disability are in fact *segregated*, I do use the notion of “friction,” drawn from the segregation literature, as an explanatory tool to better explain the present-day circumstances (Lloyd et al., 2014). I enhance the notion of friction by coupling it with Elizabeth Anderson’s concepts of social and cultural capital, arguing that one’s lack of capital in Anderson’s sense generates social friction and effectively keeps people with cognitive or developmental disability separate from other community members (Anderson, 2010).

I further develop the notion of friction by arguing that there is friction of a distinctly epistemic sort — to which I give the rather obvious name *hermeneutical friction* — caused by hermeneutical injustice (Fricker, 2007; Mason, 2011). I argue that people with cognitive or developmental disability suffer hermeneutical injustice, which gives rise to hermeneutical friction. Identifying these sources of friction allows us to better understand the causes of social barriers that prevent inclusion of citizens with cognitive or developmental disability, and to identify new and productive avenues for helping people to create better lives for themselves — we can do so by seeking to ameliorate hermeneutical injustice.

In the third chapter I address what seems to me a more foundational issue than those that currently dominate discussions of arguments of epistemic injustice. In particular, I add

both theoretical and practical clarification to what it means for a citizen to have “the right to communicate.” Although that right is enunciated in the United Nations Convention on the Rights of Persons with Disabilities, it is by no means obvious what the nature of this right is, and what it amounts to in the lives of people, especially those with communication, cognitive, or developmental disability (United Nations, 2006). I argue that this right is distinct from one’s right to “free expression,” and is best understood as a “supportive right,” *i.e.*, a right that must be secured if one is to be in a position to secure other fundamental rights (Nickel, 2008).

Not only does this distinction isolate the right to communicate as a genuine right distinct from others with which it might be confused, it makes clearer how this right generates positive claims on the state. I then draw from the research literature of Speech Language Pathologists, those on the front lines of helping people secure this right, to investigate what it would mean for an individual to be successful in securing this right (McCormack et al., 2018). Using a framework offered in this literature as a starting point (Lundy, 2007), I find the existing formulation problematic in various respects, and modify it to propose a context-sensitive framework for evaluating when (and to what degree) someone has secured their right to communicate, consisting of four diagnostic criteria.

In the fourth chapter, I consider José Medina’s account of the relationship between epistemic injustice and the question of when an agent’s ignorance is morally exculpatory and when, instead, they ought to be blamed for their ignorance (Medina, 2013). Medina insists, I think rightly, that the answers to such questions will be highly sensitive to features of the context in which the action takes place, making it difficult to offer general rules. Nevertheless, he offers suggestions about how we can tell whether an agent has “done the least that can be expected” to know what they ought to have known, and concludes that, if not, ignorance is blameworthy.

Alas, these general rules of thumb will typically not be enough to make his theory one that generates answers in real life situations. Rather than criticizing Medina’s theory, I accept it as a starting point and instead offer what might be considered an elaboration, a clarification, or a friendly amendment. (I remain agnostic about which term applies in order to avoid needing to make a lengthy chapter longer by adding an extended, and I suspect ultimately not very interesting, exegetical discussion of the fine details of how my proposal fits together with Medina’s.) I draw attention to two variables that can be added to his view, and suggest that attending to them allows us to use the supplemented theory to evaluate a wide range of cases. Specifically, I argue that the subject’s *role* in a particular circumstance, and their *proximity* to information, ought to be considered when evaluating a case of potential culpable ignorance. I use a case study to demonstrate the nature and importance of these variables: the 2018 campaign created by the Canadian Down Syndrome

Society (CDSS), which was met with accusations that it effectively dehumanized people with Down syndrome (Canadian Down Syndrome Society, 2018d; Perry, 2018; Brown, 2018). The variable of *role* helps explain why board of the directors of the CDSS ought to have known better than to release such a campaign, and so are blameworthy for their ignorance. On the other hand, my proposed variable of *proximity* helps explain why we should withhold blame from some of those who objected to the campaign in what I take to be a morally problematic way.

Comment on Terminology

Before proceeding into the arguments themselves, it is important that I make a brief comment on terminology. Throughout the dissertation I will be using what has been called the “person-first” way of speaking about disability. That is, instead of “disabled person” I will use some form of “person with a disability.” I recognize that both sorts of terms are fraught, and each carries strong and perhaps problematic connotations to different readers. The major motivation for my decision to use person-first terminology comes from my relationship with disability communities who prefer this language. I am also using person first-language as it is the predominant terminology of the literature which has informed this project.

With respect to how I define the term ‘disability’, my philosophical commitments are most similar to those articulated by Tom Shakespeare. Of course, we differ in our choice of language — Shakespeare does not use person-first language — but his theorizing about what disability *is*, closely resembles my own commitments. Shakespeare’s approach to defining disability begins with the UK Social Model,¹ but has evolved toward generating an account of disability that is “bio-psycho-social” (Shakespeare, 2004). By way of introduction to his account, Shakespeare stresses how the ascendancy of the UK Social Model has been immensely beneficial for political progress, having shifted the focus from the individual to society as the source of disability. However, he argues that it leaves out important aspects of people’s lived experience that cannot be explained by social sources (*i.e.*, bio-psycho), and that the division between the categories of impairment and disability is not as strict as the Social Model claims. I agree with Shakespeare in that while the

¹The UK version of the Social Model, according to Shakespeare, redefined disability *as* oppression. Shakespeare argues that this redefinition makes the UK Social Model distinct from other socio-political approaches to disability, such as the North American version which he sees as using a minority group approach (Shakespeare, 2010). This seems to amount to the difference between claiming that disability *is* oppression (UK), instead of the term disability being used to identify a minority group that *is oppressed* (North America). I will not go into further detail regarding the points of similarity and contrast, since Shakespeare’s views evolve beyond the UK Social Model in significant ways.

Social Model has been (and in many ways continues to be) beneficial for political reasons, it omits important aspects of people’s lived-experience.

An aspect of Shakespeare’s view that I agree with, and that is particularly relevant to the forthcoming arguments, is that he acknowledges “the relation of the individual to the structural, and the biological to the social” (Shakespeare, 2004, 19). I agree that there is a need to analyze the role that social values play in biology as well as in social structures. Yet, I stop short of claiming — as others have — that “the impairment was the disability all along” (Maybee, 2017, 309–310), meaning, the impairment was the social construction causing disablement, the result of social values disguised as biological facts.² By resisting this conclusion I maintain that there are aspects of one’s experience of disability that are biological and psychological in nature, in addition to the social barriers that come in the form of discrimination and inaccessible environments. However, maintaining that there are features of disability that are biological and psychological, it does not nullify social responsibility to alleviate these aspects. I agree with David Wasserman here, who states that

...it would be preferable to reject the false dichotomy between biology and society as *the cause* of disability and to break the link between causation and responsibility—to hold society responsible for the alleviation of disadvantages, whether it can be said to have caused it or not. (Wasserman, 2001, 229)

Furthermore, throughout this project I will predominantly focus on the treatment of people with intellectual, developmental, and learning disability. I use the term “cognitive or developmental disability” as an umbrella term to include a range of disabilities. Other commonly used terms, such as intellectual disability or developmental disability alone, would be too limiting. Either of these terms on their own would be unsuitable to describe groups that include, for example, someone who has a developmental disability but typical intellectual abilities (*e.g.*, Autism Spectrum Disorder), as well as someone who has an intellectual disability without developmental aspects (*e.g.*, acquired brain injury). When I wish to be more specific I will use the most fitting term (*e.g.*, communication disability), but wherever appropriate, I will use this more general term to include a wider range of people.

One may also notice that I use the term “disability” most often as a mass noun, rather than a count noun, as in “someone with cognitive or developmental disability.” I do so for two reasons. First, it seems to have the best fit with my background commitments of what

²I go into more depth regarding my reasons for not accepting this position and those similar elsewhere. See DeVidi and Klausen 2017 for that discussion.

disability is, that it is bio-psycho-social. In attempts to best represent the combination of sources of disablement, I speak of disability as the cumulative effect on one's life from all sources as one experiences it. Of course it is important to also be able to identify the individual conditions that one may have that contribute to that overall disablement, as many people live with multiple diagnoses and experience specific barriers. However, as we speak about "a person of virtue" while not forfeiting our ability to talk about their individual virtues (*e.g.*, courage) so too I refer to individuals who have cognitive or developmental disability, but may specifically identify constituent parts of that experience by talking about particular disabilities (*e.g.*, Down syndrome).

The second reason I opt for this language is that it is the predominant terminology in the literature that I have drawn from (*e.g.*, [Bigby et al., 2018](#); [Chowdhury and Benson, 2011](#); [Schalock, 2011](#)). Although no explicit reasoning was given by those authors for this language, the prevalence of its use in the relevant literature, combined with my own background commitments as outlined above, have led to my adoption of the language in this work.

My sincere hope is that even in light of diverse perspectives on terminology and definitions — as I am sure my readers will have — each chapter will offer well-supported conclusions regardless of differences in background commitments. Furthermore, I hope that as the arguments are presented, my reasons for approaching this project as an exercise in Applied Philosophy will become obvious. Real life social issues provide a challenge when brought to bear on our theories, but when this challenge is met with the right methodology and rigour, it is fruitful both for practical output, and more accurate theorizing.

Chapter 2

Epistemic Asymmetry and Group Support: Expanding Fricker's Trustful Conversations

2.1 Introduction

Imagine the daily life of an adult, whose opinions and preferences were not deemed authoritative or, often, even relevant. What this person wore, ate, the time they went to bed and rose, and social activities — were all decided by authority figures, although the individual was supposedly a free person. Imagine further, that those in authority who made decisions for the individual did not include them in discussions, nor did they engage them in any dialogue regarding opportunities, seldom or never inquiring about the person's desires and plans. Not only were the person's expressed preferences dismissed, but the opportunity for the individual to engage in a process of arriving at any informed opinions about smaller and larger issues was entirely overlooked. When the individual had political questions and concerns, no one considered them a credible conversational partner to engage with. When the individual did attempt to voice their thoughts regarding social issues, and the effect the issues had on them personally, they were met with incredulity and silence.

Miranda Fricker, in *Epistemic Injustice: Power & the Ethics of Knowing* (2007) asks her readers to imagine that the individual in this scenario is a woman, or a person of colour — so that immediately intuitions of injustice become more salient. In her book, Fricker offers a framework to make sense of what, precisely, goes wrong when someone is treated this way. She presents a theory in which she identifies the sources and nature of the harms

one suffers, harm caused when one is dismissed as an epistemic agent worth interacting with, and labels such wrongs as “testimonial injustice.”

But the scenario described above is actually drawn specifically from the experiences of adults with cognitive or developmental disability. Indeed, this situation is a reality that occurs when one lives at home with a paid carer, in a group home setting, and even in a family setting (Arstein-Kerslake and Flynn, 2017, 28–30). Even though the same dismissive treatment takes place, treatment we find intuitively unjust, Fricker’s theory no longer applies as she formulates it. This is because, on Fricker’s view, individuals with cognitive or developmental disability are not even within the class of agents that qualify as suffering this particular sort of injustice. As I will argue below, due to the details of how Fricker explicates her theory, agents with cognitive or developmental disability fail to qualify as possible participants in crucial epistemic activities. Nevertheless, the intuition that an injustice is indeed taking place remains.

This is not just my own intuition. The Human Rights Convention on the Rights of Persons with Disabilities (CRPD), states in Article 12.2 that: “States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.” A primary motivation for this entry is to respond to the persistent lack of accommodation or acceptance of diverse methods of cognitive functioning and communication in public spaces, such as courtrooms, but also in residential settings (Arstein-Kerslake and Flynn, 2017, 22). This lack of accommodation and recognition negatively impacts people’s opportunity to voice their concerns, and make their own decisions.¹ Even in such a general statement as one found in documents from a Human Rights Convention, we see that an individual’s legal capacity should be recognized “on an equal basis with others” (Devi, 2013; Arstein-Kerslake and Flynn, 2017; Minkowitz, 2007). Although the CRPD is a legal document (once ratified), considering the moral language it contains, I think we can take such a ratified list to represent broad social recognition of what kind of moral stance we hope gains traction in society. This strikes me as — at least — assuming the importance of treating a person as credibly knowing their own life in general, and aspects of their legal situation in particular.² Article 12 outlines a concern for agents with cognitive or developmental disability in a way that Fricker’s theory, as it stands, cannot. But it would seem that Fricker would also want such an occurrence to register on her theory as

¹“Article 12 – Equal recognition before the law,” opened for signature March 30, 2007, *United Nations Convention on the Rights of Persons with Disabilities*, ([United Nations Convention on the Rights of Persons with Disabilities \(UNCRPD\)](#), [Opened for signature March 30, 2007](#))

²It is important to note that many issues of self-determination can become legal issues for people with cognitive or developmental disability, because legal avenues can quickly become the only avenues of redress given situations of dependency and domination. See [Arstein-Kerslake and Flynn, 2017](#) for further discussion.

being unjust, since there is a distinctly epistemic harm that occurs when the credibility of an agent is dismissed out of hand. It is harm that *is* not, but *ought to be*, encompassed by Fricker's theory of epistemic injustice.

In what follows I will focus on one aspect of Fricker's larger theory as presented in *Epistemic Injustice*, one that directly pertains to the scenario presented above: access to respectful dialogue with those one trusts to explore and arrive at beliefs, opinions, and plans. I will argue that Fricker's definition of an activity she calls 'mind steadying' implies a prohibitively high cognitive standard, leaving those with cognitive or developmental disability not even counting as capable of qualifying as suitable participants. However, I will also offer a solution, a friendly amendment to Fricker's view. I will do so by clarifying features that are obscured when she borrows a concept from Bernard Williams's work, *Of Truth and Truthfulness: An Essay in Genealogy* (2002). The lack of detail, I will show, is responsible for implying an inflated cognitive standard for agents to participate in mind steadying conversations. By incorporating more detail, that is, including pertinent aspects Fricker omits from Williams's idea, I will offer a resolution to the issue of exclusion. Ultimately, however, I will show that this solution opens up the topic to a much richer conversation about the different configurations dialogue can take when we carefully consider both cognitively typical and atypical agents (*i.e.*, agents with cognitive or developmental disability).

In the first section I will offer a brief overview of the two pieces of work that are central to my thesis: Fricker's *Epistemic Injustice* and Williams's *Of Truth and Truthfulness*. This will provide the necessary background for my specific concern. With this established, I will highlight how Fricker uses one of Williams's concepts, namely, mind steadying. In the second section I will draw out the ramifications of how she uses Williams's idea, specifically, the way it prevents her theory from including agents with cognitive or developmental disability. In the third section I will move toward a solution by revisiting Williams's own words, pointing out how Fricker's brevity leads her to stray from his original intent. I will argue that a simple filling out of Fricker's use of Williams's idea can avoid the problematic exclusionary consequences of Fricker's view. Finally, in the fourth section, I will show that resolving this issue is only the beginning of more fruitful work in this area. I will highlight the new points for investigation that are a direct result of this present inquiry and make a proposal of the different configurations that conversations can take and the depth they add to Fricker's larger theory.

2.2 Overview

2.2.1 A Look at Fricker

In order to clearly situate my specific concern with Fricker’s account, it is useful to consider the broader purview of her book. Fricker refers to the collection of ongoing interactions, the conversations that all citizens engage in, as the “credibility economy” (Fricker, 2007, 30). By using the term ‘economy’ she seems to want readers to view the amount of credibility that is attributed to an interlocutor and what they say as analogous to financial wealth, and to draw attention to the opportunity and social power it affords someone. Fricker looks closely at what occurs when a hearer needs to make instantaneous credibility judgments regarding any speaker they have an interaction with. She offers a fine-grained account of the main ways these judgments can go insidiously wrong, and the distinct harm it causes people.

In Fricker’s discussion of what, in particular, can go wrong in these interactions she focuses on the impact of what she refers to as “negative identity prejudice” (Fricker, 2007, 34). She acknowledges that heuristics are a necessary epistemic tool, and so uses the term “stereotype” in a neutral way. She claims that stereotypes are neutral when understood as “widely held associations between a given social group and one or more attributes” (34). However, she highlights that the heuristics people use when listening to others, and in particular to judge the credibility of their interlocutor, are morally problematic when they contain “prejudices with a negative valence held against people” (35). When a listener thinks their interlocutor falls within a group negative about which they hold negative identity prejudices against, these prejudices may lead the listener to wrongfully mistrust the speaker, and effectively dismiss the speaker’s testimony (37). When this happens, Fricker labels the dismissal as a *testimonial injustice* inflicted upon the speaker (20).³

Fricker identifies something significantly harmful that transpires when a person is denied participation in conversations as an equal. She uses the example of Tom Robinson, from Harper Lee’s *To Kill a Mockingbird*, as a paradigm case of what she calls testimonial injustice: Lee uses the situation of Tom Robinson, a black man who is fraudulently accused of sexual violence toward a white woman, to draw to the surface the role of racism in how testimonies are perceived and deemed credible (or not). Lee presents Robinson’s case in a way that exposes the systemic racism that leads to the flagrantly dishonest testimony of a white woman being sufficient to condemn Robinson. The negative identity prejudices

³Readers familiar with Fricker will know that she has an entire second category of epistemic injustice, which she calls “hermeneutical injustice.” Although important, it is not the focus of the present work.

operating in society, and recapitulated in the courtroom, result in Robinson’s testimony being dismissed, and he experiences (among other things) epistemic harm; he is harmed in his capacity as a knower. This kind of interaction exemplifies how Fricker’s larger story of epistemic injustice is instantiated within specific interactions: prejudiced social structures inflict particular forms of harm on people as they are consistently overlooked, dismissed, and excluded as credible epistemic agents.

Fricker then uses the example of Robinson to draw a finer point about the nature of the harm that testimonial injustice causes individuals. She argues that there are two distinct kinds of harm inflicted upon epistemic agents when they are dismissed as unreliable simply because of the hearer’s prejudice against the speaker’s (perceived or actual) social group. An agent suffers *secondary harm* when testimonial injustice causes “follow-on disadvantages” in epistemic and practical dimensions (Fricker, 2007, 46). It may prevent an individual from developing, or being acknowledged for, particular skills, ultimately impeding their career opportunities (46). For instance, if the members of management in a workplace hold a negative identity prejudice against a particular social group, someone considered a member of the unfavoured group is perceived as one who lacks the cognitive aptitude to learn new skills, and so be continually overlooked for growth opportunities, subsequently weakening their bid for promotions. Secondary harms are identified by their detrimental outcomes for the agent in practical terms: damages or hindrances to economic and intellectual development (46).

The *primary harm* of testimonial injustice, however, has, Fricker says, a much more profound impact on the agent. Primary harm occurs when an agent is harmed in a capacity that is essential to their humanity, their capacity as a knower. Rationality takes a central role in Fricker’s understanding of humanity, and so on her view to be an agent who gives and receives knowledge is central to our humanity, and to be harmed in this capacity has deep ramifications (Fricker, 2007, 44). When elaborating what a *primary harm* includes, Fricker pulls in the ideas of Bernard Williams.

2.2.2 A Look at Williams

In *Of Truth and Truthfulness*, chapter eight in particular, Williams is concerned with sincerity, especially with how an agent’s sincerity relates to truth telling. Hence, Williams focuses a great deal on the important role that social interactions play for individual agents. In chapter eight, Williams focuses on how it is that even though individuals are often

peppered with idiosyncrasies, we need to cooperate with others as truth telling agents.⁴ Williams discusses the ways conversations with others play an integral role in an agent's sincerity, and ultimately, truth telling; he explains how interlocutors are directly impacted by participating in dialogue with others. It is these aspects of Williams's work from which Fricker draws for her own.

Williams approaches these issues via an in-depth discussion of different concepts of self and how they relate to notions of sincerity. Specifically, Williams considers whether or not the notion of self is something constant and available to be reflected upon whenever desired, enabling one to tell the truth about themselves. Rousseau's *Confessions* provides just such an account of the self (Williams, 2002, 173). To be sincere, on Rousseau's view, one must offer their interlocutor an honest statement, a product of their self-reflection. Williams highlights the limitations of this view, mainly the unrealistic supposition that there is a static and accessible self on which one can reflect. Williams also notes that many scholars have critiqued Rousseau for including instances best described as "a touching moment of self-deception" (173). For while asserting the reliability of his own constant self, and his ability to reflect and sincerely communicate that self-reflection to others, Rousseau's own work unwittingly documents self-deception and patterns of self-misunderstanding for his readers to discover (177–182).

It does not appear as though Williams entirely dismisses the belief in a stable self like the one that undergirds and motivates Rousseau's project. However, given that Rousseau himself demonstrates that such stringent standards of sincerity are unrealistic, Williams introduces an alternative example of how a self might be, this one he borrows from Denis Diderot. Using Diderot, Williams offers an example taken from the opposite end of the range of stability. Where Rousseau's view marks a stringent and constant pole, Diderot's marks the other more flexible and spontaneous way a self might be. One point Williams makes with these disparate examples, is how differing notions of self bring with them different notions of sincerity, thus relating to Williams's focus on truth telling.

The more flexible alternative is taken from Diderot's work *Rameau's Nephew*, a dialogue between the narrator, "Moi," and "Lui" (Williams, 2002, 186). The alternative view of self comes in the character of Lui, who is portrayed in the dialogue as a spontaneous, even flighty, individual. Yet, although Lui's inconsistency is highlighted, he is also described as being "true to himself" and "conspicuously not self-deceived," and hence decidedly sincere (189). Williams sees the character Lui as one who reveals a great deal of truth about

⁴Williams draws on the history of the Social Contract for the kind of cooperation he has in mind, and how important social cooperation is. For more on this, see chapter 3 in *Of Truth and Truthfulness* (Williams, 2002).

himself, and someone who “offers an exceptionally clear example of sincerity in its basic form of uninhibited expression or enactment, rather than in a form of reporting the findings of self-examination,” *i.e.*, in Lui we see a legitimate form of sincerity, although one quite different from what Rousseau would demand (Williams, 2002, 189).

Using Diderot’s depiction of Lui, we can see the stark contrast to Rousseau’s consistent self. A self, according to Rousseau, is constant and readily accessible to self-reflection, but Williams describes Lui’s self as “something constantly shifting and reacting and altering; as a swarm of bees; as a clavichord or harp or other instrument, with the wind or some such force playing on it” (Williams, 2002, 190). Having described these divergent notions of self, Williams avoids committing to either, and instead strives to develop a notion of sincerity is compatible with both extremes, as well as the range of cases falling in between. Rather than restricting the notion of sincere utterances to be only the product of reflection on a constant self, uninhibited expression of a variable self ought to be likewise seen as sincere.

Williams does not reject the value, nor the possibility, of sincerity produced by self-reflection as Rousseau demands. But he also carves out conceptual space to include the common idiosyncrasies and lack of “steadiness” many people have. Williams enlarges the boundaries of self to encapsulate both extremes, so that people who have much more in common with Lui than they do Rousseau still have the potential to be considered sincere (Williams, 2002, 190). An individual can sincerely communicate their present self to an interlocutor, while also retaining freedom to change their mind, without thereby sacrificing or undermining the claim to sincerity of their first statement. Williams states that changing one’s mind ought not to be perceived as “systematic misreporting of his states, but rather [. . . an] improvisation of another short-lived personality”; since one’s self will change, so too the states one sincerely reports having will change (189). Hence, Williams establishes room for an individual to be inconsistent without them automatically forfeiting their claim to being considered sincere.

He views this as especially important because he thinks that individuals who are less “integrated,” that is, inconsistent to a degree that Lui is, still ought to be considered potentially sincere and legitimate cooperators within society.⁵ Williams acknowledges the possible tension that arises when we consider how inconsistent people, like Lui, will meet the requirements to qualify for membership in a society that requires cooperation. As an

⁵It is crucial to note that Williams still intends to maintain a requirement that makes the notion of sincerity retain its crucial purpose; his broader category of sincerity is not intended to remove all standards. He states that “our declarations do need to be patterned in some ways rather than others if they are to count as declarations of *any* sort of belief or opinion” (Williams, 2002, 190; emphasis in original).

answer, Williams addresses the question of what it means to be “steady,” given a conception of self that can include someone like Lui in *Rameau’s Nephew*.

This means that the declaration at a given instant of self can be only a declaration of self at that instant. As Rameau, Lui, reminds us, feelings, needs, passions, identifications actually come and go: in some people less than in others, and in most people less than in him. Those people are, as one might say, steadier. But what is it to be steadier? How is it brought about, and what are its workings? (Williams, 2002, 190)

Drawing once again from Diderot, Williams states that,

On Diderot’s view, as I understand him, it is a universal truth, not just a special feature of modernity, that human beings have an inconstant mental constitution that needs to be steadied by society and interaction with other people. (Williams, 2002, 190)

We see that Williams is aiming to present a view that can hold both the importance of sincerity *and* the flexibility of self, as described by Rousseau and Diderot. With this in mind, he introduces the idea that is the focus of this present work: his idea of mind steadying. He proposes that individuals can increase their internal quality of “steadiness,” or their degree of integration, through ongoing dialogue with people they trust. Through conversation, an individual can receive the support needed to sort through the many different mental states they have.

According to Williams, one main way steadying occurs is when dialogue with a trusted conversational partner solidifies the differentiation of “mere wishes” from “wishes,” and those wishes that remain as wishes, from those that develop into “desires.” These three categories convey the rough taxonomy Williams uses to address what gets sorted in these conversations, and by sorting, causes an agent become steadier. Williams identifies a mere wish as that which is impossible for the agent to achieve, such as when a financially strapped student dreams of lavish vacations (Williams, 2002, 195). This is not to say that it is logically impossible, as perhaps criminal activity could give the student financial means for attaining their wish, but that “one knows that one cannot possibly bring about or affect a certain thing” and it is outside of what is practically possible for the agent (195). Wishes, in contrast with *mere* wishes, are states that are practically possible for the agent to achieve, and can become fully-fledged desires through the course of deliberation. Desires are states that have the potential to be “satisfied by the actions that will flow from the

deliberation,” since the conversation regarding ones desires can lead to plans and action (Williams, 2002, 196). A brief camping trip, for instance, may become the actionable desire for the student.

During a conversation with a trusted interlocutor, an agent may have wishes that are revealed through deliberation to be *mere* wishes, and other wishes that are solidified to become fully-fledged desires. Likewise, some desires that an agent deliberates upon may be exposed as unsuitable candidates for satisfaction, but are not dismissed as impossible, and so become wishes. Perhaps the camping trip will have to remain a wish until the student saves money to buy the necessary equipment — not impossible, but not actionable just yet. According to Williams, individuals enter into these dialogues with people they trust. Participants come in with varying levels of personal integration, or steadiness, of their own minds and it is by the conversational process of sifting between mere wishes, wishes, and desires, that the dialogue can help an individual develop their capacity to be sincere. One kind of evidence that an individual is experiencing an increased degree of steadiness is that they will not allow mere wishes to slip through as desires in their conversation. Our student no longer speaks of buying a yacht and taking a year off to circle the globe as an actual plan, this being evidence that they have become steadier in the relevant sense.

Williams states that when we realize that “we are all together in the social activity of mutually stabilizing our declarations and moods and impulses into becoming such things as beliefs and relatively steady attitudes,” we recognize that the decisions we make, the different affiliations we forge, develop who we are (Williams, 2002, 193). Hence, the impact of these conversations is not only that individuals become more personally integrated, but also that their “selves” are actually being formed in this process. Participating in these kinds of conversations guide us toward beliefs, decisions, and actions that are socially cooperative. Moreover, our continually steadying minds are shaped toward roles conducive to social cooperation and large-scale organization such as affiliation with social groups.

Ultimately, Williams identifies these small developments of sincerity as contributing to the efficacy of social cooperation and patterns of social affiliation more broadly. He draws connections between the identity of self that one has as an individual, and the identity that is essentially shared: a group identity (Williams, 2002, 201). He gives the examples of one’s ethnic, religious, political, and sexual identity as noteworthy categories of shared identity (201). As an agent engages in dialogue with someone they trust about their degree of affiliation with a social group, their interlocutor helps their mind to become steadier, effectively leading an agent to increase or diminish their affiliation with different social groups, thus shaping one’s group identity.⁶

⁶Williams has much more to say on the topic of group identity and what, more precisely, it means for

2.2.3 Where the Two Meet

Fricker uses Williams's ideas to do important work in her project of explicating the notion of epistemic injustice. In particular, Williams's notion of mind steadying plays a crucial explanatory role in her account of the primary harms caused by testimonial injustice. She claims that Williams's idea reveals that "the experience of being epistemically undermined might have a more profound significance for the subject's psychology than we have so far countenanced" (Fricker, 2007, 51). Up to that point in her discussion, the harms she identified as being caused by testimonial injustice had been practical (in the case of secondary harms), or somewhat unquantifiable but serious (primary harms). By incorporating Williams's idea, Fricker connects the primary harm of testimonial injustice with damage done to an individual's identity.

Fricker cites Williams as she describes the activity in which individuals engage in conversations with trusted interlocutors. She states that,

...[it is a] process by which wishes come to be sorted into one or another category (not a deliberative activity on the part of the subject, needless to say, but rather a process in the subject's psychology) Williams calls 'steadying the mind.' (Fricker, 2007, 52)

As individuals share beliefs, ideas, and plans with a trusted conversational partner, they actually become more steadied in those very beliefs and decisions. Fricker calls these kinds of conversations *trustful conversations*. According to Fricker, trustful conversations are the required environment in which Williams's notion of mind steadying occurs. Fricker claims it is the reciprocal value placed upon the relationship that creates a setting where agents are motivated to be reliable in increasing degrees. Moreover,

This creates pressure for me to avoid fantasy in my thinking (most specifically to avoid desires slipping through as beliefs to produce wishful thinking), and to tell her something I believe to be true, thus contributing to the steadying of my mind. We might say, then, that trustful conversation with others is the basic mechanism by which the mind steadies itself. Such dialogue pressurizes the subject into having attitudes of belief towards only those propositions that merit it. (Fricker, 2007, 52)

someone to increase their affiliation. It would also seem that this may be a point of difference between Fricker and Williams, but not one that impacts my present argument, and so is better left outside the scope of this present work.

Already, by including Williams’s notion into her account, Fricker adds depth to her explanation of how being undermined as a knower is harmful. If an individual is excluded from trustful conversations due to the negative identity prejudice that others have against them, one is excluded from the opportunity to have their mind steadied in the way the activity facilitates. But this harm is not limited to one lacking the opportunity to have support to sort through wishes and desires; something much deeper occurs. Fricker draws a line from being excluded from trustful conversations, and the mind steadying which it facilitates, directly to one being excluded from activities crucial to the formation of their identity. By making this connection, it seems that Fricker is making implicit reference to Williams’s discussion of Rousseau and Diderot. Although she does not explicitly cite this part of Williams’s work or mention his discussion of self, a reader familiar with Williams’s ideas will spot the similarities and allusions to this section of his work in what Fricker says. For instance, Fricker claims that,

... not only our beliefs and desires but also our opinions and value commitments settle themselves through social dialogue into more or less stable states, so an important dimension of our identity thereby takes shape. (Fricker, 2007, 53)

It is not just any aspect of our identity Fricker has in mind here. Again, although she does not state it explicitly, she borrows from Williams the main categories of social membership that he considered to be most central to one’s identity. This list consists of racial, political, sexual, and religious group affiliation.

According to Fricker, as an individual engages in trustful conversations about topics pertaining to aspects of their identity (*i.e.*, the four categories listed above), their mind becomes steadier toward them and identity development takes place. For instance, if I were to discuss my tentatively held beliefs regarding my political choices with a trusted interlocutor, the pressurized environment would facilitate a change in my mind where my tentative beliefs can become fully-fledged, and even instigate decisions for action. These beliefs, plans, and actions can increase my affiliation with a particular social or political group, or, they can lead to me diminishing that affiliation. My identity is developed in either case. A trustful conversation held about one’s political affiliation is crucial to forming those essential parts of one’s identity, and similarly for conversations held on the other key areas, since such topics (racial, political, sexual, religious), tend to be “experienced by the individual as essential to who she or he really is” (Fricker, 2007, 53).

Fricker draws together the ideas of testimonial injustice, trustful conversations, and identity formation by offering an illustration. She asks her readers to “imagine a nineteenth century middle-class woman who entertains a keen but frustrated interest in political affairs” in a time and place where women were thought to be lacking the mental and

emotional fortitude for such involvement (Fricker, 2007, 54). When this woman expresses her beliefs and opinions to the men seated with her at the dinner table, she is met with a “blank wall of incredulity,” a clear dismissal both of what she said and disapproval of her apparent desire to engage in a discussion on that topic (54).

Fricker labels this interaction as an instance of testimonial injustice, and asks her readers: “Excluded from the trustful conversation of the only people apparently allowed to talk politics, is she not blocked from becoming, in some significant aspect, the person that she is?” (Fricker, 2007, 55) Fricker here is anticipating an emphatic “yes!” in response. It is wrong that this woman is excluded from a political conversation, and it is wrong in a profound, identity harming way. Thus, Fricker pulls together Williams’s ideas of mind steadying with her notion of testimonial injustice to reveal the profound harm incurred when one is unjustly dismissed as a credible knower.

2.3 Indications of a Problem

2.3.1 Exclusion from what?

A closer look at Fricker’s example of the politically keen (but frustrated) woman indicates an issue with how the account is set up. Here we have a woman who is denied the opportunity to “steady” her mind through dialogue with trusted interlocutors, and ultimately denied the opportunity develop her very self in the process. But what, precisely, is she being excluded from? Circling back to where Fricker briefly explains the kind of activity she takes mind steadying to be, she describes it as, “*not a deliberative activity on the part of the subject, needless to say, but rather a process in the subject’s psychology*” (Fricker, 2007, 52; emphasis added). Here, Fricker seems to be contrasting a deliberative process with a psychological one and choosing the latter. However, she does not elaborate for her readers as to what she takes each of these two categories to include, and what it means for mind steadying to occur psychologically in way that is free of deliberation.

So, I ask, what could be the most likely explanation Fricker might give for something to be a “process in the subjects psychology”? To start, I will presume that Fricker is not intending to resurrect false dividing lines between what is rational or logical, and what is considered psychological or emotional, and so there must be another distinguishing feature. Many psychological states occur when we engage in conversations with those we trust. For instance, the desire to appear reliable to others, and the sensitivity we have to the way others respond to what we say. This would also include the acute awareness we may have

toward the reactions we receive from our interlocutors through body language and so forth, and how we adjust our behaviour (even unintentionally) depending on what we perceive.

Other parts of a psychological process can include the weighing of options, taking account of new information in our own ideas, and thinking through what we say before we say it, for example. Although these are activities which take place in a subject's psychology, it leaves us to wonder how these particular psychological features occur without being considered deliberative, as Fricker states. Perhaps by *psychological* Fricker means that the process occurs in the background of one's mind, unintentionally. The unique pressure caused by the conversation results in a subconscious reshuffling of information, leading one to potentially shift support for beliefs, and while it is a psychological (read *unintentional*) process, it ultimately contributes to one's conscious thoughts about wishes and desires. In contrast, a *deliberative* activity is one an agent performs purposefully in their mind, intentionally thinking through each aspect of the steadying experience. This is, according to Fricker, not what happens in mind steadying. As a *psychological* activity, the agent has increasingly steadied utterances to share, but the process by which the agent arrives at them is not through targeted and careful thinking of the content, but a process outside of their conscious purview.

Although this seems to fit what Fricker says, it fits less well with our lived experience. Upon reflection, there are clearly times where a trustful conversation initiates a process that does include conscious deliberation in real time. Consider when our interlocutor offers us fresh insight, for instance. In light of that insight we re-evaluate our existing beliefs, we intentionally weigh options with a newly recognized outcome, and we critically engage with the content of our own ideas; in short, we deliberate. Not only does this strike me as true about the way we actually engage in these kinds of conversations, but it is also present in Fricker's own illustration.

Recall the woman who was so keenly interested in discussing politics. From the way Fricker tells it, for the woman to have a chance to discuss the views themselves is of key importance, and being denied the opportunity to do so is the main issue. It is not just any conversation she wishes to have, but one dedicated to a complex and nuanced topic. Imagine the conversation proceeded, the men granting her request for this particular trustful conversation. It is possible that the conversation initiated a process by which the woman did no further internal conscious deliberation of her political positions, rather, she benefitted from the psychological process occurring in the background of her thoughts, her mind being steadied without her focused attention. While possible, it seems that the central role of the content, the topic of politics, is likely to require internal deliberation on the woman's part. It is likely that she would consciously think through the contributions made by her interlocutors prior to offering her responses. To presume that people discuss

complex topics in such a way that the content itself is never purposefully deliberated in the minds of the speakers — and so be considered explicitly involved in the process of mind steadying — fails to capture the crucial role that epistemic content plays within Fricker’s account in this scenario, and in her view more broadly.

Given the broader scope of Fricker’s project, we know that the content of one’s view is a focal point. And as a focal point, these features ought to be acknowledged within the details of mind steadying. In order to keep what seems to be important to Fricker’s larger project, we can read her statement that mind steadying is, “not a deliberative activity on the part of the subject, needless to say,” as a slight misstep in her description (Fricker, 2007, 52). Surely, she intends engagement with the content of one’s ideas and conversation to feature centrally in the activity, as she makes that clear throughout the rest of her book. Perhaps what Fricker means to say is that the non-deliberative aspect is the underlying and defining quality of mind steadying, an activity than can, and often does, include conscious deliberation.

To consider the non-deliberative aspects of the process of mind steadying as the defining feature of the activity, we recognize it as what alters the quality of any internal deliberation that does occur. Conscious deliberation can occur in many different ways, but it only qualifies as mind steadying when the psychological features are present. The deliberation element is important, especially when considering the complex topics people cover in their trustful conversations, but it is neither necessary nor sufficient to mind steadying properly understood. One’s mind *can* be steadied entirely without conscious internal deliberation, and what’s more, any intentional deliberation that occurs is only part of mind steadying *because* the subconscious component is present. Unless internal deliberation occurs within the context of a trustful conversation, that is, distinguished by the psychological process, the experience of deliberation fails to qualify as part of mind steadying.

Using this interpretation, we can better describe the workings of a trustful conversation as Fricker sees it. It begins when interlocutors place reciprocal value on the relationship and want to appear reliable to one another. This creates a pressure that instigates a psychological process that tempers what we say and how we respond to our conversational partner. The distinguishing mark of this process is the background and subconscious activities (*i.e.*, the psychological aspects), but it may also include targeted internal deliberation of new information. Because I wish to maintain or grow the esteem my interlocutor may hold for me, the pressure instigates an internal process, the result of which is that I say what would make me appear as steady as possible. And what’s more, their reaction to my answer provides more information for me to weigh and consider before responding again in turn. This may be done in the background of my mind, or by concentrating my thoughts intentionally on specific ideas.

Thinking of it in this way makes it clear how back and forth dialogue, within this unique pressurized environment, leads to my mind continually becoming steadier. My comments, questions, and answers are tempered by the pressure of the psychological process. I am striving to be, and so I actually become, steadier in my thinking. This psychological process occurs in my private mental space, consciously deliberative or not, and directly shapes my activity as an epistemic agent: my very opinions, beliefs, desires, wishes etc., are shaped in the process.

