

Law, Legal Socializations, and Epistemic Injustice

Swethaa S. Ballakrishnen and Sarah B. Lawsky

Meera E. Deo. *Unequal Profession: Race and Gender in Legal Academia*. Stanford, CA: Stanford University Press, 2019

Deborah Tuerkheimer. *Credible: Why We Doubt Accusers and Protect Abusers*. New York: HarperCollins, 2021.

This review essay looks at the relationship between Deborah Tuerkheimer's Credible (2021) and Meera Deo's Unequal Profession (2019) in order to make a substantive point about inequality in legal institutions and the methods that are employed in dissecting them. At first glance, the connections between these projects might not seem apparent, although each deals with the inequalities in which its actors in focus are embedded. But both projects go deeper by unveiling institutional inequities that are often in plain sight when we investigate the background frameworks implicated in their production, and they reveal the problematic relationship between everyday discrimination and the systemic biases that justify them. Finally, reading these books together allows us to make an intervention about the methods and credibility of narratives within socio-legal scholarship more generally. In theorizing about legitimacy, we ask how the way in which we are told to look at structures of normativity changes the kinds of inequities we are able to see.

Tenured Colleague: I am a white, conservative man. I feel unsafe in the classroom. You don't know what it's like to feel unsafe just because of your identity.

Lawsky: Many professors, and especially women of color, have felt unsafe in the classroom because of their identities for a long time. *Unequal Profession* might be a good resource if you want to learn more about this.

Tenured Colleague: Sure, if you find those stories credible, which I do not.

Audience member at a talk: Why do you feel the need to bring your identity into your research?

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Ballakrishnen: Because I do not have the luxury of not thinking of my identity. Besides, if I do not, someone else will assume my priors on my behalf. So I guess it is a strategic and necessary method that is personal and political.

What is the relationship between a story's retelling, the teller's personal identity, and the story's capacity to feel credible to new audiences? How do our frameworks for trust bias our receptions of narratives we hear? How do these synergies produce conceptions of "good" data and "neutral" accounts? In turn, how do they reinforce recursive inequalities across legal institutions and, ultimately, access to justice? As an immediate illustration, the exchanges above are central to our mutual motivations to think about the relationship between gendered narratives and institutional inequality. They coalesced with theoretical resonance when we shared them in a friendly exchange, and they have since become a source of grounding to write and think together. Does it matter that these excerpts are not definitive transcripts but, rather, approximated recollections? Does the source of the rhetoric make a story less credible? Do our identities (as non-het, cis-alternate people) and politics (of being angry with the academy, its inequalities) matter? Or do you trust us because these are recollections by two professors with doctoral degrees who are writing in an elite journal? What are the institutional validations that allow for a recollection to become a data point to work from and with? What roles do your own identities and politics play in crafting our reliabilities as narrators?

It is a critical deliberation of these interconnected questions that lies at the core of our reading of Deborah Tuerkheimer's *Credible: Why We Doubt Accusers and Protect Abusers* (2021) together with Meera Deo's *Unequal Profession: Race and Gender in Legal Academia* (2019). At first glance, the connections between Tuerkheimer's *Credible* and Deo's *Unequal Profession* might not seem apparent. Tuerkheimer unpacks the complicated survivor navigations involved in the aftermath of sexual assault, while Deo systematically tracks the experiences of women of color in the legal academy. Yet, despite their different starting points, we argue, there is value in reading them together—both to think of the constructions of inequality and epistemic justice more critically and to enrich our understanding of each empirical case better when read in contrast. Both *Credible* and *Unequal Profession* deal with inequalities in which its actors in focus are embedded, and both these projects critically unveil the capacity of looking at the institutional inequity that is often in plain sight when we investigate the background frameworks that are implicated in their production. While there is merit to reading each on their own terms, we argue that reading them together offers useful insights about the everyday violence¹ of legal institutions and the constructs they produce. Specifically, we see these projects as each unveiling different, but related, coordinates that reveal the

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1. Although specific operationalizations of violence vary, we use the term "structural violence" broadly to describe the ways in which institutions indirectly by merely existing—and oftentimes by being neutral—exert and reinforce systemic hierarchies and inequalities. For an elaboration of this concept, especially within peace studies and anthropology of war literature where this was first theorized, see Galtung and Hojvik 1971. For a more recent operationalization of this injury, especially as it implicates queer bodies and the law, see Raj 2020.

problematic relationship between everyday discrimination and the systemic biases that justify them. This becomes especially crucial as conversations about sexual assault and professional biases both become independently and connectedly crucial for our times.

We start by building a case for this joint reading on three main grounds. First, we motivate the comparison broadly by sketching out the similarities between the projects and highlight how using each project to inform the other in substantive ways could lend new light to understanding their resonance. Particularly, we engage Tuerkheimer's concepts of credibility discount and credibility inflation beyond the context of assault to other kinds of biases (including professional ones) to illustrate how they can be useful. We also suggest that Deo's focus on intersectionality could be central to understanding the narratives that Tuerkheimer presents. Tuerkheimer acknowledges the possibilities for the credibility discount becoming even more powerful when a person occupies more than one marginalized group, and Deo's interlaced "raceXgender" analysis offers a way to theorize that discount. Reading the two books together allows each to inform and extend the other. We suggest that this reading offers important extensions to law and inequality scholarship more broadly.

Further, we argue that Deo's book illustrates that the ideas of the credibility complex, in particular, and epistemic injustices, more generally, apply in the context of peripheral experiences within legal academia. In drawing this connection, we argue that people are trained to create, apply, and enforce the law in a space that itself enacts, reinforces, and replicates the credibility complex. Finally, we argue that reading these books together now could be crucial because of the centrality of these issues for our current times; they offer possibilities for method, theory building, and policy that new feminist futures could offer. Together, at the most abstract level, we hope to unpack larger questions of deliberative justice and the accounts that allow us to access it: what is believable, and from whom, and how can these narratives and their reception help us think differently about the persistence of structural inequity?

