

Metadata of the chapter that will be visualized online

Chapter Title	Date Rape: The Intractability of Hermeneutical Injustice	
Copyright Year	2019	
Copyright Holder	Springer Nature Switzerland AG	
Corresponding Author	Family Name	Jackson
	Particle	
	Given Name	Debra L.
	Suffix	
	Division	
	Organization/University	California State University
	Address	Bakersfield, CA, USA
	Email	djackson9@csub.edu

Abstract	<p>Social epistemologists use the term hermeneutical injustice to refer to a form of epistemic injustice in which a structural prejudice in the economy of collective interpretive resources results in a person's inability to understand his/her/their own social experience (Fricker M, <i>Epistemic injustice: power and the ethics of knowing</i>. Oxford University Press, Oxford, 2007; Medina J, <i>Varieties of hermeneutical injustice</i>, In: Kidd IJ, Medina J, Pohlhaus G Jr, <i>The Routledge handbook of epistemic injustice</i>, Routledge, New York, p 41–52, 2017). This essay argues that the phenomenon of unacknowledged date rapes, that is, when a person experiences sexual assault yet does not conceptualize him/her/their self as a rape victim, should be regarded as a form of hermeneutical injustice. The fact that the concept of date rape has been widely used for at least three decades indicates the intractability of hermeneutical injustices of this sort and the challenges with its overcoming.</p>
----------	--

Chapter 4

Date Rape: The Intractability of Hermeneutical Injustice

1
2
3

Debra L. Jackson

4

Abstract Social epistemologists use the term hermeneutical injustice to refer to a form of epistemic injustice in which a structural prejudice in the economy of collective interpretive resources results in a person's inability to understand his/her/their own social experience (Fricker M, *Epistemic injustice: power and the ethics of knowing*. Oxford University Press, Oxford, 2007; Medina J, *Varieties of hermeneutical injustice*, In: Kidd IJ, Medina J, Pohlhaus G Jr, *The Routledge handbook of epistemic injustice*, Routledge, New York, p 41–52, 2017). This essay argues that the phenomenon of unacknowledged date rapes, that is, when a person experiences sexual assault yet does not conceptualize him/her/their self as a rape victim, should be regarded as a form of hermeneutical injustice. The fact that the concept of date rape has been widely used for at least three decades indicates the intractability of hermeneutical injustices of this sort and the challenges with its overcoming.

5
6
7
8
9
10
11
12
13
14
15
16

In 1988, journalist Robin Warshaw published *I Never Called it Rape: The Ms. Report on Recognizing, Fighting, and Surviving Date and Acquaintance Rape*. The book combined Warshaw's own interviews of victims with data from the first large-scale nationwide scientific study of sexual assault in the United States. Sponsored by *Ms. Magazine* and coordinated by psychologist Mary Koss, the 3-year study of 6159 students at 32 college campuses exposed the prevalence of rape committed by dates and acquaintances, finding that 1 in 4 women respondents had experienced rape or attempted rape, 84% of victims knew their attackers, and 57% of the rapes occurred during dates (Warshaw 1988, 11). The title of Warshaw's book references the additional finding that only 27% of the women whose sexual assault met the legal definition of rape identified their experience as such (Warshaw 1988, 26). In the book's introduction, Warshaw reveals that even she was unable to recognize herself as a victim of date rape until 3 years after the event.

17
18
19
20
21
22
23
24
25
26
27
28
29

Just a few years earlier, in 1985, Koss introduced the term *unacknowledged rape victim* to characterize "a woman who has experienced sexual assault that would

30
31

D. L. Jackson (✉)
California State University, Bakersfield, CA, USA
e-mail: djackson9@csub.edu

32 legally qualify as rape but who does not conceptualize herself as a rape victim”
 33 (Koss 1985, 195). In a survey of 2016 women, she found that 43% qualified as
 34 unacknowledged rape victims, and of those, 76% were romantically involved with
 35 their attackers (Koss 1985, 197). This paper argues that a woman’s inability to name
 36 her experiences of date rape as such can be understood as a *hermeneutical injustice*,
 37 that is, a form of epistemic injustice in which a structural prejudice in the economy
 38 of collective interpretive resources results in a person’s inability to understand their
 39 own social experience. I further argue that although feminist activists introduced the
 40 term *date rape*, as well as the related terms *acquaintance rape* and *marital rape*, as
 41 a means to correct this hermeneutical injustice and recognize what were previously
 42 unrecognizable crimes, women’s continuing resistance to naming themselves as
 43 rape victims demonstrates the intractability of this form of hermeneutical injustice.