Now it seems that we have arrived at the conception of mind steadying that can deliver what Fricker's view promises. The psychological aspect of the activity remains central and has a defining role, but deliberation of the content of the conversation can also be recognized as important. With our new understanding of how the psychological and deliberative components function within the activity, Fricker's claims can be made more explicit. For instance, we see these components in the following statement:

... if my interlocutor asks me a question, and given that I come to the exchange in the frame of mind of someone with an interest of ongoing trust with such an interlocutor, (in due course she may be able to tell me something I need to know), then her question calls on me to ask myself how the world is in order that I may answer truthfully. This creates a pressure for me to avoid fantasy in my thinking [...] and tell her something I believe to be true, thus contributing to the steadying of my mind. (Fricker, 2007, 52)

The psychological mechanism is created by how each interlocutor values the ongoing trust of the other (the frame of mind) which instigates an internal process, one that may include deliberation (being called upon to answer how the world is truthfully), to fulfill the steadying feature of the conversation. Herein lies the connection to one's identity. Over the course of many conversations, one's mind becomes steadier with respect to their beliefs, desires, and plans regarding (as Fricker follows Williams to focus on) their affiliation with different social groups. One's political commitments are formed, religious beliefs are strengthened or diminished, and so forth. The accumulated impact of trustful conversations shapes one's identity, and as such, it is a primary harm for one to be excluded from them.

2.3.2 Hidden Barriers

Upon reading this one may recall many interactions in one's own life where this kind of exchange has taken place, and even be able to reflect upon the significant impact such

conversations have had. But, what I wish to highlight is just how cognitively strenuous, sophisticated even, the activity of mind steadying truly is given this definition.

Let's imagine that I approach a long-time trusted interlocutor, in hopes of discussing the issue of strategic voting in the next provincial election. As my conversational partner offers me new information, sometimes the psychological process occurs without conscious deliberation, and I offer careful replies. Other times, I receive what my interlocutor says into my private mental space where I compare and contrast it with other concerns I may have and arrive at (what I hope to be) a reasonably informed response to continue the dialogue. I weigh options and imagine various outcomes based on possible courses of action, all privately before I reply. My conscious deliberation occurs simultaneously, and is characterized by, the psychological components of the activity. This process is instigated by the unique pressure generated by the reciprocal value we each place on the relationship. I want my interlocutor to continue to view me as reliable, and so I care a great deal that I present myself as steady to them.

Throughout this conversation, I am consistently receiving information from them, either by their words or aspects such as their body language and tone. I am also attempting to remember the diverse stakeholders involved in my political decision, and what I take to be the important points for each. Not only am I concerned with the actual decision I must shortly make, casting the vote itself, but I am also concerned that my interlocutor perceives me as reliable, thoughtful, and an epistemic peer while I come to arrive at that decision. This is the pressurized context that steadies my utterances. Each statement, response, question etc. has passed through this initial tempering within my own mind. By this process, my statements become steadier, wishful thinking is sifted out, and I offer a reply to my trustful conversational partner, aiming to appear reliable. Thus, the conversation continues to progress.

This is highly complex internal work indeed, both the conscious and subconscious aspects require a high level of cognitive functioning. And it leaves me to wonder, what if an individual is unable to perform such sophisticated cognitive work? What happens to one's identity, if they are unable to perform these tasks? Here, I am thinking about cognitively atypical agents, and individuals with a cognitive or developmental disability in particular.

Imagine that I am someone with an acquired brain injury, an injury that results in cognitive disability, and I would like to engage in the sort of discussion described above: how to approach strategic voting. Irrespective of being an agent with cognitive disability, I care deeply about the political choice I have before me, and so I have made a point to engage in a conversation with an interlocutor with whom I have ongoing trust. Let's assume that I

experience the pressure of wanting to appear reliable to my interlocutor so that I desire to respond thoughtfully to their information and questions about the upcoming vote. I wish to maintain their respect as a knower, while ultimately making the decision for myself.

However, I am without the cognitive ability to perform the sophisticated internal work that mind steadying requires, due to limitations in my conscious and sub-conscious capacities. When my interlocutor offers me new information, I am not able to internally weigh that information in the background of my mind in such a way to make use of it, and neither am I able to intentionally perform abstract checks and balances about how the future may play out. Yet it seems this is what is required of me to offer sifted and increasingly steadied statements to my interlocutor. While I experience the pressure that motivates my mind to become steadier, I am not able to participate in the mind steadying itself, because this process must occur in my private mental space. This does not mean, of course, that I lack the desire to receive this form of support, or lack the desire to engage in a trustful conversation as a respected interlocutor. Furthermore, it does not entail that I am unable to arrive at an informed political position, or that increasing or diminishing my affiliation with a political group will not impact my identity. But rather, due to the definition of the activity, I do not qualify as being a participant of mind steadying in the relevant sense, since I am not capable of taking part in the right way.

It appears that, due to one being an agent with cognitive disability, such as having a brain injury, one would be excluded from participating in the activity of mind steadying as Fricker defines it. This is since, it seems if one cannot perform the cognitive work of internal weighing of options and foreseeing consequences involved in deliberation, they are unable to participate. Furthermore, this exclusion does not even register as an unjust exclusion on Fricker's view, as an agent with cognitive or developmental disability is not excluded due to a negative identity prejudice, which is the distinguishing mark of testimonial injustice on her account. Agents with cognitive or developmental disability are not even within the class of agents that can experience this kind of testimonial injustice.

And it gets worse: not only are agents with cognitive or developmental disability excluded from mind steadying by definition, they are also in a position to uniquely benefit from it. Individuals with cognitive or developmental disability would acutely benefit from dialogue with a trusted interlocutor to arrive at their voting decision, for instance. The opportunity to discuss one's ideas and options, and perhaps receive information in a more accessible format through one's interlocutor, can translate into significant benefit for one to make voting decisions, and countless other decisions as well. These kinds of conversations are sure to increase one's affiliation with a political group, or a social group more broadly, and increase affiliation in a way that Fricker would call 'identity forming.'

This is the site of a troubling problem for Fricker’s account. Members of our population who have an acute need for, and stand to gain a great deal from, mind steadying, are unable to take part in the activity. The activity, by definition, privileges sophisticated cognitive abilities, and so excludes members with cognitive or developmental disability as they cannot participate, given those requirements. Unwittingly, Fricker’s view introduces a prohibitive feature into an activity presented as crucial to the identity formation process. This strikes me as something Fricker would not intentionally promote and seems to run contrary to the larger aims of her work.

2.4 What did Williams really say? Fixing Fricker’s characterization

Fortunately, a solution is close at hand. Instead of immediately reworking Fricker’s view with an eye toward solving the issue, I will revisit Williams’s own presentation. The driving question here is whether or not this problem is a feature that originates in Williams’s work or is introduced by Fricker in the process of incorporating it into her view. Upon reading Williams’s own account of mind steadying in *Of Truth and Truthfulness*, one can see that it is the latter. When Fricker uses his idea, in her brevity she omits crucial elements of the description, and this leads to Williams’s initial idea of the activity being slightly misrepresented. In this section I will argue that Williams’s initial presentation of mind steadying does not include this barrier to people with cognitive or developmental disability, and Fricker’s exclusionary misstep can be fixed by rounding out her use of Williams’s idea.

In order to understand what Williams intended by his idea of mind steadying, I will concentrate on how he describes the role of both the psychological and deliberative features of mind steadying, and compare them to Fricker’s description. Beginning with the role of a psychological process, it is apparent that he views this aspect as important. As Williams states, (and Fricker herself cites),

... [t]he basic mechanism depends on the fact that there are others who need to rely on our dispositions, and we want them to be able to rely on our dispositions because we, up to a point, want to rely on theirs. We learn to present ourselves, and consequently also to ourselves, as people who have moderately steady outlooks or beliefs. (Williams, 2002, 192; Fricker, 2007, 52)

Here we see how the pressure of a trustful conversation instigates a psychological process as one strives to appear reliable to their interlocutor. This begins much like the conception presumed in Fricker’s account: a psychological process that impacts one’s wishes and

desires, either consciously or subconsciously, and is instigated by the particular relational circumstances of the conversation. However, this is not Williams's idea in entirety.

When focusing on how Williams defines the deliberative (or intentional) aspects of the activity, we see the beginnings of disparity with Fricker. For instance, when elaborating upon the kinds of conversations wherein mind steadying takes place, Williams describes a significant role that intentional deliberation plays:

These truth-commitments themselves will often not all be in place at the beginning. In the course of considering what to do, the agent will inquire what is possible, and what the consequences and conditions of various actions may be; he may do this in reflection or by further investigation, but in either case he will entertain the ideas of various outcomes or processes as possible or relevant. (Williams, 2002, 196)

And furthermore, Williams points to the role that other agents play in an individual's experience of conscious deliberation within these conversations:

Individual deliberation is not a peculiar kind of internal many-person deliberation, and of course it is not ordinary many-person deliberation, in which we get together and decide what *we* shall do. But the fact that it is inherently open to wishful thinking, and that it needs the virtues of truth as much as purely factual inquiries need them, helps to explain the very obvious truth that thinking about what one individual should do can usually involve more than one person: we can think about what I should do. (Williams, 2002, 198; emphasis in original)

Here we see Williams affirming not only the role of conscious deliberation within the activity of mind steadying, but also *interpersonal* deliberation, as he sees it occurring within trustful conversations. An agent can participate in a trustful conversation regarding a choice they need to make, and while the pressurized environment leads them to want to be steadier in their responses, it does not require them to perform all deliberation within their own mind. One may do this by individual conscious or subconscious reflection, but one may also look to their trusted interlocutor for feedback on what one should do, sharing the burden of deliberation with them. This is absent from Fricker's account.

Moreover, by stating "*we* can think about what *I* should do" Williams makes it clear that there is still an individual component to the activity (Williams, 2002, 198; emphasis added). It is not a group activity with no clear grounds to make claims about individual

minds. Individual agents still experience the impact of mind steadying, but, the deliberative component is (or can be) a shared activity, not one that each individual must perform independently. If one needs to decide something, the decision to be made still falls to the one individual, and so (at least) one person’s mind in particular is being steadied. What was thought to have previously occurred solely within in the mind of a single agent, either subconsciously or intentionally, can now be outwardly stated: pros and cons can be voiced for others to weigh, competing thoughts can be articulated in their unresolved state. Potential outcomes of the different alternatives one may have can be provided by one’s interlocutor, and the exploration and comparison of those outcomes can be done outwardly.

Further, Williams states that when agents participate in a trustful conversation they play an active role in sustaining each other’s sense of reality. This occurs “both in stopping wishes becoming beliefs when they should not, and also in helping some wishes rather than others to become desires” (Williams, 2002, 198). I highlight this quote as it shows Williams’s expectation of the kinds of utterances that the conversational partners are sharing with each other. The partner has an active role to play in “helping some wishes rather than others to become desires,” not simply by providing the pressure that the nature of their relationship produces to initiate the psychological process, but by active deliberation with their interlocutor.

Now we can see that Williams did not intend for the entire activity of mind steadying to be a private mental undertaking, but one that includes the active participation of others. Consequently, since the activity, on Williams’s definition, includes interpersonal deliberation, there is no obvious need for a high cognitive standard that any one agent must meet in order to participate, as no one person is entirely responsible for the cognitive work. This dramatically lowers the prerequisite cognitive ability that Fricker’s depiction required.⁷ When an individual can share the cognitive tasks of mind steadying — when much of the deliberative activity can take place aloud, in public and interpersonally — it is less crucial whether or not they could complete the psychological process entirely on their own, deliberative or otherwise. Without the need to perform the complex cognitive tasks *privately* as part of the activity, at least many of those who were previously excluded by failing to meet the requirement are excluded no longer. By expanding Fricker’s account

⁷This is not to say there are no cognitive prerequisites whatsoever, and it is an important question of how low this standard truly can be. Although there has been little discussion on this question, we can presume that a discussion of one’s beliefs and choices would not be possible without one having preferences, and some ability to communicate those preferences to others (DeVidi, 2013). Although it is an important consideration, we need to be mindful to not re-erect barriers similar to those this paper is working to eliminate and be sure to not expect agents with cognitive or developmental disability to meet higher expectations than typical ones (189).

of mind steadying to reflect what Williams originally intended,⁸ agents with cognitive or developmental disability qualify as participants.

2.5 Carrying it through

It is important that Fricker’s theory be able to account for the diversity of people it is supposedly theorizing about, since her project aims to recognize — and so be able to avoid — previously unacknowledged injustices that are epistemic in nature. Prior to the contribution of this present work, the exclusion of agents with cognitive or developmental disability was outside the purview of her theory. But given the preceding argument, the adjusted version of Fricker’s theory can now identify *that* it is, and explain *why* it is, unjust for an agent with cognitive or developmental disability to be excluded from participating in trustful conversations — it is a testimonial injustice. This is something I think Fricker would want her theory to do.

However, there are further important lessons that can be drawn, that are likewise fitting with the general aims of Fricker’s theory. In this present section I will discuss different configurations of trustful conversations that include cognitively atypical agents. By using concrete examples, I will propose some next steps that will further develop this aspect of Fricker’s account. In particular, I will show how the concept of trustful conversations is a powerful tool to detect instances of epistemic injustice that cognitively atypical agents are subject to, and to explain why they are unjust.

First, I want to be clear on the kind of conversations that I take Fricker to already have in mind — the kind of conversation that if an agent were consistently excluded from participating in, it is sure to register as an injustice on her view: that of conversations between epistemic peers. In an attempt to sidestep the vast literature regarding what we mean when we say “epistemic peer,” I will use as my starting point the configuration I see Fricker assuming in her depictions. Although she does not explicitly state that the two interlocutors are equivalent, Fricker’s description of the activity presupposes that the interlocutors are epistemic peers, with (roughly) equal (typical) cognitive capacities. The result is that each party to a trustful conversation will (at least potentially) experience corresponding opportunities to give input and to receive benefit.

Suppose, for instance, that I, with philosophical training, engage in a trustful conversation with my friend who has equally extensive training in the area of psychology. Together

⁸Or at least what Williams originally *said*. Whether he would be entirely happy with the direction I take the notion of trustful conversation in the final section of this paper is not obvious given what Williams says, and he does not seem to have had individuals with cognitive disabilities in mind when he wrote.

we discuss what it would mean for one of us to have a particular religious identity in society today. Our cognitive capacities are similar, our level of education might be considered equal, and we may have considerable overlap in expertise. But sooner or later we will each discover an area where one of us has expertise that the other is ignorant of — we did not know what we did not know. These alternating pockets of expertise and ignorance may be particular to our different disciplines but may also result from differences of race or sexual orientation between us that affords us better access to knowledge on a particular topic from personal experience.

Even in this case of seemingly straightforward epistemic peers, as we engage as interlocutors in a trustful conversation we find areas of strength and weakness, expertise and ignorance, where symmetry is not maintained. I would go as far as to say that discovering these asymmetries is part of why the conversations we have are beneficial: we gain perspectives and insight from each other, the likes of which we were previously unaware. Ultimately, what matters is that the essential features are present: there is ongoing trust between us, we learn from each other, and we each value the esteem of the other. These ingredients give rise to the psychological process which cause our minds to become steadier as we engage in the process of interpersonal deliberation.

But what if my friend and I discuss topics outside the four Fricker lists as relevant to people's identities. Are we still having trustful conversations? Assuredly, as close friends, topics beyond strict interpretations of our sexual, ethnic, religious, and political affiliation will come up. It also is clear that some such matters significantly impact one's life, but be borderline in terms of their impact on one's identity. For instance, consider the decision about whether to have children. We can acknowledge the significance of the topic, but people will disagree about whether being a parent is essential to one's identity. Indeed, for many people, such as those raised in non-religious homes where theological positions are not something to be strenuously opposed but are essentially simply ignored, the question of parenthood will be regarded as more central to who they are than their religious identity.

And yet, depending on one's social positioning, the categories Fricker mentions may be inseparable from a wide range of topics not initially considered. After taking a closer look, for example, the issue of becoming a parent very much entails other dimensions, such as ethnic and sexual identities. People of different identities in these respects will experience much different social pressures regarding their choices, such as the not so subtle pressure for straight white middle-class women to procreate, whereas social judgment and disapproval is often directed to members of queer and racialized groups who make the same choice. One's conversation may not directly discuss one's affiliation with a particular ethnic or sexual group, but these features remain a significant aspect of the conversation regardless. Hence, depending on the social identities of the interlocutors, the particular categories that

Fricker lists will be more salient than others, not by choice of the conversational partners themselves, but due to the society in which the conversation is held.

These considerations raise a question about the role of Fricker’s categories, and the role of “identity” more generally, in testimonial harm. Fricker herself explains that she includes the four categories because she thinks that individuals experience these aspects of their lives “as essential to who she or he really is,” but she does not mention the criteria she used to arrive at this list, nor the status of borderline cases (Fricker, 2007, 53).⁹ If we grant that there *will* be borderline cases, and topics that some may experience as more central to their identity than items on Fricker’s list, it suggests that we should be open to adding other categories to the list of topics about which one can have trustful conversations. The crucial consideration is whether people experience them as topics that impact their lives to a sufficient degree.¹⁰ Consequently, we should not strictly interpret this kind of injustice as something that can only occur if one is excluded from conversations obviously pertaining to those four categories.¹¹ For the sake of argument, I will treat Fricker’s categories as paradigm examples of the level of consequence that topics must have to be considered content of trustful conversations, which can include those topics that will have an important impact on one’s life and those they care about, even if they are not straightforwardly recognized as topics and decisions that would cause one to “redefine oneself.”¹²

Returning to the discussion of epistemic peers, we can see further impact made by the above argument. Consider two friends, each one is an adult with cognitive or developmental disability. One of the friends has lived most of their adolescent and adult life in a group

⁹Fricker borrows these categories from Williams (see Williams starting page 201), but she uses them in a different way. Since I am now focusing squarely on Fricker’s view, I will not discuss Williams’s approach here.

¹⁰Elsewhere Fricker writes about one’s “practical identity,” a term she uses to describe the reasons for action that are specific to one of many social roles an individual has (Fricker, 2012, 297). Further, she states that “professional and semi-professional commitments to goals, values, and even beliefs often take this practical-identity-relative form” (297). Although Fricker does not draw any explicit connection between practical identities and the essential identity features she discusses with respect to trustful conversations, this may be a promising place to continue formulating requisites for trustful conversations.

¹¹This replaces Fricker’s unspecified criteria for membership on the essential-to-identity list by an obviously vague one, but this seems appropriate for a list that will have borderline cases, and whose membership may vary between people.

¹²Of course, testimonial injustice and the harms it causes are still present if a speaker is dismissed by their hearer due to a negative identity prejudice, regardless of the topic. What is at stake here, is whether the speaker suffered this further specific *kind* of harm done by that injustice. If a topic is significant, but ultimately falls outside the boundaries of a trustful conversation, the larger net of testimonial injustice can still catch the harm done to the agent.

home, whereas the other friend has been living with their family at home but, since their parents are aging, they must consider options for the future. The two friends engage in conversations regarding the living options available, sharing personal experiences and possible alternatives. Has the one friend had positive experiences living in the group home? Would they recommend it? Again, the essential elements are found in their conversations: ongoing trust between the friends that gives rise to the psychological pressure, causing each to become steadier through the shared deliberation of a significant decision. And given the presence of these essential elements, it would be epistemically unjust — in particular, a testimonial injustice — if one or both of the agents were persistently excluded from participating in conversations of this sort due to a negative identity prejudice.

The previous two scenarios should, I suggest, clearly fall within the boundaries of trustful conversations. That the second does so is the sort of thing that necessitates the friendly amendment to Fricker's account suggested above. However, I think it is also important to recognize that trustful conversation occurs when partners are obviously *not* epistemic peers. Imagine a faculty member in the philosophy department having a conversation with an undergraduate student about the student's political commitments. Although there is an obvious epistemic asymmetry between the two, the conversations they share can still be characterized by mutual respect, and the student and professor can share intentions to maintain the trust they have between them. The student will (we hope) benefit from deliberation with the professor, and the decisions and plans made as a result of these conversations will demonstrate that mind steadying did occur. Will the student increase their affiliation with a particular political party? How will they approach their next opportunity to vote?

The influence that the professor can, and likely will, have on these decisions can be significant and make a practical impact on the student's life. The student will arrive at political choices and plans, but also will have received conceptual tools, such as important questions to consider, that they can apply to future political choices. Moreover, these conversations prepare the student to have more effectual conversations with others, such as family and friends. With the information gained, and the steadying of mind that the student experiences, the student will be better situated to handle subsequent trustful conversations with their peers at an increased level of clarity. The benefits in this case are asymmetrical, since the professor is not likely to benefit to the same degree.¹³

I would go so far as to say that it would actually be inappropriate for the professor

¹³This is not to say that there is no epistemic benefit to the professor whatsoever, as teaching and discussing ideas with students often results in the teacher growing in mastery of the content themselves, and it is a common enough experience for a student to say something that causes a professor to do some rethinking.

to take this opportunity to develop their own ideas and desires regarding their personal political involvement. It would be neither professional, nor realistic, for the professor to place expectations on the student to provide them with effectual mind steadying, perhaps expecting the student to ask informed critical questions in hopes of steadying their mind with respect to their own political commitments. We would even like to think that the professor recognizes this asymmetry and so takes reflective steps to avoid any exploitation of it, such as being especially careful not to manipulate the student into supporting the professor's preferred party, for instance. These are familiar sorts of conversations, clearly of the same general kind as the examples first discussed. We can now see even more clearly that it is a mistake to think symmetry is an essential part of trustful conversations. Here the interlocutors intend to maintain ongoing trust with each other as they engage in interpersonal deliberation, all within a context where the student and professor wish to appear steady to each other in the right way.

Now, consider another example, which I take to be analogous to the previous one. Imagine that Alex is the aforementioned adult with cognitive disability who is reconsidering her living options. While Alex has some strongly held opinions about what this may look like, she has limited access to information in an accessible format and is without relevant life experience to draw from to move forward with the idea. In addition to speaking with one of her peers, Alex makes it a point to have discussions about this topic with someone else in her life with whom they have a relationship of ongoing trust. Another of Alex's conversational partners, named Sam, is cognitively typical and occupies a paid position to offer support to Alex on a regular basis. With Sam's ongoing help, Alex sorts through wishes and desires, and even makes plans toward changing accommodations.

Questions of symmetry similar to those asked about the conversations held by the professor and student, arise for this case. We can tell that the conversations between Alex and Sam are more one-sided toward Alex's benefit, and purposefully so. One may even say that it would be inappropriate for someone acting in a role of paid support, as Sam is, to place expectation on Alex to participate in conversations regarding Sam's life in the same way. Even though Sam sincerely cares for Alex and genuinely desires a relationship of ongoing trust, their conversations contain asymmetries akin to those of the professor and student. Just as the student gains preparedness from their conversations with their professor, the conversations that Alex has with Sam prepare Alex to approach conversations with others, her parents, for instance, with greater confidence and clarity.

In the example of the professor and student, and between Alex and Sam, we see a kind of trustful conversation that occurs with a marked epistemic asymmetry. Although these examples do not match the way Fricker portrays the activity, the lesson should be that symmetry is not as important as Fricker's description presumes, not that these fail

to qualify as trustful conversations. Among other things, this configuration of a trustful conversation occupies a different role, one that can be understood as having a preparatory function. These conversations serve as an opportunity to prepare one of the interlocutors for future trustful conversations with others. In these situations, there is an interlocutor who is offering knowledgeability or sharing the cognitive load of deliberation, but not having their own mind steadied in the same way, or not to the same extent. By taking part in such preparatory conversations, one interlocutor can be in a more epistemically advantageous position to sort through their ideas and to discuss them with others in the future. I suggest that, even while being different in some respects, these conversations share essential similarities to qualify as *trustful* conversations, making lack of access to them due to a negative identity prejudice an injustice on Fricker’s view.

This brings me to the final configuration I want to discuss: trustful conversations that include asymmetry and are held between more than one interlocutor at the same time. In the lives of people with cognitive or developmental disability, a common way that an individual receives epistemic support to make decisions is by involving a small group made up of people who care for them, respect their autonomy, and are committed to ongoing relationship with them. Within these small groups, the agent with cognitive or developmental disability receives active support for making decisions, and a common phrase used to refer to what happens in these groups is “supported decision-making” (DeVidi, 2013, 196). The assistance and cooperation that a person with cognitive or developmental disability receives from others in these groups is the same *kind* of support to make decisions that cognitively typical agents receive. It appears different, but the difference is found in the *degree* of externalization that occurs within the decision-making process (196).

Recall Alex, who needs to make a decision regarding her living arrangements. Remember that Alex’s parents are her primary caregivers, and since they are aging, change is inevitable. Suppose that Alex shares the details of her situation to a group of cognitively typical agents that match the description I gave above, and together — echoing Williams here — *they* can think about what *Alex* should do. Members of the group may mention implications of different options that Alex has not considered, for instance, deciding between “noisy but friendly house-mates, or quiet but lonely living” (DeVidi, 2013, 197). Advantages and disadvantages are offered by members of the group, and parts of Alex’s decision-making process is externalized among them. Ultimately, it is Alex’s decision, and she lives with the outcome. But the interpersonal deliberation that occurs is crucial. It is not preparatory for future trustful conversations (or that’s not its essential feature). Instead, it’s how she arrives at the decision itself.

I take this example as analogous to the support cognitively typical agents receive when making decisions, but often the support is so seamlessly present in society that it goes

unnoticed. Imagine an individual who receives a cancer diagnosis, for instance. The deliberation about subsequent decisions that need to be made (regarding treatment options and the like), often takes the form of several specialists in a room with the individual, maybe accompanied by a family member, and together they arrive at decisions for actionable next steps. The desire to appear steady is present on both sides of this kind of conversation. The individual and their family strive to be forthcoming and honest about different aspects of their situation; they want what they say to be taken seriously. The specialists also value the trust the patient has in them, which the patient demonstrates by accepting their recommendations, for example.

In both scenarios we can identify the essential features of a trustful conversation. What's even more revealing, however, is to imagine the ways that these conversations can go wrong. Suppose in either circumstance that the central individual is viewed as not being a credible epistemic agent because members within their group of interlocutors hold a negative identity prejudice against them. Their preferences and personal experiences are dismissed, and decisions are made *for* them, rather than *with* them. In either situation, to have one's agency overridden or dismissed in these ways, it is epistemically unjust. And fortunately, due to the changes made to Fricker's conception of trustful conversations, we can identify what is going wrong, and why it is unjust.

I think there is an important lesson here, and an illustration of the advantages that come with the friendly amendment to Fricker's view. We are now well-positioned to (at least theoretically) safeguard epistemic justice for agents with cognitive or developmental disability: the concept of trustful conversations can be used, for instance, to identify an injustice done to individuals with cognitive or developmental disability when they are denied access to supported decision-making. To identify supported decision-making as falling within the category of trustful conversations ensures that access to these conversations is viewed as a matter of what is just. Additionally, by identifying the harm as exclusion from trustful conversations in particular, we are better able to understand the impact this injustice has: it is not just a secondary harm found in the hindrance of making the decisions themselves, but it is a primary harm, because the development of an individual's identity is impeded.

2.6 Conclusion

Intuitively, we recognize that something goes wrong when an individual is consistently dismissed and mistrusted in a way that excludes them from opportunities to discuss and formulate their preferences, beliefs, and desires. This harms the agent by interfering with

the practical opportunities they will have, but it also impedes the formation of their very identity. The theory of epistemic injustice presented by Miranda Fricker uses the notion of one's mind being steadied by the experience of trustful conversations in order to explain the profound harm testimonial injustice causes.

While this is an important philosophical contribution, I have argued that the details of her view unwittingly disqualify agents with cognitive or developmental disability from participating in trustful conversations. Specifically, her definition of mind steadying entails that an individual must perform complex internal cognitive work. This implicit requirement results in many agents, in particular those with cognitive or developmental disability, not being capable of participating, nor even qualifying as among those who can suffer injustice by being excluded.

As it happens, this is a problem introduced by Fricker because of omissions made in her summary of the idea of mind steadying when she borrowed it from Bernard Williams, and revising the idea to be closer to Williams's original notion is a sufficient remedy. In particular, Williams made no demands for strictly private cognitive processes, whereas Fricker's definition presumes it. In fact, Williams explicitly includes *interpersonal* deliberation in his definition of mind steadying. This means that agents engaging in a trustful conversation can share the cognitive labour, and this significantly lowers the cognitive requirements for the individuals participating. By correcting Fricker's use of Williams's idea and incorporating interpersonal deliberation into Fricker's account, her notion of mind steadying avoids inflating cognitive requirements, and trustful conversations become accessible to agents with cognitive or developmental disability. Fricker's account can now explain what goes wrong when an agent with cognitive or developmental disability is persistently dismissed as a credible conversational partner, an intuitive case of epistemic injustice that it previously could not explain.

This revision of Fricker's view does not just overcome an inadvertent obstacle; it allows us to recognize and classify as trustful conversations many other important sorts of conversations involving agents with cognitive or developmental disability. By doing so, we can use the concept to identify and explain many other occurrences of epistemic injustice experienced by individuals with cognitive or developmental disability. I used the final section to explore some examples of those different configurations of trustful conversations. In particular, I argued that if an individual with cognitive or developmental disability were to be excluded from supported decision-making because of a negative identity prejudice held against them, it qualifies as an instance of epistemic injustice.

This should not be the end of the story. With further investigation, Fricker's theory should provide the tools to track and explain many sources of epistemic injustice that

diverse epistemic agents experience in their daily lives. Following through with an in-depth analysis of these additional configurations — specifically those that do not assume cognitive typicality — will add nuance to our understanding of trustful conversations and mind steadying.

Chapter 3

Segregation and Hermeneutical Injustice: Another step away from institutionalization

3.1 Introduction

The very idea of large unapproachable buildings off in the countryside, built to house over two thousand “patients” — individuals who live out their lives separated by sex and diagnosis, deemed defective and without chance of development — seems outrageous to us living in Ontario today. The changes that deinstitutionalization has brought to Canadian society cannot be understated. And yet, we are still in the “early days” of Ontario’s post-institutional era, as it has only been ten years without them compared to close to 150 years of their use (McCauley and Matheson, 2016, 7; Brown and Radford, 2015, 6). The experience of being in the “early days” is marked by continued social exclusion of individuals who would have, not long ago, been residents of such facilities. Some scholars call the contemporary experience of exclusion of adults with developmental or cognitive disability a residual effect of our institutional past, while others insist that it is the transformation and not-so-hidden guise of institutionalization reimaged. Regardless of this, it is well documented that the separation between people with cognitive or developmental disability and people who are cognitively typical did not disappear once the institutions closed.

I think the notion of friction, taken from the segregation literature, is a useful tool for understanding both the *why* and the *how* of the persisting separation after deinstitutionalization. In what follows, I will argue that friction is a useful unifying concept that helps

clarify the mechanisms by which people can remain “separated” and “isolated” in spite of years of work by well-intentioned people to help them live “in community.” In addition to providing a better understanding of this continuing unfairness, the concept of friction will also help us to identify a hitherto undiscussed additional sort of unfairness, a species of what Miranda Fricker calls *hermeneutical injustice* (2007).

In support of this thesis, I will begin by providing a brief overview of the history of how people with cognitive or developmental disability have been treated in Western society, and in Ontario, Canada in particular. I will begin with the era of institutionalization and end with current data indicating the lack of social integration that people with cognitive or developmental disability experience. This history is essential, I think, to provide the context in which we can properly understand the present-day concerns of separation in our communities.

Once I have presented the data of how separation occurs today, I will draw from the segregation literature and argue that the notion of “friction,” a concept used to analyze residential segregation, is a suitable tool to better understand the forces that keep people with cognitive or developmental disability living lives apart from the greater community. Whether or not one would call the current state of our communities *segregated* along the lines of ability, I will show that the concept of friction can provide valuable explanatory insight into this situation.

From there, I will present Fricker’s idea of *hermeneutical injustice* and argue that it is present in our society with respect to people with cognitive or developmental disability, and that it qualifies as a kind of friction. What’s more, I will also show that Rebecca Mason’s (2011) critique of Fricker’s account of hermeneutical injustice not only fails to discredit Fricker’s idea as Mason intends, but actually provides another viable way to understand the epistemic injustice that people with cognitive or developmental disability experience today. This deeper understanding of friction, in two different epistemic forms, can lead us to ask different kinds of questions, and better inform our policy and practice.

3.2 Setting the Stage

3.2.1 The Rise of Institutions

In 1861, Ontario’s first institution for people with cognitive or developmental disability opened in Orillia ([Government of Ontario, 2018](#)).¹ To get an idea of the scale of impact, the Orillia Asylum, which was later known as the Huronia Regional Centre, was home to 2800 “patients” at its peak, and these patients were under the care of 1120 staff members, all of whom filled some form of medical or health care role ([Brown and Radford, 2015, 19](#)). One would be shocked by a hospital or some similar facility of that size now, and it was likewise a staggering number for the time. Huronia remained the only asylum of its size in Ontario, until what became known as the Rideau Regional Centre in Smith Falls opened in 1951 which, at its highest, housed 2650 people with developmental disability (14–15). It is interesting to note that the province of Ontario had a large role in the institutional era, being home to over half of the country’s institutions, and housing over 10 000 people between the years of 1876 and the mid 1970’s ([Martin and Ashworth, 2010, 167](#)).

The institutions themselves were a series of large and separated building complexes, built in the countryside, far away from urban centres. But to understand the social role they played, we must understand that they were more than a series of buildings. Institutionalization was a “state of mind” ([Brown and Radford, 2015, 8](#)). Some authors locate the beginnings of institutions in well-meaning humanitarian ideas toward members of the population who were not flourishing in the overcrowded urban environments, members who

¹I am not a historian, and my goal in this section is not to provide either a dispassionate or an exhaustive historical account. Justifying in detail claims about the motives behind the setting up and eventual closure of institutions, for instance, is a whole different sort of project from mine and would require work tangential to my project. I am writing with an explicit narrative purpose when I include this material, namely to make clear *that* many thoughtful people are asking, “now that so much has changed in the lives of people with cognitive or developmental disability in Ontario, why has so little changed?”, and *why* they are asking it. In this section I rely on the work of authors who see their work as focused on the interaction between theory, policy, and outcomes, and they may be perceived by some as having a particular slant, or even an axe to grind, and so perhaps have been implicitly unfair to some past or present participants in this history. While I think their axes are probably worth grinding, and share the motivations behind their work, whether or not there are ameliorating details left out of the story is somewhat beside my present point. Here, I highlight the main ideas found in these sources, which I take to be at least broadly accurate and which are sufficient to frame the ensuing discussion. Furthermore, I am concentrating specifically on the group of people who today we would identify as having cognitive or developmental disability. Although the method of institutionalizing people with cognitive or developmental disability shares a similar history as people whom today we would identify as having mental illness, when the groups diverge, my discussion will follow the former group.

were thought to benefit from living separately in the fresh air of the countryside (Brown and Radford, 2015, 7; 9). This kinder perspective replaced the previous ideas that such differences between people were the result of demonic possession or divine punishment. Instead, this new perspective held that what such people actually needed was care (7; 9).

Prior to the existence of specialized institutions that were dedicated to house people with cognitive or developmental disability, people who today we would identify as having mental illness, lived together in (what were then called) asylums with people with cognitive or developmental disability. Although records show that the law differentiated between these groups (*e.g.*, those who were “insane,” and those who were “feble-minded”; Braddock and Parish, 2001, 24.), this distinction was not obviously reflected in their living arrangements. Motivations for the eventual formal separation of members of these two groups can be traced to several factors. In order to see how we ended up with institutions like Huronia and Rideau Regional Centres (*e.g.*, facilities populated by people with cognitive or developmental disability alone), I will take a further historical step back to highlight some of the strong influences on social thought that contributed to the rise of institutionalization, and the formation of specialized institutions for people with cognitive or developmental disability in particular.

Regarding the rise of institutionalization, two such influences are worth highlighting. The first, was a renewed optimism regarding human development during the industrial era (Brown and Radford, 2015, 9). Notably, some of this optimism originated with an event in the late 18th century, when Victor the “wild boy” was found after he had lived approximately ten years, possibly his entire life, in the forests of France. The discovery and subsequent study of Victor, who was able to learn many basic skills, inspired medical professionals to think that with improved systematic methods of education, what was previously thought impossible could be achieved: those considered “feble-minded” could learn (9). The progress that Victor made translated into hope that those considered “insane” or “feble-minded” could also learn and develop. Thus, the government was motivated to invest resources to build large asylums that were equipped to offer the required therapeutic expertise (10).

The second notable influence on social thought was arguably less benign. The late 18th century was characterized by the strong social acceptance of the ideas of eugenics. The substance of eugenics taught that society’s evolutionary progress could be expedited if procreation between the fittest members was encouraged, and procreation between the least fit members was discouraged or prevented altogether; people with mental illness, and cognitive or developmental disability were viewed as squarely within the latter group (Brown and Radford, 2015, 10). Thus, removing people with mental illness and those with cognitive or developmental disability from the more fit members of society, housing them

separately according to sex, and the practice of forced sterilization, were all viewed as contributing to the progress of society as a whole.

As time went on, the cost of running and staffing these large facilities required justification, that is, evidence that patients were improving. But the managers of the facilities were disappointed when they failed to observe the kind of success they had envisioned. To explain this lack of progress, they claimed that the majority of patients were “mentally defective,” and so the lack of improvement was a reflection on the patients and not on the quality of the treatment programs (Brown and Radford, 2015, 10). Because many of these people were “incurable,” managers and staff began to view running programs for them as a waste of their energies, and instead relocated the patients considered “defective” to live in separate wings of the facility, where they were often provided with only basic custodial care (11). This, effectively, separated those residents with cognitive or developmental disability from the rest of an institution’s population (10–11). Although those who launched the institutions were initially hopeful for their patients to develop, the hope dissipated as the staff found it impossible to effect improvement of their patient’s abilities to the degrees they anticipated, and so overall began to view the additional effort they expended on any of their patients as futile.

Over time, entire specialized institutions — those like Huronia and Rideau Regional Centres — were dedicated to housing the “mentally defective,” where many patients spent their lives in their beds (Brown and Radford, 2015, 14). In many cases, no therapeutic programs were offered, since this class of patients were thought to be unresponsive. Many in society thought these facilities served an important role, since they created a place for the “mentally deficient” to live, and this was seen to benefit both patients and society. The patient could access the constant professional care they needed, and everyday members of society were not burdened with the task of caretaking. This perspective generated the long-standing perception of people with cognitive or developmental disability marginalized as “others,” people who do not belong in society, but “belonged in an asylum” (25).

3.2.2 The End of an Era

Authors on this subject are leery of identifying a single event or reason that initiated the decline of institutions, but many cite a similar combination of important factors. These factors include the lack of progress that left the staggering cost of facilities unjustified, and that the poor living conditions inside the institutions were beginning to be made known by parents, advocacy groups, and by some patients themselves. Furthermore, changes began to occur in the legislation with respect to people with mental illness, including those that

made involuntary admission of people to facilities more difficult. The Mental Health Act of 1959, for instance, promoted voluntary treatment for people with mental illness as much as possible, and permitted any general hospital to provide that care (Williams et al., 1960, 410). Hence, the residents remaining in institutions were largely people with cognitive or developmental disability, living in the specialized facilities.

Social discontent about these specialized institutions was expressed and further fuelled by a growing literature that argued that, in fact, the best environment for people with cognitive or developmental disability to thrive is not cloistered away with specialists, but in the same environment that is best for all of us: a “normal” environment (Brown and Radford, 2015, 22–23; Wolfensberger, 2000, 113–114). This theory, popularized by Wolfensberger, was known as “normalization,” and gave a strong theoretical push away from institutionalization and toward inclusion (Wolfensberger, 2000).