One final note: the decision in this review essay to not question the veracity of the stories that Tuerkheimer and Deo report on is intentional and analytically rooted. Deo's book is built on in-depth, systematic interviews with nearly one hundred law professors in the United States.² Tuerkheimer's book, which is intended for popular audiences, does not unpack her methodology in the same way, but it combines conventional legal research and scholarship with interviews with a range of respondents whom the book calls "survivors." As she notes, "[m]ost of the stories in this book belong to women whose abusers aren't famous and whose accounts never made headlines" (Tuerkheimer 7). Scholars of implicit bias warn us that the ways in which we observe

2. Using surveys and in-depth interviews, Meera Deo follows a targeted sample of ninety-three tenured or tenure-track law professors from member schools accredited by the American Bar Association and the Association of American Law Schools in the United States (excluding historically Black institutions that she found to be analytically distinct from predominantly white schools). Of these, the main sample consisted of sixty-three law professors who were women of color, and three comparison samples of men of color ($n = 11$), white women ($n = 11$), and white men ($n = 8$). A target seed group was varied based on race/ethnicity, gender, institutional ranking, geographic region of employment, tenure status, and employment title/position. Seed samples then resulted in nominations of other participants who were similarly selected based on a range of analytical variation. Although targeted snowball samples such as this are not "representative" in the same way as random samples can be, they are a crucial method to reach vulnerable populations who might not respond to more generic calls for participants.

events reveal something about how we were trained to look. There certainly exists a reading of this research—and it is a reading that we consistently encounter—where there is disbelief on the presumption of skewed or personal perspective. But how differently might we encounter the same findings were they to be based on frameworks that disciplines have socialized us to believe are “neutral” or “valid”?

We not only choose, as a personal decision, to trust what the women of color in the legal academy tell Deo about their experiences and what survivors tell Tuerkheimer; we argue that not regarding these data as compelling because they do not align with an internalized logic of ideal representative findings reveals the very structural violence that these data record. While we cannot compel the reader to make the same personal choice as we do, we feel inclined to reinforce this orientation for the purposes of our theoretical intervention. Contending with the possibility (or corollary) that these respondents are reliable witnesses of their own realities remains an analytical premise regardless of whether one chooses to agree with it. What would happen, for example, if one were to treat this as credible in the same way that inherent credibility is offered non-narrative methods? If one were to set aside disbelief and imagine different priors of trust on behalf of these narratives, what follows? The theoretical core of this review essay rests on this subversion, and we urge the reader to reflect on these biases alongside us.

UN-CREDIBLE, UNEQUAL PROFESSION: READING DEO USING CREDIBILITY CONSTRUCTS

Unequal Profession uses the experiences of women law professors of color to make a layered and comparative argument about professional careers, spaces, and the inequalities embedded within them. We start by mentioning its empirical core because it is the tool that Deo wields most centrally to make a grander argument about structural racism and inequity. Her book is the first formal mixed-method study of the law faculty experience that focuses on women of color and includes professors from all stages of their careers. It investigates these empirics from a Critical Race Theory approach to amplify voices that are traditionally underrepresented and marginalized. The latter—that is, the predominance of her theoretical frame (rather than a choice to, say, include race as an additional level of analysis)—is a strategy worthy of attention. Starting with the focus on the peripheral actor, rather than needing to revisit the peripheral actors in her study from the starting point of the “normative” professor (cisgender white male) can be read as a crucial theoretical maneuver. The book does not spend much time discussing this decision, and while there is merit in “doing” rather than “telling,” what is not “told” here feels like it would be an important contribution for those looking to read significance from the understated and use it for their own theoretical journeys.

Deo’s findings of intersectional biases that “doubly marginalize” are troubling, and they are also revealing in the specific ways in which institutional intersectionality gets operationalized. But in starting from the vantage point of actors who are usually added to research in addition to the normative ideal actors, Deo offers us new and useful insights as we think about ways to change these models. For instance, she finds that classroom confrontations and biases in course evaluations have devastating effects on tenure and promotion for professors who are women of color—something that is

often spoken about amongst themselves but seen as unsubstantiated because structures predominantly occupied by white men characterize these descriptions as “just complaining.” In relaying these findings beyond these circuits of sight and care, Deo’s work helps build structures of alternate possibility both for these women and their allies within law schools seeking to make amends to their structures. By offering systematic narratives that start from the perspective of those forced to the margins, Deo allows them to have new power against others who have traditionally refused to acknowledge their value. Her findings of how inequality is done in justified—credible, as we argue—ways are important because they reveal how women leaving or shadow exiting the legal academic workforce might be more about targeted institutional cruelty that strips them of viable recourse rather than individual choices or incapacity.

Credible, Tuerkheimer’s book that draws on her research about cases of sexual abuse, describes the operation of the “credibility complex” in the context of assault, abuse, and harassment. Drawing from court observations and public narratives about high-profile assault cases, she argues that women’s credibility, especially in the courtroom, is systematically discounted on account of their gender: “[C]redibility is meted out too sparingly to women, whether cis or trans, whatever their race or socioeconomic status, their sexual orientation or immigration status” (Tuerkheimer 9). She calls this the “credibility discount.” Related, but distinct, is that men’s credibility is systematically inflated due to their status as men. This idea of the same attribute being differently valorized for men and women is not in itself surprising. As Correll, Benard, and Paik (2007) show, for example, parenthood embroils women in an incessant “motherhood penalty,” whereas it offers men a slight boost, possibly reinforcing the stereotypes that male bread winners are more stable and better workers. But unlike the different assessment in a comparative context, abuse claims give us a chance to regard this differential valuation in a combative context where one’s credibility in an adversarial system necessarily impacts the ways in which their opponent is regarded and reinforced.

Tuerkheimer’s focus on female accusers allows us to regard the ways in which threats to patriarchy—an invisible norm that constructs legal systems—may seem potent where “male sexual prerogatives are at stake” (15), whereas their denial within patterned systems of inequity might attract less attention and almost feel “natural and intractable.” In calling out this background framework of expectation, and specifically naming it, the book allows for new understandings to emerge about “rational” or “normal” events and facts. As an extension, the book suggests that any woman (and, by extension, any member of any marginalized group) alleging abuse makes three claims inherent in such accusation: “This happened. It was wrong. It matters.” In response to this three-part suggestion, the credibility discount inflicts its “justified” violence in three parts: disbelief (“this did not happen”); blame (“this wasn’t wrong because it was your, the accuser’s, fault”); and disregard (“this doesn’t matter”). On the flip side, “credibility inflation” gives a credibility “boost” to men, especially powerful men.

Deo’s book is rife with examples of these compounded effects of the gendered and raced ways in which women of color have to navigate the academy. She argues that, since the “background framework” of an ideal law professor is one of a “white male professor who scares them” (Deo 60), not being in this position, or not being entitled to the privileges of the position interactionally, has left women of color at a mismatch that has resulted in terse classroom exchanges where they have had to both earn students’

respect and feel like their performance at the job was persistently under review (74). As one of Deo's respondents, a female black law professor, explained, she did not have the "privilege" to be able to say to a student: "I don't know, I'm going to have to get back to you on that." Unlike her (white, male) colleagues who were finding ways to "master the material," she had to spend her time doing what they could take for granted—that is, earn her student's respect. Still, this interactional discrediting in the classroom is only one of the threads that Tuerkheimer's theory helps elevate from Deo's data. Across the book, Deo highlights other forms of credibility negotiations and valuations that disadvantage women: from evaluations after the semester, to peers who hepeat, whitesplain, and mansplain in ways that threaten the space that women of color can claim as their own in the academy.