44 4.1 The Invisibility of Date Rape

45 In her 2007 book, *Epistemic Injustice: Power and the Ethics of Knowing*, Miranda
 46 Fricker focuses on two forms of epistemic injustice, namely testimonial injustice
 47 and hermeneutical injustice. Although she devotes most of the book to *testimonial*
 48 *injustice*, a more widely discussed epistemic harm which “occurs when prejudice
 49 causes a hearer to give a deflated level of credibility to a speaker’s word,” she also
 50 describes *hermeneutical injustice*, a more recently recognized epistemic harm
 51 which “occurs when a gap in collective interpretive resources puts someone at an
 52 unfair disadvantage when it comes to making sense of their social experiences”
 53 (Fricker 2007, 1).

54 In the latter case, a person is unable to recognize their experience of a phenom-
 55 enon for what it is, because there is no concept of that particular phenomenon.
 56 Fricker emphasizes that hermeneutical injustice is not simply a result of bad luck; it
 57 is a result of systematic prejudice. It is not an accident that members of socially and
 58 politically marginalized groups lack the tools to understand and communicate their
 59 own experiences. This lack is a product of epistemic marginalization insofar as they
 60 are denied the epistemic authority to contribute toward and influence the body of
 61 accepted and acceptable interpretive resources.

62 The most powerful example of hermeneutical injustice provided by Fricker
 63 recounts a story about Carmita Wood from Susan Brownmiller’s memoir, *In Our*
 64 *Time: Memoir of a Revolution* (1990). Ms. Wood had worked at Cornell University
 65 for 8 years, and during that time she endured unwanted attention from a male faculty
 66 member. This attention included him jiggling his crotch when he stood near her desk,
 67 brushing against her breasts when reaching for papers, and cornering her in an eleva-
 68 tor to kiss her. Unable to avoid his behavior, Wood suffered stress and physical ail-
 69 ments such as chronic back pain and neck pain. She eventually left her position, but
 70 when she applied for unemployment insurance, she was unable to justify her resigna-
 71 tion. The claims investigator listed “personal reasons” as the explanation for her
 72 departure, and she was subsequently denied unemployment benefits. Fricker charac-

terizes this as an example of hermeneutical injustice. Because this episode occurred prior to 1975, Wood was unable to identify her experience as the form of sex discrimination that we now call *sexual harassment*. As a result, she suffers not only the harms of the humiliation of enduring the sexually discriminatory behavior, the physical ailments produced by the hostile work environment, and the loss of income and unemployment benefits from the lack of workplace protections, but also the epistemic harm of being unable to understand and articulate what had happened to her.

Crucially, Wood's lack of the interpretive resources necessary to understand her own social experience is a predictable result of the social and political marginalization of the social group to which she belongs. Without the concept of *sexual harassment*, both Wood and the male faculty member are at an epistemic disadvantage. Neither of them has the interpretive tools to understand the dynamics of their situation. However, it is Wood, not the male faculty member, who suffers an injustice. The gap in hermeneutical resources benefits him insofar as it is produced by and reinforces his male privilege, while for Wood the gap is produced by and reinforces her subordination.

Philosopher Charles Mills explains, “[This situation] is not a matter of an innocent misunderstanding or gap, but of a misrepresentation generated organically, materially, from the male perspective on the world, motivated by their group interests and phenomenologically supported by their group experience” (Mills 2017, 105). Wood's lack of the epistemic resources to name the discrimination she experiences interferes with her ability to protest it and to enlist the help of others to overcome it. Further, it is this conceptual lack that reinforces the professor's male privilege in the professional academic environment.

Fricke's example of sexual harassment is useful for understanding how women's experiences of date rape qualify as hermeneutical injustices. Like the term *sexual harassment*, the term *date rape* is also one that did not exist prior to 1975, although the phenomenon we would now recognize as date rape undoubtedly existed. As early as 1957, sociologist Eugene J. Kanin conducted a series of studies on “male sex aggression in dating-courtship relationships,” but he did not identify this behavior as a form of rape (Kirkpatrick and Kanin 1957; Kanin 1957, 1965, 1967, 1969, 1971). Instead, he writes, “these aggressive acts...represent a sex-conduct norm violation not ordinarily anticipated during the course of heterosexual interaction to be considered ‘normal’ or expected, and yet the expression of physical aggression manifested in trying to gain the erotic goal, coitus, is usually not so extreme that these acts could be labeled carnal assault or attempted rape” (Kanin 1967, 428).