Another notable source of change in social attitudes at this time, is the work of French philosopher Michel Foucault. Foucault’s writing aimed to expose the sources of power and motivations the social system had to separate people into groups. He argued that specific structures of terms, statements, categories, and beliefs, become entrenched and unquestioned, establishing regimes of truth by which members of society viewed and treated each other (Burrell and Trip, 2011, 175). Foucault identified the discourses of his time of writing as tied up in the authority of science and medicine, giving unquestioned authority to those who assess and diagnose (Foucault, 1963/1973). The pronouncements of labels (“mentally deficient,” “feeble-minded” etc.) made the subject a patient for the rest of their life, to be contained and kept under surveillance (Foucault, 1975/1995, 233; Foucault, 1963/1973). He argued that ultimately this practice was used to create a marginalized group of people who were easy to control, and controlled in a way that was condoned by the wider society.

The criticisms Foucault raised further fuelled doubts about the legitimacy of the institutions, and raised awareness of the ills of society more generally. For example, in *Discipline and Punish*, Foucault argues that what we see take place in a prison, is no different to what is found in the wider society (1975/1995). The difference is that, in a context of a prison, attitudes are reproduced with emphasis (233). The parallels with institutionalization are clear: the social attitudes toward people with cognitive or developmental disability were emphasized within the institutions, but it was not just an issue of poor attitudes within institutions. These attitudes were also present in the wider society, and just as problematic. Insights such as this one highlight the need for society to change how it perceives people with cognitive or developmental disability, not simply the closure of large facilities. Hence, in this way, Foucault foreshadows some of the very issues the current work seeks to address.

As a result of many factors, including those mentioned here, on March 31st, 2009 the last three institutions in Ontario finally closed their doors.

From this time on, the Ontario government has claimed the goals of community living and social inclusion as guiding principles for policy objectives. This transition to community-based care translated into promises made to people with cognitive or developmental disability (McCauley and Matheson, 2016, 7) — for instance, the promise that people would have access to the activities, services and events in their communities, that they would now be able to exert a level of control over where they live and over their future, and that, overall, their quality of life would be improved (Chowdhury and Benson, 2011, 256). Indeed, studies have shown that there is an “overall positive message about the outcomes of deinstitutionalization,” but many studies have reported little success in the amount of community participation achieved, leaving many of those promises unrealized (258; 262).

3.2.3 Ongoing Separation

When one reviews the research literature regarding the outcomes of current policies and practices for people with cognitive or developmental disability, one finds a striking trend when it comes to the lack of inclusion. Many recent studies show that while people with cognitive or developmental disability are now more physically integrated and experience more exposure to community, what they lack is participation, social integration, and inclusion.

Recent research confirms what many find to be intuitively true: the simple presence of people with cognitive or developmental disability in a community, in shared spaces and activities for instance, does not necessarily entail that they are engaging in meaningful social contact with other community members. For example, a focus group study by Abbott and McConkey (2006) found that individuals with intellectual disability living in residential areas experienced many barriers to inclusion. Participants in the study identified reliance on staff and negative attitudes of the community as sources of some of those barriers (281). Although the expression of overt hostility toward people with disabilities in our communities is now more the exception than the rule — in contrast with other points in our history — studies show that people with an intellectual disability continue to experience prejudice and discrimination (Brown and Radford, 2015, 24; Hall, 2017, 860).

Perhaps in an attempt to avoid discrimination, people with cognitive or developmental disability simply stay away. Studies have found that many young adults with cognitive or

developmental disability live their daily lives separated from the rest of society by participating in programs and work activities that are designed specifically for, and populated by, those with similar disabilities (Hall, 2017, 860). These patterns can easily lead individuals to be isolated from the majority of community members who are cognitively typical.

For those individuals who do spend time in the greater community, that is, beyond programs, research shows that these outings are frequently planned, and accompanied by a staff member and other group home residents (Hall, 2017, 860). One author claims that someone who had moved out of a facility and into their own residence would have found persistent similarities to living in an institution (Johannes et al., 2017, 49). Upon moving out of the institution, an individual might have expected to gain a great deal of personal freedom, but would have come to realize that what they did, with whom, where, and when, were all still controlled and monitored by various kinds of staff (49).

Hence, Johannes et al. (2017) identify commonalities between the isolated lives of people living “in communities” in the present day and the physically segregated lives formerly lived in institutions. Their article presents the findings of a study that analyzed autobiographies of people before and after they had lived in institutions. The authors note that,

... [t]he concepts underpinning institutionalization – such as care and control – have been posited as radically different to those underpinning the concept of community living – such as human rights and social inclusion. Yet in each group of stories [the autobiographies of people living in institutions and those post-institutionalization] the language, images, and conceptualization of segregation remain hauntingly the same. (Johannes et al., 2017, 45–46)

Many studies identify an individual’s reliance on a support worker to access their community as a circumstance that hinders inclusion. Beyond the logistical challenge for a support worker to plan and execute an outing, the attitudes a worker personally holds toward their clients and the community have a significant impact on how they carry out their work. Research shows that support workers can mistakenly assume that the community has negative attitudes toward inclusion, resulting in them restricting potential options for community interaction when planning and executing outings for their clients (Venema et al., 2016). Other authors highlight that the perception a support worker has of their client’s behaviour has similar results. If the support worker views their client’s behaviour is likely to have a negative impact on cognitively typical community members, the support worker is more likely to restrict the chances of possible social interaction by limiting the options they offer to their client to particular locations or kinds of activities (Johannes et al., 2017, 48).

Although there is a quickly growing literature that focuses on the level of social inclusion that people with cognitive or developmental disability experience, an unfortunate feature common to this area is the lack of consistent terminology in the studies. Authors define and use terms such as ‘inclusion’, ‘social integration’, ‘community involvement’, ‘community participation’, ‘belonging’ etc. in slightly different ways from each other (Simplican et al., 2015, 21). While there is likely an identifiable core to many of the definitions, some authors think that the plurality of terms is detrimental to achieving the goal of inclusion, since there is not one straightforward term that all sectors use to design and implement services. Furthermore, determining the success of policy is especially challenging when there are differing perspectives of inclusion at play, hindering data collection and measurement for evaluation (19).

Ultimately, however, the lack of consensus is not an impediment to the claims I make in this present project, since, as stated by one author, “despite increased community presence, several decades of policies have not achieved community participation for adults with intellectual disabilities, irrespective of the particular definition that is adopted” (Bigby et al., 2018, 166). Hence, regardless of the lack of consensus on definition of terms, authors agree that there is ongoing social separation between cognitively typical community members, and those with cognitive or developmental disability.

3.2.4 Fears of Re-institutionalization

In light of the present-day lack of inclusion for people with cognitive or developmental disability, it is important to note that self-advocates and advocates continue to state their fears that institutionalization — complete with facilities — will creep back into society. If one views the current separation between people with cognitive or developmental disability and people who are cognitively typical as evidence of a residual institutional “state of mind,” it is understandable that many self-advocates and advocates were alarmed when news outlets² reported that individuals with cognitive disability, some as young as 21 years old, were being admitted into nursing homes (Ouellette-Kuntz et al., 2017, 294). These individuals were not admitted for poor health, but rather because they had behaviour and needs for care that could no longer be managed in their previous residences. Many individuals were reported to be living in facilities where they were much younger than all other residents and where they will live for a much longer amount of time (293).

²Although I have not verified the credibility of these sources, *that* such reports caused alarm was cited by the authors as one of the motivating factors for conducting the study. See Ouellette-Kuntz et al., 2017 for more discussion.

This, to many people in various disability communities, sounded like re-institutionalization. Partly to respond to the concerns raised, a study was conducted but concluded that there is actually a trend of *decreasing* admissions of adults with cognitive or developmental disability into long-term care facilities (Ouellette-Kuntz et al., 2017, 296). However, while the results appear positive, many advocates view the task of actively preventing re-institutionalization as an ongoing one.

Another example comes from a recent proposal to convert a former college into 70-units of low-income residences, seemingly targeting seniors and people with cognitive or developmental disability (Pan, 2017). This event provoked a statement from Community Living Ontario, released to the media in July 2017, in which Community Living strongly and unequivocally opposed the idea, identifying it as an attempt to re-institutionalize. The statement includes a quote from Kory Earle, who was the President of the self-advocacy group People First of Canada at the time. Regarding the proposal, Earle states,

It wasn't that long ago we were celebrating the closure of institutions for people labelled with an intellectual disability in Ontario. Today, we were outraged to read about the proposed facility at the Ignatius Jesuit Centre in Guelph. As one institution closes, another opens. This is a huge step backwards for the province of Ontario. . . (Community Living Ontario, 2017)

Further, Earle echoes the driving ideas behind deinstitutionalization, saying that “it is a proven fact that institutional living is not healthy or safe for us. We have a right to live in the community, with the same choices and freedoms as everyone else” (Community Living Ontario, 2017). Community Living as a group, along with many individual advocates and self-advocates, identified this proposal as an attempt to re-institutionalize people with cognitive or developmental disability, and treated it as such.

3.3 Lack of Social Integration as Friction

The time when bricks and mortar forcibly separated those with cognitive or developmental disability from those who are cognitively typical, is all but past. And yet the ongoing separation, whether one wants to call it a lack of social integration, lack of inclusion, continuing segregation, or something else, clearly remains. In this section I will focus on what, more precisely, maintains that separation. For this I look to the segregation literature, an expanse of research with diverse methods and tools of measurement. I will not attempt to argue whether or not people with cognitive or developmental disability

continue to be *segregated* in our communities today, but I will use a conceptual tool of segregation scholarship, called friction, to analyze the nature of the separation that does remain.

When thinking of friction, apart from a specialized literature, one thinks of the physical resistance to motion. The way “friction” is used in the segregation literature, while always somewhat metaphorical, begins there as it is “often related to the degree of effort or cost associated with travelling over a particular area,” but it quickly becomes more nuanced and metaphorical (Lloyd et al., 2014, 71). To begin with the physical dimension of the term in the literature, the most obvious form is the physical friction in one’s environment, such as a steep hill that increases the cost of taking a particular route to a destination (71). The presence or absence of friction contributes to the decisions people make, and why they take the same routes to the same places. For instance, if I were to choose between mailing a letter a short walk from my house in one direction that is flat and has smooth sidewalks, and another mailbox, no further away, but the route happens to include a steep hill and large potholes, my choice is clear. I will choose the hill and pothole-free route, because it has significantly less physical friction.

The higher the degree of friction experienced by an individual when attempting to travel in and through places, the less likely they are to do so when there are routes and options with less friction available. This kind of friction can make it prohibitive for people to deviate from what is familiar and accessible. People will choose to frequent low friction destinations accessible by familiar routes. The residents of institutions experienced physical friction in the form of physical barriers: distance, walls and gates, designed to keep them confined and to maintain separation. The friction that existed between the residents and the greater community was analogous to mountains, unmanageable to traverse.

The friction metaphor seems straightforward when considering the physical barriers on a route, but one can also interpret friction in temporal, economic, cognitive, and social forms that a route of travel and destination can include (Lloyd et al., 2014, 71). Consider an individual who needs to mail a package, but this time add in the supposition that they happen to visibly be part of a social minority group. Perhaps they have the choice of visiting a post office in a neighbouring town, 25 kilometers away, or one a short walk from their residence. Imagine that the office in the neighbouring town is staffed with people, including members of their same minority group, who warmly welcome this individual and that they feel comfortable spending time there. Imagine also that the post office around the corner is staffed with employees who have treated this individual poorly in the past — say, they were terse when serving this individual and made not-so-subtle racial comments. Although the physical friction, the financial cost and time of travel in this case is higher for the first option, visiting the second option has much higher *social* costs, as it entails

the individual being subject to prejudice. This is an instance of social friction. The choice the person makes to drive farther to be treated respectfully is unsurprising. This social friction is part of how people make the many decisions regarding where they live, where they travel during their daily lives, and countless other choices that depend on “necessity, convenience and the degree to which an individual feels comfortable in an area” (Lloyd et al., 2014, 71).

Of course, we all experience physical and social friction to a degree. Even in an environment where one may be free of physical barriers such as potholes and mountains, and free of threats of violence and discrimination, friction is a “function of ‘normal’ factors such as distance and the necessity of the trip” (Lloyd et al., 2014, 71). Social friction is multi-dimensional, and ranges from discrimination and threat of violence, to the friction one experiences when they are in a social situation that they are ill-equipped to succeed in. However ‘normal’ it is, though, it is important to see that social friction is sometimes present in a high enough degree, and in such systematic ways, that it contributes to keeping people separate, and maintaining segregation between groups of people.

Common examples of friction in the segregation literature help make this clear. Take the well-documented religious segregation in Northern Ireland, for instance. This example is a standard one in segregation scholarship, likely for its familiarity, and for its complexity. The social friction for someone who is Protestant seeking employment in a largely Catholic area in West Belfast would be disproportionately higher than someone who is Catholic seeking employment in the same area (although there are no-go areas for both sides). And yet, to claim that the Catholic individual has zero friction to complete this task in the same place would be naïve. The Catholic individual may still struggle to have sufficient connections and marketable skills to succeed in those areas and experience a degree of social friction as they go about their search. The difference is in the *degree* of friction the Protestant person experiences, and in its arising due to their membership in a minority group, generating a greater degree of friction for a given distance or activity than if they were a member of a different group (Lloyd et al., 2014, 71).

The metaphor of friction as a social phenomenon is enhanced when it is coupled with other attempts to understand the mechanisms of separation. In her book *The Imperative of Integration* (2010), Elizabeth Anderson addresses the issue of racial segregation in the United States and presents a conceptualization of social and cultural capital that is useful for my present purposes. Although Anderson does not draw a connection between her ideas and the notion of friction, I want to suggest that her ideas are apt conceptual tools to further understand the ways social friction arises, and how it impacts members of society.

Anderson identifies four kinds of capital that a person can have: financial capital,

human capital (which are a person's marketable skills), social capital, and cultural capital. She defines the latter two as follows:

Social capital refers to the network of associates by which knowledge of and access to opportunities is transmitted, and norms of trust and reciprocity are enforced. Cultural capital refers to facility in the often informal and implicit norms, conventions, and codes of conduct that govern access to advantages. (Anderson, 2010, 31)

When someone lacks social and cultural capital, that is, they are not equipped to successfully navigate a particular social setting with its norms of trust, implicit conventions, and expected conduct, the cost of participating in those activities can be prohibitive. For instance, when there is a deficit between the cultural capital that one *has*, compared to the capital that one *needs* to comfortably participate and build social connections and relationships in a certain environment, one may avoid those environments. I argue that the deficit constitutes social friction. An individual would experience this friction when they attempt to participate in an activity outside of their realm of social capital, by perhaps feeling embarrassment for unintentionally offending others, or recognizing that others perceive them as disrespectful and inappropriate, but they are unsure why. This social friction effectively maintains separation between the kinds of people who participate in certain activities and social settings, and those who don't.

In her book, Anderson offers many examples of how being a black person in racially segregated America is detrimental to one's cultural capital. For instance, she notes that,

... subtle cultural differences in body language, habits of emotional expression and management, styles of personal appearance, and interaction rituals can impair the ability of untutored blacks to navigate white-dominated social worlds successfully. (Anderson, 2010, 36)

And again, while Anderson does not make the theoretical connections between lack of cultural capital (in the above example) and social friction, the difference between what social and cultural capital an individual has and what they need translates into the amount of social friction that is involved in travelling in and through particular destinations. A person may not be entirely prevented from choosing to move within particular circles by their lack of capital, but the presence of friction in those different areas makes it less likely that they will stray from areas that are familiar to them, that is, where they have sufficient cultural and social capital (Lloyd et al., 2014, 71). The higher amount of capital an individual has, in many ways, the less social friction they experience.

In the segregation literature, the concept of friction is one way to explain the patterns of movement by which people remain isolated from other social groups in their daily lives and remain in patterns populated by their own race, class, religion, etc. Whether it be a mountain generating friction, or the lack of social and cultural capital, by identifying the presence of friction we are pointing out features that keep people in predictable patterns of movement. Friction, in its many forms, maintains the segregation and lack of integration of differing social groups.

3.3.1 Friction in a Post-Institutional Era

The concept of social friction is a helpful tool for explaining what maintains the separation between people with cognitive or developmental disability and the greater community in the post-institutional era. A growing number of studies have shown that people with cognitive or developmental disability desire more social inclusion in their lives, but struggle to achieve it (Abbott and McConkey, 2006, 276). The concept of friction can explain one reason why this is the case: the social friction involved in exploring activities and social connections in the greater community is significantly higher than what people experience when they participate in programs designed for people with cognitive or developmental disability. The difference in the amount of friction associated with these choices contributes to citizens with cognitive or developmental disability living lives separate from the greater community. I will demonstrate this by revisiting features of the present-day separation and highlight the sources of social friction, continuing to use Anderson's conceptualization of social and cultural capital for a more nuanced analysis.

Many people with cognitive or developmental disability receive a significant amount of care through paid support staff. Staff can be hired by organizations and be part of the daily life in a group home arrangement, or an individual (with, perhaps, the assistance of their family) can directly hire a support worker to assist them with daily tasks. As described above, studies have shown strong evidence that the quality of support an individual receives from paid staff plays a crucial role in that person's experience of social participation. One study identified the personal support worker as "a key determinant of outcome" for an individual's social experience (Venema et al., 2016, 42). The personal attitudes held by the service professional make a significant impact and seem to create results fitting a negative correlation: as the strength of negative attitude toward the ability of their client, or pessimism regarding how their client will be received by community members *increases*, the opportunities they offer their client to engage with community members, *decreases* (Venema et al., 2017, 152).

In some cases, the attitudes of the support staff can create reinforcing feedback loops. When people with cognitive or developmental disability are not taught the functional skills that are necessary for them to cope with their environment, and with new experiences especially, their unsuccessful attempts at new activities can be interpreted as proof of the person's inability to socially integrate (Venema et al., 2017, 148). A support staff can respond to this "proof" by limiting their client's chances of having additional opportunities in the future. This impedes an individual's opportunity to gain social and cultural capital, through education and experience, leaving them at a deficit when attempting other new social situations later on. One author goes as far as to argue that staff distance their clients from "typical social interactions through active management of their environment," which would make opportunities their clients have to grow in social or cultural capital by experience very rare (Johannes et al., 2017, 50). If it is the case that clients are effectively prevented from having opportunities to grow their social and cultural capital, it preserves the high degree of social friction they will experience if, and/or when, opportunities finally do arise.

When someone lives in a group home, their reliance on a staff member can be especially limiting. The staff's own preferences are in play, along with the preferences of other group home residents. For instance, when a support staff member presents options to an individual or group of co-residents of possible activities to choose from, the staff will know of the places in their community that are more welcoming than others, and places where negative treatment has occurred in the past (Hall, 2017, 860). The options they offer will likely consist of places where friction — here in the form of discrimination — is lowest to the group. This can make the list of available options for community participation very short, and ultimately very predictable. This can often be further complicated by the same group of people choosing from a familiar list of options, and as in any group there will be predictable preferences and dynamics. Thus, the patterns of their group accessing places that have the lowest degree of friction is sustained.

In contrast with community activities involving a range of significantly high to prohibitively high degrees of social friction, there are both social and employment programs available for people with cognitive or developmental disability that are designed, it would seem, to have as little friction as possible. Even individuals who live in "ordinary" neighbourhoods tend to frequent facilities directed at their specific group (age, ability etc.) rather than seeking out comparable activities in the broader community (Venema et al., 2017, 148). It seems that the inertia of choosing activities that have lower friction maintains this pattern of separation, as individuals are guided toward choices where they already have sufficient social and cultural capital. If the experience of exploring community activities and events includes high friction in the form of potential discrimination and complications

of arranging support staff, then the low friction of a program — with familiar social norms and expectations, complete with staff and a well-equipped facility — will continue to win out.

Although it is likely that some individuals have actively chosen these programmed options over viable (and not just theoretical) options to participate in community-based activities, advocates and self-advocates have identified sheltered workshops, segregated classes, and so-called “traditional services” for people with cognitive or developmental disability as having negative implications. Some see the continued use of these services as contributing to the “othering” of people with cognitive or developmental disability, perpetuating the stigma of being “cognitive foreigners” who belong in institution-like settings (Johannes et al., 2017, 49). Similarly, when we contrast the degree of friction of organized programs with community-based activities, we can see how such programs may actually serve to decrease the likelihood of an individual participating in the community: an individual effectively avoids chances to accumulate the relevant social and cultural capital, ultimately hindering their experience of inclusion overall.

Generally speaking, there continue to be high degrees of social friction experienced by individuals with cognitive or developmental disability when they participate in community-based events, and very low degrees of social friction when participating in programs designed specifically for people with cognitive or developmental disability. This maintains the lines of separation, the patterns that keep citizens with cognitive or developmental disability isolated from the greater community. Furthermore, the concept of friction can explain why it is that even when people with cognitive or developmental disability are present at community activities and events, they remain socially separated from their cognitively typical fellow community members. Friction can be introduced by the lack of relevant social and cultural capital that would smooth the navigation of new social situations and is further complicated by the attitudes of one’s support worker. This maintains the lines of separation, so that while many people are physically integrated into communities — that is, they live at residential addresses — they lack social integration. Social friction allows us to identify these sources of separation in a more fine-grained way, and so to better understand what stands between one’s feeling of being included in a community, and merely their physical presence in that community.

3.4 Hermeneutical Injustice

There is another kind of friction that contributes to the separation, one that is previously unacknowledged. I will call it *hermeneutical friction*, and by that I mean that there are

distinctly epistemic sources of friction that maintain separation between cognitively typical people and those with cognitive or developmental disability that is not captured within the categories previously mentioned.³ In this section I will draw from the work of Miranda Fricker and Rebecca Mason on *hermeneutical injustice* to identify two potential forms that this hermeneutical friction can take.

3.4.1 According to Fricker

Miranda Fricker uses the term “hermeneutical injustice” in her 2007 book *Epistemic Injustice: Power & the Ethics of Knowing*. In order to understand what she means by it, I will give a brief background about her larger theory. In the book, Fricker seeks to identify and explain some distinctly epistemic forms of injustice that people experience. She approaches the issue from the perspective that human beings are fundamentally rational beings, and this rationality is a large part of from where humans derive their value (Fricker, 2007, 44). It is because of the crucial role that rationality plays in the lives of individuals that one can experience harms to one’s capacity as an epistemic agent, and in a way that deserves a category and analysis distinct from other forms of injustice.

Fricker structures her account to identify the ways that society systematically harms people as epistemic agents, or “knowers,” due to their perceived membership in a particular social group. When an agent is a member of a social group that other members of society view in negative ways, the negative stereotypes based on that social identity track them through their many roles in society, systematically causing them disadvantage (Fricker, 2007, 34). When someone belongs to groups about which one or more of these negative identity stereotypes are prevalent — the sexist belief that all women are overly emotional or irrational, for instance — it disadvantages them epistemically by discrediting them as a reliable agent in the minds of hearers who hold that stereotype, effectively excluding them from important social knowledge-sharing practices. To be consistently dismissed or excluded as a reliable epistemic agent due to negative stereotypes, according to Fricker, is epistemically unjust.

The harm caused to an agent who is subject to epistemic injustices can be felt in practical ways, such as the loss of opportunities, both materially (career advancement) and intellectually (skill growth); Fricker calls these “secondary harms” and they appear to be akin to losing opportunities to gain what Anderson identified as social and cultural

³This is not in any way intended to be connected to José Medina’s notion of epistemic friction in his book *The Epistemology of Resistance* (2013). Rather, I have chosen to continue with the metaphor from the segregation literature.

capital (Fricker, 2007, 46). She separates such “practical” harms from what she sees as the more profound kind of harm inflicted, what Fricker calls “primary harms” (44). A primary harm is when a person is “harmed in their capacity as a knower,” where they begin to doubt their own abilities, and potentially even lose knowledge (44).⁴ Fricker goes as far as to suggest that such primary harms interfere with the development of an agent’s identity (53). Because ‘being a knower’ is a central feature of a person’s humanity, epistemic injustice can inflict serious harm on an agent (44).

Fricker identifies two different kinds of epistemic injustice, both with the capacity to inflict primary and secondary harms. The first is *testimonial* injustice, which occurs when an agent is dismissed as though they are an unreliable source of any knowledge, lacking credibility due to the negative prejudice their hearer holds against them simply because they are (or at least perceived to be) a member of a certain social group (Fricker, 2007, 20). For instance, prior to women’s enfranchisement, a woman’s political opinion would likely be dismissed on account of a gendered prejudice about who could sensibly discuss politics. To illustrate this, Fricker provides an example of a woman who is met with incredulity and silence when she attempts to initiate a political discussion with men in her life (54).

The second kind of injustice, and the one of interest for the current work, is what Fricker calls *hermeneutical* injustice. Beginning again from the starting point of social groups being subject to negative identity prejudices, and so bearing a “family resemblance” to testimonial injustice, Fricker states that these prejudices preclude certain social groups from having equal involvement in creating shared interpretive concepts, concepts that have direct impact on people’s lives (Fricker, 2007, 155). She describes the connection between inequality and collective hermeneutical resources as follows:

...the powerful tend to have appropriate understandings of their experiences ready to draw on as they make sense of their social experiences, whereas the powerless are more likely to find themselves having some social experiences through a glass darkly, with at best ill-fitting meanings to draw on in the effort to render them intelligible. (Fricker, 2007, 148)

When society politically marginalizes a social group, members of that group are not included in the ongoing social activity of deliberating meaning and interpreting experiences, and so “with respect to some significant area(s) of social experience, members of the disadvantaged group are *hermeneutically marginalized*” (Fricker, 2007, 153; emphasis in original). This leaves members of the marginalized group with a gap of conceptual resources

⁴Whether this is so or not depends, Fricker suggests, on one’s theory of knowledge. The details, though interesting, are tangential to the present topic, so I will not pursue them.

to understand aspects of their own experience, hence causing them to have experiences “through a glass darkly” (Fricker, 2007, 148). Further homing in on why she has identified this as an injustice, she states that, “it renders the collective hermeneutical resource *structurally prejudiced*,” thus, structurally favouring members of the hermeneutically powerful groups, and disadvantaging those who lack power (55; emphasis in original).

With regard to the structural nature of the injustice, Fricker argues that no single individual perpetrates hermeneutical injustice. Individual agents experience it when, because of their hermeneutical marginalization, they have lacunas of understanding of their own experience. This lacuna is shared, as their experiences are likewise obscured from collective understanding, further contributing to their disadvantage (Fricker, 2007, 159). Ultimately, Fricker defines hermeneutical injustice as follows:

... having some significant area of one’s social experience obscured from collective understanding owing to a structural identity prejudice in the collective hermeneutical resource. (Fricker, 2007, 155)

When an agent experiences this distinct kind of epistemic injustice, they will be subject to the primary and secondary harms mentioned above.

Fricker uses the lack of hermeneutical resources prior to the emergence of the term “sexual harassment” to illustrate hermeneutical injustice. During consciousness raising gatherings in the 1970’s, the term “sexual harassment” was coined to make sense of the treatment many women experienced in their workplaces, something that was previously unacknowledged as a shared phenomenon (Fricker, 2007, 151). She states that without the name and acknowledgement of sexual harassment, women had what Fricker calls a “cognitive disablement” — they lacked the ability to properly understand their own experience (151). This lack of understanding, according to Fricker, prevented a woman from

... understanding a significant patch of her own experience: that is, a patch of experience which it is strongly in her interests to understand, for without that understanding she is left deeply troubled, confused, and isolated, not to mention vulnerable to continued harassment. Her hermeneutical disadvantage renders her unable to make sense of her ongoing mistreatment, and this in turn prevents her from protesting it, let alone securing effective measures to stop it. (Fricker, 2007, 151)

Fricker confirms this as an instance of hermeneutical injustice by identifying the hermeneutical marginalization that women experienced. Women held relatively powerless social positions, leading to their unequal hermeneutical participation, just the sort of inequality

that creates “the crucial background condition for hermeneutical injustice” (Fricker, 2007, 152). However, when women realized the pervasiveness of this phenomenon, occurring with a frequency of which they were unaware, and identified a fitting name, it became possible both to understand the experience and take action to stop it. Filling the conceptual lacuna, *i.e.*, addressing the hermeneutical injustice, made it possible to seek redress for harms.

Fricker does not leave the concept of hermeneutical injustice without important qualification, however. She acknowledges that individuals and groups can experience problematic ignorance about the world for many reasons, but not every instance of shared lacunae qualifies as hermeneutical injustice. The source of the lacuna is crucial, since “hermeneutical marginalization is always coerced” (Fricker, 2007, 153). One cannot simply opt out of full participation in hermeneutical practices and claim hermeneutical injustice, because if one can choose to opt out, one could also choose to opt *in*. If the lack of hermeneutical resource stems from the willful opting out of participation, and not involuntary hermeneutical marginalization, it is not an injustice.

Furthermore, Fricker states that for the shared ignorance to be an injustice, “it must be harmful but also wrongful, whether because discriminatory or because otherwise unfair” (Fricker, 2007, 151). She recognizes that there will be lags in hermeneutical resources due to a rapidly changing social world, but that not all of these cognitive gaps are harmful or discriminatory in any way. Hence, if there are cognitive disadvantages that arise due to the speed at which the social world changes, but that are not caused by discrimination or unethical knowledge practices, Fricker considers them benign (151).

3.4.2 According to Mason

Fricker’s conceptualization of hermeneutical injustice is not without its critics. In Rebecca Mason’s article “Two Kinds of Unknowing” (2011), she argues that Fricker did not correctly identify the source of injustice in hermeneutical injustice. Not only did Fricker misidentify the source of ethical wrongdoing but also, according to Mason, this misidentification can perpetuate the very harm that Fricker’s view is seeking to avoid (296).

The focus of Mason’s disagreement is the way she interprets Fricker as saying that the dominant hermeneutic is generally correct, even if limited, and that the harm is caused by conceptual gaps resulting from the unjust exclusion, the marginalization, of members of particular social groups (Mason, 2011, 297). On Fricker’s view, it is not a matter of the marginalized group being excluded from knowledge available to those allowed to contribute to the “collective hermeneutic,” but that by failing to properly include the marginalized in the development of this collective hermeneutic, concepts relevant to the

lives of the marginalized are *unlikely to be developed, and so are unavailable to anyone*. Everyone remains ignorant, but the injustice and harm fall on the marginalized because it is concepts relevant to their lives and experiences that are undeveloped. Mason disagrees with this assessment, stating that:

... it is not at all clear that members of non-dominant groups fail to understand their social experiences when collective hermeneutical resources are deficient with respect to them. This is because it is not at all clear that what Fricker describes as “collective” hermeneutical resources are exhaustive of the interpretive resources available to hermeneutically marginalized subjects. (Mason, 2011, 299)

Mason draws from the work of Charles Mills (1997,1998, 2007), and standpoint theory more generally, to argue that marginalized groups are not, in fact, lacking understanding of their own experiences due to lack of collective resources, as Fricker thinks. Instead,

... marginalized groups occupy a social location outside the epistemic agreement to misunderstand the world, giving them an angle of perception that encourages a more accurate understanding than that of the dominant groups that oppress them. (Mason, 2011, 303)

In this quote we can see that not only does Mason disagree that marginalization causes a lack of understanding, since marginalized groups access “a more accurate understanding,” but that the privileged position of dominant groups does not provide them with *epistemic* privilege (Mason, 2011, 301). Contrary to Fricker’s perspective, being a member of a marginalized group does not entail lack of relevant hermeneutical resources. The epistemic lack is experienced, instead, entirely by the dominant group. To support this, Mason reconsiders Fricker’s example of sexual harassment and argues that it actually supports her own view, and not that of Fricker’s. Where Fricker presents the coining of the term “sexual harassment” as a turning point in overcoming an instance of hermeneutical injustice, Mason denies that it played such a crucial role in women’s ability to *understand* their experiences. She states that,

Although the name *sexual harassment* galvanized political action, women’s newly found linguistic ammunition did not indicate that the women were, until then, prevented from understanding their experiences of it. (Mason, 2011, 298; emphasis in original).

Mason concedes that giving the phenomenon a name was beneficial in many ways, but denies that it was required for women to understand their experiences. She interprets a woman's participation in consciousness raising activities as "not the actions of a woman mystified by her experiences of a yet-to-be-named phenomenon," but views the causal force moving in the opposite direction: it was "precisely women's interpretations of their treatment as wrongful and unjust" that motivated their efforts to find a name for sexual harassment (Mason, 2011, 297–298). This is in contrast with Fricker, who identifies the coining of the term as what allowed for proper understanding of the situation as being unjust, and what provided the awareness of injustice in hindsight (301).

Since, on Mason's view, the source of the epistemic harms is not a conceptual lacuna shared by both the marginalized and the powerful, she identifies another source of wrongdoing that she claims to be the true injustice. The true source of harm, according to Mason, is actually the unethical knowledge practices of the dominant group. Practices, such as "ethically reprehensible practices of misinterpretation, [...] evasion, and self-deception" that are employed to actively maintain their ignorance (Mason, 2011, 303). These are the mechanisms by which the dominant hermeneutic is created and maintained, with their ignorance resulting in people continuing to engage in behaviour harmful to those who are less powerful than they (304). The injustice is found in the collusion to maintain power through the narrative created by the dominant group — by actively upholding skewed collective hermeneutical resources, the dominant group is shielded from correction and can maintain their control over groups they have oppressed.

Mason argues that the case of sexual harassment illustrates her version of the underlying structure of hermeneutical injustice, in that while the dominant group did not understand the oppressed group's experience, due to motivated ignorance, the members of the oppressed group surely did. Mason states that,

Fricker neglects the possibility that defective knowledge practices among members of more powerful groups can produce and maintain distorted understandings of the social experiences of marginalized groups despite contrary, and arguably better, interpretations that fail [...] to gain voice in dominant discourses. (Mason, 2011, 300)

Hence, rather than a symmetrical epistemic gap that causes harm, Mason points to the areas of motivated cognitive lack found in those who hold powerful positions in society. The cognitive lack of understanding that characterizes the dominant group is the result of epistemic irresponsibility and unethical knowledge practices, ultimately allowing them to cause further harm to those who fall outside the dominant group.

In contrast to Fricker, Mason is confident that the oppressed, such as the women who had experienced sexual harassment in the workplace, *collectively* understood the harm being done, even without a name, as their social location was “outside the epistemic agreement to misunderstand the world” giving them an advantage to understand both the dominant group and their own situations (Mason, 2011, 300). Furthermore, Mason argues that Fricker’s theorizing is harmful to the non-dominant groups, as to present them as failing to understand their own experiences only serves to further justify their perspectives being excluded (305).

3.4.3 Complementary Ideas

Although the specifics of a combined view are outside the scope of this present argument, I propose that the approaches presented by Fricker and Mason each have something to offer here, and that having both is actually beneficial to my current project. In short, I think that the two perspectives can be used in complementary, not competing, ways since they identify different sites of lack of understanding that can cause harm and can occur — I think — simultaneously.

To support my idea that the two views can be complementary, I must push back against part of Mason’s critique, and show that Fricker does indeed identify something worthwhile. By using Fricker’s example of sexual harassment, Mason claims that the women did not lack understanding of their experience. Instead, it was only the dominant group that unethically safeguarded their ignorance with respect to the harm caused to women by their behaviour. Although Mason may be right about this case (though the matter is probably debatable), it would make the illustration Fricker chose unfitting, rather than making her argument misguided. In general, Fricker is addressing the situation where an individual lacks conceptual tools to make sense of their own experience, prior to bringing it forward, or even thinking it would be worth bringing forward to another member of their marginalized group. This is something that Mason’s view doesn’t acknowledge. Again, perhaps the example of sexual harassment did not demonstrate this well, but I think another example Fricker offers does so more effectively.

Fricker uses the story of a woman retelling the experience of when she first learned about postpartum depression at a feminist gathering to illustrate another example of hermeneutical injustice:

In my group people started talking about postpartum depression. In that one forty-five-minute period I realized that what I’d been blaming myself for, and

what my husband had blamed me for, wasn't my personal deficiency. It was a combination of physiological things and a real societal thing, isolation. (Fricker, 2007, 149)⁵

Here we see an individual who had a lack of interpretive tools. This woman had not even thought about asking other women about their experience — she had assumed her experience was a purely personal one, a personal deficiency. She was not aware that it was something other mothers had experienced, and we can presume she felt no impetus to share the personal information to find out if the experience was a common one, and if it had a name. Fricker invites us, plausibly, to consider that this woman's experience was typical — women experienced what we now call postpartum depression in isolation, thanks in part to the shame attaching to such feelings at the time when women were supposed to be basking in the joy of new parenthood, and so were unaware of the phenomenon's frequency. The collective hermeneutic was ignorant of her experience, and so likewise she was without interpretive tools to understand it, and this lack caused her harm.

Taking this line of thought further, imagine what it would have been like for the first woman to share that experience. The instance when a woman spoke to another woman about it for the *first* time, and what was in hindsight the impetus of creating the hermeneutical resource to ultimately share with other members of the group. These resources are developed in a way that is neither immediate, nor uniform in nuance and depth. This entails that, at one point, the non-dominant group did not have a shared hermeneutic that the dominant group was suppressing, and further, that the non-dominant group may have required time to formulate a sufficient interpretive tool, even once the process was initiated. Mason assumes there must be an adequate hermeneutical resource that was being suppressed, but this did not necessarily exist yet. Here is where Fricker's theory can offer an answer where Mason's cannot.

Carrying on with Fricker's perspective, this shared lacuna can be traced to women's hermeneutical marginalization, where women's medical and emotional issues were sidelined and prevented from garnering serious medical attention, for instance. This marginalization resulted in the experiences of new mothers being obscured from the collective understanding, as well as from individual women. Of course, to use Fricker's approach does not let those responsible for the hermeneutical marginalization, the doctors and medical researchers in this case, off the hook. Instead, Fricker here focuses on a different mechanism, the mechanism of shame in this example, that keeps hermeneutical tools from being de-

⁵The quote is taken from Susan Brownmiller, 1990, *In Our Time: Memoir of a Revolution*, New York: Dial Press, page 182.

veloped amongst a group, either at all or at a very slow and patchwork pace. This fits her definition of hermeneutical injustice, and in a way that Mason's view does not recognize.

But, conversely, Mason's view has much to offer by way of understanding what at least sometimes goes wrong at the group level, perhaps even in the postpartum depression case: in that case it would be to identify what the doctors failed to do and why, *i.e.*, what caused and perpetuated the hermeneutical marginalization. Unethical knowledge practices that acted as safeguards to social power are a very likely factor that maintained sexist trends in what dictated choices in medical research. These choices contributed to women being hermeneutically marginalized in this domain, and to their experiences being obfuscated from the dominant hermeneutical resources. This scenario plausibly continues even when the non-dominant group develops hermeneutical resources of their own.

What occurs in Fricker-style cases is a different phenomenon than what Mason identifies, but the two are likely to occur together, and moreover, they probably occur sequentially with Fricker's version occurring first. The first kind of phenomenon, which Fricker focuses on, happens when issues are cloaked in shame and are experienced in social isolation, as found in the example of postpartum depression. Shame, or similar dissuading factors, prevent people from disclosing their own experiences in ways that would lead them to discover it is a shared phenomenon that deserves to be understood and labelled.