An interconnected second thread in Tuerkheimer's book is also a grander moral and jurisprudential claim that follows this negotiation of credibility and power in interactions. Tuerkheimer builds on the work of Miranda Fricker (2007) and other philosophers on epistemic injustice and argues implicitly that credibility discounts and inflation are distinct moral wrongs. This implicit moral claim draws from a more explicit one made in an earlier article by Tuerkheimer (2017), which draws on Fricker to argue that the credibility complex in the law is an example of epistemic injustice, as we have suggested above.³

Epistemic injustice is, most broadly understood, a wrong to someone in their capacity as a knower. To be a giver of knowledge, or to be one who knows, is "a capacity essential to human value" (Fricker 2007, 5). As an extension, to refuse to accept someone as a person who is capable of knowing things and of communicating that knowledge is to dehumanize them. Someone who experiences epistemic injustice is "degraded qua knower, and they are symbolically degraded qua human. . . . [W]hat a person suffers from is not simply the epistemic wrong in itself, but the meaning of being treated like that, . . . [T]he dimension of degradation qua human being is not simply symbolic: rather, it is a literal part of the core epistemic insult" (44–45).

The epistemic injustice that Tuerkheimer recounts is primarily what Fricker (2007) describes as "testimonial injustice": the injustice that occurs when a member of a group that is structurally less powerful has her testimony devalued due to her membership in that group. For instance, statements made by those seen as having less legitimacy across contexts—for example, those with assumed incapacities or children—may be less likely to be credible, but the credibility itself might be gauged on the basis of what might be prejudiced (for example, the evaluation of a junior colleague or someone with a contrary political position to one's priors). Fricker calls this the "identity-prejudicial credibility deficit": "The speaker sustains such a testimonial injustice if and only if she receives a credibility deficit owing to identity prejudice in the hearer" (28).

Fricker (2007) also discusses hermeneutical injustice, which is predicated on unequal participation in the construction of meaning.⁴ Hermeneutical injustice, as

3. In *Credible*, Deborah Tuerkheimer expands and, to some extent, popularizes the academic treatment of credibility discounting in Tuerkheimer (2017). For a discussion of epistemic injustice in the law, focusing on race and on jury trials, see also Collins 2017.

4. For a review of this concept and a critique, based on a recalibration of the relationship between knowledge and privilege, see Beeby 2011. On the limitations of hermeneutical resources, especially in the context of race and expectations of intent in creating these structural conditions, see Mills 2013. Fricker's

defined by Fricker, occurs when a person cannot understand their own experience because they have been excluded from the societal process that creates the categories, ideas, and concepts that would seem to govern it. As she describes it, hermeneutical injustice is “the injustice of having some significant area of one’s social experience obscured from collective understanding owing to hermeneutical marginalization” (158). Fricker’s example is of women who experienced sexual harassment before there was a name or concept for it as a legal category.⁵ But it can as easily be extended to other kinds of categories of exclusion that preceded the social movements that might have offered frameworks of reference to claim rights within (for example, invisible levies of violence against queer bodies before an articulated movement for rights for LGBTQIA+ persons came under the direct purview of mainstream equality jurisprudence).

Here again, the extension of credibility deficiency and the resultant systemic stratification has resonance in Deo’s description of the legal academy. For instance, Deo’s respondents relay accounts of the tenure and promotion process that reveal the ways in which institutions consistently disregard women of color as producers of knowledge. Some of this has to do with devaluing priorities that might be important to these women—for example, when faculty members do not treat scholarship “involving the interaction of law with race, gender, sexual orientation, socio-economic status, and other identity related areas” as “real scholarship” (Deo 89). One respondent, Armida, for example, reveals having to “fight the perception of ‘assumed incompetence’ not only from students, but also from colleagues who discount her work, announcing her belief that ‘because I write on diversity issues, somehow it’s not scholarly.’” In a similar vein, Deo’s examples provide that, across contexts, “normative legal scholarship . . . tends to be valued above identity-based work” (89). But these examples, and, in particular, Armida’s account that this attitude results in her faculty “diminishing the work that [she can] do” (89) is unearthing not just a personal narrative of disadvantage but also a more robust insight into the academic institutions that normalize the rejection of anything that threatens its own viability.

The way in which this situation too may be read as epistemic injustice is an interesting question. It might be that the faculty members who discount this scholarship do so because they do not believe what the scholarship asserts, but this is not necessarily the case. It might also be that they discount the work as scholarship—that is, they do not accept it as knowledge itself. Put another way, testimonial injustice usually takes the form of something like this: a speaker could say “X” and the hearer could internalize it as “I do not believe X, because you are a member of a group about which I have prejudicial views.” This is straightforward testimonial injustice, as defined by Fricker (2007), and it could be what Deo is describing. Or (and this seems more likely) Deo could be describing a situation in which the hearer does not necessarily disbelieve the statement itself, but does not believe that the statement is worthwhile. This is an example of discounting speech, but not because of reduced credibility about the content of the claim. Rather,

definition distinguishes hermeneutical injustice from other kinds of injustice by clarifying in her definition that they are not culpable despite being structurally unjust, which Mills expertly pushes back against within the context of race reinforcements.

5. This connection is made implicitly in the text under study by Tuerkheimer and explicitly in Tuerkheimer 2017.

this is discounting speech because of the reduced credibility about a claim implicit in the statement “X”—a speaker, for example, could say “X, and X is valuable knowledge”, and the hearer could internalize it (even if they do not say it) as “I believe X, but I do not believe that X is valuable knowledge.” A claim about a statement’s value as knowledge is not necessarily implicit in all speech, but it is implicit in an article that a scholar chooses to write and publish and that the scholar uses as part of her tenure file. Instead, it is the valorization of this statement and the ways in which it is ceded as work of worth that is necessary of our deeper consideration.