Kanin's view that “male sex aggression in dating-courtship relationships” does not qualify as rape was in line with prevailing legal statutes and social attitudes. At the mid-twentieth century, *rape* referred to sexual intercourse committed by a man upon a woman, not his wife, using force and against her will (American Law Institute 1985, §213.1). Notably, consent could serve as a defense to the charge of rape, even with the presence of force or the threat of force. In addition, if the woman was a “voluntary social companion” of the man who assaulted her, the offense was downgraded (American Law Institute 1985, §213.1). In other words, the term *rape* was reserved for incidents in which a victim was sexually assaulted by a stranger.

118 It is understandable, then, why women who were sexually assaulted by men they
119 were dating would not be viewed as, nor would they view themselves as, victims of
120 rape. Because the concept of rape excluded incidents of sexual assault occurring
121 between people who were acquainted with each other, those who experienced what
122 we would now identify as date rape were unable to understand their experience as
123 rape. As a result, those who were sexually victimized by someone they were dating
124 faced a hermeneutical injustice in addition to the harm they experienced from the
125 sexual assault.

126 Without the concept of *date rape*, it is not only the victim who lacks the ability
127 to understand the encounter for what it is; the perpetrator, as well as scholars such
128 as Kanin and the wider public, lack the ability to understand “male sex aggression
129 in dating-courtship relationships” as rape. Nevertheless, it is the victim who suffers
130 a hermeneutical injustice. A woman’s inability to understand her experiences of
131 gender-based violence is a product of the social and political marginalization of
132 women with respect to men. As Susan Brownmiller famously states, rape is “a con-
133 scious process of intimidation by which *all* men keep *all* women in a state of fear”
134 (Brownmiller 1975, 15). To understand this, consider the history of the term *rape*
135 and its role in preserving the authority of men over women. In early Roman law,
136 *raptus*, the Latin word from which the modern term *rape* derives, referred to the
137 abduction or kidnapping of a woman by force, not necessarily a sexual offense
138 (Burgess-Jackson 1999, 16).

139 That is, the crime of *raptus* was a crime of theft, the forcible taking of a man’s
140 property. Under this view, it is the household that is damaged, not the woman. Later,
141 when *raptus* was considered a sexual offense, the crime was still considered a viola-
142 tion a man’s property rights: the crime could often be forgiven if the “abductor”
143 married the woman he “abducted” since marriage would transfer the status of her as
144 the property of her father to the property of the offender. Moreover, the woman who
145 was “abducted” could be punished along with the offender if she was found to have
146 cooperated with him (Burgess-Jackson 1999, 16).

147 The idea that *rape* was an offense against a person was first introduced in the late
148 eleventh and twelfth centuries, but the older view of rape as a property crime still
149 played an influential role within the collective hermeneutical resources. Certain
150 men could not be conceptualized as rapists and certain women could not be concep-
151 tualized as victims. For example, laws against rape did not criminalize the rape of a
152 wife, a slave, or a prostitute. The reasoning for these exceptions reflected women’s
153 lack of a right to bodily integrity: a wife, as the property of her husband, could not
154 be raped by him since a person cannot violate his own property rights; a female
155 slave, as the property of her slave owner, also could not be raped by him because she
156 is his property; and, a prostitute, as the property of no one, could not be a victim of
157 rape since there are no property rights to be violated. Restricting the class of actions
158 that qualify as rape thus allows for the policing of cross-racial and cross-class rela-
159 tionships while still preserving intra-racial and intra-class access to women’s
160 bodies.

161 Without the term *date rape* to understand her social experience, a woman who is
162 sexually assaulted by a man she is dating endures hermeneutical injustice. She is not

only harmed physically and emotionally by the sexual violence, she is also harmed in her capacity as a knower. Her cognitive disablement prevents her from understanding her experience as a form of sexual assault deserving redress. Instead, she may interpret her suffering as illegitimate or self-caused. If she has an ongoing relationship with her attacker, she may be exposed to recurring episodes of sexual violence, which she will also be unable to identify as such. Moreover, without the ability to name herself as a victim, she will not view law enforcement, medical personnel, and social services as resources available to assist her. She will be deeply confused about her experience and left to cope with her feelings in isolation.

4.2 The Recognition of Date Rape

At this point in history we can recognize the hermeneutical injustice suffered by Carmita Wood because we now have the concept that refers to the phenomenon that she experienced. Once the lacuna in interpretive resources is filled, the hermeneutical injustices of the past can be retroactively recognized. Without that concept, she and others in similar circumstances would continue to suffer from hermeneutical injustice. One would predict, then, that we could witness hermeneutical injustices receding with the introduction of the new concept. The addition of that concept to the collective interpretive resources should allow for people in the present and future to leverage it to understand their own social experiences. However, while this has occurred in the case of sexual harassment, the overcoming of hermeneutical injustice with respect to date rape has not been as successful.