Once these experiences are shared amongst the non-dominant group, and together the group develops hermeneutical tools to interpret the phenomenon, at least some of the time, along the way to having this hermeneutical insight adopted into the dominant collective resource, Mason-style injustice occurs. The oppressed group has interpretive resources that would benefit them if adopted into the collective hermeneutic, but the dominant group engages in unethical knowledge practices in order to maintain their ignorance in spite of the interpretive tools available. Both forms of hermeneutical injustice are worth identifying and should be alleviated.

3.5 Hermeneutical Injustice and Hermeneutical Friction

With the distinction between the two accounts in mind, starting with Mason-style injustice, I will show that when it comes to a cluster of crucial, interrelated concepts (inclusion, citizenship, etc.), the situation for people with cognitive or developmental disability shows aspects of both sorts of hermeneutical injustice.

3.5.1 According to Mason

Wolfensberger and Foucault argue that groups of people are cast into rigid social roles by their society, roles according to which they are subsequently mistreated. In retrospection, we can see that these roles are expressions of the dominant hermeneutic — and, following Foucault here — largely created by those in positions of power, such as the doctors and government officials who had prominent positions in our institutional past.

Notable mentions on Wolfensberger’s list include the role of the non-human, the sub-human (“variously characterized as animal, vegetable, or object”), the object of dread, the object of pity, the object of charity, the ‘eternal child’, and the sick role (Wolfensberger, 2000, 107). Wolfensberger identifies these roles largely in hindsight, and points out how people were mistreated in ways that corresponded to the role (*e.g.*, sick role leads to one’s life being an endless series of “therapies”). The way members of society treated people according to these labels demonstrated that members wider society had adopted those roles into their own hermeneutic. The dominant hermeneutic classified, and continues to classify, members with cognitive or developmental disability in roles that society does not value, and these categories find their place within the dominant collective hermeneutic and are expressed in our social interactions.

For example, echoes of the ‘eternal child’ trope that played a large historical role in the dominant hermeneutical resource is exemplified in the commonly used terms of “mental age” when describing a person with cognitive or developmental disability, often leading to someone being viewed as a child within the body of an adult. By maintaining a dominant collective hermeneutic that perpetuates an ‘eternal child’ interpretation of people with cognitive or developmental disability, those in decision-making positions of society are justified in continuing to treat people with cognitive or developmental disability in paternal ways, maintaining a high level of control in how support is provided to them. To protect this power, citizens with cognitive or developmental disability are excluded from meaning making practices, and misrepresented as childlike so as to avoid the additional complexity that comes with treating them as adult individuals, such as respecting their autonomy in higher degrees, for instance.

And as per Mason’s account, for general members of society there are regrettable benefits to treating someone as an object of pity, or as an ‘eternal child,’ for example. In the former case there is, for instance, the boost to one’s self-esteem that comes from lending a hand, while the latter comes with more predictable scripts for how to behave since most people feel like they already know how to interact with children. With these sorts of undeclared motivations, it is possible to carefully avoid (as presumably generations of sexual harassers have likewise avoided) asking questions about how the interactions are

experienced by those on the receiving end. Do they feel humiliated? Tormented? Unethical knowledge practices of self-deception and motivated mis-interpretation are at work in people's minds to evade correction.

The status quo is protected by maintaining the dominant hermeneutic, in spite of the non-dominant hermeneutical resources available. And they are indeed available: self-advocacy groups, such as "People First" ([People First of Canada, 2018](#)), articulate the collective non-dominant understanding of the need to be perceived and consequently treated as full citizens, rather than children and recipients of charity. Although what it means to be a "full citizen" is still taking shape, at the very least, it includes being perceived as an adult, with adult interests, a flat rejection of persistent childlike roles.

3.5.2 According to Fricker

The presence of hermeneutical injustice as Mason defines it is more clearly identified, but part of the difficulty is that the sort of injustice Fricker focuses on has not yet been thoroughly overcome. The available non-dominant hermeneutical resources provide broad strokes, and enough to initiate large changes. However, when one attempts to put a finer point on what to do about it, one finds many missing details. This is because lacunae are still present.

For a long time, it was not clear that the absence of *inclusion* was a real problem, rather, the focus of supporting people with cognitive or developmental disability was on safety. It was matter of conceptual evolution to even get people speaking in terms of inclusion and participation. And although the importance of inclusion and kindred concepts is well accepted today, *what is desired* is not yet clearly understood, by those within the marginalized community or outside it.

Research shows that people with cognitive or developmental disability in our society today lack something in the area of inclusion and belonging, something we attempt to define by many (seemingly) interchangeable words. While this lingering lack of understanding may be frustrating for researchers and policymakers, the true harm is being done to those who have cognitive or developmental disability, and who are directly impacted by conclusions at which the policymakers arrive. This can manifest in instances in which one feels frustration or restriction in their current social life, but are operating with the same incomplete notion of inclusion as the rest of society, a notion developed largely without the input of people with cognitive or developmental disability. The hermeneutical resources, while recognized, require further development.

For instance, if I think being included in the community looks like joining my fellow group home residents for lunch in a community park, where we sit separate from other park visitors and eat our packed lunch, I may experience disappointment or frustration because I still don't feel included in the community as I had hoped. This excursion may be a genuine effort made by the people planning it as a "daytime activity" for the group home residents to "be involved in the community," and so those guiding the activity may likewise feel disappointed when the activity does not benefit the residents as intended.

Fricker's tool of hermeneutical injustice allows us to identify what is going wrong in this particular case. Beyond recognizing that the situation exists, it can take time to create a satisfactory account of that phenomenon (*e.g.*, how long did it take to arrive at the premise "sexual harassment isn't primarily about sex, it's about power"?). Furthermore, with respect to the attempts we make to arrive at a satisfactory account, we can see that hermeneutical marginalization still exists. Although there are exceptions (*e.g.*, [Abbott and McConkey, 2006](#)), many studies define their terms of inclusion without direct input from members of disability communities. Or, the research that is used to formulate their definitions is admittedly narrow in scope and does not reflect the diversity of people's lives, as they "have relied primarily on people with higher IQs and lower support needs" ([Simplican et al., 2015](#), 21). Regardless of the terminology one uses, inclusion or belonging, etc., a sufficient hermeneutical resource will be more nuanced than simply 'inviting and treating someone just like everyone else in the group,' (as I will discuss below), but may also require thoughtful accommodations. The picture is still evolving.

Hence, as a result of this hermeneutical marginalization, the shared lacuna has a harmful impact on the lives of individuals, causing instances of hermeneutical injustice. An individual seeking inclusion is at a disadvantage by operating with ideas of inclusion that may inadvertently keep them separate, and further, that individuals find themselves within systems that unwittingly maintain a level of exclusion because, regardless of good intentions, the people designing and implementing these programs are also working with incomplete notions of inclusion.

3.6 Hermeneutical Friction

I have tried to show that there are two types of hermeneutical injustice confronting people with cognitive or developmental disability. I think each sort gives rise to friction, but in slightly different ways. In continuing to elaborate upon the metaphor of friction, I call this *hermeneutical friction*, a kind distinct from the social friction discussed above.

This form of friction is introduced into an agent's life when, according to a Fricker-style case of hermeneutical injustice, agents lack hermeneutical tools to understand their own experiences, which are likewise obscured from collective understanding. This friction, of a manifestly epistemic sort, causes those who experience it to limit their activity to familiar patterns. Individuals considered to have cognitive or developmental disability are often operating with notions of inclusion that are stricken with lacunae, lacunae that are symmetrical in the collective hermeneutical resources.

For instance, calls for inclusion of community members with cognitive or developmental disability made at the popular level often include phrasing such as "treating everyone the same," and yet in a world designed for typical cognition and embodiment (to the exclusion of all the ways someone can be atypical) this seems to undermine the importance of meeting the needs people may have that, unlike the needs of the majority, society does not seamlessly accommodate.⁶ This misalignment of professed goals and what people actually need to feel comfortable participating can create awkwardness during, and even avoidance of, opportunities to increase one's experience of inclusion.

Imagine a young adult with autism, named Riley. Although Riley does not speak with her voice and types to communicate, she often makes loud vocalizations.⁷ Riley, accompanied by her support worker, chooses to have lunch at a local café in order to feel more "a part of things." There is a commitment, likely implicit, that the right thing to do is to treat Riley "just like everyone else," in order to include her. To the other patrons of the café, loud sounds are usually interpreted as exclamations for others take notice of something. And so, as Riley makes loud vocalizations over the course of lunch, other diners continually look and then whisper to those nearby, wondering what it could mean. But to Riley, being treated "just like everyone else" includes enjoying her lunch without her sounds and movements being scrutinized by others. The support staff present with Riley may not explain the noises to the other patrons, as it would single Riley out as different. The support worker may also avoid mentioning it to Riley, as it is out of Riley's control and it might only increase her self-consciousness.

Leaving the café, Riley feels singled out and stared at, and may choose to stay home next time, or to have lunch where people don't stare at her, and with those who may make loud vocalizations of their own, for instance. The support worker may also feel disappointed, making a mental note that the café "wasn't welcoming," and to pick another restaurant in

⁶For more discussion on how our perspectives of support are often mistaken due to our own ignorance of how much support we actually receive from society see [DeVidi 2013](#).

⁷By vocalizations I am referring to sounds a person makes with their voice that are not articulated speech, and primarily not considered to be intentionally communicative. See [Mulhern et al. 2017](#) or [Ahearn et al. 2007](#) for more discussion.

the future. And finally, the other patrons may remain confused, and be equally disinclined to be in a similar situation again. Even with the best of intentions, the shared lack of understanding of what inclusion looks like creates another source of friction that motivates cognitively atypical agents to choose more familiar, and more separate, activities.

Turning to Mason's perspective, we find another sort of epistemic friction. When the dominant hermeneutic perpetuates a negative view of people with cognitive or developmental disability, such as to cast them in devalued social roles, this creates significant barriers for people with cognitive or developmental disability to feel included among cognitively typical people who have consciously or otherwise, accepted the dominant view. For example, as mentioned above, it remains common to describe someone with cognitive disability with a "mental age" often much younger than their physical age (Smith, 2017). This speaks of a presumption that a person with cognitive disability is more appropriately treated as younger than their actual age, bearing signs of the rounding down of all abilities that comes with the 'eternal child' trope (Michals and McTiernan, 2018, §2). As a result, an individual will be treated as a child, rather than an adult who wants to be taken seriously about their adult goals and desires.

We would detect this interpretive tool at work in situations where, for example, an individual with a cognitive disability wants to pursue an intimate romantic relationship, and he discusses this desire with his cognitively typical friend. If his interlocutor views him as a child within an adult body, these goals will not be taken seriously. There will be frustration experienced by one party because they are being treated as a child, and the discomfort experienced by the other party due to having such a conversation (if one really views the other as a child). This can lead to both parties avoiding having similar conversations in the future. Generalizing this to patterns of social interactions, this can create high degrees of epistemic friction that, understandably, prevent people from seeking to increase the amount of time spent, and exposure to, groups of people who perpetually misunderstand them.

These examples show, I think, how hermeneutical injustice is a source of friction that contributes to patterns of social exclusion. Further, I think this effect is compounded by what Fricker would identify as secondary harms arising from the same source. The friction generated by either sort of hermeneutical injustice causes individuals to lose opportunities for intellectual and material gain, preventing them from being present in places where they may have access to profitable connections, gaining familiarity with norms of reciprocity and learning implicit codes of conduct. Once again, this prevents agents with cognitive or developmental disability from increasing their social and cultural capital. Hermeneutical friction caused by hermeneutical injustice inflicts distinctly epistemic harms, including the lack of access to opportunities to gain social and cultural capital, consequently contributing

to social friction. From this vantage point we can now identify a frustrating cycle of exclusion at work.

3.7 What Can We Do?

With a clearer picture of what is going wrong in view, we are faced with a question of what we ought to do about it. Is the current state of lack of social inclusion the result of obliviousness on society's part, or, are there more insidious forces at work? How one answers that question will determine where they direct their efforts at redress. Although there may be disagreement about the amount, role, and interaction of the two sources of hermeneutical friction, *that* there is such a source to further investigate is an important step toward a more robust understanding of what perpetuates the exclusion of people with cognitive or developmental disability in society.

The short answer to this question is that obviously we must involve the people whose experiences are in question in the task of sorting out what is needed. It seems that, realistically speaking, we are at the historical state where both Fricker and Mason-style hermeneutical injustice are present, and so both sorts of hermeneutical friction are in play. Insofar as it is a Mason-like case, we need to confront the motivations those in the dominant group have for not making a serious inquiry, and for avoiding the messages of self-advocates calling for change. This will include, among other things, making it plain that people experience the 'eternal child' trope as humiliating.

But it is not a pure Mason-style case, where, essentially, if we could but get the dominant group to attend to the experiences of the subordinate group and embrace their ready-made concepts for understanding it, this could be resolved, as is clear from the example of the Fricker-style cases. There is reason to believe that people with cognitive or developmental disability lack a clear picture of what inclusion really means to them as well. Regardless, we're not going to get there without reversing hermeneutical marginalization and including those directly impacted by the hermeneutical resources in the discussion.

This raises a further complication, which is that we must pay attention to what it means to include all members of the marginalized group in these conversations. This is especially important given the great diversity within disability communities and the possibility of different perspectives being overlooked, as unsurprisingly "some research has suggested that people with different levels of intellectual and developmental disabilities experience social inclusion differently" and that similarities in disability labels do not entail identical community experiences ([Simplican et al., 2015](#), 21). Hence, a diversity of

input is required if we are to have an accurate understanding of inclusion for agents with cognitive or developmental disability, something researchers admit to falling short of in the past (Hall, 2017, 859; Bigby et al., 2018, 177).

3.8 Conclusion

Beginning with the history of institutionalization, I offered both motivation and necessary context for why it is important to understand the current exclusions experienced by people considered to have cognitive or developmental disability in Canada. I highlighted advocates' and self-advocates' fears of re-institutionalization, in the midst of a growing, but slightly disorganized, literature that documents the lack of community participation that remains almost a decade after the institutional era officially ended. Whether one considers the present-day separation intentional, or indicative of the sluggish pace of social change, I think the considerations I have adduced make it immensely difficult for one to deny that such separation exists.

Next, I drew from the segregation literature, and argued that the conceptual tool of friction is well suited to understand the ongoing social separation between members with cognitive or developmental disability, members who are cognitively typical. Although I did not argue in particular that people with cognitive or developmental disability are *segregated* on the terms set by this literature, I did show how the notion of friction can give a more nuanced account of what sustains that separation. I expanded the metaphor of friction from physical aspects of travel to social friction: borrowing from Elizabeth Anderson's work on segregation, social friction is the result of an individual who lacks social and cultural capital.

Finally, I further elaborated on the metaphorical term of friction by arguing for the existence and significance of *hermeneutical friction*, that is, friction that individuals experience as a result of suffering hermeneutical injustice. I began with Fricker's notion of this kind of injustice, but also included Rebecca Mason's account as a second, complementary, formulation. Fricker points to a shared lacuna, the result of hermeneutical marginalization that prevents an individual from understanding their own experience, as well as having it obscured from the collective, in a way that causes harm. In contrast, Mason argues that the mechanism of injustice is the unethical knowledge practices of the dominant group, the ways that collude to keep the powerful, powerful, in spite of the non-dominant group having especially acute interpretations of their own experiences.

I argued that both accounts of hermeneutical injustice can occur simultaneously and are likely both present in the issue at hand. I offered possible examples of each kind of

hermeneutical injustice, showing how both cause hermeneutical friction: people with cognitive or developmental disability experience epistemic injustice that keeps them separate from their cognitively typical community members and, furthermore, prevents them from accessing opportunities to gain social and cultural capital. This friction could be the result of a shared lacuna, or the result of unethical knowledge practices that perpetuate negative social stereotypes, but is most likely some combination thereof.

Further investigation is required to more specifically identify the kinds and sources of hermeneutical injustice present. However, I have provided a basis to analyze and understand the sources of separation that prevent people with cognitive or developmental disability from experiencing increased social inclusion in much greater detail. In addition to studying the forms of social friction, in the sense of lack of cultural and social capital, we can now ask questions regarding an individual's epistemic opportunities to gain that capital: the role of hermeneutical friction.

Among these questions, we should ask: how can more diverse members of disability communities be included in hermeneutical practices? In what ways can we prioritize supporting people to acquire social and cultural capital? What attitudes, or lack of understanding, of support workers and the general public translate into epistemic barriers for social participation? Asking more nuanced questions can generate momentum toward new solutions. Ultimately, by using the tool of friction in general and hermeneutical friction in particular, we can better recognize harmful patterns that exist in our society that keep people separate, patterns that are even found within our attempts to remove those barriers.

Chapter 4

Communication as a Supportive Right

4.1 Introduction

According to Article 19 of the United Nations Universal Declaration of Human Rights, and most other important lists of human rights, I have the right to freedom of expression ([United Nations, 1948](#)). The most obvious implication of Article 19 is that it secures me from being interfered with when I want to say my piece. However, precisely *what* one’s right to freedom of expression amounts to is garnering a great deal of attention lately. Is it only the state that must refrain from preventing my saying what I want to say, or does the state also play a role in preventing others from interfering with my speaking? What are the limitations regarding who can speak in paid venues, and what they can say? Or state funded institutions?

In November 2018, the Canadian Broadcasting Corporation (CBC) reported on an event that drew public expressions of the competing views on this very question — a public debate in Toronto, at a paid venue, between David Frum and Steve Bannon. This event was seen by many Canadians as providing a platform for the dissemination of hate speech. Others thought that the injustice would actually be if the protesters were successful in *preventing* the debate. The debate did indeed occur, and in the CBC report, the author summarized it as something that “sparked a protest, saw a dozen people arrested and did nothing to sway the opinions of those in attendance” ([Goodyear, 2018](#)).

A similar debate is occurring on university campuses across North America, and perhaps even more vigorously in discussions by those not on university campuses about what

they think is happening on them. Calls to re-evaluate our institutional standards toward the kind of views we give platforms to are becoming commonplace, and petitions of one persuasion or another are created as a result. One such petition is authored by two faculty members from Princeton University, exhorting those of us on campuses to be willing to “. . .listen attentively and respectfully to intelligent people who challenge one’s beliefs and who represent causes one disagrees with. . .” (George and West, 2017). This is, of course, a platitude, and so something very few on university campuses would deny that they are doing already. The issue is hidden, among other things, in the fact that how one defines “intelligent” in any given scenario is carrying a great deal of weight. And further, judgments about who counts as intelligent enough to deserve a serious hearing (rather than being dismissed as merely voicing hate) are prone to oscillating between too restrictive and too permissive depending on whom one asks.

The question of who gets a platform to speak is, of course, not new, but not all ways of preventing someone from speaking where they are likely to be heard involve placard-waving crowds. In 1960, A.J. Liebling conveyed a common, frustrated sentiment that, “Freedom of the press is guaranteed only to those who own one.”¹ Of course, those owning printing presses were wealthy members of society, and largely limited to certain races and classes. Even accounting for Liebling’s rhetorical hyperbole, *i.e.*, even if ownership is too exaggerated a qualification, access to media that could amplify one’s message by broadcasting it was generally limited to those who could speak “appropriately” — in a way deemed acceptably educated and authoritative, though these have often been seen as disguised markers of gender, class, race, or other social group membership.

Access to audiences is still limited in many ways based on race, gender, and class, to this day. Of course, access to the internet provides one with the opportunity to share their ideas with a wide audience. However, the platforms of institutions — such as those on university campuses — still lend authoritative weight to the speaker, and so help their voice stand out from the cacophony of, for instance, the internet. Such prestigious venues remain largely reserved for people of a particular social group, often those who speak and carry themselves in certain ways. For example, Elizabeth Anderson notes that the social markers of people who are educated and trustworthy are drawn from a particular class of white people, and so there are habits of expression and body language that prevent people of colour in the United States from being successful in a white-dominated social world (Anderson, 2010, 36). The opportunity for one to exercise their freedom of expression in the spheres recognized as having intellectual authority is often reserved for people with a “reliable” voice. These venues are to this extent the modern-day versions of printing

¹This quote is attributed to A.J. Liebling, from his piece in *The New Yorker*, “The Wayward Press: Do You Belong in Journalism?” 1960, May 14.

presses in Liebling’s day.

Looking closer, there are other — often unnoticed — reasons why citizens cannot make themselves heard. There are citizens who are not fighting to have a place on any particular platform, rather, many citizens are without a mode of communication, full stop. Those with communication disability are unable to express their views at all. And so the questions of interfering with their expression of their views, or unjustly preventing them from accessing media and platforms to make themselves heard, cannot even arise.

When considering this more foundational obstacle to one saying their piece, we can see a difference emerging between the right to freedom of expression, as in, the state *refraining* from interfering with people (*i.e.*, preventing individuals from sharing opposing views), and preventing people from interfering with one another, as something distinct from requirements a state has to *support* individuals so that they can do particular things, like communicate. In this chapter, I want to focus on the latter: the role the state has to ensure that people are able to express themselves. I think that access to this sort of support should likewise be captured, in some way, within the rights a citizen has, and I am not the first person to argue for this.

In this chapter, I hope to contribute to an ongoing discussion by offering support for, and clarity about, the *right to communicate*, a term I borrow from the literature of other disciplines written with similar goals.² Given that the right to freedom of expression is a freedom from interference then, roughly put, the right to communicate is an individual’s right to have a method with which they communicate. Although at first glance it seems a simple request, I will show there is considerable complexity required to explain what the latter right amounts to. I intend to explain what, more precisely, a right to communicate entails, and ultimately propose a list of criteria we can use to determine to what extent an individual is secure in this right as they go about their daily lives.

I will begin by tracing the historical treatment of rights to expression and communication through a few significant lists of rights, in order to highlight the evolution of thinking about a citizen’s ability to communicate. I will land on the clearest articulated account of the right to communicate, as I see it, in the Convention of Rights for Persons with Disabilities ([United Nations, 2006](#)). In this way, I hope to show myself to be working within a context where this right has already gained widespread acceptance, and so its further investigation is not merely speculation about something that nobody thinks exists anyway. We are not investigating the colour of unicorns. What is required is greater clarity about the nature of this right, of which many are willing to grant the existence.

² For examples see [McCormack et al. 2018](#), [McLeod 2018](#), [Goggin 2015](#), [Gray and McAnespie 2004](#).

The historical sketch will provide a useful first step in this clarification, as it will help clarify what *kind* of a right people have in mind when they include a right to communicate on lists of fundamental rights. With that information in hand, I will shift my attention to how a right to communicate can be implemented in the lives of adults with communication disability.³ To do this, I will draw from the research literature of one of the professions on the front lines of communication: Speech Language Pathologists and Therapists (SLPs).⁴ In particular, a group of these professionals propose a conceptual framework to evaluate an individual’s experience of their right to communicate when participating in SLP research and practice (McCormack et al., 2018).

I will evaluate this list of criteria to determine whether it can be applied more broadly as a tool to gauge how secure one is in their right to communicate. Although I will ultimately argue that the framework, as it stands, is not adequate to conceptualize the right to communicate for adults in general, and adults with cognitive or developmental disability in particular, I will close by proposing a modified version that I hope can be a first step toward crafting a more complete and adequate framework.

4.2 An Overview

When one examines important documents purporting to list the fundamental rights of Canadians (among others), one can see evidence of shifting attitudes about the right to free expression, and the gradual isolation and elaboration of a right to communicate. Beginning with the Universal Declaration of Human Rights (1948), we find fairly broad claims in this regard. Of particular interest is Article 19, which states that,

³The definition I am using here for “communication disability” includes issues of speech, language or communication, and which can be caused by a wide range of disabilities that impact one’s ability to speak, and/or understand spoken language. These causes include cerebral palsy, intellectual disabilities, autism spectrum disorders, learning disability, acquired brain injury, speech disorders, aphasia, stuttering, Huntington’s disease, etc. (Collier and Communication Disabilities Access Canada, 2018, 11). I draw this definition from an organization called Communication Disability Access Canada (CDAC). Furthermore, CDAC was commissioned by the Government of Canada to perform a research study to determine the experience of Canadians with communication disabilities when attempting to access federal services. A report of this study was released in 2018, and I will use findings from the report throughout this paper as a source of widely accepted definitions, as well as pertinent and recent statistics representing people’s lived experiences.

⁴SLPs are part of a recognized group of clinical service providers for people with speech language and communication disabilities. In addition to SLPs, this group includes audiologists, augmentative and alternative communication clinicians, educators and occupational therapists (Collier and CDAC, 2018, 14).

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. (United Nations, 1948)

Here we see that all people have the right to be free from interference with respect to holding their opinions. And, as part of this freedom, one has a right to seek information on matters of interest and to share such information with others.

Authors who approach the issue of communication from an advocacy perspective have noted that there is reason to think that Article 19 can be conceived of in two ways: “(1) the right to communicate (*e.g.* to share ideas and information with others), and, implied by this, (2) the right *to be able* to communicate (*e.g.* to have a mode of communication)” (McCormack et al., 2018, 142–143; emphasis in original). Because of this secondary conception, many authors claim Article 19 to be the first time that communication was enunciated as a fundamental human right (McLeod, 2018, 3). This interpretation (a creative one, in my opinion) moves beyond one’s right to be free from interference when expressing their opinions, and includes a claim on the state to provide a mode of communication to do so. Whether or not someone is convinced of the accuracy of this interpretation, here at least we see hints of what I will refer to as one’s *right to communicate*, found in the mention of *imparting* information.

Interestingly, even though Canada signed the UDHR in 1948, many of the aspects of the declaration did not find their way into *The Canadian Charter of Rights and Freedoms* over 30 years later in 1982. Instead, the authors of the Charter appear to take cues from the American Constitution (1971).⁵ The richer notion of freedom of expression that many inferred from Article 19 was one such aspect that was omitted. What we *do* find in the Canadian Charter is entry 2(b) which claims that citizens have, “freedom of thought, belief, opinion and expression including freedom of the press and other media of communication” as a fundamental freedom (Government of Canada, 1982, 1). This is most plainly interpreted as one having the freedom to communicate one’s thoughts, being free from interference. This could be perceived as a step back from the UDHR, maintaining a clear “non-interference” aim of the right, while not including the right for one to “seek,

⁵According to accounts of the circumstances leading up to Canada signing the UDHR, this disparity should not surprise us. One scholar notes that, “Canadian policymakers approached the UDHR with a mix of skepticism, indifference, and outright hostility” as they saw it as too broad, and it challenged what Canada held as justified action taken against social groups at home perceived as subversive (Lui, 2012, 3–4). Ultimately, we know that Canada signed, but no legislative action was required, since declarations are not legally binding. Canada could sign the declaration without committing to instantiate those rights into our own legal system, hence its absence from the Charter (4).

receive, and impart information” (United Nations, 1948). The question of whether one’s right to free expression is abridged will only arise for those who have the ability to express thoughts, beliefs, and opinions.

The Canadian Charter does, however, address other important elements of one’s right to freedom of expression that extend in different directions. The Charter shows careful consideration of someone having a choice of which language one uses to express themselves. For example, in the *Legal Rights* section, entry 14 identifies that one has the “right to the assistance of an interpreter” when proceedings are conducted in a language a party or witness does not understand or speak, or if they are deaf (Government of Canada, 1982, 3). Similar to the right described in 2(b), it seems to be presupposed that one has the ability to express their thoughts in *some* language in order to avail themselves of their right to an interpreter. However, there is an important difference between entry 14 and 2(b). In entry 14, in addition to one’s right to not be interfered with when saying one’s piece (2(b)), there is an obligation on the part of the state, in certain settings, to provide the means (an interpreter) for one to exercise their communicative ability in a way that both parties can understand and be understood. A positive claim on the state is thereby generated.

Moving forward chronologically, in contrast with Canada’s reserved attitude toward involvement with the UDHR, our reception of the Convention on the Rights of Persons with Disabilities (CRPD) at the United Nations was much more proactive. In March of 2010, the government of Canada “pledged to be governed by the CRPD,” which consists of a list of rights that many disability advocates viewed as squarely aimed at “addressing the exclusion and lack of access people with disabilities have encountered in Canada” (Beachell, 2010). By this move, Canada chose to be held domestically and internationally accountable to the commitments in the treaty, giving the CRPD “teeth” as this commitment will not be satisfied with mere good intentions (Beachell, 2010).

Regarding communication specifically, it is within the CRPD that we find a more explicit, and intentional, articulation of non-interference rights of freedom of expression than in the Charter. Also, we find rights regarding an individual having a method to communicate, rights that oblige the state to take positive action. The CRPD shows evidence of extensive attention paid to how disability can impact one’s process of communication, and exhibits a decisive push for individuals to have reliable modes of communication. This focus is found throughout the document, in both the entries and definitions the document uses. In particular, the definition of communication as stated by CRPD includes:

... languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and

augmentative and alternative modes, means and formats of communication, including accessible information and communication technology. . . ‘Language’ includes spoken and signed languages and other forms of non-spoken languages. . . (United Nations, 2006, 4)

Furthermore, the convention shows signs of purposefully expanding the reach of UDHR’s Article 19, for instance, in how Article 21 of the CRPD states one’s right to:

Freedom of expression and opinion, and access to information. *States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others. . .* (United Nations, 2006, 12; emphasis added)

We can see ideas evolving further beyond even an optimistic interpretation of UDHR’s Article 19, when Article 21 of the CRPD states that one’s freedom to seek, receive, and impart can take place,

...through all forms of communication of their choice [...] (b) Accepting and facilitating the use of sign language, Braille, augmentative and alternative communication,⁶ and all other accessible means, modes and formats of communication of their choice. . . (United Nations, 2006, 12–13)

The aspect of non-interference regarding one’s right to freedom of expression clearly remains in this entry. But, when we consider how augmentative and alternative communication (and others listed in the definition) often include technology and the supportive role of another individual, the CRPD introduces a claim the citizens have for the state to provide those means. Here we see the right one has to a *mode* of communication taking shape.

The CRPD goes further still, by listing the means by which these rights will be secured, and outlining the background obligations a society has that will ensure they meet those claims. For instance, the “General Obligations” section of the document tells us that the signing parties’ obligations include the following:

⁶Methods of alternative and augmented communication (AAC) replace speech and supplement spoken communication with any “mode of expressive or receptive communication” (Granz, 2014, 13). These modes can be unaided, such as with sign language and gestures, or aided, meaning that technology is used.

... (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost [... and ...] (i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights. (United Nations, 2006, 5)

From these excerpts, we see that on an individual level, one has a right to be free from interference to express their views, and to seek and share information. Furthermore, individuals have a right to be supported to find their mode of communication, and facilitated to express those views. Concurrently, on a societal level, the CRPD states there ought to be research and development for both advancing the technology to provide reliable modes for an individual, with priority given to the most affordable options, as well as professionals and staff who have been adequately trained to facilitate an individual's learning and use of these modes. Here we find not only a right to freedom of expression, but also the right to communicate.

4.3 What Does This Right Entail?

So now we have an enunciated right to communicate. It is not yet especially clear what kind of right it is, and what exactly having such a right means for individuals. As a step towards becoming clearer about these questions, I will investigate how the right to communicate compares to a well-understood sort of right, namely procedural rights.⁷ I am not proposing that the right to communicate is a procedural right; rather, I will pull out key features of procedural rights and consider which of these are and which are not important parts of the right to communicate. To do so, I will use a specific example of procedural rights present in sentencing courts.

⁷This is not intended to be an exhaustive account of the nature of procedural rights, and I will not weigh in on the ongoing debate regarding the status and comparison of procedural rights with procedural duties (*e.g.*, Enoch, 2018), nor their specific relationship to substantive rights (*e.g.*, Alexander, 1998).

4.3.1 Procedural Rights in Legal Proceedings

One's right to a fair trial in the United States is secured by the Sixth and Fourteenth Amendments of the United States Constitution ([Legal Information Institute](#)). The Sixth Amendment states that a citizen who is accused of a crime has the right to a timely and public trial with an impartial judge and/or jury, whereas the Fourteenth Amendment is considered the security of "due process," or the fair application of laws on all citizens ([Strauss, 1992](#)). The combination of these rights is what is commonly referred to as one's right to a fair trial. While obviously these are important points to include in such a document as the American Constitution, upon closer inspection (especially by a philosopher) both rights, as stated, are quite vague. What does a fair hearing consist of, and how is it monitored to ensure this right is secured by all persons? What are the distinguishing features or threshold by which a tribunal can be considered independent and impartial? In order to take the right to a fair trial seriously, more detail is needed to fill out a reasonable standard of "fairness" and how to achieve fair trials consistently. This is where procedural rights serve an important function.

What are known as procedural protections, are laws that set detailed standards to act as a safeguard for consistency in court proceedings, and are based on an established definition of fairness. These protections apply to particular aspects of court proceedings, and are intended to avoid unfairness in the workings of those aspects. Decisions made that are unwittingly influenced by the race and class of those involved, for instance, would threaten the fairness of the hearing *vis a vis* other hearings with different parties ([Hessick and Hessick, 2014](#), 192). Procedural protections are designed to safeguard against such inconsistencies.

This is what motivates Hessick and Hessick to argue that procedural rights ought to be identical within the two different forms of sentencing courts in the United States ([2014](#)). They point out that the two avenues for a convicted offender to be sentenced (one called *mandatory* sentencing, and the other *discretionary* sentencing) both allow the judge to use their discretion in circumscribed ways, but with different procedural laws that can result in inconsistencies between sentences for similar crimes. For example, in mandatory sentencing, there is a procedural protection that restricts the kinds of information that can be offered to the court to be used in the sentencing decision. Although the judge can still use some discretion with respect to how they weigh the information they do receive, this procedural law endeavours to avoid unconscious biases that crop up when any information even tenuously connected to the defendant is provided for the judge to consider ([Hessick and Hessick, 2014](#), 188). And yet in discretionary sentencing courts, there is no restriction on the kinds of information that can be presented. As such, a judge is not protected

from sorting through information of low quality and relevance that may unduly influence their decision, and are at risk of being influenced by certain pieces of information that are ultimately deemed unsuitable.

When one considers again the right to a fair trial, one may not automatically think of rules surrounding the kind of information a judge may use when sentencing someone already convicted of a crime. However, in the interest of what makes the results of a trial — punishment included — fair, it is clear that some more detailed rules must be set on what information the court should use when deciding the defendant’s sentence. Smaller, constitutive laws, such as those restricting what information is permitted, are intended to set out the practical steps to safeguard individuals from risk to their constitutional rights in specific circumstances.

4.3.2 Procedural Rights and Communication

Consider again entry 14 of the Charter, that a “party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter” ([Government of Canada, 1982, 3](#)). There are many possible (and even existing) procedural protections that apply to this situation in court proceedings. For instance, rules might specify the levels of comprehension one needs in order to qualify as an interpreter of a particular language. Or, we can imagine procedural safeguards in place that would preclude someone from being misrepresented by their interpreter. Such procedural rights ensure a fair application of a citizen’s right to the assistance of an interpreter for all members of society.

However, one’s right to translation in court proceedings presumes that there is an original message in one form ready to be translated into another language. And so unfairness *vis a vis* other citizens can be introduced when one needs communication support to overcome “difficulties with producing or comprehending messages in oral and/or written form” and produce the message to be translated, even though access to interpretive assistance remains the same ([McCormack et al., 2018, 142](#)). One’s right to communicate thus protects their right to access the assistance of an interpreter. In this way, we can see that one’s right to communicate safeguards one’s Article 14 right, just as procedural protections regarding information permitted in sentencing courts, safeguard the offender’s Sixth and Fourteenth Amendment rights.

On the other hand, in contrast with a citizen’s procedural rights, if an individual has a secure mode of communication, it protects their ability to claim many other rights, not

just those limited to court proceedings (McCormack et al., 2018, 143).⁸ Procedural protections are designed to apply to specific proceedings, and are not applicable beyond those instances to other rights. The specificity of the procedural rights regarding information for sentencing, for instance, restricts those protections to that procedure. We need a broader definition, one that can include how a person’s many other rights are impacted their right to communicate, such as the right to receive education, for instance, since a student must communicate their learning to their instructor in some way so that it can be evaluated.⁹

In addition to how the ability to communicate is required in order for one to secure many other rights, authors stress that for an individual to be without a mode of communication is to be “doubly disadvantaged” (McCormack et al., 2018, 142). The first disadvantage occurs when one is without a way to communicate, and one’s ability to secure other rights is threatened. The second occurs because what they want to communicate goes unheard. Their needs, concerns, and opinions etc. are not received by others. This takes on even more serious tones when considering how it makes individuals more vulnerable to human rights abuses, as communication is necessary to report those abuses, to seek help and receive support (McLeod, 2018, 4). This is another important dissimilarity between procedural rights and what we have in mind for one’s right to communicate.

The circumscribed design and application of procedural protections is an important dissimilarity of what is needed to apply the right to communicate. Procedural rights are determined by, and limited to, an existing scheme of legislation, which is too narrow to play the role the right to communicate must play. The right to communicate safeguards a wide range of other rights, not a specific one, such as the right to a fair trial (though it seems likely that the right to communicate is an important part of safeguarding that right, too). We need a broader conception of this right. Still, the function of procedural rights parallels the function of the right to communicate: both enable a citizen to claim their other rights.

4.3.3 What Kind of Right?

Now that the role that communication plays with respect to one’s other rights is in view, it allows us to see that the right to communicate can be fruitfully categorized as what James

⁸For example, the results of the CDAC study showed that participants stressed the fact that they cannot begin to use federal services unless they have the means and skills to communicate (Collier and CDAC, 2018, 8-9).

⁹As one participant of the study stated, to have a right to use federal services without adequate communication support is like being offered a ramp at an entrance but not a wheelchair (Collier and CDAC, 2018, 23).

Nickel calls a “supportive right” (2008). Nickel says:

Respecting and implementing [a supportive] right can promote the realization of another right by improving the capacities of right holders, as when one right promotes people’s ability to use, benefit from, and protect some other right. (Nickel, 2008, 988)

Further, according to Nickel, the support relations between rights have varying strengths as,

Strong support relations can be defined in terms of logical or practical inconsistency [...] the inconsistency lies in trying to have a functioning right without being willing to endorse something else that is indispensable or necessary to its functioning. (Nickel, 2008, 988)

In contrast to strong support relations, Nickel says that *weak* support relations between rights exist “when the supporting right is useful but not indispensable to the supported right” (Nickel, 2008, 989). To explain, he gives the example of the right to education as it relates to the right to a fair trial: a functioning right to education may be useful with respect to a functioning right to a fair trial, but it is not indispensable (989). Whereas a functioning right to a translator would have a stronger support relation to one’s functioning right to a fair trial.

Here we see how the notion of a “supportive right” can capture the connection between two rights without the restrictiveness of procedural rights. This conception also helps us to differentiate the right to communicate from the right to free expression. These are not simply two interpretations of the same right, contrary to the popular interpretation of Article 19 in the UDHR noted earlier. Instead, one right (communication) is required in order to realize (that is, supports) the second right (expression).

My suggestion is that the right to communicate is a supportive right for many other rights, though of course the strength of the support relation will vary from case to case. For free expression, perhaps the support relation is of a very strong sort, since, as Nickel states, it seems quite plausible to say that there is a practical inconsistency between the exercise of a right to free expression in the absence of a functioning right to communicate. Perhaps for a right to education the requirement is also very strong, while for the right to religious freedom it might be weaker (as only some religions require a public statement of faith, for instance, so it’s not genuine inconsistency that is in question).