This framework also allows us to extend this line of thinking about the periphery to other kinds of inequalities embedded in legal education research and policy. Allen, Jackson, and Harris (2018), for example, argue that there is a “pink ghetto pipeline” that challenges the expectations that circumscribe women’s experiences in the academy, relegating them to essentially feminized labor and expectations of work. In a more immediate context, López (2021) shows how seemingly “legitimate” strains or tracks within the academy—a variation that Deo’s book does not focus on because it is about inequalities in tenure-tracked careers—are still raced, classed, and gendered within law schools. López argues that, if legal institutions are committed to an anti-racist agenda—as increasingly more and more law schools say they are—they need to think more critically about the work of these tracks and their capacity to build inequalities within structures of hierarchy. Similarly, research that centers the perspectives of actors who experience being on the periphery—for example, international students (Ballakrishnen and Silver 2019) or students with mental health issues (Young 2021)—or during certain times of crisis—for example, the global pandemic (Deo 2020)—has illuminated a new appraisal of the kinds of ways in which persistent inequalities are entrenched into what can otherwise seem neutral or fair.

When seen through the lens of credibility of the actors, however, these data offer an even more nuanced perspective of what is at stake. What accounts for credible disadvantage in law school and how that disadvantage is responded to by peers and institutions alike can have important implications for those experiencing it as well as for those arguing for change to these models. Thinking of identity and solidarity building from the background framework of credibility offers us another chance to review these structures crucially, and it might help with building a certain fabric of “credibility” with these audiences in question. Altogether, the important takeaway is that this construction is one that highlights epistemic injustice—because it is couched as necessary/useful/fair when seen through a certain lens—and, then, when argued to be unfair or discriminatory, the critique is dismissed as radical or not worth engagement, at least in part because of the identity of the person making the critique. This framework offers us a new way to think about these data and policy offerings with theoretical rigor that might ironically offer, for lack of a better term, a neutral—and, therefore, just—perspective.

LAW AND INTERSECTIONAL INEQUALITY: READING CREDIBLE THROUGH A RACEXGENDER LENS

Tuerkheimer’s book provides numerous examples of credibility discounting and credibility inflation and shows how the law itself incorporates the credibility complex.

Sometimes that discounting is in the explicit substance of the law. For example, as Tuerkheimer explains, many states' rape laws still include either a physical or verbal "resistance requirement": absent physical or verbal resistance to sex, a woman is assumed to have consented. Some states, as well as the federal government, allow "cautionary" jury instructions in rape cases, in which judges may warn jurors to "evaluate the complainant's testimony with extra suspicion" (Tuerkheimer 2017, 93).

Credibility discounting and inflation come into play, even when they are not written into the law, when participants in the legal system exercise judgment. Drawing from her own courtroom observations as well as a range of secondary sources including news reports, law review articles, and empirical studies, Tuerkheimer shows that law enforcement officers designate sexual misconduct accusations as "unfounded" far out of proportion with the actual rate of false reports. Even when accusations are not deemed unfounded and some investigation is pursued, officers tend to overlook potential corroboration because they have already discounted the credibility of the accusers and elevated the credibility of the accused (Tuerkheimer 63–64, 81–82). Prosecutors refuse to prosecute because they do not believe the accusers (85). When prosecutors do prosecute, juries discount accusers' credibility and refuse to convict (74). And judges use their discretion to permit sexual history evidence (125–26) and to overturn convictions (115).

Credibility, according to Tuerkheimer's account, is "sparingly meted out" to all women, irrespective of class, sexual orientation, or immigration status (13), but this is not to club all kinds of navigation of this discount. She concedes that, just as there are no female prototypes, there is no singular experience of the credibility discount (13). In particular, she suggests that race and gender are not "additive" in simple or linear fashion: "Black women are not simply subordinated to a greater degree than white women; they are also differently subordinated" (18). The stories that she reports throughout the book support this observation. Yet the very language of "discounting" forces a linear notion of disbelief. She writes, for example, that "[w]hen a Black woman comes forward . . . the discount is at its steepest" (19). Implicit in Tuerkheimer's primarily qualitative account is a quantitative concept that seems to be on a single axis: whether someone is believed "more" or "less" and whether a "discount" is applied to a quantity of belief.

The idea of a "steeper" discount or "more" of a discount can be critically important. For example, quantity or magnitude of belief is relevant to evidentiary considerations, as Tuerkheimer (2017) discusses. But Deo's notion of raceXgender—in line with a larger tradition of intersectional scholarship—demands a move beyond the idea of a single value growing or shrinking or even a more rapid progression of discrimination or disbelief. Rather, as elaborated by Hutchinson (2001), intrinsic in the idea of intersectionality is the idea of more than two dimensions. Tuerkheimer begins to capture this when she writes that "the three discounting mechanisms—distrust, blame, disregard—[are] brought to bear with *special vengeance* on Black women" (19; emphasis added). The way in which women of color's knowledge is treated is different. This difference is described to some level by both Deo's and Tuerkheimer's qualitative work, but to do full justice to the coordinates of this difference, understanding with an intersectional lens—such as Deo's raceXgender—offers crucial value.

Scholars have noted the ways in which invisibility of identity scholarship, especially for those who navigate multiple intersectional positionalities, can perform

different kinds of structural violence. Collins (2017), for example, describes the devaluing of intersectionality, and, specifically, of identity-based scholarship, as “epistemic suppression.” People who mischaracterize and misunderstand identity politics and intersectionality as “individualistic and nonstructural” and then “criticize[] intersectionality’s emphasis on identity as problematic” are, as Collins argues, engaged in epistemic violence because they are refusing to engage in a linguistic exchange due to persistent and reliable ignorance (119–20). One example of such injustice that is becoming increasingly relevant in interactional contexts is pronoun usage. Knowing, for example, someone’s preferred pronouns but not choosing to use them might feel like a language slip at one level or an exaggerated identity consciousness not worthy of attention, but, to those whose preferences are not being valued, such exchange could feel like violence. Collins describes this in the context of scholars who work on intersectionality; it equally applies to those who do not work directly in the area but who refuse to acknowledge identity-based scholarship as valuable. But these limitations on the inclusion of intersectionality into analysis might lie not so much with intersectionality as with “inclusion” (Ballakrishnen 2021). In other words, if we started from the periphery as a point of entry rather than comparison, we would have a mode of analysis where peripheral identities are not valued within theoretical infrastructures that code them as “problematic” or “individualistic” but, rather, within a framework in which their difference from normative models is expected and central to their valence.

In this way too, Deo’s reading can offer theoretical extensions to many of the complicated narratives and prior events inherent in Tuerkheimer’s claims. What kinds of exclusion might be reinforced while doing certain kinds of inclusion? If we speak about race or class or gender as particular and think that inclusion is done by such acknowledgment, who does that inclusion serve and who does it sever? For instance, physical ability and affect is central to the thesis in *Credible*, but the theory in the book does not address the impact of these claims on, for example, the desirability paradox of the disabled.⁶ Similarly, trans women are not mentioned except in passing, but given the ways in which bodies and their distinctions are primed within normative logics, this credibility matrix is likely to be further complicated for them. Without suggesting how a theory about assumptions might implicate choice making by those who are least likely to be seen as having agency, the full contours of how we understand the epistemic justice that Tuerkheimer sets up is hard to fully flesh out. Is this justice meted out by mentioning different identities or does the theory itself need to have new points of intervention to be best served?