According to Brownmiller, the term *sexual harassment* was coined in 1975. She credits this to a group of eight women from Cornell University's Human Affairs Office who, in a discussion of the similarities between Wood's experience and that of others they knew, wondered how to best to refer to the phenomenon. They considered the terms *sexual intimidation*, *sexual coercion*, and *sexual exploitation on the job*, before finally landing on the term *sexual harassment* (Brownmiller 1999, 281).

A few years later, legal scholar Catharine A. MacKinnon called for recognition of sexual harassment as a punishable offense. In her 1979 book, *Sexual Harassment of Working Women: A Case of Sex Discrimination.*, she identified sexual harassment as a form of sex discrimination, and distinguished between two forms of sexual harassment, *quid pro quo* and *hostile working environment*. MacKinnon applied her argument when serving as co-counsel for the respondent in the 1986 *Meritor Savings Bank v. Vinson* case. The Supreme Court agreed with her, recognizing sexual harassment as a violation of Title VII of the Civil Rights Act of 1964. Armed with a concept to understand their experience and an awareness of the law's willingness to redress the harm, victims began to speak out. Following the *Meritor* decision, the number of sexual harassment cases reported to the Equal Employment Opportunity Commission rose from 10 annually to 624 in 1986, 2217 in 1990, and 4626 in 1995 (Cochran 2004, 168). Five years after the *Meritor* decision, another case of sexual harassment garnered widespread influence. In 1991, attorney Anita

204 Hill testified against Supreme Court justice nominee Clarence Thomas, a man who
205 had served as her supervisor at the United States Department of Education and the
206 Equal Employment Opportunity Commission.

207 Although her testimony did not prevent his appointment, the publicity of the
208 event encouraged victims to recognize themselves as such and report the discrimi-
209 nation they faced. In the years following the hearings, the number of sexual harass-
210 ment cases reported to the Equal Employment Opportunity Commission combined
211 with those filed with state fair employment practice agencies rose from 6883 in
212 1991 to 15,618 in 1998 (U.S. EEOC 2010, 1).

213 Like the term *sexual harassment*, the term *date rape* first appeared in 1975: Susan
214 Brownmiller used the term in her groundbreaking book, *Against Our Will: Men,
215 Women, and Rape*. In the few pages she dedicates to addressing date rape,
216 Brownmiller notes that in the context of a dating relationship, coercive power oper-
217 ates through gendered social expectations, often requiring less physical force than is
218 often assumed to be present in sexual assault cases. She writes, “In a dating situation
219 an aggressor may press his advantage to the point where pleasantness quickly turns
220 to unpleasantness and more than the woman bargained for, yet social propriety and
221 the strictures of conventional female behavior that dictate politeness and femininity
222 demand that the female gracefully endure, or wriggle away if she can, but a direct
223 confrontation falls outside of the behavioral norms” (Brownmiller 1975, 257).

224 Because women are socialized to be emotional caretakers and “ladylike,” a
225 woman is less likely to actively resist an attacker known to her. Instead, she may
226 employ passive resistance strategies and hope that her date doesn’t increase his
227 aggression. However, without active resistance, courts are more likely to view her
228 as having consented to the encounter, and knowing this, she will be reluctant to
229 report the incident or identify herself as a victim of rape.

230 In her memoir, *In Our Time: Memoir of a Revolution*, Brownmiller traces the
231 development of her views on rape back to her involvement with the New York
232 Radical Feminists. Under the slogan “Rape Is a Political Crime Against Women,”
233 the group held the first public speak-out on rape on January 24, 1971, during which
234 30 women testified to a crowd of over 300 women about their experiences with
235 sexual violence perpetrated by strangers, acquaintances, and dates (Brownmiller
236 1999, 199). Through grassroots efforts over the following decades, the feminist
237 movement’s attention to violence against women brought about several reforms to
238 rape law, including the introduction of the concepts *date rape*, *acquaintance rape*,
239 and *marital rape* to scholarly and public discourse.

240 By 1984, journalists and scholars, including Eugene Kanin (1984, 1985), started
241 using the term *date rape* and counting sexual assault committed in the context of
242 dating relationships as genuine instances of rape. At the same time, many believed
243 that rape, particularly those involving intimates, was one of the most underreported
244 crimes. Thus, many scholars understood that they could not rely on the numbers of
245 victims who utilize rape crisis centers or turn to law enforcement agencies to gain
246 an accurate picture of the prevalence of sexual violence.