I think Nickel’s notion can identify what is truly being requested: the right to communicate is a *supportive* right one can claim, and so likewise will entail corresponding duties.¹⁰ With the supportive right recognized, people with communication disability have precedent to claim a mode of communication, complete with the personnel and technology that mode may require. Thus, they will secure the supportive right they need in order to enact all their other constitutional and human rights (McCormack et al., 2018, 143).

To securely base my use of “supportive right” in an already ratified list of rights, recall Article 21 of the CRPD, which states that persons have the right to: “Freedom of expression and opinion, and access to information” (United Nations, 2006, 12). This portion of the right, bearing obvious similarities to Article 19 of UDHR, can be understood as constituting the non-interference aspect of the right: the right to freedom of expression. But looking at the continuation of Article 21, we find what I identify as the supportive right to communicate, and what generates a positive claim:

States Parties *shall take all appropriate measures to ensure* that persons with disabilities can *exercise* the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others through all forms of communication of their choice. [...] (b) Accepting and *facilitating the use* of sign language, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice ... (United Nations, 2006, 12–13; emphasis added)

Here we see that the state is required to ensure that individuals have what they need to express themselves. This constitutes a positive claim that citizens have on their state, and entails that the state has a corresponding duty to support and provide a mode of communication that thereby enables an individual to claim their other rights.

The supportive right to communicate is further elaborated under the “General Obligations” of the CRPD, stating that each signing party will invest in research and development toward goals of providing and facilitating formats of communication. It is this second, supportive right that I will hereafter refer to as the right to communicate.

¹⁰Here I am presuming a basic definition of Hohfeld’s classification of rights, in particular, the notion of claim and duty (Steiner, 2006, 462). When one has a claim right, such as the right to an interpreter during court proceedings, it entails that the state has a duty to provide that right and secure an appropriate interpreter. According to Hohfeld, claims are ‘rights in the strictest sense’ (462).

4.4 What Duties?

At this point I can imagine a skeptic pushing back against this idea of the right to communicate, concerned about all the duties it generates for the state, and so, indirectly, members of that state, if the right is not interpreted in a suitably common-sense way. One might argue that proposing the right to communicate is superfluous, since the legitimate part of what I propose here is captured within the existing rights of access to translation. For instance, if an adult requires technology, such as computer-synthesized speech, access to this technology should be made available just as a language translator should be made available to an individual who requires it. Perhaps the notion of translation needs to be adjusted in order to accommodate this, one might say, but to advocate for a supportive right as I have is excessively broad.

An objection along these lines misses at least two important distinctions between the right to communicate and the right to interpretation. The first issue is generated by the range of different rights the right to communicate supports, and might be called *permanence* or reliability. A translator is secured by rights in particular contexts, such as during court proceedings, as entry 14 of the Canadian Charter notes. But the right to communicate ought not to be viewed as limited to particular proceedings or situations; rather, an individual's right to communicate generates a duty for the state to provide reliable modes of communication for a citizen on a daily basis. Of course, these modes of communication will also need to be accommodated within settings such as court proceedings, but this is not enough. It is crucial that an individual's access to a mode of communication itself is reliable, as well as present when that individual wants to claim other particular rights.

The second needed distinction has to do with what is included in the *process* of communication. When there is a need for a translator, we can presume that the individual has a message ready to share, but the message is in a form mismatched with respect to the intended recipient(s). This is not the case, however, in every situation where someone may depend on the right to communicate. Some individuals, and perhaps all individuals at times, may need support to form the message itself. This touches on the additional complexity of securing the right to communicate particularly for adults with cognitive or developmental disability. Although there is an element of translation, and by that, I mean securing the best fit for a person's mode of communication, but there is also a role for support in forming the content of the communication itself. For instance, an individual may need information shared or translated into accessible formats, they may also need support to work through the material, someone to discuss potential outcomes with, etc., and these can all be part of what an individual may require in a process to create the message they will ultimately communicate. I will discuss this in more detail below.

Of course, this kind of supportive role may bring up questions of authorship, and skepticism regarding the source of the message. If there is more than one person involved in the production of the message, we must be able to clearly identify that the right person is truly the author. People may be concerned that the individual claiming to occupy a supportive role may influence the message itself. These concerns are warranted, as there is documented controversy surrounding one method of communication, what has been often called “facilitated communication,” that demonstrates how such practices can go terribly wrong when authorship is unclear (Sherry, 2016; Mintz, 2017). It is imperative that within the process of securing reliable modes of communication we are careful regarding questions of authorship and source, and learn from past mistakes. This is a question of implementing adequate standards and procedures, however, and not an issue that challenges whether one ought to *have* a right to communicate.

It seems to me that, sometimes, questions of authorship can be closely connected to, or careful guises for, unexpressed commitments about who we believe has something to say. When discussing the task of securing modes of communication for adults who do not have one, there are common presumptions that one’s ability to communicate is something that corresponds with having the cognitive capacity to formulate a message to share. It is entirely too easy to assume that if someone is not communicating already, it is because they do not have the ability to create or understand any messages.

This presumption is not entirely without rational grounds. When it comes to a person having something to say, there is, as one author says, a “strong presumptive relationship, in general, between overt production and actual ability” (Jacobson et al., 1995, 757). This means, to some scholars, that the amount of speech one produces is a true representation of one’s inner ability to understand and create communication. Based on this, if someone with communication, cognitive, or developmental disability produces little observable communication, it conveys to the listener that the individual has little inner ability to understand. This seems to rule out the possibility that someone may desire to form communication, be capable of understanding others, and yet lack the ability to produce those messages.

The main reason offered for this presumptive relationship comes from a commitment to the idea that there is a predictable process one goes through to develop their communication abilities. That is, a person’s ability to communicate is thought to follow an anticipated sequence as they grow up: one that starts with mental development, leading to evidence of different stages of progress shown in predictable ways, namely learning to speak. Since one’s inside abilities produce observable evidence of where they are at in this process of development, one’s overt production of communication — or lack thereof — can be accepted, some would say, as an accurate indication of their ability to communicate overall

(Kangas and Lloyd, 1988; Romski and Sevcik, 2005). This would lead one to believe that if an individual has not shown evidence of progressing through these stages, and has not produced speech as an adult, we can safely presume that they lack the ability to understand and form messages at all.

By this reasoning, one may infer that the right to communicate is redundant, or at least far too broad, if we take it to include people with cognitive or developmental disability of the relevant sort. If someone does not demonstrate prior stages of communication development, they will not be successful in communicating with *any* method, and so pursuing the right to communicate is futile in these cases.

However, the relationship between inner and outer communicative ability is a contested one and should not be presupposed. There are arguments against this commitment, and extant evidence that speaks against it (Kangas and Lloyd, 1988; Romski and Sevcik, 2005). Studies have shown that people with cognitive or developmental disability can take different routes to communicative expression, and do not strictly follow patterns of development observed in people who are cognitively typical (Mulhern et al., 2017). Furthermore, as one develops their ability to communicate, one's physical cues and speech can hold the most minute clues about one's progress and efforts to express themselves, clues that can be easily missed by observers.

We must also keep in mind that people of typical cognitive ability and embodiment are notoriously bad at predicting another individual's abilities when they perceive the presence of disability. For example, the presence of a physical disability tends to "spread" in the minds of the observer, and they make further judgments about the person's other characteristics when there is no necessary relationship between those abilities (Gething, 1992, 809). One study documented how people made judgments about an individual using a wheelchair, judgments that often included the assumption that the individual also had completely unrelated social and psychological disabilities, simply because they were using a wheelchair (810). This study also showed that this "spreading" judgment is perpetrated by both the general population and health care professionals (813). All of this suggests that we might be well advised to maintain a default position that presumes the ability of individuals to communicate, and actively ward off the tendency to have "spreading" judgments of a person's disability.

Once again, the skeptic may respond with objections regarding the strength of these claims, this time about the perceived limitless cost of the state being obligated to meet them all. One may object to the likely financial burden created by ensuring all individuals have support in these ways, complete with advanced technology and trained support staff, claiming that this will bankrupt the scant funding for accessibility measures which

are already spread too thin, or encroach into other allocated government funds such as healthcare or education.

As with all decisions that government representatives make regarding allocation of funds in order to fulfill the state's duties to citizens, there will be (we hope) careful balancing and investigation of outcomes when scant resources are divided among many pressing needs. The high degree of difficulty that these decisions present does not in itself provide a reason to declare any of the needs impossible or futile. Rather, this complexity is the nature of dealing with competing claims for social services where all are a justified use of public funds.

For example, we do this balancing when a government must choose how to allocate funding so that citizens have better access to health care. Consider two possibilities. The first is to allocate more money to health care facilities so that more services are available to local citizens. The other option is to invest in public transit, so that members of the community have reliable means to access the existing health care facilities in their surrounding areas. Considering that there are limited funds to be divided between the strategies, which approach should receive the larger share? When public transit is inadequately funded, it negatively impacts an individual's ability to access healthcare, hitting lower income areas especially hard (Cronk, 2015). Similarly, when funds needed in healthcare are allocated elsewhere, such as to transit, many critical repairs and upgrades of hospitals are postponed, which ultimately poses a threat to the quality of the healthcare that hospital can provide (Freeman, 2015; Milne et al., 2014). Making decisions of how to assign money, the amount, where, and when, is a formidable task.

These are difficult and complex decisions to make, but recognizing the complexity does not detract from the importance of each service. We don't, for example, throw our hands up and declare pursuing access to health care not important. Likewise, recognizing the complexity of how to fund the services entailed by the right to communicate does not indicate that it is not a right. Rather, the lesson is that it should also be approached as part of this process of distribution. To be clear, I am not claiming that the right to communicate ought to override and monopolize funds over and against all other rights. What I am saying is that it ought to be considered as on par with other services as far as funding is concerned. This would make avenues for meeting the corresponding duties susceptible to the restrictions and limits imposed on other services. For society to adopt the supportive right to communicate, and thereby treat services dedicated to providing it as a legitimate target of ongoing public funds, would be a modest but significant step forward.¹¹

¹¹ 96% of participants surveyed for a consultation on Federal Accessibility Law stated they needed

4.5 On the Ground

We have moved toward a clearer picture of what the right to communicate entails in an individual’s life, but there is still much detail lacking. To continue to offer an account of what this right looks like on the ground, I turn to a research literature authored by professionals who are on the front lines of actualizing this right: Speech Language Pathologists (SLPs). Although SLPs are a diverse group with many directions of research and clinical practice, many are advocating for, and are engaged in, further conceptualizing the right to communicate.

Of particular interest is an article by McCormack et al. (2018), which was written in celebration of the 70th Anniversary of Article 19 of the Universal Declaration of Human Rights, the document that McCormack et al. view as enunciating the right to communicate.¹² In this article, the authors rightly recognize the need for a conceptualization of the right to communicate in order to make it a reality in people’s lives, and propose a conceptual framework to do so. The authors claim that it is timely for “health and education professionals who work with individuals with communication disorder to reflect on how well we undertake our role in promoting and securing the right to communicate for the individuals with whom we work” (McCormack et al., 2018, 143). Specifically, the authors use a four-concept framework attributed to Laura Lundy (2007) as a diagnostic list to evaluate the degree to which an individual has achieved their right to communicate during their experience with SLPs, either as a research subject or client.

McCormack et al. cite Lundy as stating that a person’s right to communicate includes the mode, or *voice* as she calls it, but this is only part of it. The right also includes that “others provide an opportunity to use that voice (space), *and* listen to what they say (audience), *and* respond in a way that demonstrates the person’s communication has been heard and given due weight (influence);” together voice, space, audience, and influence provide a conceptual framework, further expounding what the right to communicate looks like when secured in a person’s life (McCormack et al., 2018, 143; emphasis in original).

The article explains how the authors analyzed case studies of children, adolescents, and adults who described their personal experiences of having a childhood communication disorder, and then evaluated whether the participants of the study registered evidence of

increased access to provincial speech-language pathology, audiology, augmentative and alternative communication services and funding for communication devices (Collier and CDAC, 2018, 8–9).

¹²Although we may differ on which document actually enunciated this right, I will be using the notion of the right as developed in the previous section throughout the remainder of the argument. McCormack et al. do not go into great detail of the right to communicate in the same way, but my definition appears to be a continuation in the spirit of their work, and presents no conflict of ideas or goals.

each of the four key concepts in their experience working with SPLs, and to what degree. The result of this analysis showed that SLPs need to listen more to what their clients say, and give it due weight, that is, to increase the elements of audience and influence in their interactions with clients, as these areas yielded the lowest results (McCormack et al., 2018, 143–144). Applying Lundy’s framework provided the SLPs with a clearer view of how to adequately promote their client’s right to communicate within their practice and research.

If we grant that the framework succeeds for this limited purpose, it raises the question of whether Lundy’s conceptual framework can be used as a tool to show how successful we’ve been in helping people achieve the right to communicate more broadly. The SLPs are pointing out a significant need and offering a solution. Their conceptualization of the right is an aid in securing the right to communicate, one with direct application to people’s lives. McCormack et al. state that, “according to this framework, the degree to which *all* individuals have the right to communicate can be evaluated according to the degree to which they are provided with space, voice, audience, and influence” (McCormack et al., 2018, 143; emphasis added). This suggests that they think the approach is promising for applications of wider scope. It is therefore worth a closer look. Is theirs a potential framework for implementation of the right more generally, beyond the research and practice of Speech Language Pathologists? As a first step towards answering that question, I turn to Lundy’s ideas, which are the original source of their model.

4.5.1 Original Intent for Lundy’s Concepts

McCormack et al. seem to propose using Lundy’s framework to evaluate and secure an individual’s right to communicate generally, something they see enunciated in Article 19 of UDHR. But it is interesting to note that Lundy develops and explains her conceptual framework with constant reference to a different right, from a different document: Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). Article 12 reads:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. (United Nations, 1989)

Not only is it a different right Lundy has in mind, but within a different context, specifically the elementary education system in the United Kingdom. Lundy cites research showing that in education, among other areas in her country, Article 12 is not upheld as “children’s

views were not sought or listened to or, worse, that they were afforded only minimalist, tokenistic opportunities to participate and engage with adults” (Lundy, 2007, 928). To address these findings, her article seeks to provide a practical framework which fellow teachers can use in attempts to meet the standards set by Article 12. She concludes that the “successful implementation of Article 12 requires consideration of the implications of four separate factors: Space, Voice, Audience and Influence” (932).

The way Lundy explains the four concepts in her article, one can see her target demographic quite plainly. For instance, in the section discussing *voice*, in addition to having a mode of communication, she states that “children must be facilitated to express their views,” and also recognizes that “in some cases, children will need the help of others in order to form a view” (Lundy, 2007, 933; 935). Regarding *influence*, Lundy herself recognizes the limitations concerning to whom the concept applies as she articulates it, saying that “while adult human beings have a right to express their views, they do not have a right to have them given weight, except perhaps indirectly in election processes,” whereas she deems it fitting to claim *influence* for her setting (936).

This leaves us to wonder if, in fact, the original context of the framework entails that it is not applicable elsewhere, even given slight adjustments Lundy flags as needed, such as for *influence*. Is there, instead, something specifically childlike about the concepts that cannot be separated out? Lundy has children in mind when she crafts her framework, and McCormack et al. do make a brief mention of this focus when introducing Lundy’s ideas. However, McCormack et al. then go on to apply the framework to adolescents and adults as well as to children, without running into obvious conceptual difficulties, but without going into great detail, either (McCormack et al., 2018, 143).

Context

A concern related to the initial focus of Lundy’s work on the rights of children arises from the goal of Lundy’s framework, which she says is to offer a solution to “some of the barriers to the meaningful and effective implementation of the right *within education*” (Lundy, 2007, 927; emphasis added). There are clear boundaries to the context of where this framework applies, and these boundaries serve an important purpose. Within a school system there is (usually) a fixed location, and there are clearly defined roles prescribing what is expected from students, faculty and staff. Furthermore, a school has supporting policies that can help create a social microcosm within which a child has a voice and it is given space, audience, and influence.

Within this closed context, it is reasonable and attainable to provide a child with the

right to communicate as indicated by meeting the criteria advanced in the four concepts. For instance, in a decision-making process, a teacher can ensure each child has a mode by which to communicate, they can seek out each child's opinion, listen to it and give it due weight, all with clear limits. This is because a teacher can reasonably keep track of the students, those they know who need support for forming or communicating views, and they can know when they have solicited opinions from all the relevant stakeholders, *i.e.*, all students in their class/grade/location and so forth.

There are also limits on the degree of influence afforded to the student's opinion, since a school has a fixed structure of authority already in place. The structure within which a student's voice ought to be given "due weight" as Article 12 of the UNCRC requires, is not boundless. There are teachers, vice principals, principals, administrators, etc. who each have corresponding reaches of authority. These fixed roles and clear boundaries create a low-risk training ground for students to develop and share opinions, while teachers fulfill their duties to seek out, ask, listen, and respond to those children who are the target of their daily care.

Once Lundy's framework leaves this fixed context, however, the requirements become unattainable and even absurd. Lundy identifies this issue for *influence*, but it is actually a risk for aspects of the other concepts as well. In particular, if the right to communicate entails that an individual has an opportunity to use their voice (space) and that their voice will be listened to (audience), it is difficult to know when these aspects are satisfied, but also whether it can be demanded of other citizens to provide them. For example, presuming that one has a mode of communication (part of voice), Lundy's framework tells us to ask whether an individual has an opportunity to use their voice to share their opinion so that others will hear (space).

But immediately we are unsure of what satisfies this requirement with respect to an adult among the general population. Is writing a letter to the editor sufficient opportunity to share? Perhaps posting one's view on the internet? We are left wondering when one's "space" is sufficiently secured, and whether it obligates us to offer platforms to public debates between people that are sure to include ideas many people find offensive. We would hardly think that Steve Bannon's supportive right to communicate is hindered when he isn't offered platforms to share his view, yet denial of these opportunities could fall within his aspect of "space" if taken at face value.

Furthermore, it is unclear who the relevant other citizens are that would need to take heed of these opinions (audience), even if we stop short of requiring that others be properly influenced by them, as Lundy indicated. Again, referring to the general population, it is unclear how many citizens are required to give attention to one's views before one

achieves sufficient *audience*, presuming there are even reliable ways to measure this impact. However, even if these questions were answered, citizens are not obligated to give each other attention in any way that would satisfy a meaningful standard of *audience*. For us to claim that we must provide spaces and pay careful attention to all ideas fellow citizens have — including those of Bannon, for example — or else hinder their right to communicate, is to set the bar too high.

However, when the framework is once again placed within a context, we can stave off the absurd conclusions. For instance, within the context of one visiting their healthcare professional, one's ability to express views (voice and space), and even their opportunity to do so in a way that is given due weight (audience and influence), such as when one describes their symptoms to their doctor, is reasonable. There are set time limits, clear boundaries of relevant information, and the ones on the hook to listen and respond are the ones present in the meeting. Here we can see how Lundy's concepts offer helpful insight.

In fact, I think this is why the framework is usable within McCormack et al.'s article: the concepts are applied to a single study, within the defined system of SLP theory and practice. The number of participants is fixed, the methods and objectives of the study are made explicit, and the events take place within the scope of professional codes of conduct for the SLPs. All these features entail existing supportive policies that ensure the four concepts of the framework — including influence — do not result in outrageous demands.

This may be the way forward. Perhaps we can take Lundy's framework of voice, space, audience, and influence, and add it to existing contexts. The context will provide the boundaries of when those aspects are achieved, and reasonable goals to set for each one. One's right to communicate can be evaluated and shored up by addressing the ways their voice, space, audience, and influence are treated within a particular setting. Special attention is still required to ensure one has a reliable mode, or *voice*, throughout all contexts, but the remaining three concepts function as an additional layer of conceptualization within other settings.

It is also important to elaborate on what counts as a *context*, in order to extend beyond institutional settings of education and support from professionals, although these remain worth mentioning. Contexts in which the additional conceptual layer of Lundy's framework can function include within a family, social settings, financial situations, and many other situations in which one wishes to communicate.

Imagine an individual considered to have a cognitive or developmental disability who would like to discuss their current financial goals with their support circle.¹³ First, having a

¹³A support circle is one name for the common practice of individuals with cognitive or developmental

mode of communication is crucial to even personally request the meeting (voice). Further, for their right to communicate to be respected within this meeting they must be given space to express their opinions, and opinions asked of them when not automatically offered (space and audience). Of course, it is important that those opinions are respected, as they will often have to do with changes the individual wants to make (influence). The range of topics discussed, and reasonable responses given to those opinions both have discernable boundaries, albeit informal ones. Lundy's idea can offer helpful conceptualization of what the right to communicate entails in a person's life, as it provides a check list for us to gauge whether one's right to communicate is sufficiently secured, or if it is hindered in some way.

So long as the diagnostic list comes with qualification that it occurs within a series of closed contexts, there are reasonable limitations to what it means to satisfy the criteria of the framework. For instance, these criteria can be satisfied even if some expressed opinions are not given any weight or deference. Imagine that the central figure in the support circle has opinions on what other members of the support circle ought to do with *their* finances. For those other members to decline to give those opinions influence does not jeopardize the individual's *influence*, in the relevant way. This is because we can presume that they did not accept an invitation to a meeting, and so solicit advice, regarding their *own* finances. The context of the support circle fills in the boundaries of reasonable expectations of when the four categories are sufficiently present which, among other things, includes staying focused on the topic and person at hand.

Eternal Child

This qualification may not be enough, however, to shed the problematic origins of the framework. Some may argue that Lundy's framework ought not to be considered as a diagnostic tool for adults with communication, cognitive, or developmental disability, due to its origins in childhood education. An argument of this sort might suggest that adopting a framework designed for children and applying it to adults with cognitive or developmental disability in particular, sends the message that adults with cognitive or developmental disability are sufficiently like children that conceptual frameworks are interchangeable between the two groups.

If this were right, this association, one that presumes the functional equality of children and people with cognitive or developmental disability, would perpetuate a long-standing

disability to invite a group of people with whom there is reciprocal trust and care, to meet with an agreement that these individuals will be involved in supporting the central person to make decisions and carry out plans. For more about support circles, see [Lord et al. 2012](#).

caricature. The trope of a person with cognitive or developmental disability being viewed as an ‘eternal child’ has long been identified as “a rhetorical strategy of disempowerment” (Michals and McTiernan, 2018, §1). Roughly, it includes perceiving individuals with cognitive or developmental disability as being within a class of agents that never grow or develop beyond childhood immaturity. It is even more injurious than an adult simply being viewed as a child, which is belittling enough, but an *eternal* child is one who is not able to learn and grow in the way typical children are expected to when given the same opportunities (§1). A typical child will lack experience and possess a great deal of immaturity, and yet be viewed and treated as containing extensive potential to learn and grow in response to adequate instruction. In contrast, children with cognitive or developmental disability were historically viewed as having a static existence, continually childlike, never to change or achieve new growth, and ultimately perceived by society as not worth instruction, even into adulthood.

It is often suggested that residue of this trope continues today and has a limiting effect on people with cognitive or developmental disability, as it “rounds down all discrepancies,” presuming incapability, and effectively ruling out the possibility that individuals with cognitive or developmental disability would experience uneven development (Michals and McTiernan, 2018, §2). As a result, people with cognitive or developmental disability are often viewed as recipients of charity, and not instruction, as society sees no growth or potential in their futures (§1). One way that the acceptance of this notion finds expression is within paternalistic policies toward people with cognitive or developmental disability — policies that imagine adults with cognitive or developmental disability as subordinate children, drawing from the (legitimate) limits to a child’s autonomy, and applying those limits to adults.

Of course, I am not suggesting that explicit functional equation of children and adults with cognitive or developmental disability were in the minds of McCormack et al. when they repurposed Lundy’s framework. I think they simply identified insightful work and found it to be useful elsewhere. The concepts themselves are not necessarily geared toward children, and with qualification, can, at least at first glance, apply to adults. My reason for emphasizing the trope of the eternal child is cautionary. Since the concepts in use were originally designed for children’s classrooms, we must be cautious and diligent to eliminate any elements of paternalism that may be present in the framework, of which we may not be immediately aware. Obviously, we want to avoid producing tools that reiterate an identified method of discrimination, so it is important that we keep this in mind when proposing any use of Lundy’s concepts.

4.6 Next Steps

Ultimately, bearing in mind the cautionary message above, I do think that with enough modification Lundy’s framework can be a useful diagnostic tool for cognitively typical and atypical agents alike. In what follows, I will present a modified version of Lundy’s concepts in a form that I think can be fruitfully applied when attempting to determine the degree to which an individual has secured their right to communicate, and can help us reveal the areas of someone’s life that can be targeted for improvement.

In order to properly evaluate, and so suitably modify, the concepts, we must bear in mind the earlier discussion of the roles of specific contexts in determining what count as reasonable expectations. By taking proper account of the contextual variable we can avoid unrealistic and absurd requirements, while still preserving the benefits of the conceptual tools.

There is one exception: this contextual qualification does not pertain to the concept of *voice*, when that is understood strictly as a *mode* to communicate. The access one has to a mode of communication should not be dependent on one’s context.

4.6.1 Method (Voice)

At the very least, it strikes me that any reasonable right to communicate will identify an individual’s access to a mode of communication. There are contexts where one’s need for a mode of communication is more salient, of course, such as court proceedings for example, but one’s need for a mode remains constant before and after one’s time in court. Recall the discussion above regarding the process by which an individual may arrive at the messages they want to communicate by first receiving support from others to deliberate and form their view. This requires continued access to a method of communication, far outside what is viewed as the important times to have one.¹⁴ In order to have a message to share in the instances where communication is obviously crucial, one would have needed to communicate during the process of arriving at the message.

Furthermore, it is not just contexts with obviously high stakes, such as in legal matters, that communication is important to one’s life. Communication is integral to our daily lives as we navigate through a range of contexts. A reliable mode of communication benefits

¹⁴For example, as it stands, “apart from emergency situations and provision of simple low-tech solutions such as pen and paper, federal service providers are not expected to provide an individual with a communication device” (Collier and CDAC, 2018, 18).

countless other aspects of our lives, such as exercising our autonomy as we discuss options and express choices, for example, and in forming relationships. The right to communicate includes reliable access to a mode of communication, regardless of context.

4.6.2 Interpretation (Voice)

In my first concept *mode*, I extracted one aspect of Lundy’s initial idea of voice, since an individual having a method to communicate is important enough to warrant a category of its own. But the right to communicate is more than just a mode. Imagine I could speak, but was trapped inside a sound-proof room. I think one would reasonably identify my problem as a *communication* issue, even though I am able to talk. Here, in *interpretation*, I incorporate the remainder of Lundy’s original concept of *voice*, which turns our attention to the role other people have in the process of communication.

What I propose as the concept of *interpretation* begins with Lundy’s statement that, “children must be facilitated to express their views,” and “in some cases, children will need the help of others in order to form a view” (Lundy, 2007, 933; 935). Although, as is clear in this quote, Lundy is referring to children, I think there is great value in recognizing that this is true of us all, and ought to be considered when determining the degree to which an individual is secure in their right to communicate.

In childhood, the support offered to us to develop ideas and views takes an asymmetrical form, between parents and children, or students and teachers, for example. But as adults, the role that others play in the development of our views should not be overlooked. In conversations with trusted friends, our interlocutors often play an interpretive role, asking questions and assisting in the development of ideas and views. For instance, consider how many times a friend has asked us, “is this what you mean?” repeating back what we have shared in a synthesized way. Here we can identify the role of interpretation present in our conversations continuing into adulthood. One way of explaining this is found in Bernard Williams’s idea of “mind steadying,” where the conversations we have contribute immensely to the ideas we have, the choices we make, and ultimately the people we become (Williams, 2002, 193).

The role others play in interpreting and supporting cognitively typical agents to form views is ubiquitous, but often overlooked because it is so automatic. Unfortunately, this support is not similarly automatic for adults considered to have cognitive disability. When providing this interpretive support for an adult with cognitive or developmental disability, the support can involve providing information in an accessible format (which might mean “in plain language” or “repeatedly, and in writing,” or any number of other things) and

often offering information that in discussions among cognitively typical agents would literally go without saying, such as information about likely consequences of different choices or options and opportunities the other participant in the conversation may not be aware of (*e.g.*, because of their more limited experiences of the world, having done less reading, and so on). And as with cognitively typical adults, these conversations must be done with thoughtful awareness of the individual and be free from coercion (Bigby et al., 2017, 6).

This interpretive role can be further complicated by the added complexity of an individual using non-traditional modes of communication. For instance, a discussion wherein an individual is receiving support from a friend to form a political opinion is already complex, presuming the friend offering support is doing their best to inform without unduly influencing their friend's choice. Add to this scenario that one friend uses a method of communication that is a mixture of computer-synthesized speech and gestures, for example, and so requires a greater degree of interpretation to determine what the intended message is. This interaction includes the same kind of interpretive support as cognitively typical adults receive, but perhaps to a greater degree.

To determine whether the degree to which one is accessing this aspect of their supportive right is sufficient or not, we must consider the context in which we find them. One's context will guide expectations about who the appropriate sources of this support may be, and questions pertaining to the quality of that support. Questions of quality should address issues such as the degree and handling of any knowledge asymmetry and power dynamics present in the conversation. For instance, the interpretive support provided by a trusted peer may take different forms than in a setting with a healthcare professional. Determining whether the amount of interpretive support provided was adequate, was provided by the right person, whether it carried coercive elements or not (beyond obviously egregious circumstances), and so on, will be based on standards that correspond with the context, and the additional layers of guidelines that any particular context is constituted by.

4.6.3 Trajectory of Development (Space/Audience)

Beginning with some key ideas in Lundy's concepts of space and audience, I want to home in on the notion that we grow and develop in our abilities to form views, and to communicate them. Although not explicitly mentioned by Lundy, it seems to me that in her framework she presumes that those afforded voice, space, audience, and influence are on a trajectory of development with respect to their use of communication, and it is integral to this development that an individual has opportunities to be listened to and

to practice this skill. By extracting this presumption and making it explicit, I offer my modification of *space/audience*, which I refer to as the *trajectory of development* as the replacement criterion on the diagnostic list.

The phenomenon of development is not limited to children, as adults also continue to develop their use of communication, such as expanding one's vocabulary, improving pronunciation, or improving one's interpretation and use of body language. Furthermore, adults continue to form their views, as the practice of deliberation and formulating one's views is a process that continues throughout one's life. Growth in both respects is achieved by practice: one continually practices communicating with others in ways that shape *what* one communicates, and *how* one conveys messages. This practice requires opportunities to engage in respectful dialogue.

Once we recognize that all adults experience development in their ability to formulate ideas and express themselves, we likewise must extend the same expectation of development — free of negative connotation — to adults with communication, cognitive, or developmental disability. As one author states:

If understanding our own perspectives and interests in the context of others is a learned skill that is cultivated over time through practice, it seems unfair to pre-emptively disqualify people from practicing deliberation due to assumptions about their innate (in)capacities to do so. Not only is continued exclusion unfair, but it may create a self-fulfilling prophecy wherein those who cannot deliberate never acquire the skills deemed necessary to do so, which further justifies their exclusion. (Knight, 2015, 109)

When we presume that someone is unable to communicate and so exclude them from this kind of practice, it has lasting negative effects. Because of this, I want to incorporate the trajectory of development into how we understand one's process of securing their right to communicate, and how it includes others.

Again, the contextual variable guides our evaluation of whether an individual is considered to have enough access to these sorts of activities. For example, the expectations involved in different opportunities to discuss one's political concerns differ greatly between contexts. Different expectations are involved when someone attends an appointment with one's local government representative versus attempting to persuade one's wait staff over lunch to engage in a debate, for instance. In the former scenario, the opportunity is likely to have strict limits on time allotted, and relevant content — one's MP may decline to engage in a prolonged debate about issues far beyond their domain, for example. In the

latter example, one's desire for a political debate neither overrides an employee's responsibilities to their work, nor does it obligate the employee to spend any free moments they may have engaging in a debate.

It is important to note that one may lack these kinds of opportunities because many events where citizens with communication disability can share their views are not set up to accommodate atypical forms of communication. An individual may be invited to an event, such as a town hall meeting, but the accommodations they need to share their opinion may be insufficient or lacking entirely.¹⁵ For instance, if one speaks slowly and with the aid of technology due to communication disability, the opportunity they are given to share their views within a fast paced and highly structured environment may not provide sufficient time to respond to the topics as they present themselves. This is analogous to someone without communication disability who is permitted to give their response to a social issue via live-streaming, but the recipients mute the sound. In each case the individual has a mode, but their right to communicate is negatively impacted by something on the receiving end.

One is not owed audience from every person they encounter, but, when taking careful consideration of contexts, we see that there are countless opportunities where individuals can reasonably expect to engage in the practice of communication to varying degrees. These disparate opportunities accumulate to provide occasions for one to develop their ability to communicate. Taking stock of these occasions in an individual's life and what hinders those instances, that is, evaluating their experience of *trajectory of development*, is important information for determining the degree to which they have secured their right to communicate overall.

4.6.4 Uptake (Influence)

Although the details of what counts as sufficient uptake of one's views is fraught, I will draw here from the motivations behind Lundy's idea of *influence* and offer some preliminary remarks toward an adjusted account of how conceptualizing one's right to communicate ought to include the importance of uptake in some way. More than any of the previous categories, I think requiring *uptake* is the most contextually sensitive. In a generalized sense, we recognize that we do not owe it to people to be influenced by their ideas, we do

¹⁵The results of the CDAC study identifies time constraints, and inaccessible environments as barriers that prevent people from accessing services and civic involvement, such as public forums. This leaves people with communication disability excluded from contributing to decision-making in these contexts (Collier and CDAC, 2018, 27; 30).

not have to believe what they tell us, and so we do not have to allow those ideas to inform our beliefs or actions.

However, I think that there are pockets of life where the uptake of our ideas in a way that those ideas are taken seriously, or given “due weight,” can reasonably be considered part of one’s right to communicate. For example, if in one’s workplace one is part of a decision-making team, one’s contribution of ideas carries with it some expectation of sincere consideration. To highlight this even further, imagine that one’s contribution is made via computer-synthesized speech, which can sound largely monotone when compared to voiced speech. The uptake of this contribution may be threatened because of perceived lack of feeling attributed to the speaker, and so due consideration is not given to what this person expresses.¹⁶

Eva Feder Kittay articulates a similar problematic lack of uptake with respect to people with cognitive disability as follows:

Those who speak do so in a language not recognized — and even demeaned — by those who speak in the language of the public sphere. Without a claim to cognitive parity, even those who can speak are not recognized as authors or agents in their own right. (Kittay, 2001, 559)

I think that circumstances where an individual is continually denied credibility due to the mode of communication they use, or perceived quality of the message because of pronunciation etc., indicates that one’s right to communicate is being hindered in some way. And while incorporating *uptake* within a set of diagnostic criteria for the right to communicate presents many challenges, it allows us to identify very real barriers that individuals face when communicating and so deserves a place on the list.

4.7 Residual Concerns

At this point, I must face an underlying concern which stems from my heavy reliance on individual contexts to provide reasonable levels of success for the three context-dependent concepts (*interpretation*, *trajectory of development*, and *uptake*). This reliance seems to imply that I view the contexts themselves as neutral in their configurations toward individuals and their communication, and so reliable sources to fill out reasonable expectations for

¹⁶This has been identified as being especially problematic when conversations take place on the phone (Collier and CDAC, 2018, 29).

each criterion. This is not so: I do, in fact, recognize that social contexts are not neutral and consistent in how they bear upon the lives of individuals, and in ways that specifically pertain to the application of the concepts I am proposing.

It is no secret that there is discrimination toward people who have communication, cognitive, or developmental disability, and I have mentioned forms of it earlier in the current work. It is common for a person with cognitive or developmental disability to experience discrimination when they are presumed by (cognitively typical) people in their life to have nothing to contribute as an epistemic agent.¹⁷ It is common for a person who is cognitively atypical in the above respects to be overlooked as agent, to not have their opinions solicited, or even dismissed if offered. These forms of discrimination are often found in the way systems are designed and enacted by the other people involved. For instance, procedures of an institution may privilege certain communication styles or require unnecessarily high cognitive abilities to navigate, and so only suit people who are considered “normal.” These systems are likely to provide skewed expectations for an individual’s right to communicate.

Therefore, relying on the context to inform us of the “reasonable” expectations to evaluate whether an individual has secured their right to communicate poses the risk of adopting the discrimination present in the context, and so become another instrument to reinforce discrimination against citizens with communication, cognitive, or developmental disability. It is not difficult to imagine that if a context includes discriminatory commitments against agents with communication, cognitive, or developmental disability, it will lead us to make equally discriminatory judgments as to whether an individual has secured access to *interpretation, trajectory of development, or uptake*.

I grant that it is important to be aware of how the application of these concepts can be skewed by either the people present, or the systems guiding a given context. However, that seems to be a cautionary message for any such framework, and does not strike me as a reason to forgo implementing a framework at all. I hope, by now, to have shown that some kind of framework is needed for more targeted implementation of an agent’s right to communicate. And what’s more, the work is already being done, as the literature of SLPs demonstrates, and either with frameworks that are problematic (in the case of using Lundy’s concepts without adjustment), or without a framework in mind at all, risking ineffective, or at least inconsistent, results.

¹⁷Of the participants polled, 98% mentioned the attitudes of those they are trying to communicate with (in this case federal service providers) were a large barrier, as participants reported that “federal service providers typically assume they are incompetent and unable to make their own decisions” (Collier and CDAC, 2018, 24).

With this in mind, my approach has been to offer a framework that has the best chance of filling this gap. If the individual concepts are insufficiently defined in such a way that increases their likelihood to be used as extensions of oppression, then that must be addressed. But again, that would be focusing on improving the framework, rather than denying that such an apparatus is beneficial. Furthermore, I do think it is possible that even within contexts that are committed, albeit implicitly, to keeping agents with communication, cognitive, or developmental disability silent, asking questions like those prompted by the framework could promote change to the context itself. For instance, when an individual meets with a health professional who, historically, performs their duties in such a manner that leaves no time or opportunity for the individual to offer their perspective, the framework would prompt someone in that situation to ask, “is the patient’s contribution being given sufficient uptake?” This may be the first time such a question is asked, and could lead to reflection regarding how those exchanges play out, ultimately instigating concrete changes in practice.

Finally, I must make it clear that my project here is not to solve contextual problems, and by that, I mean solve the large-scale systemic discrimination that shows up in individual contexts. To expect the conceptual framework I have advanced in this current work to offer such a solution is to misunderstand my project. I am not advocating to use this framework to solve issues of social injustice. Certainly, I would hope that taking steps toward individuals securing their right to communicate would incrementally contribute to the state of justice on a larger scale. But that is not my focus here.

What I am doing is attempting to craft something that can be used in the daily lives of individual communicators as an adequate gauge to see how one fares in this regard. The tool may draw attention to trends in certain of contexts which rate poorly with respect to the concepts in predictable ways, but that is an opportunity to affect change, and not indicative of a futile project. What this concern does highlight, I think, is the need to situate the conceptual framework within larger theories of epistemic justice.

Given the issues surrounding the right to communicate, I think the most intuitive fit is to look to the rich literature of epistemic injustice. These theories are designed to make sense of, and seek to ameliorate, injustices of a distinctly epistemic nature. Those injustices pertain to agents as knowers and sharers (communicators) of knowledge. For instance, Rebecca Mason (2011) offers an account of *hermeneutical injustice*, a species of epistemic injustice, that can identify unethical knowledge practices that keep individuals in powerful social roles ignorant of the ways they oppress disadvantaged groups. Mason explains that even though oppressed groups have ways to understand and explain their experiences, public discourses are designed by those in power in a way that prevents that information from being accepted and adopted into the dominant views society shares (303).