Similarly, readers of *Credible* are given traces of how race/class/sexual identity matters to interpersonal affect and interaction, but we are not shown how it matters in different ways. Assuming that all kinds of deviance from what is seen as “normal”—that is, the site from which epistemic injustice is produced and justified—are the same is problematic because it can club anormativity into a singular experience, thereby producing a different sort of injustice than the one the book illustrates. At the same time,

6. The disability studies literature has long reported the ways in which the normative logics of disability are grounded in an able-body bias that does not take into consideration the range of ways in which health, well-being, and satisfaction might be coded on scales of alterity. For the initial definition, see Albrecht and Devlieger 1999. For an elucidation on critical disability approaches, including its intersections with race and class, and their implications for legal systems, especially in the global North, see Morgan 2020.

not all deviations can be predicted or recorded. Again, this is where theory could help offer recourse. Instead of thinking of inclusion as an additive construct—where we extend normative understandings to new sites—if we were to start from the perspective of the actors who are most vulnerable in these encounters, as intersectionality urges us, it might subvert the power that normative epistemologies hold.

Deo's lens of raceXgender could reinforce the theoretical core of *Credible*. As it stands now, even if raced and sexualized politics of the body are mentioned, *Credible* does not have a central theoretical logic that allows the reader to ascertain how and in what ways certain victims are seen as more deserving of blame than others. Women, for example, are assumed to invite whatever sexual advances come their way (Tuerkheimer 131). But while Tuerkheimer's book is consistently clear about the difference in credibility structures for men and women, it is less clear how distinctions between different kinds of women might matter and demarcate experience. The author, for instance, clarifies that there is a hierarchy in place for how victims are disregarded and that the "care gap" is a real disparity between "inadequate regard for survivors and excessive regard for offenders" (136). While this is certainly compelling, the reminder that the care gap "mirrors social hierarchies while covertly bolstering them" (137) is what deserves more than a passing mention because it is true that "care is distributed along the lines of power and that marginalized accusers are the ones most readily to be dismissed"—if they can, at all, find the spaces to even be heard. Disgrace, disregard, and dignity, which are important themes in this book, are similarly raced and classed, both from the perspective of the person who has to endure as well as of the witness who has to judge the limits and capacities of such endurance. But without tools to analyze the caste-ist compartments within which the "care gap," as Tuerkheimer calls it, grows, it is harder to make sense of the impact of these inequities. In contrast, analyzing their lived embodiment from an intersectional raceXgender(Xability) lens, might have further complicated the possibilities for the epistemic injustice inherent in these structures, which is what we turn to in the next section.

EPISTEMIC JUSTICE AND THE LEGAL ACADEMY: UNDERSTANDING THE PERIPHERY

Many of the stories that Tuerkheimer recounts in service of her argument are familiar: Harvey Weinstein's repeated assaults and his ultimate conviction and Brett Kavanaugh's Supreme Court hearing are striking case studies that demonstrate what the book refers to as the credibility complex. In showing how credibility discounting and inflation of narrative happens across audiences, Tuerkheimer goes beyond fact in recounting to make an implicit moral claim, set up in the first section of this review essay—namely, that the credibility discounting that women experience is a distinct moral wrong.

Tuerkheimer (2017), following Katharine Jenkins (2017), also identifies "rape myths" as an example of hermeneutical injustice and its sometimes complicated operationalization. Although one can know at a conscious level that violence is happening, reinforced invisibility may gaslight them into not having full clarity about some knowledge, even to one's own self. Tuerkheimer gives the example of a woman who, after

being raped by her boyfriend, was asked questions by police officers such as “what were you wearing” and “how much did you have to drink?” One officer even chided her by saying: “don’t mix alcohol with beauty.” In this account, even “rationally” knowing that the rape was not her fault could not compensate for the violence of disorientation that she also had to endure. At some level, the failure of her boyfriend, the police, and many of her friends to understand the rape as a rape made her blame or question herself (Tuerkheimer 99–105). These examples reveal both Fricker’s (2007) characterization of hermeneutical injustice as well as the implications for not acknowledging knowledge of experience beyond accepted scripts.

As we started to explain in the previous section, this line of research that shows us how sexual misconduct is hard to prove makes it a frustrating paradigm within which to seek any kind of justice. But this is not to say that the injustice is not affectively experienced by the individual. As Mason (2011, 297) points out, women who experienced what is now called sexual harassment may not have had that name for it before the term was coined, but they did know that their experience was “harmful to their well-being,” even if it was not seen that way by their environments. It is also this dissonance that perhaps produced the social movements that coded the valence of these terms within law: “[I]t was precisely women’s interpretations of their treatment as wrongful and unjust that fueled the resistance movement that was responsible for naming sexual harassment” (298). We return to the idea of non-dominant hermeneutical communities later in this review essay.

The epistemic injustices that Tuerkheimer describes are injustices imposed in large part by actors within the legal system—lawmakers, prosecutors, defense lawyers, and judges. These people are disparate in many ways, but almost all share a common core training: they graduated from a US law school. While she does not identify it as such, Deo’s work, similar to the research by Cooke (2019), Donnelly (2018), and Hänel (2020) in other contexts, documents epistemic injustice and a strain of hermeneutical violence against women of color within the US legal academy. These sites are important because law schools, beyond being academic institutions, are feeder sites for those who create and populate what becomes law in the lived world. Paying attention to this recursivity offers new dimensions of violence: the law schools in which Deo observes injustices are the very sites that socialize students to make the decisions that Tuerkheimer describes. Seen this way, law’s inclination to systematically discount the credibility of those structurally less powerful has a very specific genesis. Thus, Deo’s work is not just an account of individual experience of inequality, but it also casts light on the creation of larger institutional norms that cement epistemic injustice and violence within the law more generally.

We are not alone in drawing attention to the structural implications and possible extensions for epistemic justice. While Fricker’s account of epistemic injustice has attained prominence and could in theory extend to different kinds of marginalization, it is in other work (both prior and subsequent) on which intersectional experiences produced by epistemic injustice are specifically focused. Black feminist thinkers and other feminists of color have long identified and addressed epistemic injustice and violence (McKinnon 2016, 438–39). Particularly key to this analysis is the description in Kristie Dotson (2011, 238) of silencing as epistemic violence: “[A] refusal . . . of an audience to communicatively reciprocate a linguistic exchange owing to pernicious

ignorance,” where “pernicious ignorance” is a defined term that describes ignorance that is harmful and stems from a “predictable epistemic gap in cognitive resources.”

Dotson (2011) describes a particular type of silencing: testimonial quieting. Here, “an audience fails to identify a speaker as a knower.” Dotson illustrates testimonial quieting with the work of Collins (2000): “[Collins] claims that by virtue of her being a US black woman she will systematically be undervalued as a knower. . . . To undervalue a black woman speaker is to take her status as a knower to be less than plausible. . . . [W]hat is important about Collins’s analysis is her understanding of black women as belonging to an objectified social group, which hinders them from being perceived as knowers” (Dotson 2011, 242). Just as we take Deo’s respondents and their accounts as a reflection of the structures within which they are embedded rather than just their perception, we are similarly inclined to use Dotson’s experience to extrapolate to the reality of the structures she has had to navigate. Similarly, Deo’s accounts offer insights into how women of color in the legal academy are, in Dotson’s words, “systemically undervalued as knowers” in all aspects of their academic positions. In this way too, the women with whom Deo speaks describe epistemic injustice and violence in their service, scholarship, and teaching.

For instance, with respect to service, Deo’s interviewees describe how their contributions in faculty meetings were ignored or disregarded, but when men or white faculty made the same point, the comment was elevated and praised (44–46). The women of color were not treated as valid sources of knowledge or insight and thus were disrespected as knowers. And, as we argue over the course of this review essay, Deo’s account suggests the ways in which this discounting or discrediting has been informed and reinforced by the prejudicial views of the hearer.⁷ But beyond biased views that might have produced a straightforward epistemic injustice of ill-considering the view of minoritized actors, these structures might produce environments where their views, over time, are silenced altogether. In turn, this may be best understood as an example of Dotson’s testimonial quieting, in which the audience—here, being the other faculty members—do not identify the woman of color as a knower because she is a woman of color. And since her “status as knower [is] less than plausible” from the biased perspective of her peers, there might be a quieting of her experience over time that reinforces her exclusion within these environments.

There are other ways in which structures reinforce individual experiences of inequality. In Deo’s accounts, even as women of color have their views dismissed and ignored in faculty meetings, they are asked to take on disproportionate amounts of service work, including both formal and informal student mentoring and committee work. As Deo explains, this service work is often directly related to their identities, including “improving student or faculty diversity, or bringing a unique perspective to virtually any group, as one of few people of color at their schools” (88). The women who Deo interviews often feel they cannot say no to these requests. These additional service activities are not rewarded; rather, they take time away from scholarship and can be emotionally draining. But what follows could also be that women might be called

7. This is epistemic injustice even if the speakers are not simply “telling” a fact but are making an argument, stating an opinion, and so forth, because there is prejudicial credibility discounting due to membership in a particular identity group that is systemically disfavored (Fricker 2007, 60).

upon to do translation—as Deo does in her book—to tell audiences why the labor they perform is unjust. This kind of translation between one’s experiences and the need to make visible the ways in which it is unjust is a kind of “epistemic exploitation,” as Nora Berenstain (2016, 570) offers, “when privileged persons compel marginalized persons to produce an education or explanation about the nature of the oppression they face.”

But these kinds of exploitations and injustices are not only top-down accounts of credibility discounting; they are also reinforced by actors who structurally might be seen as having less power. Paying attention to these reinforcements allows us to see the ways in which exclusionary structures are reinforced by everyday logics of “legitimate” inequality. For instance, the professors whom Deo interviews seem to experience epistemic injustice not only from other faculty but also from students, who, as Deo shows, disrespect these faculty members as knowers because the faculty members are women of color. Students “challeng[e] . . . knowledge” and “belie[ve] that the woman of color in front of the room is unqualified to teach them” (Deo 63, 66). Students ask tangential or irrelevant questions in the classroom (62). They take openly racist actions, such as producing a noose during a criminal law class taught by a Black woman (64). They openly challenge the professors’ authority, asking, for example, “have you ever taught before?” (65). One professor whom Deo interviewed described being physically threatened by a student who came to class late. As Deo explains, “their disrespect stems from intersectional raceXgender bias: the students’ belief that a woman of color in front of the room is unqualified to teach them” (66).

Teaching evaluations similarly reflect and enact epistemic injustice, as they reflect some students’ views that women of color are not qualified to teach law classes. The evaluations are “blatantly discriminatory in an intersectional raceXgender way” (Deo 70). One woman of color described the evaluations as “more microaggressions than blatant racist comments” (70). Again, some students refuse to accept the woman of color who is teaching them as a person who is a “knower.” Teaching evaluations are used (sometimes pretextually) as a basis for determining compensation, promotion, and tenure, so such evaluations can have serious professional consequences (86–87). But even if the evaluations were for nothing other than the professor’s own personal use, these comments and views treat the professor as one who cannot know or impart knowledge because she is a woman of color, and, thus, the comments enact epistemic injustice. As Berenstain (2016, 574) explains, “the oppressed [are kept] busy doing the oppressor’s work.” Epistemic exploitation interacts with other forms of epistemic injustice to create additional costs for the people who experience it. But whether this is seen as problematic reflects at least as much about the priors of the viewer as it does about the site itself.

WHOSE STORY MATTERS? AUDIENCE, POSITIONALITY, METHODS

Viewership brings us to other important consideration as we deliberate on inequality: audience and voice. In recent research about the illusion of homophily, Douds (2021) argues that what looks, from the outside, like a harmonious environment, might in fact be a co-constructed contract that selectively recognizes inequalities of choice. Douds’s specific example of the “diversity contract”—which examines a racially diverse,

but economically homogenous, suburb that seems very assimilated at one glance but which, on closer examination, reveals itself to be a local context where all actors have agreed to perform a certain representation of diversity to themselves and their viewers—has extensions for our argument here. Using this powerful insight, material conditions are not absolute factors but are instead conditions that are cocreated by actors with power in relation to their surroundings. Similar to the diversity contracts that Douds observes, one could argue that law schools and legal institutions have their own local negotiations that give an outward appearance of equity, while housing more fraught internal inequities. Moreover, this appearance could benefit the internal actors—especially those who already feel legitimate in these surroundings—who want to trust they have achieved cultures of equity.