Although a complete investigation of the degree of fit between my conceptual framework and Mason's larger theory is outside the scope of this present argument, there are reasons to think that such a fit is highly likely. Let us suppose that what Mason calls the dominant discourses are the source of discriminatory contexts, contexts where individual parties and the procedures of a facility, such as those in a hospital, for instance, operate with problematic epistemic commitments that marginalize people with communication disabilities. Mason borrows insights from standpoint theory in epistemology to focus attention on cases where marginalized groups have insights, but these insights fail to achieve uptake in the dominant discourse because of unethical knowledge practices by those in power. This seems well suited to make sense of our context related concerns: individuals with communication, cognitive, or developmental disability have acute understandings of their experiences, but the dominant group suppresses these interpretations by not providing suitable support or resources.

While the conceptual framework offered here is not designed to tackle these large-scale issues, I hope it can achieve the more modest goal proposed. And perhaps what I have advanced here can be viewed as a way to nudge members of the dominant group to pay attention to what members of oppressed groups have to say, thus exposing them to the interpretive resources created by that group, one interaction at a time. Furthermore, I think I have offered enough reason to believe that my framework can reasonably find a felicitous arrangement within theories that *are* designed to tackle such large-scale problems, and by taking the lead of Mason and others, we can address the problems found in the contexts themselves.

4.8 Conclusion

The aim of this chapter was to offer a more detailed account of what we mean when say that someone has the *right to communicate*, and what steps we can take to ensure that everyday citizens, especially those with communication disability, can claim this right. I began by presenting some reason to say that while there is widespread agreement (at least in some quarters) that such a right exists, as it stands there is considerably less clarity about what the right itself amounts to. This lack of clarity makes it difficult to promote this right, and to ensure that people have a functioning right to communicate in their lives.

Although historically the right to communicate has sometimes been viewed as an aspect of the right to free expression, I argued that the right to communicate is best viewed as right on its own, distinct from the right to free expression. In particular, I suggested that it is fruitfully viewed (borrowing from Nickel) as a supportive right. This vantage point rightly

emphasizes that the right to communicate is separate from, but a necessary condition (to varying degrees) for an individual to claim a range of their other fundamental rights. In addition to this higher level of conceptual clarity, viewing the right to communicate in this way made it easier to show why it generates *positive* claims on the state to provide citizens with means to communicate.

With this preliminary conclusion in place, I turned to a more detailed investigation of the conceptual content of the right: what does it include, and how can we put it into practice? I began by looking to research literature from Speech Language Pathologists who have likewise recognized the urgency of getting clear on what it means for someone to have a functioning right to communicate. Using a framework from Laura Lundy as a starting point, I proposed a list of diagnostic criteria that can be applied to an individual's life to determine the degree to which they have secured the right to communicate. My diagnostic list consists of four categories: that one has a reliable method of communication (*mode*), access to support in order to form their views (*interpretation*), the opportunity to practice sharing those views (*trajectory of development*) and that those views receive *uptake* (in heavily qualified ways). For one to be secure in their right to communicate, according to my list, they would have a secure mode in all contexts, and achieve the latter three categories to levels sufficient for the context they are in.

This is not a “just so” answer, as the application of this framework must be done with considerable awareness of the discrimination and injustice present in our society. Being on guard against paternalism and other forms of discrimination that can infiltrate evaluative frameworks toward citizens with communication, cognitive, or developmental disability is crucial. It is likewise crucial that this framework achieve a level of fit within theories designed to tackle large-scale social injustices — such as Mason's theory of hermeneutical injustice — and this framework does achieve such a fit. Although not designed to solve systematic epistemic injustice, this diagnostic list can be a practical extension of theories that are so designed.

In a time where the loudest public messages about communication seem to focus on questions of who gets to say what and where, let us not overlook the reality that many citizens are still waiting to have a chance to say anything at all.

Chapter 5

Filling Out Medina’s Cognitive Minimums: Role Sensitivity and Proximity to Information

5.1 Introduction

I have often heard it said lately that we live in a “call-out culture.” This is a fitting name for the phenomenon of people using social media platforms to publicly expose and shame individuals or groups for their behaviour. The circumstances surrounding an instance of “calling out” change, varying from exposing someone’s sexual misconduct to sharing footage of someone making racist comments to decrying the offensive messaging in advertisements and fashion (*e.g.*, [Ferrier, 2019](#)). What unites these events is the treatment of the wrongdoing: evidence (or, in some cases, “evidence”), accompanied by intense comments of accusation, is shared widely on social media platforms causing a snowball effect of blame. It typically doesn’t seem to matter to those who join in the shaming if the perpetrator did not intend to cause offense, or claimed they were ignorant of the discriminatory message behind their words or actions, as the offender sometimes claims. These social media take downs are powerful: they certainly make their targets aware of their perceived faults, and sometimes result in punishment, as when people lose opportunities and jobs as a result of the negative attention they receive. Whether or not this “call-out culture” is a good thing continues to be debated (*e.g.*, [Brooks, 2019](#); [Ellis, 2018](#)).

It does not take extensive philosophical training to notice that in the courts of social media the analysis of wrongdoing tend not to be subtle, and the judgments within are

rife with equivocation and moving goal posts. Indeed, the lack of subtlety is sometimes a source of some of the disagreement and anger. For instance, consider this natural idea about blame: Isn't it possible, indeed common, that someone acted in a way perceived to be beyond the pale, but truly didn't know better? When they do, shouldn't that exculpate them? If one is inclined to think that if someone did not know, then they should not be blamed, one may see these "social take downs" as expressions of over-sensitivity by those assigning blame. On the other hand, while the suggestion that "ignorance is no defence" is surely an overstatement, it's surely not always a defence.

Take, for instance, the outrage Kim Kardashian caused when she posed with a champagne glass on her buttocks for the cover of *Paper* magazine, completely unaware that she was "the butt of an old racial joke" (Telusma, 2014). Many thought she ought to have known how the depiction had echoes of the early nineteenth century history of Saartjie Maartman, a South African slave who was featured in touring European freakshows. Maartman was forced to travel across Europe, and was used to represent the "hypersexuality and inferior intelligence of black women" that "justified their exploitation" to the white audiences (Gentles-Peart, 2018, 199). Or if not anything of Maartman, many thought Kardashian ought to have known something about the history of how bodies of black women have been depicted in racist and sexist ways. Some defended Kardashian's actions, praising, for instance, her confidence and viewing the photographs as an expression of body positivity. But those in the audience familiar with the pernicious ways racist and sexist images are reinvented among new generations did not see ignorance as exculpating in Kardashian's circumstances.

As with the Kardashian event, these controversies are often generated by someone stumbling into a serious social issue that warrants attention. And while these issues deserve action and social response, attempts to discern what that response ought to be can all too easily be drowned out in the ensuing din. Some rush in to defend the one being shamed by accepting that their ignorance as exculpating, or by denying that any real harm was done. Others are just as willing to blame the culprit for their ignorance as for their offensive behaviour. It would obviously be helpful if we had a framework for evaluating cases where ignorance is claimed as a defence, one that gives us some tools with which to decipher and analyze situations, using clear standards, and so clearly understand what is going wrong, and who is culpable. A useful starting point is José Medina's work on epistemic injustice.

In *The Epistemology of Resistance* (2013), Medina investigates scenarios where individuals behave in ways that contribute to existing oppressive practices and yet claim to be ignorant of their wrongdoing. He ultimately proposes a framework for determining when people ought to be blamed not just (or even) for their bad behaviour, but *for their ignorance*. His approach is highly sensitive to context, and takes account of the individual's

situation, drawing on factors such as the impact of living in society with institutionalized discrimination. To use Medina's theory to ask whether someone like Kim Kardashian, or perhaps her photographer, ought to be blamed for their ignorance of the sexist and racist meanings behind those images, he would ask us to look at the personal and social contexts of each party, including the relevant historical and present-day factors. The answer, he suggests, turns on whether the people in question were displaying epistemic virtues, or vices — whether, as he says, they could be described as *subversively lucid* or *actively ignorant* (Medina, 2013, 31–44). According to Medina, if Kardashian or her photographer were displaying epistemic vices, making them *actively ignorant subjects*, and in that case they are morally culpable for their ignorance — they ought to have known more. There is a “least someone should know” and they didn't know it, and this is what makes their actions a product of blameworthy ignorance.

In many ways Medina's view offers the insight we need to begin to identify the wrongdoings afoot and to focus in on what each party is responsible to know. He provides a much-needed framework to evaluate the exculpating force of ignorance for poor behaviour. His view offers a broad strokes picture of what to look for in all cases, while maintaining a primary focus on the individual's context to ensure relevant considerations of the incident aren't obscured or overlooked. Although Medina's theory does much to inform efforts to sensibly answer these questions, I think there is still a great deal of work remaining before his theory can be used to evaluate real cases in real time. Rather than pursuing a detailed critique of Medina's view, I will offer developments and amendments. In what follows, I will flesh out Medina's theory by isolating variables that Medina implicitly uses, so that we know how to apply them to individual circumstances. My aim is that by offering two such variables, Medina's theory can be calibrated more effectively to guide our judgments of culpability to the wide range of issues with which we are faced.

In this chapter, I will argue that to determine whether a subject is culpable for their ignorance we must take into account their *role* in a situation, as this can increase or decrease the standard of the least one ought to know in order to avoid blame. I will also argue that each subject's *proximity* to relevant information ought to be evaluated in a more fine-grained way than what Medina does, to determine whether their ignorance is culpable. By this, I mean we must consider the extent to which the information one ought to have known pervades their social surroundings, in particular whether widespread social uptake has yet emerged. I will further clarify each of these variables, and the role they should play in the course of analyzing a case study involving a recent campaign put forward by the Canadian Down Syndrome Society, hoping at the same time to illustrate the practical value of considering these variables in actual cases.

Before turning to the case study, I will set the stage by summarizing Medina's theory.

Although not an exhaustive summary, I will highlight aspects that are of particular relevance to this current project. Then I will recount what I see to be the main messages and underlying commitments of the Canadian Down Syndrome Society’s fundraising campaign from November 2018 ([Canadian Down Syndrome Society, 2018d](#)). This campaign, entitled “Endangered Syndrome,” intentionally plays upon the categories of human and non-human animals in a way that was intended by the designers to be edgy, but was found deeply offensive by members of the Down syndrome community. Many even called the campaign dehumanizing. I will argue that this case fits with the kinds of cases Medina has in mind for culpable ignorance, especially when we account for the roles of those involved, and reasonable standards of what individuals in those roles ought to have known.

But there is a further lesson to be gained from this case study. When viewing the campaign in light of the ongoing philosophical debate regarding the moral status of animals, the way objections to the CDSS campaign are framed show signs of culpable ignorance of another sort: the discussion is carried out in a way that presumes the truth of other ideas recognized by many as morally pernicious ([Kymlicka, 2018](#); [Gruen, 2015](#); [Nussbaum, 2006](#)). In particular, the objections rely on the underlying assumption of human supremacy over non-human animals. This raises a different question of whether those objecting to the CDSS campaign ought to have known better than to formulate their case as they did, given the context in which they formulated them. I shall argue that the answer is no, given the state of “expert opinion” on the matter at this time, and given that social attitudes have not yet adopted a clear stand on the issue. The larger point, though, is that understanding whether someone is culpable for not knowing something at a given time requires considering what I call their proximity to information. To determine whether a subject can be said to be blameworthy for their ignorance, we must consider whether the information in question was sufficiently available for them to acquire it.

Taken together, the variables of *role* and *proximity* to information offer a way to better calibrate Medina’s theory to guide the “calling-out” judgments we make about other’s poor decisions. In cases like the CDSS campaign, they are tools to ensure important features are paid due attention, while also maintaining the contextual sensitivity of these judgments.

5.2 Summary of Medina

In *The Epistemology of Resistance* ([2013](#)), Medina makes a significant contribution to the ongoing discussion of epistemic injustice by elucidating the relationship between one’s epistemic responsibility and one’s moral responsibility. In addition to clarifying this particular connection, he offers an account of how this relationship fits into the larger picture of social

injustice, and describes the difficulty of being a knower in an unjust society. Such a society is one where “epistemic relations are screwed up” (Medina, 2013, 27). Since social and epistemic injustices are “two sides of the same coin, always going together, being mutually supportive and reinforcing each other” (27), and since we live in a society where (both social and epistemic) injustice rather than justice is the norm, it would be a mistake to presume ourselves unaffected (129–130). Because of our complicated social circumstances and how they impact individual knowers in unique ways, Medina offers an account to determine a persons culpability for their ignorance that is “extremely sensitive to context and to social positionality” (119).

Medina argues that living in an unjust society has a detrimental impact on our epistemic relations. These circumstances weaken epistemic trust, compromise epistemic goals, and reduce the credibility we ascribe to each other (Medina, 2013, 27). These same conditions can also negatively shape one’s personality, as they can cause one to develop epistemic vices (28). Medina notes that individuals who are in social positions of privilege tend to develop vices more than those in oppressed positions. Of course, this is by no means always true, nor are vices equally prevalent among people in relevantly the same conditions, but Medina claims that it is a general trend, even though one with many exceptions. In using the term “vices,” Medina intends to refer to “attitudes deeply rooted in one’s personality and cognitive functioning,” meaning they are more central to one’s personality and social identity and not simply patterns one tends to follow (31).

Medina describes three main epistemic vices. The first is *epistemic arrogance*, which is a habit by which a person “becomes incapable of acknowledging any mistake or limitation, engaging in delusional cognitive omnipotence that prevents them from learning from others and improving” (Medina, 2013, 31). Epistemic arrogance results in the subject having a “mundane accumulation of oversights, errors, biased stereotypes, and distortions,” since the subject absorbs the many unjust attitudes in their social context without being open to correction. In this situation, one’s racist and sexist biases can become incorrigible (32).

The second epistemic vice, what Medina calls *epistemic laziness*, is when a subject has a socially produced and carefully orchestrated lack of curiosity (Medina, 2013, 33). Although we can all be epistemically lazy at times, this is a blameworthy cognitive problem when it is habitual, and is used by the subject to remain unaware of certain social realities that it serves their interests to avoid. Medina uses the example of a subject lacking curiosity about how their social power and advantage is related to another citizen’s oppression and marginalization. A careful lack of curiosity can keep a subject from learning the harm they cause to others, and so avoid becoming aware of reasons that could make them feel compelled to change. The vices of epistemic laziness and arrogance reinforce each other, as one’s inability to acknowledge one’s limitation is strengthened by one’s lacking a desire,

or feeling no need, to learn anything new.

Medina's third epistemic vice is *closed-mindedness*. He defines this as an avoidance strategy one uses, not to consciously ignore, but as an unconscious defense mechanism to remain immune to certain considerations that might prove discomfiting (Medina, 2013, 34–36). This avoidance protects one from ideas and interpretations that are unlike one's own. Together with the previous two vices, we can see how it can cause an agent to fail to have accurate self-knowledge, and to lack knowledge of those around them. Imagine someone who has formed their view of themselves and their surroundings leaving no room for the possibility that they are wrong, having no curiosity about the unknown, and using a defense mechanism to avoid considerations that do not align with what they already believe. It is not difficult to imagine that prejudice and misconceptions will be present in that person's system of beliefs, preventing them from arriving at well-reasoned beliefs about themselves and the world (37).

These three epistemic vices can converge and play a large role in the formation of a subject's epistemic character and personality, resulting in what Medina deems an *actively ignorant subject* (Medina, 2013, 39). According to Medina, *actively ignorant* subjects are “those who can be blamed not just for lacking particular pieces of knowledge, but also for having epistemic attitudes and habits that contribute to create and maintain bodies of ignorance” (39). Not only is the subject culpable for their ignorance, but they are blameworthy for their role in contributing to larger epistemic injustices.

Although Medina attributes blame to actively ignorant subjects for contributing to epistemic injustice, he stops short of taking the next step to blame individuals of perpetuating *social* injustice by those same behaviours. He refocuses his readers more squarely on the epistemic features when he states that “epistemic injustices are neither the unidirectional cause of social injustices nor their consequence” and argues for a more nuanced account of the relationship between them (Medina, 2013, 39). One can be blameworthy for their ignorance on a personal and social level, without automatically being blameworthy for committing acts of social injustice.

Medina also identifies epistemic virtues, which are the mirror image of the vices, and are often exemplified by members of oppressed groups (Medina, 2013, 42). The first is *epistemic humility*, the opposite of epistemic arrogance (43). It means that a subject is attentive to their own cognitive limitations and deficits, but not to the extent that it undermines their confidence. Medina describes it as a “humble self-questioning attitude” (43). The epistemic virtue of *intellectual curiosity/diligence* is the opposite to the vice of epistemic laziness. To explain the virtue, Medina references how people in oppressed situations recognize areas where they lack knowledge, for instance in an exploitive employment setting, and work

diligently to acquire the knowledge they need to satisfy those in power over them (Medina, 2013, 44). When one is a member of an oppressed group, they constantly recognize their need to learn another's perspective, those different from their own standpoint, in order for things to go well for them (44). Medina extracts the virtuous epistemic practice from its frequently unjust origins, claiming it to be a virtue all knowers should develop. When one is both curious to identify what they need to learn and diligent about following through on learning those things, they develop this virtue as part of their epistemic character.

The virtue of *intellectual curiosity/diligence* is closely related to the epistemic virtue of *open-mindedness*: one feels the need to be more attentive to the perspectives of others, and the need to understand those other perspectives (Medina, 2013, 44). Again, Medina connects this to the reality of oppressed subjects needing to gain understanding of others for the sake of their own well-being. In a similar move to his treatment of *intellectual curiosity/diligence*, he holds that oppression is a frequent but not necessary cause of being attentive to understanding the perspectives of others, and he holds that it is an epistemic virtue that should be adopted by all subjects (44).

In contrast with *active ignorance*, Medina considers a subject *subversively lucid* when the combination of these virtues is developed in a subject's epistemic character (Medina, 2013, 44). To be *subversively lucid* is for a subject to see the limitations of the dominant perspectives, and to have an accurate self-understanding while also being able to have knowledge of those around them by considering the social situations of others. As *actively ignorant* subjects contribute to epistemic injustice, likewise *subversively lucid* subjects contribute to a greater social awareness overall.

Medina acknowledges that while his account of epistemic virtues and vices is clear and tidy, actual individuals often have epistemic virtues right alongside vices. We must also keep in mind that the precise impact of living in a society in which epistemic injustice is the norm varies from person to person, adding another layer of difficulty when determining what an individual is responsible to know. Hence, Medina insists that it is crucial that his account be highly contextual in order to answer questions of culpability, as we are always dealing with highly variable individuals in very *untidy* circumstances. When discussing the task of determining culpability of subjects in highly complex circumstances, Medina states that:

Epistemic injustices have robust temporal and social dimensions, which involve complex histories and chains of social interactions that go beyond particular pairs and clusters of subjects. And these thick concepts of historicity and sociality are lost if our analysis is restricted to particular interactions between individuals at particular moments. (Medina, 2013, 58)

Given the complexity and multiple dimensions involved, we must include many other factors — such as the history of an individual and the history of their contextual background — as central to determining whether someone is blameworthy for their ignorance. Furthermore, Medina claims that his view of epistemic responsibility is:

...extremely sensitive to context and to social positionality, one that rejects any one-size-fits-all approach, and one that argues that assignments and assessments of responsibilities have to be done piecemeal, case by case, and not by applying the same analysis to all agents equally, not even to all agents who share the same social environment. (Medina, 2013, 119)

So, this leaves us to ask whether the theory so far helps at all for determining when someone is actually blameworthy for their ignorance. What does this piecemeal approach entail? Presuming that people will be a complicated mixture of epistemic virtues and vices and bear marks of being adversely affected by the epistemic injustice of their society, it becomes immensely difficult to know what makes someone culpable for their ignorance. At this point, Medina offers another piece of the puzzle by introducing the *thesis of cognitive minimums*, and by doing so connects his ideas about responsibilities as knowers to our responsibilities as agents (Medina, 2013, 121).

Medina calls the *thesis of cognitive minimums* the claim that for one to be a responsible agent one must be “minimally knowledgeable about one’s mind and one’s life, about the social world and the particular others with whom one interacts, and about the empirical realities one encounters” (Medina, 2013, 127). We wouldn’t expect a subject to have exhaustive or near encyclopaedic knowledge in either case, nor would we hold someone responsible for their actions if they had total lack of knowledge in both categories.¹ We would, however, identify a threshold of the *least* one ought to know to qualify as a responsible agent. By identifying these two minimums, *some* accurate knowledge of oneself and *some* accurate knowledge of one’s surroundings, he aims to identify the standards of what counts as the least a subject ought to know in order to avoid blame.

Regarding the first cognitive minimum, some accurate knowledge of oneself, Medina does not require a subject to have complete self-knowledge, as one may lack some self-knowledge and not lose their status as a responsible agent. However, a total lack of self-knowledge would disqualify someone from being a responsible agent (Medina, 2013, 125). One must have some accurate background beliefs about oneself (*e.g.*, “I have a body” or “I have a past”) and awareness of one’s personal situation so that they can recognize

¹It is possible for a subject to fail these minimums for nonblameworthy reasons, such as being in a state of psychosis, or (as I mention shortly) living in a time of extreme injustice.

the similarities and differences between their own experience and the experience of others (Medina, 2013, 125). Medina does go into more detail, however, these main boundaries are enough for my present purposes, as the second cognitive minimum is my primary focus.²

The second minimum, *minimal empirical knowledge of the world*, comes with helpful qualifications, as initially it can seem impossible to know when one has enough empirical knowledge of the world around them. With respect to this second minimum, Medina stresses the importance of knowing about other *people*. And in particular, one must not only focus on the people with whom one has direct contact, but one must know about the people they are connected to within a social network, and those with whom one shares resources and social spaces. He identifies these people as “co-participants in social domains” and they are the primary target of one’s cognitive minimum to have empirical knowledge about the world (Medina, 2013, 156–157).

These cognitive minima tie directly back to one having an epistemic character that can be considered *actively ignorant* or *subversively lucid*; if one is truly actively ignorant, they will fail to have enough accurate knowledge in either regard. Their epistemic habits of arrogance, laziness, and closed-mindedness will preclude them from really understanding themselves, or those around them. And this ignorance is of a blameworthy sort, due to its origins in epistemic vice. Their epistemic failure leads to a moral failure: they fail the minimal requirements (cognitive minimums) of being a responsible agent, and for blameworthy reasons. But if a subject is *subversively lucid*, their humility, curiosity/diligence, and open-mindedness will lead them to have accurate knowledge of themselves and those around them, exhibited by being a morally responsible agent.

Of course, as stated, this won’t suffice because it is still too “one-size-fits-all” of an analysis. For us to presume that we can evaluate whether someone is a responsible agent simply based on if they meet, or fail to meet, their cognitive minimums, presumes that there are no systematic roadblocks in the development of their knowledge, and this is something we know is not the case (Medina, 2013, 129). This is where Medina’s piecemeal approach appears to pay off. He explains that to properly evaluate an individual circumstance that accounts for contexts of oppression and systematic injustice, his thesis of cognitive minimums “needs to be amended and qualified by a crucial normative condition,” that being:

...the epistemic expectations and presumptions of epistemic authority that derive from responsible agency should be called into question and possibly

²For more on Medina’s discussion of self-knowledge, in which he discusses his similarities and contrasts with Bilgrami and Wittgenstein (ultimately siding more with Wittgenstein), see pp. 121-126 of *The Epistemology of Resistance* (2013).

suspended (at least for some people and in some contexts) under conditions of social injustice. Cognitive minimums can be assumed to be the norm only insofar as subjects are unimpeded in their processes of knowledge acquisition. (Medina, 2013, 129)

Hence, to determine whether one should be expected to have minimal knowledge about particular things regarding oneself, and about their “co-participants,” we must take into account that social injustices lead to lack of knowledge pertaining to ethical and political responsibility (Medina, 2013, 131).

The presence of injustice may further thwart an agent’s attempt to meet those minimums, since situations of injustice include unfair epistemic treatment of groups. For instance, one may be subversively lucid, but in their social context the “histories of stigmatization and the specific vulnerabilities of minority groups” are likely to be neglected, making knowledge about those particular co-participants especially difficult acquire (Medina, 2013, 135). Even with an epistemically virtuous character, one could fail one of their cognitive minimums, but in such cases their circumstances are an exculpating factor. While Medina notes the need for the possibility of such exculpating factors, he makes it clear that he does not think that it will apply in most cases. Most cases, he suggests, will turn out upon examination to be a result of active ignorance rather than socially-generated impediments to gaining knowledge, and so be blameworthy.

Medina offers an example for his readers to get a better idea of how this piecemeal and highly contextual method of evaluation works. He uses the example of a real event that took place on Vanderbilt University campus. On October 8, 2005, there was a fraternity party where a pig was roasted and eaten by attendees. At some point over the evening, an intoxicated member of the fraternity took the head of the pig and walked to the large building across road, leaving the pig head on the steps (Medina, 2013, 135). What this fraternity member did not know was that the steps on which he left the pig-head was the building of the Ben Schulman Center for Jewish Life. Furthermore, he did not know that this pig-head dropping took place during the High Holy Days between Rosh Hashana and Yom Kippur (135).

When the pig-head was discovered the following day, there was — understandably — great concern and outrage at what appeared to be an antisemitic act. But the intoxicated fraternity member did not intend for his actions to be interpreted this way: he thought he was playing a practical joke on the patrons of the vegetarian café, which he knew the building housed. Not only was he ignorant that it was the Jewish Center, and that it was during the High Holy Days of the religion, he also did not know the history of the use of pig parts in antisemitic acts (Medina, 2013, 135).

The relevant authorities at Vanderbilt University publicly stated that, while it was a stupid thing to do, this person's ignorance exculpated them from accusations of anti-semitism (Medina, 2013, 135). By accepting the agent's ignorance as absolving him of the greater offense, it turned the act into one of simply being a bad neighbour. But Medina argues that it is not sufficient to blame him only for being a bad neighbour whose joke was in poor taste, because a great deal of harm was caused to different communities on and surrounding the campus. Medina argues that, even though it was not intended to be a political act, it was one, since it effectively "disturbed the polis" (138). Medina views this agent as culpable for the ignorance that led to their pig-head dropping action, and suggests that this ignorance is itself an expression of antisemitism. This consideration leads him to declare that the young man is blameworthy for his ignorance, but also that there has been a system-wide failure (parents, educators, etc.) that allowed this young man to maintain this particular ignorance (137).

It seems that Medina suspects that his first, pig-head dropping, example has not fully convinced his readers, as he offers what he calls "an equivalent act of vandalism," a hypothetical case that appears to be designed to make the features of the first example more salient (Medina, 2013, 139). This equivalent case uses the same general theme of the first, but instead of a pig-head on the steps of the Jewish Cultural Center, it is two burning sticks in the shape of a cross on the front lawn of the Bishop Joseph Johnson Center, the black cultural center on Vanderbilt University campus. Medina plausibly says that it is much more difficult to imagine, and even "theoretically unimaginable," that a student would not have any knowledge that two sticks in the form of a cross and set on fire sends a message of hateful racism to black people in the United States — especially so in the South, where Vanderbilt is located (137).

But *why* this is unimaginable is important: it is reasonable to expect a rational and responsible agent, who is part of a university community in the American South, to have minimal knowledge of the history of oppression of black people, and some familiarity with the hateful symbols of that history (Medina, 2013, 139). For one to fail to have a minimal knowledge of these things "constitutes blameworthy lack of epistemic responsibility that undermines one's status as a responsible agent in this social context" (139). One would have to be *actively ignorant* in order to fail to meet their cognitive minimums about this particular topic, generating both epistemic and moral culpability.

By introducing this as an equivalent case, readers now see the extent to which he views the pig-head dropper as culpable, although Medina does not say so explicitly. The real-life Vanderbilt student is culpable to the same degree, and for the same reasons, as the perpetrator in the case of the burning cross. Like the history of anti-black racism, there is also a long history of oppression and violence toward Jewish people. Medina

does grant a very short window of time where ignorance could be an exculpating factor: only if the culprit who engaged in the stick-burning was an international student who had just arrived and knew nothing of their immediate surroundings (Medina, 2013, 140). However, Medina views this as highly implausible, and in a short amount of time the lack of knowledge the new student has of their surroundings quickly becomes blameworthy. The cross-burning international student would be culpable not only for failing to meet the cognitive minimum of empirical knowledge of their new surroundings, but would also be blameworthy for engaging in such an act as burning sticks without considering the possible interpretations it carries (142).

What we learn from these two equivalent acts of vandalism is that someone must be operating as an actively ignorant agent, and so be epistemically culpable for failing to meet the minimum cognitive standards, in order to miss learning about these topics. This failure makes them morally blameworthy for their ignorance. But this culpability can be shared when, for instance, a local culture colludes to keep members ignorant to information pertaining to particular groups and issues. According to Medina, we live within a society set up to “encourage us to go on with our daily business without taking an interest in certain things, without challenging certain presuppositions and stereotypes,” even if such information is prevalent and requires tactics to avoid (Medina, 2013, 145). In these ways a subject can be an active participant in collective bodies of ignorance without conscious awareness or effort.

Medina specifically points out the failure of education systems that maintain the kind of ignorance the pig-head dropper demonstrated. He calls this a *specific educative failure*, meaning his educators failed to teach him about the “particular others” he was going to interact with, or was already unknowingly interacting with (Medina, 2013, 148). This failure can include school board decisions to exclude certain histories from their lessons, and banning certain literary works from their schools, thus failing to make available the minimal information for subjects to learn about their present and future co-participants (144–145). But in these equivalent cases, even in the event of *specific educative failure*, both (real and hypothetical) subjects are culpable because they ought to have learned about these issues elsewhere.

5.3 Using Medina’s Ideas

The way Medina explains these two acts of vandalism are, I think, effective in illustrating what culpable ignorance looks like, how society is involved, and why subjects ought to be blamed in these kinds of cases. However, we are left to wonder how to properly use this

theory in our everyday lives, to apply to cases that don't share all the relevant features of cross-burnings and dropped pig-heads. Medina's account gives us lists of vices and virtues to look out for, and broad strokes of how to identify culpable ignorance, but he repeatedly emphasizes that "assessments of responsibilities have to be done piecemeal, case by case, and not by applying the same analysis to all agents equally" (Medina, 2013, 119). Wanting a completely case-by-case method is sensible, because it helps to ensure that important details are not overlooked. But as it stands, the theory does not provide us with enough guidance about which relevant details must be considered in each case for it to be a useful tool. Absent such guidance, how far ahead are we of merely being guided by our case-by-case intuitions about who deserves blame and who not?

It seems to me that, although Medina himself does not explicitly say so, he assumes there are features that are present in a wide variety of cases that ought to be considered and weighed similarly across a range of individual analyses. Specifically, when he introduces the stick burning example as an "equivalent act," he effectively makes a hypothetical case based on the assumption that pertinent background features remain, in the relevant respects, constant (Medina, 2013, 139). Moreover, in order to make a judgment that these two cases are equivalent, given their stipulated differences, there must be key features that each scenario shares, namely, the features that make up the background (119). Again, he does not explicitly identify which features he uses to determine equivalency, but we can make some inferences by looking at the examples.

When Medina replaces the discarded pig-head with a burning cross, an important feature of the scenario that stays constant is the subject: an undergraduate university student, male, and white, at a school in the American South. We can further separate out the *role* that an individual plays in a situation from their background. There are particular obligations a subject has, depending on their role in a situation, and often these obligations include epistemic responsibilities. In the case of the pig-head dropper and cross burner, the subject's role is relevant to determine their culpability. The subject's role, a student and community member, entails that he ought to know a minimal amount about his surroundings at the school, and the history of the area (Medina, 2013, 140).

Imagine that, keeping all other background features of the pig-head dropping case constant, the subject is instead a faculty member on the campus, a professor in the history department. With this change, we intuitively see the role-specific obligations, and epistemic obligations, recalibrate. Not only would we expect a faculty member to refrain from being intoxicated at fraternity parties, but the degree of culpability for perpetrating the act of vandalism increases due to epistemic obligations: their role entails epistemic obligations,

not the least of which an expertise on matters of history.³ With all things being equal to the initial scenario except the subject and their role, the degree to which we find the history professor culpable for not knowing the wrongness of their actions increases. Hence, we can see that one's *role* with respect to the situation is pertinent to determine whether, and how much, they are blameworthy for their ignorance.

The second feature that Medina appears to hold steady between the two scenarios is a particular aspect of the historical background. Presuming the equivalence of the two acts involves holding that it would require active ignorance to avoid knowing the historical significance of the oppressive treatment of each group, black people and Jewish people. Again, Medina does not say so outright, but there is an implied equivalency in the prevalence of information in society about how both black people and Jewish people have been (and continue to be) mistreated. The prevalence of this information is such that if someone were to meet the cognitive minimum of empirical knowledge of their surroundings, that is, to acquire the very *least* amount of information required about their co-participants, they would have learned about these historical events, their legacy, and their contemporary significance. Even granting a *specific educative failure*, Medina holds that the pig-head dropper and cross burner remain culpable because of the way that awareness of both historical realities permeate the public realm; there is enough information available for the subject to have known, even if their schools avoided teaching them.

Imagine a slightly different (hypothetical) scenario, this time with a change to this aspect of the historical setting. On a hot spring day, members of a fraternity on Vanderbilt campus engage in a water fight with water balloons and buckets. One intoxicated member of the fraternity walks across the street to a large building, and dumps a bucket of water on the first person to exit the building. What the fraternity member does not know is that this building is the Jan Matthys Memorial Center, the center for Anabaptist culture on campus. Furthermore, this young man also does not know that the persecution of Anabaptists (“re-baptisers”) in sixteenth century Europe included drownings, which were called “the third baptism” by those doing the persecuting (Estep, 1996, 67). And so we ask, given this difference in historical background of the act, should he be blamed?

Although there is a history of harm that one may see symbolically associated with the student's actions in the water-bucket case, our judgment of whether his ignorance is culpable differs from the other cases in at least one important way. It differs in the prevalence of the relevant information in the subject's present-day context, in a way that is

³Not only would we expect our hypothetical history professor to be aware of issues of antisemitism and racism, but also to be aware of the different cultural centres on campus and the importance of creating an environment free of antagonistic acts.

more to do with availability of the information than the result social injustice. This student could have met their cognitive minimums, while reasonably not coming across information about how religious sects were persecuted in sixteenth century Europe. A subject could know “the least they should have known” about themselves and their surroundings and still overlook this aspect of history in a way that does not obviously hinder their ability to be a responsible agent, nor is it clear that the case warrants adjusting their minimums under “conditions of social injustice” (Medina, 2013, 129).⁴

In contrast, information about racism and antisemitism is so widely accessible that one’s ignorance of it is culpable. Information about these issues, and their histories, permeates society in many different forms, and is targeted at a wide range of ages, in a way that the Anabaptist history does not. Although the significant historical junctures of the slave trade and the holocaust occurred prior to social media platforms like Twitter, reminders of those events and their connection to present day incidents are common. Take anti-racist messaging, for example. These ideas are found everywhere from children’s programming and storybooks to daily news broadcasts and movies, and of course includes the constant calling-out of racist behaviours on social media platforms. For this reason, we are warranted in concluding that one must be operating with epistemic vices to avoid learning something, even a minimal amount, about this issue. Hence, when we evaluate whether, and how much, a subject ought to be blamed for their ignorance we ought to consider the level to which information about an issue permeates their social world. I will call this feature the subject’s *proximity* to information.

Although Medina did not say so explicitly, his argument relies on the features I have identified, with the variables of *role* and *proximity* being essential to the persuasiveness of his examples. He is clearly sensitive to these aspects when evaluating cases, and so by identifying them as key features, we can better attend to them and make more nuanced distinctions, leading to a broader range of possibly reasonable responses to individual cases. By isolating *role* and *proximity*, we are better positioned to assess situations case-by-case, being sure to include consideration of these important variables in our judgments, while also maintaining the benefits of a highly contextual account. In order to further clarify and argue for the importance of these two variables, I will show how they function in a case study. For this I turn to the contemporary example of Canadian Down Syndrome Society’s “Endangered Syndrome” campaign.

⁴I think there are many different reasons why this is the case. One of the main reasons, I think, would be the present-day relevance of the different histories. The history of anti-black racism and antisemitism is necessary because of the discrimination is *ongoing* and knowing about it has direct import to how one navigates their daily life. Plausibly, on the other hand, Anabaptists are not, and have not recently been, the target of discrimination so that it is relevant to learn about the history in the same way.

5.4 A Case Study: The Canadian Down Syndrome Society Campaign

Each year the Canadian Down Syndrome Society (CDSS) launches a public awareness campaign, intentionally coinciding with Down syndrome awareness week (November 1-7). In recent years, these annual campaigns have come to be known for their edgy and memorable content. Case in point: the video campaign for 2017, called “Anything But Sorry,” featured people with Down syndrome offering statements one could say in response to learning that someone just had a baby with Down syndrome. The video, titled “The ‘S’ Word,” starts with a written warning about inappropriate language, and the observer quickly learns why. Actors on the screen, each one with Down syndrome, offer statements riddled with expletives, clearly aimed to shock the viewer into laughter. The main point, the viewer learns, is that it is better to say something like, “Congratu[f-ing]lations!” than to say “Sorry” when someone welcomes a baby like them; ‘sorry’ is the actual “s-word” in this case ([Canadian Down Syndrome Society, 2017](#)). The public service announcement challenges viewers to evaluate how they think about, and respond to, the news of a baby born with Down syndrome; say *anything* but sorry.

5.4.1 “Endangered Syndrome”

For the 2018 campaign, the decision-makers of CDSS appear to have striven for yet another edgy theme, but this time they may have overshot. In a campaign called “Endangered Syndrome” a viewer learns that due to their shrinking numbers, people with Down syndrome should be regarded as an endangered species. Moreover, as an endangered species they ask for increased social support to avoid extinction and to thrive. Consisting mainly of short promotional videos and a dedicated website, the campaign relies on a project the CDSS has already completed: the organization submitted an application for people with Down syndrome to be added to the International Union for Conservation of Nature’s (IUCN) “Red List” of threatened species ([International Union for Conservation of Nature \(IUCN\), 2018b](#)). The campaign is based on this application, with the marketing materials of the campaign designed to inform the public about the application and their reasons for submitting it. The videos, in particular, highlight the lack of housing and education, and the scarce employment opportunities, that people with Down syndrome face. The videos end with an appeal to viewers to sign a petition in support of the application to be added to the IUCN’s list.

The response to this campaign, or at least the loudest response, was predominantly

negative. People with Down syndrome and their loved ones objected to the comparison drawn between people with Down syndrome and animals. Many statements made against the campaign alluded to the counterproductive messaging of the videos: while most people with Down syndrome continue to fight to be viewed as equal citizens, why now depict them as animals? The most serious accusation made against CDSS was that the campaign *dehumanizes* people with Down syndrome.

In response to the negative reception, those behind the campaign offered their justification for the decision. The board members did not claim ignorance. Rather, they claimed their artistic approach was misunderstood. However, given how people with Down syndrome, and other developmental disabilities, have been and continue to be discriminated against in our society, we need to ask: should they have known their ideas were dehumanizing? Should they have known better than to cast people with Down syndrome in certain ways because of the history and enduring inequality? In order to properly evaluate what those involved were responsible for, I will expound on the main parts of the campaign and draw out the implicit claims made therein.