The legitimacy of narrative is predicated on the power of individual actors (for example, often “ideal actors” who are responsible for constructing the very narrative to which they respond), their relationship to a given cause (for example, who speaks and on whose behalf), and their capacity for bias following such proximity (the more proximate, the less likely one is to have an “agenda”). Minorities, in contrast, are often seen as acting out of bias or agenda because they are representing views that threaten the status quo. This example of credibility questioning from the perspective of a trans woman is illustrative of the distinct “before and after” ways in which the reception of a person transforms when there is a change in identity:

When I presented myself as an educated straight white man, showing all indications of privilege, I could easily be accused of inexperience or just plain being wrong, but I don't recall ever being accused of having an agenda. Whenever I advocated for myself, I was generally received as a reasonable person making a reasonable request. Now, as a visibly trans and queer individual, I feel like my voice is inherently suspect when I talk about certain things that are important to me, particularly the inclusion of sex and gender minorities in the church. I feel like cisgender, heterosexual folks have an advantage over me in credibility, *even when talking about the experiences of the LGBTQ+ community*. At times, this means that other people are granted or assume they have more credibility than I do when talking about *my own* identity and experience. Fortunately, there are many allies who use their gift of credibility to amplify LGBTQ+ voices, but there are also people who use it against us. (Compton 2019; emphasis in original)⁸

Compton's notes on positionality in flux, and the relative credibility given to the same actor in different roles, are striking, as are the implications this might have for allies. Still, while transition might most effectively illustrate the fungibility of roles within institutions, it is certainly not the only case where this form of inequality can be observed. Normative or ideal actors acting out of ideas that support themselves or their homogenous peers typically are not similarly viewed because their ideas are often already reflected within the logics of the institutions they are challenging. Thus, they

8. Regardless, it is important to note that, while there might be some experiential differences in credibility following transition, the experience of trans persons, even when they move into more “advantaged” gender identities, is rife with inequality. On the experience of trans men in the workplace, see Schilt 2006.

are seen as “neutral,” whereas minority actors can rarely escape the identities that they are speaking on behalf of, which then consistently calls into credibility their motivations and positionality. The task before us is to deliberately unpack the normal, the mundane, and the everyday so that we can reflect on what underpins these ideas of reflective equity.

Deo and Tuerkheimer do a similar kind of unpacking; they lay out the ways in which, in plain sight, legal institutions, by just existing, conform narratives of ideal actors with power and alienate actors at the periphery. Since there are no acts that need to be performed in order to enact inequality, those who question it have an additional burden of proving wrong what has been taken for granted and running the risk of being seen as having an agenda (which they do!) and therefore being biased. This commitment to neutrality of voice, without recognizing the ways in which neutrality is a racialized, gendered norm, is the most important takeaway from the two projects, by highlighting the ways in which we think about “useful” data and the implicit biases embedded within the many audiences that might receive it over time.

Variations in research audiences (for example, academic, press), their disciplinary priors, and intent (for example, policy versus theory) could all have important implications for how we think about the usefulness of research and the viability of its method. For example, the reception that Deo’s book has garnered over the last few years is telling of the very structures about which it tries to theorize. The many talks and symposia that have featured Deo’s research have revealed the varied ways in which women of color (her primary audience) have found solace in the representation and its capacity for building community. Seen this way, the exchange that Lawskey recalls at the start of this review essay is telling: male actors with authority (and others) who reject this research and those who “don’t find it credible,” and even threatening, are revealing, with their “non-buying,” a certain proof of concept. Had Deo written a book that these men would have found credible, it narratively would have been a different book. But, in doing so, it would have also performed a different kind of work in the world.

Similarly, Tuerkheimer might have written differently and with a varied valence (as she has in other work facing other audiences—for example, Tuerkheimer 2017) had she written for academic exchange rather than public reach. We highlight this positionality to make the case that whom one’s research is facing and what it can do while facing its audience is a choice every author makes, and it is one that can be agoraphobic in its decision making (Ballakrishnen 2021). Still, what these books reveal is that the choices that authors make may have different costs and valences at different stages. As we highlight here, books might have limitations in theory or empirics—the task of a book is not to be without blemish. But it is exactly the lacunae in literature that allow new work to take shape in response and reaction. There might be limits, but, alongside them, there might also be important triggers to bring about different kinds of conversations and tools to help build movements that are not easily revealed at an initial reading. Allowing for that generosity of engagement with research feels necessary to highlight as we read these books together and offer interventions of possible method.

Note too that the narrator also has a position. The idea of “unreliable narrators” and the ways in which these narrators conceptualize and “other” their surroundings is a foundational concept in critical fiction and postmodern theory (D’hoker and Martens 2018). Even so, the doctrine of positionality makes us consider whether an unreliable

author might actually be a function of the audience and environment rather than the individual. That is, it is not that the author is unreliable but, rather, that the author may be speaking on behalf of an experience so peripheral that the reliability of the narrative is not easy to access by a majority of its audience of interest, especially when the author might be seen as representative of the very population they are attempting to study. Instead, the possibility that this critique might be just that—critical—might well be at the root of the hesitation to easily accept these narratives and to brand them unreliable instead. In fact, more recent theory makes the case that, especially as we think across new and cross-cultural contexts, we need to contend with the fact that there are spaces where unreliable narration is all that can be expected in an unreliable world (Jedličková 2018). Further, beyond individual identity in a particular environment interacting with a given audience, the reliability of the narrator could also be impacted by temporality (that is, time periods or events that we accord value to) and spatiality (that is, unreliability attributed as a function of a specific culture or nation).

Nonetheless, acknowledging positionality is not without its consequences or costs. Just as we know biography is crucial for theorizing, it also follows that theorizing on behalf of others who do not share one's positionality could have its own politics of representation (Ballakrishnen 2021). But we still maintain the importance that this methodological framework can have for theory building, especially as it applies to constructions of reliability and credibility. Although social scientific and legal methods call for reliability as the root of legitimate process, affective method that calls for positionality could complicate our understandings of what unreliability even is, especially as it pertains to the call for "objective" research that follows legitimate "process" (Nünning 2015; Ballakrishnen, forthcoming).

WHY NOW? CURRENT URGENCY AND LAW AND SOCIETY EXTENSIONS

The implicit relationships between the two central books in this review essay as well as the strains of scholarship we suggest they implicate are urgent to law and society scholars for several reasons. As a field rooted in the periphery, locating what we think of as valuable or credible has particular purpose. "Valuable" is a claim about what is worthy of being included in societal meaning, and both inclusion and disregard feels illustrative of Fricker's (2007) hermeneutical injustice. A linear operationalization of this injustice is that, excluding people within institutions who, due to their marginality, are assumed to not have societal meaning (in the case of Deo's book, minority professors; in Tuerkheimer's research, respondents with less credibility because of their interactional status), loses along with it important perspectives. As Dotson would suggest, in not comprehensively engaging with peripheral actors, inequality is reinforced and amplified because only certain kinds of knowledge are seen as worthy of primacy.⁹

9. Dotson's (2012) description of contributory injustice highlights this difference in primacy and the production of inequality. For example, she argues, contra Fricker's (2017) description of hermeneutical injustice: "We do not all depend on the same hermeneutical resources. Such an assumption fails to take into account alternatively epistemologies, countermythologies, and hidden transcripts that exist in hermeneutically marginalized communities *among themselves*. The power relations that produce hermeneutically

One could argue that the violence reported by Deo and Tuerkheimer is limited because even if the women in these books' narratives are not seen within the institutions within which they experience a range of violence, there are other sites within which they are noticed and nourished and where there is an active valuation of the knowledge that they are creating. To suggest that these women are excluded from creating meaning altogether because their knowledge and personal narrative is not seen as important within their institutions is to say, as Dotson (2012, 31) would, "that there is but one set of collective hermeneutical resources that we are all dependent upon." Regardless of the credibility afforded to them, the women whom Deo describes are creating social meaning, and regardless of institutional norms that might disregard their impact (for example, by denying them tenure or advancement at rates that they may deserve), these actors are producing knowledge that is lauded and impactful for the communities in which they seek membership. Mason (2011) similarly points out that, contra Fricker's (2007) account, marginalized and non-dominant groups have their own hermeneutical resources that they use to create meaning. Indeed, Deo's book itself creates and enacts, as well as describes, the ways in which "identity-based scholarship" is valued and creates societal meaning.

At the same time, this reframing also allows us to consider that the lack of sight that plagues these actors' experiences within hostile institutions—for example, a faculty member's refusal to accept identity-based scholarship as meaningful—might also be a "contributory injustice" across all of the sites they traverse in that it might be a "willful hermeneutical ignorance" that maintains and utilizes existing resources to thwart disadvantaged actors from having epistemic agency (Dotson 2012, 32). And in this thwarted epistemic agency there is also a kind of violence. Assuming that contributions of women of color, for example, might only be relevant for members of their community, there is a resistance that implicates any possibility of true inclusion. In framing contributions as only central to a particular epistemic community—in this case, to think of Deo's book only as important as a solidarity tool for women of color or to see Tuerkheimer's research as only centrally useful to survivors—there is a certain institutional thwarting. Specifically, in assuming that certain writing will be "meaningful for specific others," there is an absolute attempt to exclude the scholarship from, for example, the impact it could have on a community of more central actors (in Deo's case, tenured law faculty members who do not always find the data "credible"; in Tuerkheimer's case, courts of law). Thus, the violence is not in the prevention or circumscription of membership in other communities (one kind of hermeneutical injustice, as described in Fricker [2007]) but, rather, in the exclusion that follows from being part of a community at the periphery. One might also say that the faculty who refuse to see identity-based scholarship as valuable are engaging in attempted—even if not intentional—hermeneutical injustice and that such an attempt—being agnostic to intention—is itself a moral wrong. But regardless of how we name the injustice, these implications for theory are worth noting.

marginalized populations do not also work to suppress, in all cases, knowledge of one's experiences of oppression and marginalization within those marginalized populations. . . . Recognition of this reality, however, is thwarted by situated ignorance" (Dotson 2012, 31). And Dotson (2011, 246) illustrates the concept of testimonial incompetence with the example of an audience that "demonstrates racial microaggressions against an African American speaker."

The urgency of considering these various strains of structural injustices might also help expose the ways in which institutions are implicated in creating actor responses that are poised to reinforce the very dynamics of the institutions that reject them. More specifically, actors who are peripheral—who feel like their voice or work is not valued within their communities—might, literally, speak less. This is precisely the situation described by Deo’s interviewee “Patrice.” Deo recounts that “[b]ecause Patrice’s scholarship focuses on race and ethnicity, some white male colleagues have been hostile rather than supportive. . . . Patrice quickly decided never to present her work to her faculty, purposefully disengaging” (48). Patrice’s inclination to do less is a kind of “intentional invisibility” that minority actors lean into doing because they are tired of encountering situations that are not receptive to them (Ballakrishnen, Fielding-Singh, and Magliozzi 2018). Her actions also offer an example of the ways in which minority actors might be forced to perform “testimonial quieting,” which we discussed above or feel the need to engage in a self-censored form of “testimonial smothering,” where, anticipating structural hostility, these actors choose to limit their own testimony because what they would say is “unsafe and risky” (Dotson 2011, 244). It is worth noting that, although this quieting, smothering, or invisibility might be a function of the environment—for example, one might smother one’s testimony when one knows that the audience is “testimonial incompetent” and perniciously ignorant and therefore unlikely to understand or support the speaker—the implications it has impact the individual actor at least as much as the system. Women, for example, might perform invisibility with agency, but they also have to bear the costs of being housed within environments where such invisibility is punished.

We highlight these distinctions between individual- and institutional-level factors because the chasm between them has important implications for inequality and inclusion. Beyond these explanations for actor subjectivities, what is at stake is a larger call to recognize the structures that hold these actors. In Patrice’s case, she might have been smothered or performing intentional invisibility because of the hostile structure within which she felt stuck. But, in performing that invisibility, she is also reinforcing the very ways in which institutions that were never made to accommodate her can further alienate her. For instance, one can imagine a faculty using entirely “legitimate” reasons to justify how her not presenting work is a sign of her inability to be a “good” scholar. Letting these neutral structural reasons go unchecked while only focusing on individual narratives shifts the onus unfairly on the actors with the least power to fix them.

Paying attention to what Tuerkheimer calls—and Deo illustrates as—epistemic injustice sheds light on the consequentialist, direct, and intrinsically moral harms of not treating someone as a full epistemic subject. This framing certainly has implications for institutional policy in that it offers new ways of considering how legal institutions can create and support meaningful inclusion. But reading these books in synergistic fashion also helps illuminate the ways in which inclusion without thoughtful equity benefits organizations more than individual actors or sustainable institutional cultures. Particularly, this process helps unveil the ways in which legal or institutional legitimacy is fraught with systemic biases and imagined neutralities. These lines of scholarship urge us to regard our positionalities as important coordinates for our site. They suggest that, if we were to peer more critically and if we allowed ourselves to look beyond the limited historically normative actors that these institutions were set up to serve, we would see

the ways in which the power wielded by institutions leads to anything but objective appraisal. From this more variegated point of view, perhaps there will be space made for new actor and audience categories and, in turn, methods and production of what we may come to consider as “valuable” knowledge. How we look, and where we look from, can indeed change what we see. And nowhere is this sight more crucial than while considering the experience of those who have been systemically left invisible and whose narratives might not yet be part of our canons of understanding.

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