The Ask

The seat of the campaign is found in the form of a letter on the organization’s website, which states:

This letter is our formal application for the inclusion of people with Down syndrome as an endangered sub-species or sub-population of *Homo Sapiens* to the IUCN’s Red List of Threatened Species. ([Canadian Down Syndrome Society, 2018a](#))

The letter, although not signed, is on CDSS letterhead and mentions that the organization has enlisted the services of a “Certified Specialist” in “Environment Law by the Law Society of Ontario” ([Canadian Down Syndrome Society, 2018a](#)). It appears to be written with two purposes in mind. The first, as stated, the letter is the actual request — “our formal application” — to be added to the International Union for Conservation of Nature’s list of threatened species, and the sections of the letter focus on criteria one can assume IUCN requires for consideration (*e.g.*, population statistics, geographical distribution). The second, is for marketing purposes. It is a publicly released letter, featured on the campaign’s website, and so bolsters the perceived intensity of the campaign. This is a real ask, made with a lawyer, demonstrating that the CDSS is serious about this.

And what would it mean for the CDSS’s application to be successful? To start, it would translate into a great deal of credibility for the CDSS’s claims of difficult circumstances. The IUCN’s “Red List,” is a conservation tool that measures the “pressures acting on species” around the world, tracking biodiversity, and is viewed as a reliable source of scientific data ([International Union for Conservation of Nature \(IUCN\), 2018b](#)). To add people with Down syndrome to this list is to officially, and categorically, affirm their struggle.

Perhaps more importantly, this affirmation could be used to argue for tangible payoffs for the Down syndrome community. As stated by the IUCN, the “Red List” list guides scientific research, informs policy, and is used for education and raising awareness, all on a global scale ([International Union for Conservation of Nature \(IUCN\), 2018b](#)). This can translate into resource allocation and conservation planning, both concrete measures that members of the Down syndrome community say they need. To be added to this list could instigate proactive financial changes to ensure people with Down syndrome have the right “habitat” for higher quality of life (*e.g.*, housing, education, employment), as well as the opportunity to further raise awareness about the lives of people with Down syndrome.

As an aside, it is worth mentioning that the CDSS’s submission to be added to the list was not evidently unwelcome. The IUCN’s website invites annual submissions for animals, plant species and fungi to be added ([International Union for Conservation of Nature \(IUCN\), 2018c](#)). The CDSS appears to have accepted this invitation, even knowing that it stretches the boundaries of what the IUCN means by “animals.”

The Campaign

Based on the submission outlined above, the CDSS launched its annual campaign with a website and two short videos. The first of the two videos depicts individuals with Down syndrome, each dressed up as a different animal well-known to be endangered, including a lion, a panda, and a polar bear. The first actor, a polar bear, looks at the camera, and says “You’re probably wondering why I am dressed as a polar bear” ([Canadian Down Syndrome Society, 2018c](#)). Other actors, also in costume, offer possible answers as to why they are dressed as their respective animals: “Is it because I’m strong?” “Or beautiful?” The polar bear answers, “Nope.” And, with the words of the sentences shared between the actors, the viewer is told that like these animals, people with Down syndrome are endangered and so are applying to be the first people on the endangered species list.

The word “people” is stressed, being repeated several times by different actors. The importance and stress placed on being the first *people* added to the list of endangered species is, I think, a defining feature of this video. This is intentional both in the script

and in the way the actors deliver their lines: while they want the same benefits animals gain from being on this list, they do not see themselves as animals in the same way.

The actors go on to explain that their community is shrinking, and they face barriers to employment, education, and housing. Based on a not so subtle assumption that their audience values diversity, one actor states that: “We need support, like all these animals do...they make the world a more beautiful place...and so do we” ([Canadian Down Syndrome Society, 2018c](#)). The video closes with an appeal for viewers to sign the petition for them to be added to the endangered species list on the campaign’s website.

The second short video features only an infant with Down syndrome, and the baby’s mother. The baby girl, dressed up as a sea turtle, is playing on her stomach in the forefront as her mother’s voice narrates the message of the campaign. Again, assuming a shared value with the audience, the mother talks of the shrinking number of babies born with Down syndrome, “not because of climate change or deforestation,” — things she assumes her audience cares about — but “because her community gets smaller every day” ([Canadian Down Syndrome Society, 2018b](#)). The impact of this decrease, the mother tells us, is that fewer resources are allocated to the Down syndrome community, which results in “less access to essential services,” and “fewer friends like her,” meaning, her daughter will have a smaller chance of having friends who also have Down syndrome ([Canadian Down Syndrome Society, 2018b](#)). This video is very similar to the first in how it highlights the shrinking population numbers and the subsequent reduction of resources. Also, like the first video, the mother puts special emphasis on the word “people” when saying “the first *people* on the endangered list.”

The Claims

Between the letter targeting the application to be added to the IUCN’s list and the videos, the central claims made in this campaign are clear. The number of people born with Down syndrome is drastically shrinking, and this causes a lack of resources for those living with Down syndrome. This lack of resources negatively impacts people’s lives, and should be rectified. Elaine Willcock, a member of the CDSS’s board of directors, said that the goal of the campaign (application included), is that they “are just asking for the same level of support” as what other endangered species receive ([Nease, 2018](#)). And another board member, Ben Tarr, told a CBC reporter that “what’s actually endangered is the support we get” ([Brown, 2018](#)).

While these comments focus on resource allocation and policy change, there is something that the campaign does not mention, something that would surely be mentioned if it

were about any other endangered species. The campaign does not mention *why* the species is shrinking, and does not include a bid to increase population numbers. Most media outlets reporting on the campaign are likewise careful to focus on financial numbers, not population numbers. At most, news reports refer to the shrinking population of people with Down syndrome as “due to genetic screening” (Stechyson, 2018).

One can safely surmise, I think, that those responsible for the campaign wanted to steer clear of appearing to impinge on reproductive rights. And yet, with a closer look we can see some subtle gestures made in the videos toward these more controversial subjects. In the first video, the actors claim that just as having polar bears is better than not having polar bears, having people with Down syndrome in our societies is better than not. And in the second, the mother mentions the sad possibility that her infant daughter with Down syndrome may not have other friends “like her” (Canadian Down Syndrome Society, 2018b). Both of these statements convey that the lack of people with Down syndrome is a negative phenomenon itself worth avoiding, a slightly different claim than the main push of the campaign. It is not solely the hardships caused by fewer people translating into fewer resources — although that is the headline message — but having people with Down syndrome as part of the world is a goal that is itself worthy of promotion.

We can see that, while admittedly edgy, the creators behind this campaign have been perceptive when crafting their message (Brown, 2018). Their appeal is framed to fit the ongoing social discourse of environmental protection and sustainability, the urgency of individual responses to climate change, and the professed acceptance (in most circles) of diversity. It does so while also avoiding the pitfalls of other social issue campaigns, such as appearing to challenge reproductive rights. This campaign attempts to ride the wave of popular opinion to make a clever point, and to call society’s bluff, so to speak. Given that the audience professes to care about diversity, will they care about people with Down syndrome? And since people already recognize the need to invest in the environment to safeguard different species, will they consider meeting the environmental needs of people with Down syndrome?

The Response

Some media outlets described the response to this campaign as “mixed” (Nease, 2018), however the strength of the dissenting opinions lead me to view this estimation as overly optimistic. An interview of Francie Munoz, an adult with Down syndrome, is a good example of the sort of responses coming from the Down syndrome community. Munoz told a CBC reporter that “It doesn’t matter who you are... I don’t like people comparing me as an animal, it’s not fair” and what she wants is “respect and to be able to live

her life like anybody else,” casting the CDSS’s campaign as working against that desire (Brown, 2018). Here, we see Munoz express her objection to being compared to an animal, even in the strategic way that the CDSS has done. She states, “Love us for who we are, not a character, not an animal” (Brown, 2018). Her true desire is to live equally to her fellow citizens, not singled out for sharing features with animals as she sees depicted in the CDSS’s “Endangered Syndrome” campaign.

David M. Perry, a father whose son has Down syndrome, offers an extended response to the campaign. Perry has made it a habit to articulate objections to how people with Down syndrome are depicted in media, such as speaking out against what has come to be called “inspiration porn” and “cuteness porn,” and this case fits well within his scope (Perry, 2013; Perry, 2014). The article, titled “People with Down Syndrome are Not Endangered Animals,” begins with the phrase: “Cute, well-intentioned depictions of people with Down syndrome as charismatic megafauna literally dehumanize them” (Perry, 2018). In his article, Perry makes more directly the point Munoz references: it is offensive to make the comparison between animals and people with Down syndrome, because it effectively strips them of their humanity in the eyes of the audience. To have people dress up as animals and cite their similar situations, is to depict those people as less than human; they are to be viewed as animals.

Perry elaborates on the desire for equality that Munoz mentions in her interview, when he states that,

Let’s make one thing very clear: My son and I are the same species, both members of *homo sapiens*. He may have an extra chromosome in every cell in his body, but he’s not some rare animal threatened with extinction. Rather, he’s a full human, endowed with all the rights, all the potential, and all the complications as the rest of us. (Perry, 2018)

Perry’s position, in summary, is that the campaign’s message and application to the IUCN entails that people with Down syndrome are more akin to animals. Consequently, it effectively states that people with Down syndrome, like his son, are *not* fully human, *not* the same species as the rest of humanity, and therefore not due recipients of human rights and not to be viewed as fellow citizens with equal potential. To invite the public to view people with Down syndrome as animals is to negate their humanity. In short, it dehumanizes them.

Intuitively, we can see that Munoz and Perry have a point. It is surely wrong to take away, or cast doubt upon, the humanity or equal status of members of certain groups, as they see the CDSS’s campaign doing. And a large reason as to why this is a particularly

dangerous move made by the CDSS, is that there is a long history of people with developmental disability, such as Down syndrome, being viewed as less than human and so treated, one might say, as animals. One can imagine that behind the outrage Perry expresses in his blog is an awareness that people with development disability have been severely mistreated historically, and continue to face discrimination today. Hence, perceived undermining of the status of people with Down syndrome, even unintentionally, is not to be taken lightly.

5.5 Medina Case?

In order to properly evaluate whether we ought to blame the CDSS for their ignorance in the way Medina outlines, I will sketch a brief background of the context, starting with the historical situation and moving to present day.

Looking specifically at Canada's history, although the country is now in a post-institutional era, there were close to 150 years of formal institutionalization of people we now identify as having cognitive or developmental disability (McCauley and Matheson, 2016, 7). In a medical system that did not require consent from people categorized as having cognitive or developmental disability, individuals were removed from their homes as children and lived out their years in segregated institutions, at times receiving little more than basic custodial care (Brown and Radford, 2015, 11). This occurred at staggering rates: in Ontario facilities alone, over 10 000 people were housed between the years of 1876 and the mid 1970's (Martin and Ashworth, 2010, 167). Even a brief look into Canada's institutional past shows how systematic separation and confinement were the accepted treatment of people with cognitive or developmental disability.

More generally, and worse still, this poor treatment went beyond confinement. Many countries engaged in the practice of forcibly sterilizing people with cognitive or developmental disability, a practice which was not even particularly hidden from the public at least since the late 1920's and 30's, its social acceptance likely stemming from the positive attitudes toward ideas of eugenics at the time (Brown and Radford, 2015, 11). In the United States, a supreme court ruling by Justice Holmes in 1927 upheld the state's right to sterilize those with cognitive disability, penning the infamous line that "three generations of imbeciles are enough" (Cepko, 1993, 123; Brown and Radford, 2015, 462). Within institutions, those residents who were sterilized were disproportionately women, and it was done without attempts to find temporary or less invasive measures (Cepko, 1993, 124–125). The practice was so common in the United States that the staff of facilities in the state of Virginia knew that males were sterilized on Tuesdays, while females were sterilized on Thursdays — all part of a regular work week (Radford, 1994, 462).

Viewing the common practice in the United States as permission to do the same, the German doctors who supported the Nazi regime applied involuntary sterilization to an extreme degree, to those who because of disability or mental illness, were labelled as “unworthy of living” (Fioranelli et al., 2017, 54–55). Although it started with mass sterilizations, beginning in 1938 it was followed by a program of mass killings of children with disability — some estimate between 5000 and 25000 children were killed (Ossian, 2006). Due to the perceived success of the program, adults were the next target for “mercy killing” the following year (Ossian, 2006). The final Holocaust death toll for people with various disability is estimated to be in the hundreds of thousands. This is an aspect of the Holocaust that is often thought to not get the emphasis it deserves (Ossian, 2006).

It is facts such as these that ground the concern that assigning those with cognitive or developmental disability a “less than human” status, and a lack of recognition of the shared humanity between people considered disabled and those non-disabled, has historically reaped terrifying consequences.

The scale to which people with cognitive or developmental disability have been mistreated over history is increasingly well-known, and recently has been finding its way into mainstream media (*e.g.*, Heasley, 2013; Ismail, 2012). Furthermore, there are also a great many public requests for inclusion and support instead of control and containment made by people with cognitive or developmental disability and their advocates, messages that now permeate our society in many forms (*e.g.*, University of British Columbia Centre for Inclusion and Citizenship, 2015; Okobokeyeime, 2013; Council for Canadians with Disabilities, 2013). The CDSS’s campaign from 2017, “Anything But Sorry,” is a prime example: having a baby with Down syndrome should not evoke sympathy but celebration, the same celebration that greets babies who are not born with Down syndrome (Canadian Down Syndrome Society, 2017).

But there is also an important theoretical component to take note of when looking at the setting of the CDSS’s blunder. By theoretical, I mean the intentional change in how we think and theorize about disability, for which we can credit the 1960’s Civil Rights Movement. During this time, people began to label the rampant paternalistic and oppressive treatment of people with disability as a unique form of discrimination, for which the term “ableism” was subsequently coined. In ways similar to how identifying racism and sexism as sources of oppression and inequality changed how we think and theorize, so too identifying ableism as oppressing people in unique ways changed how we conceptualize and talk about disability.

Feminist philosophers continue to offer excellent articulation and analysis of the shared and interconnected features of racism, sexism, and ableism (*e.g.*, Bailey, 2019). Sharing

similarities with racism and sexism, ableism is now recognized as a source of pernicious discrimination that is embedded in the social imagination of individual citizens. Ableism is expressed both in personal behaviour and in institutionalized discrimination, systematically disadvantaging people who our society considers to have a disability.⁵ Like racism and sexism, ableism is present in our society in subtle ways, often accepted without a person's conscious awareness, and then is expressed in a variety of behaviours.

Recognizing these parallels, we can use our perhaps more highly tuned sensitivity to other kinds of discrimination to reveal unrecognized ableism via a thought experiment. Let us consider the “Endangered Syndrome” campaign with different participants since, although there are of course many differences between the issues that arise between various forms of discrimination, it might make the important features of the scenario more salient. For example, instead of people with Down syndrome dressed up as animals and asking to be added to the IUCN's Red List, imagine that it was women dressed as animals and asking to be among the first people to be recognized as an endangered species.⁶ I suspect, and hope, that this is enough to make one cringe. These images make clearer that there are connotations of subjugation and an implied unequal status of the individual in the costume compared to individuals in the audience. By recognizing that these images perpetuate subtle discriminatory beliefs about the inferior status of people with developmental disability, we have exposed the pernicious undertones of depicting people with Down syndrome as animals. Hence, there are good reasons to suspect that those behind the CDSS's campaign are blameworthy for their ignorance.

5.6 Who is to Blame?

This appears to have strong indications of a Medina-like case. Awareness of the history of how people with developmental disability have been poorly treated, both locally and internationally, permeates our culture. There is also a growing awareness that discrimination is a key disabling factor in people's lives, drawing attention to the ways we perceive and treat people with cognitive or developmental disability that must change. It seems reasonable

⁵I say “considers” here, because to be perceived as having a disability is enough to initiate the treatment, regardless of whether it is an accurate perception.

⁶Of course, when changing the people, the forms of discrimination and what those images would then mean, also change. For example, the connotations attached to women dressed up as animals carries a sexual connotation (such as bunnies, for example), whereas for someone with Down syndrome it is more closely connected to the “cute” infantilizing eternal child trope. However different, both are morally problematic. I am not making claims about the equivalency or kind of discrimination between the two scenarios, just *that* there is discrimination present.

to expect, that even within a society with a high degree of ableism (social injustice), that if an agent were *subversively lucid*, they would recognize the harm of depicting people with Down syndrome in a way that denotes them having a lesser status than people without developmental disability.

If one were willing to have their ideas corrected, were curious and diligent to learn about others — in this case, others with developmental disability — and had a mind open to learning about the different perspectives others have, they would meet their cognitive minimums in such a way that would make them aware of the historical and present day expressions of ableism. This awareness would lead them to judge images like those in the CDSS’s campaign to be unacceptable. As in the case of the pig-head dropper, this is true even in if there has been an educative failure. The prevalence of information is such that one ought to learn about ableism even if their educators failed to make it known to them. Conversely, one could only be successful in their avoidance of learning such things if their active ignorance prevented them from meeting their cognitive minimums. Hence, the ignorance that lead to the CDSS’s campaign is blameworthy.

Perhaps someone may find this judgment too harsh, especially since the campaign did attempt to make clear that they were the first people to be put on the list, not to mention that there was support from people with Down syndrome, such as the actors in the videos. This requires us to be clearer on whom it is that we are blaming. Medina’s account asks us to evaluate an individual subject, and whether they ought to be blamed given their epistemic character and unique context.

Imagine a cognitively typical citizen, Sam, who lives up the street from a family which includes an adult with Down syndrome, and shows signs of *subversive lucidity*. Sam is curious about the experiences of their neighbour with Down syndrome, and how this person’s experience may differ from their own. In the process, Sam learns about Ontario’s institutional history and the present-day struggles people with developmental disability face regarding housing, education, and employment. By learning about this, Sam starts to notice the ways systems and physical spaces are not designed for people who are atypical. Sam may be aware that ableism is present in our current culture, but not aware of its extent. They also do not know the high amount of discrimination that their neighbour with Down syndrome receives, since this is not something that either the individual or family wishes to share with others. Sam may watch the video “Endangered Syndrome” and think, “well, they did say first *people*,” note that the actors themselves had Down syndrome, and so not see any issue. It is possible that some may refrain from seeing Sam as blameworthy for this opinion. Sam may have learned the least possible amount about themselves and surroundings to be a good community member and responsible agent, but fail to recognize the harm of the campaign.

But it's not just *anyone* failing to know these things. The subjects in question are people on a board of directors for an organization that exists to represent, advocate for, and raise awareness about the experience of people with Down syndrome. The *role* of the subjects in question is especially relevant. The subjects responsible for the decision presumably either have Down syndrome themselves, or are in regular contact with people with Down syndrome, in order to ensure they properly represent the concerns of the Down syndrome community. The least amount of information a board member of the CDSS ought to have about the current struggles in the Down syndrome community is higher than what the average citizen ought to know. If Sam were to join the CDSS's board of directors and participate in decision-making, for instance, we would no longer see the amount of knowledge they have as acceptable. We would expect them to learn more.

For each individual board member of the CDSS, the least they ought to have known includes the past and current situation of the people one represents, which includes learning the extent to which people considered to have a disability experience ableism. This includes experiences of living with Down syndrome that are different from one's own lived experience. When one's role has them sharing responsibility for producing public messages, one is also responsible to make themselves aware of the possible connotations their public message may have, given the backdrop of historical events, and how their decisions may impact the people they represent. In light of these considerations, those behind the decision to produce this campaign ought to have known that depicting people with Down syndrome as *anything less* than full citizens was harmful, and their ignorance of this is culpable.

5.6.1 First Lesson: The Role of the Subject

This case makes clear that the amount of information we consider to be the least one ought to know is calibrated to correspond with the subject's *role*. It will rise or fall based on considerations such as the level of potential risk their decisions carry, or their known level of influence on others. Hence, depending on one's *role* in the particular situation, the standards of what they ought to have known can be lowered, or raised. Moreover, one's role has direct connection to when it can be considered that what someone knows is *at least* enough to avoid blame. Making the cognitive minimums role-sensitive in this way means that the least one ought to know of oneself includes how their role-specific choices impact people and how their personal experiences differ from those they represent. This will require greater amounts of self-knowledge related to the role than if they were not in that position. This is likewise true about the least one ought to know about their surroundings. The minimum amount of knowledge pertaining to members of the group associated with

one's role will be greater, and include learning about the history and present-day struggles of the group one is representing.

Hence, depending on the role a subject has in the situation, these adjusted thresholds may increase culpability or exculpate. Making this variable explicit in our evaluations allows us to make more contextually sensitive evaluations, while also maintaining consistency in our treatment of different subjects across a wide range of cases.

5.7 A Second Misstep?

I have argued that the individuals behind the CDSS's decision to go through with the campaign are blameworthy for not knowing the discriminatory themes they advanced. But when we take a more careful look at the debate, and specifically the way the debate is framed, there is another possibly blameworthy subject. As I argued above, I agree that the "Endangered Syndrome" campaign warranted objection. However, the content of the objection, as most clearly articulated by Perry, has problematic features of its own. As I will unpack below, Perry's objection was formulated in a way that presumes a morally pernicious idea to be acceptable. The morally pernicious idea I am referring to is what has been called "species supremacism" or "species hierarchy," and Perry's objection appears to presume it to be true. If this is the case, Perry himself may be guilty of unknowingly proclaiming morally noxious ideas, and he may be another subject blameworthy for their ignorance.

Recall that in response to the campaign Perry wrote a blog condemning the depiction of people with Down syndrome as animals, which he called dehumanizing. His blog identifies "dehumanization [as] the enemy" for people like his son, and expresses his frustration with how the videos and messaging created by the CDSS contribute to that very problem (Perry, 2018). Depicting people with Down syndrome as animals effectively invites the audience to ascribe the same sentiments of care to both. It makes the concern one feels for people with Down syndrome interchangeable with the concern one feels for animals, the latter being something Perry identifies as being inferior in an important way. People care about animals in a different, lesser, way than for fellow humans, Perry seems to imply. Perry thinks this is playing at familiar messages of "cuteness" and infantilization that he often sees in media portrayal of members of the Down syndrome community. He states that, "[a]dults with intellectual disabilities are already at risk of being infantilized throughout their lives, with emphasis on their cuteness serving to aestheticize their powerlessness," and he sees that the CDSS's campaign exacerbates this risk when it should be providing relief (Perry, 2018).

In the way Perry conveys his reasons for objecting to the campaign, there is a consistent theme of presuming that humans deserve a level of treatment a great deal higher than animals, and that by equating humans with non-human animals, one is agreeing to a lesser treatment of humans. This is what makes the campaign offensive in Perry’s eyes. When one claims, “how dare you treat me like an animal,” one assumes that there are ways that are acceptable to treat animals that ought to be prohibited for people. This is a central belief of species hierarchy: humans, simply by being *homo sapiens*, are superior to, and deserve better treatment than, non-human animals.

5.7.1 Species Hierarchy

Even within the small exchange between Perry and the CDSS’s campaign, we can see that the relationship between animal rights and human rights is complicated. Although space does not permit me to offer a full account of this complex relationship, I will briefly sketch the background and relevant arguments that will help us understand where Perry might have gone wrong. To do so, I will draw from Will Kymlicka, whose recent article “Human rights without human supremacism” (2018), presents some of the main points of the history of the debate within and between animal rights and human rights, and offers insightful conclusions on the current state of this area of scholarship.

Historically, according to Kymlicka, theories of human rights have adopted ideas of the inferiority of animals as an indispensable feature in attempts to bolster support for human rights. Theorists credit ideas such as “humanity is the greatest type of being,” as a commitment that informs and motivates their work (Kymlicka, 2018, 764). This commitment is routinely accompanied by describing the mistreatment of humans as “treating people as animals,” even when upon closer consideration the treatment should not be acceptable for either humans or animals, such as solitary confinement, for example (765). Hence, Kymlicka identifies the strong trend in the human rights project in the past to uphold “ideologies of species hierarchy” and either legitimize or ignore the instrumentalization of animals, all done in order to strengthen claims of human rights (Kymlicka, 2018, 764). He identifies the shortcomings of this approach, and argues that the bolstering of human rights at the expense of animal rights should be rejected on philosophical grounds: rights for one group need not, and should not, be gained at the expense of another.

Fortunately, theorists took this philosophical challenge seriously. Beginning in the 1980’s and continuing to the mid-2000’s, there was a marked shift in ways of thinking. A new trend emerged to defend human rights in a way that did not tie human rights to an automatic superiority over animals (Kymlicka, 2018, 768). Kymlicka cites Martha

Nussbaum as one of many theorists who advance this kind of view. In *Frontiers of Justice*, Nussbaum argues that human dignity, and so the basis of human rights on her view, is found in our animality as much as our rationality (Nussbaum, 2006, 38). This may not, at first glance, appear controversial, but it is in strong contrast with theories of human dignity that are based on the rational superiority of humans, thus building in an inherent worth ascribed to human beings that is unavailable to non-human animals. According to Nussbaum, the dignity of humans is rooted in features also found in animals: that we are social beings, and that we are vulnerable and interconnected (38). Specifically, Nussbaum claims that, like humans, animals have dignity simply by being a “form of life that possesses both abilities and deep needs” (346). Nussbaum’s view, and those like it, offers an account of human rights that is not secured at the expense of animal rights, meaning it does not impose species hierarchy.⁷

And yet, Kymlicka argues that over the last ten years there has been a resurgence in defenses of human rights that once again invoke species hierarchy (Kymlicka, 2018, 769). He identifies one of the motivations behind these new theories as being an attempt to confront certain current social issues, in particular, issues where members of groups are treated “as less than fully human” (722). In their attempts to provide grounds for condemning the ways humans mistreat others, the oppressed and marginalized for example, there is a renewed trend of theories invoking a strong species hierarchy to make a clear and distinct line between ways that are acceptable to treat humans, and what ways are not (773). Kymlicka interprets this recent trend as an invitation for the human rights movement to “recommit itself to species hierarchy,” an invitation that again he says ought to be rejected on philosophical grounds, but also for political reasons (771).

Kymlicka’s political grounds for rejecting species hierarchy are based on recent empirical research. Psychological research conducted in the last ten years shows that, ironically, species hierarchy is counterproductive to the goal of securing better treatment for humans. The view actually produces results opposite to what the theorists claim to want: invoking this sharp line leads to members of dominant groups viewing members of outgroups in

⁷Ultimately, Kymlicka takes issue with basing rights on notions of “dignity” since he doesn’t think they can extend well to animals, and so inadvertently perpetuate the issues I have noted. However, he does cite Nussbaum’s view as an example of the “right kind of view,” whether this means that Nussbaum uses dignity in a way that is not problematic, or that uses of dignity are problematic but not in a way that excludes them from being a reasonable option, I don’t know. I chose Nussbaum’s view out of the examples Kymlicka cites because it is, when compared to other options, a “middle of the road” account. There are views that are likely farther over on the spectrum of more obviously promoting animal rights (see Gruen 2015 for an example). But Nussbaum’s view is more applicable to the current task of evaluating Perry’s position: if Nussbaum’s view is closer to a threshold view, it lends to a charitable reading of whether Perry has failed to reach this bar.

ways that “lack these (supposedly) distinctly human qualities” and instead view them “as driven by more basic impulses” that humans have in common with animals (Kymlicka, 2018, 772). When humans become “othered,” in the minds of their oppressors, they slide into the category of animals, a classification that permits poorer treatment due to the sharp distinction between the two categories. Kymlicka cites a growing number of recent empirical studies showing that the “more sharply people distinguish between humans and animals, the more likely they are to dehumanize other humans, including women and immigrants,” a phenomenon that is also found among children (773–774).

In contrast, recent studies have also shown that educating people on the humane treatment of animals, in ways that emphasize the similarities and interconnectedness between human and non-human animals, not only results in better treatment of animals, but is also found to lead to greater amounts of empathy and “pro-social attitudes towards other humans” (Kymlicka, 2018, 774). When one recognizes their similarities with non-human animals, and so refrains from imposing a sharp species hierarchy, it leads them to treat animals *and* other humans better. Thus, the goals of both the animal rights movement and the human rights movement are more likely to be achieved. On the other hand, when one adopts the perspective of species hierarchy it is likely to result in them treating both humans and animals worse.

Species hierarchy undergirds Perry’s objection in a way that presumes the view to be true: to protect the rights of his son and other people with Down syndrome, he invokes a very sharp line between humans and animals. Akin to motivations behind recent theories reinstating species hierarchy, Perry invokes the superiority of humans to protect members of a marginalized group. It seems that, perhaps unintentionally, he has expressed a commitment to a view that has been rejected by many scholars as both problematic philosophically and harmful politically. While it’s hard to imagine someone, upon observing a man being treated poorly, saying “how dare you treat him as a woman!”, there are many locutions that presume pernicious ideas about gender (*e.g.*, “Man up!” as a way of saying “display some courage and fortitude”) that we hear with alarming frequency. The sentiment of inequality revealed in such exclamations involve the same kind of commitment underlying Perry’s objection to the CDSS’s campaign. This is not to say that the treatment itself is not, in fact, objectionable — it surely warrants objection, as I discussed above. However, the commitments revealed in *how* the objection is formulated are themselves morally noxious. Poor treatment is neither acceptable for a man nor a woman, whereas the statement “how dare you treat him as a woman” implies that it *would* be acceptable had it instead been a woman. Likewise, for Perry’s objection, poor treatment is neither appropriate for a human nor a non-human animal, but he assumes that there is a less deserving category reserved for animals. This leads me to ask, then, whether Perry ought

to have known better than to formulate his objection this way, and whether his ignorance is culpable.

5.7.2 Second Lesson: The Subject's Proximity to Information

To determine whether Perry is culpable for this ignorance, we must ask whether Perry had the minimum amount of knowledge about himself and his surroundings required to avoid being morally blameworthy. It could be that Perry was operating with epistemic virtues, met the minimum threshold of what he is responsible to know, *but* knowledge of species hierarchy (particularly the perniciousness of the view) fell outside his cognitive minimums. This would make his ignorance nonculpable. Or, it could be that his ignorance of the pitfalls of species hierarchy is the result of his bad epistemic character. If he is an actively ignorant subject, Perry ought to be blamed for operating with epistemic vices that led him to avoid attaining knowledge about this issue. This evaluation requires us to know if the amount of information of species hierarchy is sufficiently present in society that it would require him to be actively ignorant in order to avoid it, that is, we must consider Perry's *proximity* to the information.

In Medina's set of examples, the information the subject failed to know clearly required epistemic vices on the subject's part to remain ignorant of it. As discussed above, information about the historical and present-day aspects of racism and antisemitism are found throughout society in many formats, and directed to various age groups. Although attempting to measure one's exposure to such information is impractical, one way of gauging the degree of social awareness of an issue is to see what is generally considered "okay" to say and do around others.

If information about a certain attitude is well known, it influences what people expect from each other. Consider sexism, for example, which I take to be another issue that requires ignorance to avoid knowledge about, due to how prevalent anti-sexist messaging is in our society today. Imagine a social setting where a subject tells their male acquaintances to "man up," when what they mean is for them to be resilient and courageous. While it is not wrong to encourage people to be resilient or courageous, I'd like to think most would agree that this is an unacceptable way to phrase it. Further, many people recognize the culpable ignorance that motivates the creation of "locker room talk," as a special category (within which such comments as "man up" may fit), for instance. Upon careful consideration, one would see that phrasing it in this way offers encouragement at the expense of women's equality with men. We would also anticipate a level of pushback from other subjects present, pointing out the misfired encouragement, or at the least showing some sign

of disapproval. The disapproval of sexist attitudes, and how this disapproval has worked into what we expect from each other, demonstrates the prevalence of the knowledge of the need to counter sexism in our society, even in light of recalcitrant attitudes, sometimes militantly expressed, in some segments of the population.

Taking a closer look at how awareness of social issues changes our expectations of others, we can talk about it in terms of social norms, and the evolution of social attitudes. Following usage in research literature in the area of psychology and social behaviour, I wish to use “social norms” to mean what society thinks people, especially when in a group, *should* do (McDonald and Crandall, 2015, 147). We can learn many things by paying attention to social norms, one of them being, I think, how widespread information about particular issues is. This is not to say that social norms ought to be taken as always, or even usually, morally prescriptive. It is only to say that they can give us some useful descriptive information about what people know, and about what information they suppose is sufficiently available to expect others to know.⁸ In this sense, social norms can offer a gauge on how prevalent certain information is in society.

Using social norms as a gauge in this way seems to fit (or at least not clash with) Medina’s view, as researchers who focus on social norms also point to the connection between other-awareness and self-knowledge as playing a role in one’s actions. For instance, the authors of one article describe a subject’s adoption of norms as being “associated with more interpersonally oriented self-awareness” (McDonald and Crandall, 2015, 148). A subject’s adoption of norms is influenced by their awareness of themselves with respect to those around them.

When we consider different historical contexts, we recognize that these norms change over time. Theorists explain the evolution of social attitudes using a variety of interconnected sources, such as evolutionary traits and game theory, causes which converge to form social norms that promote altruism and reciprocity, and to deter and avoid harm (Haidt, 2007, 998; Katz, 2000, xv). One prominent example of the degree to which moral attitudes change is the relatively recent (and in many cases still yet to be secured) equality of people, since “legal distinctions based on ethnicity, race, gender, and social class” were, at one time “justified as inevitable and appropriate” (Hill, 2017, 49). Reflection on the historical and present-day fight against inequality, such as combating racism and sexism, bear witness to the fact that “changes in fundamental concepts, such as the revolution in moral equality,

⁸The relationship between moral responsibilities and social norms largely depends on one’s conception of morality. I am not making any significant claims about this relationship here. I am simply assuming that in some instances social norms do gauge what people know, and there are times where the high prevalence of knowledge and adoption of that knowledge into norms can be considered moral progress.

require a long period of time to realize their full impact” (Hill, 2017, 51). Norms surely change, but often at a slow rate.

At times when awareness of an injustice is in the early stages of spreading through a society, and social norms are just beginning to change, the degree to which one is expected to know about that issue lowered. For example, telling one’s audience to “man up!” as a form of encouragement may have been less blameworthy, although no less wrongheaded, in a different historical situation (*e.g.*, in the 1950’s). This is because an agent may have attained the least amount of knowledge about themselves and their surroundings to be morally responsible, and yet not encountered these ideas due to lack of *proximity* to the relevant information. Even if a subject is *subversively lucid*, they can plausibly lack access to these newer perspectives, or to the relevant information that would lead them to these perspectives.⁹

Once further along in this process — meaning the information has become prevalent and adopted into social norms — it becomes clearer when one is an actively ignorant agent, one who has failed to learn enough about themselves and their co-participants, and is blameworthy for that failure. That is, if the knowledge has permeated society to a sufficient degree that social norms are altered, it is also present to a degree that the agent ought to have known about it. In short, the agent’s *proximity* to the relevant information has changed, and with it their culpability.

Once again, drawing from research on social norms, we see parallels with Medina’s account in studies that show “the factors that contribute to the ‘prejudiced personality’ are mostly measures of the inability or unwillingness to adapt to social change (*e.g.*, cognitive rigidity, low education, traditional religiosity, authoritarianism)” (McDonald and Crandall, 2015, 148); some of these factors would likely fit a description of “epistemic vice.” Furthermore, according to researchers in this field, a subject *causes* prejudice when they remain ignorant of the changing social norms, and so fail to adopt them. One’s poor epistemic character leads to their blameworthiness, and also contributes to greater issues of discrimination. Psychological research describes what Medina wants his readers to avoid: when information spreads through society — enough that we expect each other to know and act accordingly — we can be blamed for our ignorance.

With this in mind, I turn to evaluate Perry’s use of species hierarchy. By using the social norms as a gauge, I will try to determine the extent to which the knowledge of the perniciousness of species hierarchy has permeated society. When considering social norms of how we expect others to think about and treat animals, what we find depends on the

⁹In hindsight, a subject saying “man up” in the 1950’s may be subversively lucid, and not blameworthy, due to the extensive social injustice of the time.

groups we poll. And so it is no surprise that, when we attempt to gauge the overall social attitude toward animals, we find contradictions in social messages. On one hand, social awareness of animal treatment has clearly influenced norms against acceptance of animal cruelty in many industries. For instance, there has been a sharp increase (175% since 2013) of makeup products called “cruelty free,” *i.e.*, those that have neither been tested on animals, nor do they have any animal products as ingredients (Smith, 2018). This and other similar trends indicate that many members of society have reevaluated how they think about humans’ use of animals for commercial reasons, in a way that shows signs of rejecting species hierarchy.

And yet, on the other hand, use of animals in other ways pervades society, and with it connotations of an implicit acceptance of human supremacy over non-human animals. Take meat eating, for example. Meat remains a staple in most North American households, even with various prevalent sorts of encouragement to do otherwise. Calls to give up meat consumption, for reasons of animal welfare, climate change, and a plethora of health-related benefits, are in wide circulation. But these messages don’t seem to be effective, as the American population set a record in their level of meat consumption in 2018, and things like bacon jokes and bacon novelty products are oddly commonplace (Durisin and Singh, 2018). It would seem that most people in North American society practice, and even celebrate, meat consumption. If one were to ask what the social norms are regarding the use of animals in our society, one would be hard pressed to find a clear answer.

Amid evidence of these conflicting social norms, we have Perry, who is not calling for the killing and consuming of animals. Indeed, he is not even requesting to treat them poorly. Rather, he is manifesting commitment to a theory that underpins and justifies those actions. Perry may have household pets of which he takes excellent care, and he may actively seek to reduce his meat consumption due to his environmental concerns. And yet, he can do so while still being committed to a view that ultimately contributes to the mistreatment of animals *and* humans. The question of whether Perry ought to be blamed for this, rides on whether one thinks the relevant information in his proximity is of a sufficient amount that he must have been actively ignorant in order to avoid learning. To blame him, is to claim that the *least* Perry ought to have known about himself and about his surroundings is the theoretical underpinnings of animal and human rights. I think this raises the bar too high.

Perry is situated in a nation (the United States), that has a long tradition of species hierarchy, and consumer use of animals. Currently, knowledge that challenges the moral permissibility of these norms is spreading and appears to be growing momentum. However, the more nuanced aspects of this knowledge, that being, the theoretical frameworks and the impact on humans and animals alike, as Kymlicka outlined, is still yet to be widely

known. This is especially apparent in light of how recent the studies Kymlicka used to support his claim.¹⁰

In his role as advocate for his son, Perry seems to have made himself aware of the social issues regarding people with cognitive or developmental disabilities, as he demonstrates knowledge of history and contemporary struggles, likely meeting the role-adjusted minimums I discussed above. But regarding his responsibility to know about animals, he could very well have learned the least amount required to be a responsible agent, and still not have come across these issues of species hierarchy. What's more, even if one disagreed with my standard of what counts as the "least" Perry ought to have known, had Perry demonstrated diligence to learn about human rights and the connection they have to animal rights prior to writing the blog in question, it does not guarantee that he would have known better. In his search for expertise on the issue, he may very well have found recent academic journal articles that promote species hierarchy in attempts to combat dehumanization, articles that are part of the recent trend Kymlicka identifies.

Because Perry's context includes often contradictory or ambiguous social norms regarding how one ought to think and treat animals, we can assume that the social prevalence of the knowledge about the harms of species hierarchy is at a low level. If so, Perry is not culpable for his ignorance of it. His *proximity* to this information was not close enough that blameworthy ignorance is the only way he could have failed to learn of it. But this judgment may change in the coming years. If rejecting species hierarchy is moral progress, as theorists like Kymlicka suggest, we would anticipate this knowledge to permeate culture and inform our social norms in a way that would make a statement like Perry's a clear expression of culpable ignorance at some time in the future. And in that time, the statement of "how dare you treat me as an animal" may come to be regarded in the same way as "how dare you treat me as a woman" is today. But until then, Perry's ignorance, as expressed in his response to the "Endangered Syndrome" campaign, is not blameworthy.

I anticipate an objection, here, against my use of social norms as a trustworthy gauge to determine if Perry ought to have known. It is possible, and some may say likely, that the social norms are themselves faulty, and are actually expressions of collective culpable ignorance. There is plenty of information out there, someone might say, enough to cause one to re-evaluate their beliefs about how they treat animals. If the norms themselves are the product of ignorance, shouldn't this change my decision to exculpate Perry?

¹⁰Kymlicka cites studies beginning in 2014 that support his claim that species hierarchy contributes to poorer treatment of other humans, and studies published as early as 2010 to support the positive effects on human treatment that accompanies the improved theoretical categorization of non-human animals (Kymlicka, 2018, 773–774).

I don't think so. I maintain my decision to deem Perry's ignorance non-culpable by not losing sight of his fault: by attempting to promote respect for his son, and others with Down syndrome, he presumes humans have supremacy over non-human animals. Perry could have learned from the growing discussions about how humans use animals, and adopted their main points. He may seek to avoid cruelty by opposing any form of animal testing, and he may be a vegetarian because of health and environmental concerns, in response to the issues targeted by the information prevalent in society. But the deeper, more nuanced shift of how to view non-human animals through a moral lens, the actual source of his mistake, is not present in his proximity to a sufficient degree that it falls within the range of the least he ought to know. If, as I have been presuming for the sake of this discussion, Kymlicka is right, Perry may well be considered ignorant, but he is not culpably so.

5.8 In the Meantime

As I mentioned previously, there may be a time in the future when the knowledge of the harm caused by species hierarchy has spread throughout society to the extent that would make Perry's ignorance blameworthy. And yet I maintain that this is not enough to blame him now. This highlights another feature of one's *proximity* to information that is worth noting, namely that one's *proximity* to information is time sensitive.

Kwame Anthony Appiah offers insight that may help us understand this better, when he considers the current social issues for which future generations will blame us (Appiah, 2010). Appiah points to four common practices of our day that he suspects future generations, given their vantage point with plenty of hindsight, will blame us for not knowing to be wrong. The list consists of the United States prison system, how we treat our elderly citizens (namely, the warehousing of elderly people in institutions), the meat industry, and finally, our mistreatment of the environment (Appiah, 2010).

This is not an exhaustive list, but it may be reassuring that an issue closely related to our concern of animal rights is represented. Knowing that there are many such practices in addition to these three, Appiah offers criteria that indicates which practices future generations are likely to blame us for not ending sooner. Those practices

1. which we have already hear arguments against,
2. where in response to those arguments, "defenders of the custom tend not to offer moral counterarguments, but instead invoke tradition, human nature or necessity"; and lastly,

3. where “supporters engage in what one might call strategic ignorance, avoiding truths that might force them to face the evils in which they’re complicit,”

are the ones that future generations will look back on and attribute blame, just as we in hindsight blame previous generations (Appiah, 2010).

At least at first blush, it certainly appears that society’s acceptance of species hierarchy, and resulting practices of animal use, fit the bill. This could be viewed as another point in support of blaming Perry. However, this is not enough evidence to attribute blame *now*, because at the heart, this is a predictive argument. Appiah is claiming that future generations *are likely to* (or even highly likely to) blame people for actions that meet these criteria, but those future generations will have benefited from more time, and with that, more prevalent and nuanced knowledge. He acknowledges that “not every disputed institution or practice is destined to be discredited,” and that it is difficult to distinguish *in real time* between what will be later viewed as simply “misguided,” and what will become accepted into “moral common sense” (Appiah, 2010). It is hindsight which makes these categories clear.¹¹ As such, we must evaluate what people ought to know *now* and whether they are culpable or not, rather than blame them based on what people may know *then*.

Even if Appiah’s criteria rightly identifies species hierarchy as “destined for future condemnation” (Appiah, 2010), and twenty years from now Perry will regret his comments, this does not secure blame for what he ought to have known when writing his blog on November 16th, 2018. While it was not his goal to do so, Appiah’s ideas reinforce the importance of considering one’s *proximity* to information, since prevalence of information is surely one of the significant differences between our situation now and the circumstances under which future generations will blame us.

As implied by Appiah, the state of people’s awareness about morally charged topics, such as the harms caused by widespread commitment to species hierarchy, will continue to evolve. As a result of increased awareness, attributions of blame will also change.¹² There

¹¹Of course it is possible that, in hindsight, the lack of information will be attributed to extensive social injustice, as Medina asserts. However, there is also the possibility that, in hindsight, disputed practices will be viewed as “misguided” instead, and it is this possibility I want to keep in view when making judgments in real time.

¹²The times in which subjects hold these views matter, and for reasons in addition to those discussed above. For example, if one has been an early adopter of a view that is (presumably yet to be) adopted on a large scale, it can be difficult to fully align all of one’s actions with that moral commitment. One’s political and economic situation can make entire commitment extremely difficult. A clear example is women fighting for political rights in places where they still must show deference to the men in their life to avoid violence. The space between one’s commitment to live according to moral positions and what they can actually do are not always the proper target of accusations of hypocrisy.

will be, of course, subjects who occupy *roles* that may change our assessment of whether they ought to have known about this at an earlier point in time. Someone whose expertise and career involves fighting for animal rights, for example, would cause us to recalibrate our evaluation and likely find them culpable for making comments similar to those Perry made, even at the time when Perry made them. But for Perry, presuming that he remains among the non-specialist population in this respect, he wrote his blog within a time-limited situation of exculpating ignorance. Appiah’s argument makes the variable of *proximity* to information more salient, while also providing us with insight to be proactive and avoid future blame, but it stops short of securing blame in the present.

5.9 Conclusion

Medina’s account offers a theoretical framework that we can use to address the accusations of culpable ignorance that dominate our “call-out culture.” Medina argues that determining whether an agent is culpable for what they fail to know will be highly sensitive to features of the context in which the action takes place, making it difficult to offer general rules. Nevertheless, he offers suggestions about how we can tell whether an agent has “done the least that can be expected” to know what they ought to have known — and concludes that, if not, ignorance is blameworthy. These general guides are helpful, but insufficient to render decisions of culpability in real life situations.

Taking this as motivation for seeking greater specificity in the theory, I started by identifying the features Medina relies on, without drawing specific attention to them, in the examples he uses himself. Specifically, I argued that Medina’s comparisons between cases only work if one pays due attention to the variables of a subject’s *role* and their *proximity* to information, and these factors are essential to the persuasiveness of his argument. I isolated these two variables, clarifying what they include so that we can make more nuanced distinctions when evaluating a wide range of cases in present day.

I further clarified what these variables are, and demonstrated their importance by showing them at work in assessing a contemporary example of culpable ignorance. I used the notion of *role* to explain why individuals on the board of directors for the Canadian Down Syndrome Society ought to have known better than to go ahead with the “Endangered Syndrome” campaign. Subjects in such a role ought to have, at *least*, known about the historical and present-day struggles of people with developmental disability. And had they known this, they would have recognized that their campaign was morally unacceptable. Not only did the notion of *role* allow me to identify, more clearly, why they were blameworthy, but it allowed me to make more contextually sensitive and nuanced judgments about

how a subject's cognitive minima vary depending on their *role*. There are times where the least one ought to know is higher than what it is for other subjects, or the same subject when occupying other roles.

The details of the CDSS's campaign and response offered another lesson. Perry, a father of a son with Down syndrome, objected to the campaign, but in a way that was itself morally problematic. The view underlying his objection, species hierarchy, is increasingly recognized as problematic philosophically and politically. And yet, given Perry's social setting, namely his lack of *proximity* to information about the perniciousness of species hierarchy, I determined he was not culpable for this ignorance. *Proximity* to information, as shown in this example, plays an important role in evaluating a subject's culpability. Once again by attending to this isolated variable we can make more fine-grained distinctions.

Finally, I used Appiah's work to further elaborate on how one's proximity to information changes with time, and this allows us to make claims about what future generations may blame us for, but fails to secure blame in the present. Hence, there will be cases where our suspicions of a subject's culpable ignorance cannot be confirmed enough to assign blame. This may be the result of extensive social injustice, a prospect Medina considers, or it may be due to the slow rate at which information about moral change spreads through a society, as I have suggested. Ultimately, by contributing to Medina's view in this way, I hope to have provided an improved tool with which we can better evaluate real life cases and, by taking Appiah's advice, a way to be proactive in the meantime when blame is not warranted.

Chapter 6

Concluding Remarks and Open Questions

The careful reader is sure to have noticed that each chapter of this project is connected by more than what is articulated in the introduction. Throughout the chapters there are threads of important themes, addressed from different angles, as they relate to the focus of each chapter. To conclude this project, I will briefly highlight and expand upon three themes in particular. The themes I will discuss are *recognition*, *accommodation*, and *inclusion*.

Present in each chapter, to varying degrees, is a commitment to the importance of *recognizing* people with communication, cognitive, or developmental disability as fellow epistemic agents. In particular, this involves recognizing them as epistemic agents who ought to be featured equally in epistemic theorizing, and be perceived as having something to contribute to the knowledge economy. In Chapter 2, I argued that the exclusion of people with cognitive or developmental disability from qualifying as participants in trustful conversations was unwarranted, and likely unintentional on Fricker's part. The modification I proposed provides agents with cognitive or developmental disability equal recognition as both beneficiaries of trustful conversations, and the possibility of being unjustly excluded from them — on par with cognitively typical agents.

The recognition of people with communication, cognitive, or developmental disability as epistemic agents also motivates the argument of Chapter 4 — specifically, the recognition that people, even those who do not speak with their voices, have something to communicate. When faced with the information that many epistemic agents today are without reliable modes of communication, and consequently are without reliable ways to participate in the

knowledge economy, we are challenged to seriously consider the right to communicate when theorizing about epistemic injustice.

With this increased recognition, comes the challenge of *accommodation*. In Chapter 4, I argued in support of accommodation for people with communication disability. Specifically, I argue that people must have reliable modes, as well as the opportunity to grow as communicators. One of my methods for arriving at the diagnostic criteria to gauge if (among other things) a person has the accommodations they need, was to look first at the support ubiquitous in society for cognitively typical agents. This strategy stems from my observation that what is often classified as “accommodation” is of the same kind as supports already in place in society for people who are cognitively typical, if maybe to a different degree. Relatedly, what could be called accommodation in Chapter 2, where I argued for multi-agent trustful conversations in order to include support circles, is based on the consideration that *all* epistemic agents take part in externalized deliberation. Methods of accommodation are often found by looking to the extensive accommodation built into the social environment for cognitively typical agents, and offering like supports to agents who fall outside the statistically typical range, as do agents with communication, cognitive, or developmental disability.

The theme of *inclusion* runs most clearly through the first three arguments. The importance of inclusion first appears within my argument for people with cognitive or developmental disability to be included as trustful conversation participants (Chapter 2), it continues in my analysis of the confusion over what ‘inclusion’ ought to be understood to mean (Chapter 3), and then it contributes to the importance of someone having access to a mode of communication (Chapter 4). Working toward inclusion of diverse knowers is an ongoing responsibility for society, with a role of the state to provide particular aspects of this support (Chapter 4). Although I recognize that we have a long way to go to eliminate the separation that people with communication, cognitive, or developmental disability currently experience, we have a clearer way forward by identifying what a right to communicate amounts to, the issue of hermeneutical friction, and the need to prioritize members of disability communities in conversations about what inclusion looks like (Chapter 3).

Chapter 5 is different in that it demonstrates a practical example of what the other three arguments point to: when we know better, we can do better – and further, that we *should* do better. The first three arguments point to ways to know better, and to the kinds of better social and personal navigation that can be done in light of that awareness. Chapter 5, however, walks through a real life example of how to identify when someone ought to have known better, and so ought to have done better. In this chapter, while considering the slow rate of social change, I investigated how to identify wrongdoing and implement the updated

knowledge in real-time situations by attributing blame. By blaming the board of directors of the CDSS for the “Endangered Syndrome” campaign in 2018, I attempted to bring the connection between individual knowers and the impact of hermeneutical injustice full circle. Ultimately, I used blame in an attempt to interrupt the perpetuation of a harmful dominant interpretation of people with Down syndrome.

The arguments presented in this dissertation raise further lines of inquiry, and I will mention two of them here. The first line of inquiry is to more thoroughly investigate a suggestion I made in Chapter 3, namely, that some degree of fit can be achieved between Fricker’s and Mason’s accounts of hermeneutical injustice. I proposed that a critique of Fricker’s account of hermeneutic injustice, due to Rebecca Mason, can usefully be regarded instead as a sort of supplement to Fricker’s account, and that both authors have identified important sorts of injustice that confront people with cognitive or developmental disability. While I believe that is right at least in that limited context, there are remaining questions about whether the compatibility is more than superficial, or whether Mason has, as she herself supposes, provided a stinging critique of Fricker. If the views really are compatible, the underlying theory of hermeneutic injustice needs re-description to explain why these two sorts are really instances of a single kind of injustice.

The second line of inquiry begins with my observation that discussions of epistemic injustice have largely overlooked what goes wrong when subjects’ rights to communicate are not secured. As discussed in earlier chapters, Fricker, Mason, and Medina each seek to explain what goes wrong when knowers are excluded from knowledge sharing practices, and how subjects are harmed. However, as I’ve suggested in Chapter 4, a subject’s right to communicate is an issue of epistemic justice, and yet, the theories explored in this project in their current form do not directly consider, and so are inadequate resources for explaining, the ways people with communication disability experience epistemic injustice (*e.g.*, restricted access to technology, insufficient time to contribute in public forums). In the same way that I took parts of these theories to bear upon the lived experiences of people with cognitive or developmental disability, so too should these theories be investigated for how they can identify what goes wrong, and the harms that are incurred, when people’s right to communicate is unsecured.

This project will open up many related avenues to investigate, including, for instance, determining what kinds of safeguards are needed to ensure individuals have their right to communicate met to a sufficient degree. Consequently, this raises questions about what a “sufficient degree” amounts to, or if such a notion even applies outside of interpreting state duties. In addition to these broader kinds of questions, there are questions that focus more specifically on situations unique to epistemic agents with communication disability. For example, to continue a line of thought from Chapter 2, it is worth investigating how a

person's identity is impacted if they have communication support for trustful conversations, but *only* (or nearly only) for trustful conversations, due to restricted access to technology and/or support to communicate. These issues, among others, need to be analyzed through the lens of epistemic injustice, and will benefit from the lessons gained from the arguments and methodology of this work.

Bibliography

- S. Abbott and R. McConkey. The barriers to social inclusion as perceived by people with intellectual disabilities. *Journal of Intellectual Disabilities*, 10(3):275–287, 2006.
- W. H. Ahearn, K. M. Clark, and R. P. MacDonald. Assessing and Treating Vocal Stereotypy in Children with Autism. *Journal of Applied Behavior Analysis*, 40(2):263–275, 2007.
- L. Alexander. Are Procedural Rights Derivative Substantive Rights? *Law and Philosophy*, (17):19–42, 1998.
- E. Anderson. *The Imperative of Integration*. Princeton University Press, New Jersey, 2010.
- K. A. Appiah. What will future generations condemn us for? *Washington Post Online*, September 26, 2010. http://www.washingtonpost.com/wp-dyn/content/article/2010/09/24/AR2010092404113_pf.html. Accessed March 29, 2019.
- A. Arstein-Kerslake and E. Flynn. The right to legal agency: domination, disability and the protections of Article 12 of the Convention on the Rights of Persons with Disabilities. *International Journal of Law in Context*, 13(1):22–38, 2017.
- M. Bailey. Work in the Intersections: A Black Feminist Disability Framework. *Gender & Society*, 33(1):19–40, 2019.
- L. Beachell. Canada Ratifies United Nations Convention on the Rights of Persons with Disabilities. *Council of Canadians with Disabilities*, March 11, 2010. <http://ccdonline.ca/en/international/un/canada/crpd-pressrelease-11March2010>. Accessed November 7, 2018.
- S. Beart, G. Hardy, and L. Buchan. Changing Selves: A Grounded Theory Account of Belonging to a Selfadvocacy Group for People with Intellectual Disabilities. *Journal of Applied Research in Intellectual Disabilities*, 17(2):91–100, 2004.

- C. Bigby, M. Whiteside, and J. Douglas. Providing support for decision making to adults with intellectual disability: Perspectives of family members and workers in disability support services. *Journal of Intellectual and Developmental Disability*, pages 1–14, 2017.
- C. Bigby, S. Anderson, and N. Cameron. Identifying conceptualizations and theories of change imbedded in interventions to facilitate community participation for people with intellectual disability: A scoping review. *Journal of Applied Research in Intellectual Disabilities*, 31:165–180, 2018.
- D. L. Braddock and S. L. Parish. An Institutional History of Disability. In M. B. Gary L. Albrecht, Katherine D. Seelman, editor, *Handbook of Disability Studies*, pages 11–68. SAGE Publications, Thousand Oaks, 2001.
- D. Brooks. The Cruelty of Call-Out Culture: How not to do social change. *New York Times: Opinion*, January 14, 2019. <https://www.nytimes.com/2019/01/14/opinion/call-out-social-justice.html>. Accessed March 5, 2019.
- D. Brown. Woman speaks out against campaign comparing people with down syndrome to animals. *CBC Toronto News*, November 7, 2018. <https://www.cbc.ca/news/canada/toronto/campaign-down-syndrome-endangered-list-1.4896518>. Accessed December 6, 2018.
- I. Brown and J. P. Radford. The Growth and Decline of Institutions for People with Developmental Disabilities in Ontario: 1876–2009. *Journal on Developmental Disabilities*, 20(1):7–27, 2015.
- B. Burrell and H. Trip. Reform and community care: has de-institutionalisation delivered for people with intellectual disability? *Nursing Inquiry*, 18(2):174–183, 2011.
- Canadian Down Syndrome Society. The ‘S’ Word - Anything But Sorry. YouTube Video, <https://youtu.be/AfLfqC2sX0E>, 2017. Accessed March 15, 2019.
- Canadian Down Syndrome Society. Application to be added to the Red List. <https://www.endangeredsyndrome.com/files/IUCN%20CDSS%20Letter%20FINAL%20Nov%2015.pdf>, 2018a. Accessed March 15, 2019.
- Canadian Down Syndrome Society. Endangered syndrome - community. YouTube Video, <https://youtu.be/pDbRw2b0sBw>, 2018b. Accessed March 15, 2019.
- Canadian Down Syndrome Society. Endangered syndrome. YouTube Video, <https://youtu.be/qIYPwP5Nec4>, 2018c. Accessed March 15, 2019.

- Canadian Down Syndrome Society. Endangered syndrome. <https://www.endangeredsyndrome.com>, 2018d. Accessed March 15, 2019.
- R. Cepko. Involuntary Sterilization of Mentally Disabled Women. *Berkeley Women's Law Journal*, 8(1):122–165, 1993.
- M. Chowdhury and B. A. Benson. Deinstitutionalization and Quality of Life of Individuals With Intellectual Disability: A Review of the International Literature. *Journal of Policy and Practice in Intellectual Disabilities*, 8(4):256–265, 2011.
- B. Collier and Communication Disabilities Access Canada. Public consultation on federal accessibility legislation: Input from Canadians who have speech, language and communication disabilities. https://www.cdacanada.com/wp-content/uploads/2018/01/Final_Community_Consultation_for_Federal_Accessibility_Legislation_Digital_2.pdf, 2018. Accessed May 17, 2019.
- Community Living Ontario. Institutionalization in Ontario in any form will not be tolerated. <http://www.communitylivingupperottawavalley.ca/userfiles/file/Media%20Release%20-%20Institutionalization%20in%20Ontario%20in%20any%20form%20will%20not%20be%20tolerated.pdf>, 2017. Accessed March 15, 2019.
- Council for Canadians with Disabilities. Creating an Inclusive and Accessible Canada: Developing A National Disability Agenda. url <http://www.ccdonline.ca/en/socialpolicy/actionplan/120505>, 2013. Accessed January 10, 2018.
- I. Cronk. The Transportation Barrier. *The Atlantic*, August 9, 2015. <https://www.theatlantic.com/health/archive/2015/08/the-transportation-barrier/399728/>. Accessed November 15, 2015.
- C. Dalton and J. Sweeney. Communication supports in residential services for people with an intellectual disability. *British Journal of Learning Disabilities*, 41:22–30, 2011.
- N. Devi. Supported Decision-Making and Personal Autonomy for Persons with Intellectual Disabilities: Article 12 of the UN Convention on the Rights of Persons with Disabilities. *Journal of Law, Medicine & Ethics*, 8(4):256–265, 2013.
- D. DeVidi. Advocacy, autism and autonomy. In J. L. Anderson and S. Cushing, editors, *The Philosophy of Autism*, pages 187–200. Rowman and Littlefield, Maryland, 2013.
- D. DeVidi and C. Klausen. No Mere Difference. *Dialogue*, 56(2):357–379, 2017.

- L. Dowse. Contesting Practices, Challenging Codes: Self Advocacy, Disability Politics and the Social Model. *Disability & Society*, 16(1):123–141, 2001.
- M. Durisin and S. D. Singh. Americans’ meat consumption set to hit a record in 2018. *The Seattle Times: Business Online*, January 2, 2018. <https://www.seattletimes.com/business/americans-meat-consumption-set-to-hit-a-record-in-2018/>. Accessed March 19, 2019.
- E. G. Ellis. The Case for Viral ‘Callout’ Culture. *Wired*, December 12, 2018. <https://www.wired.com/story/viral-call-out-culture/>. Accessed March 5, 2019.
- D. Enoch. In Defense of Procedural Rights (Or Anyway, Procedural Duties): A Response to Wellman. *Legal Theory*, (24):40–49, 2018.
- W. R. Estep. *The Anabaptist Story: An Introduction to Sixteenth-Century Anabaptism*. Eerdmans Publishing Company, Michigan, third edition, 1996.
- M. Ferrier. Burberry’s noose hoodie is part of a shameful fashion tradition. *The Guardian*, February 22 2019. <https://www.theguardian.com/commentisfree/2019/feb/22/burberry-noose-hoodie-fashion-racism-diverse-industry>. Accessed July 19, 2019.
- M. Fioranelli, M. G. Rocchia, M. Rovesti, F. Satolli, P. Petrelly, and T. Lotti. The holocaust of the disabled. *Wien Med Wochenschr*, 167:54–55, 2017.
- M. Foucault. *The Birth of the Clinic*. Routledge, London, UK, 1963/1973. Translated by Alan Sheridan.
- M. Foucault. *Discipline and Punish: The Birth of the Prison*. Vintage Books, New York, 1975/1995. Translated by Alan Sheridan.
- E. Freeman. Crumbling Hospital Infrastructure Threatens the Care of Canadians. *HealthCareCAN*, June 16, 2015. <http://www.healthcarecan.ca/2015/06/16/crumbling-hospital-infrastructure-threatens-the-care-of-canadians/>. Accessed November 15, 2018.
- M. Fricker. *Epistemic Injustice: Power & the Ethics of Knowing*. Oxford University Press, New York, 2007.
- M. Fricker. Silence and institutional prejudice. In S. L. Crasnow and A. M. Superson, editors, *Out of the Shadows: Analytical Feminist Contributions to Traditional Philosophy*, pages 287–306. Oxford University Press, New York, 2012.

- K. Gentles-Peart. Controlling Beauty Ideals: Caribbean Women, Thick Bodies, and White Supremacist Discourse. *Women's Studies Quarterly*, 46(1):199–214, 2018.
- R. P. George and C. West. Sign the Statement: Truth Seeing, Democracy, and Freedom of Thought and Expression – A Statement by Robert P. George and Cornel West. <https://jmp.princeton.edu/statement>, 2017. Accessed January 11, 2019.
- L. Gething. Judgements by Health Professionals of Personal Characteristics of People with a Visible Physical Disability. *Social Science Medicine*, 34(7):809–815, 1992.
- G. Goggin. Communication rights and disability online: Policy and technology after the World Summit on the Information Society. *Information, Communication & Society*, 18(3):327–341, 2015.
- S. Goodyear. David Frum has ‘no regrets’ about controversial debate with Steve Bannon. *As It Happens*, CBC, November 5, 2018. <https://www.cbc.ca/radio/asithappens/as-it-happens-monday-edition-1.4892526/david-frum-has-no-regrets-about-controversial-debate-with-steve-bannon-1.4892531>. Accessed December 10, 2018.
- Government of Canada. Canadian Charter of Rights and Freedoms. <http://publications.gc.ca/collections/Collection/CH37-4-3-2002E.pdf>, 1982. Accessed January 11, 2019.
- Government of Ontario. History of the Huronia Regional Centre. https://www.mcass.gov.on.ca/en/mcass/programs/developmental/HRC_history.aspx, March 2018. Accessed July 16, 2019.
- J. B. Granz. *Aided Augmentative Communication for Individuals with Autism Spectrum Disorders*. Springer, New York, 2014.
- R. Gray and L. McAnespie. Consulted or Excluded? *Learning Disability Practice*, 7(6):30–32, 2004.
- L. Gruen. *Entangled Empathy*. Lantern Books, New York, 2015.
- J. Haidt. The New Synthesis in Moral Psychology. *Science*, 316:998–1002, 2007.
- S. A. Hall. Community Involvement of Young Adults with Intellectual Disabilities: Their Experiences and Perspectives on Inclusion. *Journal of Applied Research in Intellectual Disabilities*, 30:859–871, 2017.

- S. Heasley. TV Characters with Disabilities on the Rise. *disabilitycoop Online*, October 14, 2013. <https://www.disabilitycoop.com/2013/10/14/tv-disabilities-rise/18802/>. Accessed March 18, 2019.
- C. B. Hessick and F. A. Hessick. Procedural rights at sentencing. *Notre Dame Law Review*, 90(1):187–233, 2014.
- P. J. Hill. Judeo-Christian Thought, Classical Liberals, and Modern Egalitarianism. *The Independent Review*, 22(1):49–58, 2017.
- International Communication Project. Universal declaration of communication rights. <https://internationalcommunicationproject.com/get-involved/sign-the-pledge/>, 2019. Accessed November 16, 2018.
- International Union for Conservation of Nature (IUCN). Background and History. <https://www.iucnredlist.org/about/background-history>, 2018a. Accessed December 6, 2018.
- International Union for Conservation of Nature (IUCN). How the Red List is Used. <https://www.iucnredlist.org/about/uses>, 2018b. Accessed December 6, 2018.
- International Union for Conservation of Nature (IUCN). Planned Red List Updates. <https://www.iucnredlist.org/assessment/>, 2018c. Accessed December 6, 2018.
- S. Ismail. Why disability history should be on the school curriculum. *The Guardian Online*, September 26, 2012. <https://www.theguardian.com/social-care-network/2012/sep/26/disability-history-school-curriculum>. Accessed March 18, 2019.
- J. W. Jacobson, J. A. Mulick, and A. A. Schwartz. A History of Facilitated Communication: Science, Pseudoscience, and Antiscience. *American Psychologist*, 50(9):750–765, 1995.
- A. Johannes, G. Belden-Charles, and J. Serminj. Ongoing voices of isolation and marginalization of people with intellectual disabilities supported in different kinds of programs: the ‘cocoon of impossibility’. *Research and Practice in Intellectual and Developmental Disabilities*, 4(1):42–53, 2017.
- K. A. Kangas and L. L. Lloyd. Early cognitive skills as prerequisites to augmentative and alternative communication use: What are we waiting for? *Augmentative and Alternative Communication*, 4:211–221, 1988.
- L. D. Katz. Toward Good and Evil: Evolutionary Approaches to Aspects of Human Morality. *Journal of Consciousness Studies*, 7(1-2):ix–xvi, 2000.

- E. F. Kittay. When Caring Is Just and Justice Is Caring: Justice and Mental Retardation. *Public Culture*, 13(3):557–579, 2001.
- A. Knight. Democratizing Disability: Achieving Inclusion (without Assimilation) through ‘Participatory Parity’. *Hypatia*, 30(1):97–114, 2015.
- W. Kymlicka. Human rights without human supremacy. *Canadian Journal of Philosophy*, 48(5):763–792, 2018.
- Legal Information Institute. Sixth Amendment. *Cornell Law School*. https://www.law.cornell.edu/constitution-conan/amendment-6#amdt6_hd4. Accessed January 24, 2019.
- C. D. Lloyd, G. Catney, and I. G. Shuttleworth. Measuring neighbourhood segregation using spatial interaction data. In C. D. Lloyd, I. G. Shuttleworth, and D. W. Wong, editors, *Social-Spatial Segregation: Concepts, Processes and Outcomes*, pages 65–90. Policy Press, Bristol, UK, 2014.
- J. Lord, B. Leavitt, and C. Dingwall. *Facilitating an Everyday Life: Independent facilitation and what really matters in a New Story*. Inclusion Press, Toronto, 2012.
- A. Lui. *Why Canada Cares: Human Rights and Foreign Policy in Theory and Practice*. McGill-Queen’s University Press, Montreal, 2012.
- L. Lundy. ‘Voice’ is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child. *British Educational Research Journal*, 33(6):972–942, 2007.
- L. Martin and M. Ashworth. Deinstitutionalization in Ontario, Canada: Understanding Who Moved When. *Journal of Policy and Practice in Intellectual Disabilities*, 7(3):167–176, 2010.
- R. Mason. Two kinds of unknowing. *Hypatia*, 7(3):294–307, 2011.
- J. E. Maybee. Em‘body’ment and Disability: On Taking the (Biological) ‘Body’ out of the Em‘body’ment. *Journal and Social Philosophy*, 48(3):297–320, 2017.
- K. McCauley and D. Matheson. PERSPECTIVE: From Institution to Community Living, to Social Inclusion – Unrealized Policy Promises. *Journal on Developmental Disabilities*, 22(1):3–9, 2016.

- J. McCormack, E. Baker, and K. Crowe. The human right to communicate and our need to listen: Learning from people with a history of childhood communication disorder. *International Journal of Speech-Language Pathology*, 20:142–151, 2018.
- R. I. McDonald and C. S. Crandall. Social norms and social influence. *Current Opinion in Behavioral Sciences*, 3:147–151, 2015.
- S. McLeod. Communication rights: Fundamental human rights for all. *International Journal of Speech-Language Pathology*, 20:3–11, 2018.
- J. Medina. *The Epistemology of Resistance: Gender and Racial Oppression, Epistemic Injustice, and the Social Imagination*. Oxford University Press, New York, 2013.
- T. Michals and C. McTiernan. ‘Oh, Why Can’t You Remain Like This Forever!’: Children’s Literature, Growth, and Disability. *Disability Studies Quarterly*, 38(2), 2018.
- C. Mills. *The racial contract*. Cornell University Press, New York, 1997.
- C. Mills. *Blackness visible: Essays on philosophy and race*. Cornell University Press, New York, 1998.
- C. Mills. White ignorance. In S. Sullivan and N. Tuana, editors, *Race and epistemologies of ignorance*, pages 11–38. State University of New York Press, Albany, 2007.
- V. Milne, J. Konkin, and T. Sullivan. Controversy over closing rural hospitals. *Healthy Debate*, October 9, 2014. <https://healthydebate.ca/2014/10/topic/closing-rural-hospital>. Accessed November 15, 2018.
- T. Minkowitz. The United Nations Convention of the Rights of Persons with Disabilities and the Right to be Free from Nonconsensual Psychiatric Interventions. *Syracuse Journal of International Law and Commerce*, 34(2):405–428, 2007.
- K. Mintz. Ableism, ambiguity, and the Anna Stubblefield case. *Disability & Society*, 32(10):1666–1670, 2017.
- T. Mulhern, S. Lydon, O. Healy, G. Mollaghan, D. Ramey, and M. Leoni. A systematic review and evaluation of procedures for the induction of speech among persons with developmental disabilities. *Developmental Neurorehabilitation*, 20(4):207–227, 2017.
- K. Nease. Controversial Down syndrome ad highlights important issue, advocates say. *CBC Ottawa News*, November 10, 2018. <https://www.cbc.ca/news/canada/ottawa/down-syndrome-endangered-list-ad-campaign-1.4898638>. Accessed December 6, 2018.

- J. W. Nickel. Rethinking Indivisibility: Towards A Theory of Supporting Relations between Human Rights. *Human Rights Quarterly*, 30(4):984–1001, 2008.
- M. Nussbaum. *Frontiers of Justice: Disability, Nationality, Species Membership*. Belknap Press, Cambridge, Massachusetts, 2006.
- H. Okobokeyeime. People with Disabilities as Social Outcasts: Shifting the Perspective from Victim to Advocate. *Huffpost Online*, October 12, 2013. https://www.huffingtonpost.com/helen-okobokeyeime/people-with-disabilities-_1_b_3744152.html. Accessed March 18, 2019.
- L. Ossian. Review of ‘Forgotten Crimes: The Holocaust and People with Disabilities’ by Ivan R. Dee. *Disability Studies Quarterly*, 26(1), 2006.
- H. Ouellette-Kuntz, L. Martin, and K. McKenzie. The Risk of Re-Institutionalization: Examining Rates of Admission to Long-Term Care Among Adults with Intellectual and Developmental Disabilities Over Time. *Journal of Policy and Practice in Intellectual Disabilities*, 14(4):293–297, 2017.
- F. Pan. 70 accessible, affordable apartments going into Guelph’s Ignatius Jesuit Centre. *CBC Kitchener-Waterloo News*, July 21, 2017. <https://www.cbc.ca/news/canada/kitchener-waterloo/affordable-housing-guelph-ignatius-jesuit-centre-1.4214552>. Accessed May 17, 2019.
- People First of Canada. <http://www.peoplefirstofcanada.ca>, 2018. Accessed September 18, 2018.
- D. M. Perry. Down Syndrome and Sweetness Porn. *Blog: How did we get into this Mess?*, October 15, 2013. <http://www.thismess.net/2013/10/down-syndrome-and-sweetness-porn.html>. Accessed February 6, 2019.
- D. M. Perry. Down Syndrome isn’t just cute. *Aljazeera America: Opinion*, October 15, 2014. <http://america.aljazeera.com/opinions/2014/10/down-s-behind-thesmiles.html>. Accessed February 6, 2019.
- D. M. Perry. People with Down syndrome are not endangered animals. *Pacific Standard*, November 16, 2018. <https://psmag.com/education/people-with-down-syndrome-arent-endangered-animals>. Accessed December 6, 2018.

- J. P. Radford. Eugenics and the Asylum. *Journal of Historical Sociology*, 7(4):462–473, 1994.
- M. Ronski and R. A. Sevcik. Augmentative Communication and Early Intervention: Myths and Realities. *Infants & Young Children*, 18(3):174–185, 2005.
- R. L. Schalock. International perspectives on intellectual disability. In K. D. Keith, editor, *Cross-cultural psychology: Contemporary themes and perspectives*, pages 312–328. Wiley-Blackwell, New York, 2010.
- R. L. Schalock. The evolving understanding of the construct of intellectual disability. *Journal of Intellectual & Developmental Disability*, 36(4):223–233, 2011.
- T. Shakespeare. Social models of disability and other life strategies. *Scandinavian Journal of Disability Research*, 6(1):8–21, 2004.
- T. Shakespeare. The Social Model of Disability. In L. J. Davis, editor, *The Disability Studies Reader*, pages 266–273. Routledge, New York, 2010.
- T. Shakespeare and N. Watson. Defending the Social Model. *Disability & Society*, 12(2): 293–300, 1997.
- M. Sherry. Facilitated communication, Anna Stubblefield and disability studies. *Disability & Society*, 31(7):974–982, 2016.
- S. C. Simplican, G. Leader, J. Kosciulek, and M. Leahy. Defining social inclusion of people with intellectual and developmental disabilities: An ecological model of social networks and community participation. *Research in Developmental Disabilities*, 38:18–29, 2015.
- I. Smith. Mental Age Theory Hurts People with Intellectual Disabilities. *NOS Magazine*, September 7, 2017. <http://nosmag.org/mental-age-theory-hurts-people-with-intellectual-disabilities/>. Accessed September 18, 2018.
- K. Smith. There's been a 175% increase in vegan cosmetics since 2013. *LIVEKINDLY Online*, September 1, 2018. <https://www.livekindly.co/175-increase-vegan-cosmetics-since-2013/>. Accessed March 19, 2019.
- N. Stechyson. People With Down Syndrome Are An ‘Endangered Species,’ Says Advocacy Group. *Huffpost*, November 6, 2018. https://www.huffingtonpost.ca/2018/11/06/down-syndrome-endangered-species_a_23581477/. Accessed December 6, 2018.

- H. Steiner. Moral rights. In D. Copp, editor, *The Oxford Handbook of Ethical Theory*, pages 459–479. Oxford University Press, New York, 2006.
- P. Strauss. Due Process, 1992. https://www.law.cornell.edu/wex/due_process. Accessed January 24, 2019.
- B. Telusma. Kim Kardashian doesn't realize she's the butt of an old racial joke. *TheGrio*, November 12, 2014. <https://www.thegrio.com/2014/11/12/kim-kardashian-butt/>. Accessed March 5, 2019.
- United Nations. Universal declaration of human rights (UDHR). <https://www.un.org/en/universal-declaration-human-rights/>, December 1948. Accessed June 28, 2019.
- United Nations. United nations convention on the rights of the child (UNCRC). <http://www.un-documents.net/crc.htm>, November 1989. Accessed November 8, 2018.
- United Nations. United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). <http://www.un.org/esa/socdev/enable/rights/convtexte.htm>, December 2006. Accessed November 7, 2018.
- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Article 12 Equal recognition before the law. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-12-equal-recognition-before-the-law.html>, Opened for signature March 30, 2007. Accessed January 10, 2018.
- University of British Columbia Centre for Inclusion and Citizenship. Claiming Full Citizenship: an International Conference on Self Determination, Personalization and Individualized Funding 2015 International Conference, October 2015.
- E. Venema, S. Otten, and C. Vlaskamp. Direct Support Professionals and Reversed Integration of People With Intellectual Disabilities: Impact of Attitudes, Perceived Social Norms, and Meta-Evaluations. *Journal of Policy and Practice in Intellectual Disabilities*, 13(1):41–49, 2016.
- E. Venema, C. Vlaskamp, and S. Otten. Safety First! The Topic of Safety in Reversed Integration of People with Intellectual Disabilities. *Journal of Policy and Practice in Intellectual Disabilities*, 14(2):146–153, 2017.
- D. Wasserman. Philosophical Issues in the Definition and Social Response to Disability. In M. B. Gary L. Albrecht, Katherine D. Seelman, editor, *Handbook of Disability Studies*, pages 219–251. SAGE Publications, Thousand Oaks, 2001.

- B. Williams. *Of Truth and Truthfulness: An Essay in Genealogy*. Princeton University Press, New Jersey, 2002.
- J. E. H. Williams, T. C. N. Gibbens, and R. Jennings. The Mental Health Act, 1959. *The Modern Law Review*, 23(4):410–424, 1960.
- W. Wolfensberger. A Brief Overview of Social Role Valorization. *Mental Retardation*, 38(2):105–123, 2000.