247 In her investigation of these “hidden rapes,” Mary Koss did not only eschew
248 reports to law enforcement and rape crisis centers as a source of accurate statistics,

she also questioned the use of self-report surveys for determining the prevalence of rape. She cautioned that surveys which use the expression *rape victim* may be unreliable since they would miss the class of victims she labels as *unacknowledged rape victims*, that is, women whose experience would legally qualify as rape, but do not conceptualize themselves as rape victims (Koss 1985, 195). For example, instead of asking women whether they had ever been raped, Koss asked whether they had ever had sexual intercourse when they didn't want to because a man used force. This strategy of avoiding the terms *rape* and *victim* was central to the findings from the first large-scale scientific study of rape on college campuses sponsored by *Ms. Magazine* and coordinated by Koss.

Elaborating upon the results of this groundbreaking study, Robin Warshaw highlights how the interpretive framework women use to understand their experiences of sexual violence is often based upon a conceptualization of rape as a crime committed only by strangers. For example, about herself Warshaw writes, "Since my attacker had been my boyfriend, with whom I had had sexual intercourse before, I never attached the word "rape" to what had happened" (Warshaw 1988, 6). She also quotes other women who told her, "I was totally unaware that what he had done to me was a crime. I had no idea I could report it to the police" (Warshaw 1988, 32); and "I never told anyone I was raped. I would not have thought that was what it was" (Warshaw 1988, 120). Warshaw, like many other feminist thinkers, hoped that feminist consciousness-raising efforts, rape awareness education campaigns, and feminist-informed scholarship could overcome this hermeneutical injustice faced by rape victims.

4.3 The Intractability of Date Rape

Unfortunately, the widespread usage of the term *date rape*, *acquaintance rape*, and *marital rape* throughout the 1980s and 1990s did not result in the elimination of women's inability to name their experiences of sexual violence as rape. Over a decade after Warshaw's book was published, and 25 years after Brownmiller introduced the term *date rape* into public discourse, women who experience sexual violence in the context of dating relationships continue to be unable to recognize their experience as rape. In 2000, psychologist Lynn Phillips published *Flirting with Danger: Young Women's Reflections on Sexuality and Domination*. Of the 30 women she interviewed, 27 described at least 1 encounter that fit the legal definition of rape, battering, or harassment, yet did not name that experience *rape* or *abuse* (Phillips 2000, 7). In fact, these women explicitly resist naming themselves as victims. Consider the following four examples from her interviews with young women ages 22, 22, 21, and 21, respectively.

It was violent and hurtful and really scary. But I don't think I could ever call it rape. Let's just say that things went badly. (Phillips 2000, 149)

I mostly think of it as a really bad night. If you're asking do I think I was raped, no, I wouldn't really call it that. I mean, I was forced, yes, and I was hurt, and things didn't go

290 how I wanted, but I was in the car with him. It was all really complicated. I mean, I was
 291 there, I could have chosen not to go. So no, I don't really call it rape. (Phillips 2000, 154)
 292 It was like a kind of weird violent kind of thing. I don't feel like I could have really said no.
 293 I don't know if I necessarily would call it rape. But I would say that he was so strong and
 294 big and on top of me and it was like he was totally in control from the get go. Sometimes I
 295 think it was rape and sometimes I don't know if it was rape. (Phillips 2000, 161–162)
 296 I mean, I was crying and sort of pulling away, and hoping he'd notice I was upset and stop,
 297 but I didn't exactly tell him no. I could have said, "Get the hell off me! I want to go home!"
 298 But I didn't. I just laid there crying and hoping he'd stop. Maybe if I'd said something, who
 299 knows? Maybe things would have been different. But as it happened, I never exactly said no
 300 to him, so I really just have myself to blame. (Phillips 2000, 175)

301 These women describe the encounters as "violent," "hurtful," "really scary," and
 302 "forced." They describe their dates as being "so strong," "on top of me," and "totally
 303 in control." They describe themselves as "hurt," "crying," "sort of pulling away,"
 304 and "unable to say no." Yet, they resist naming the encounter as rape. Instead, they
 305 say that "things went badly;" they refer to the encounter as "a really bad night;" they
 306 describe the situation as "really complicated;" and they conclude that "I really just
 307 have myself to blame."

308 To explain why women who endure rape often do not apply the term to their own
 309 experiences, philosopher Katherine Jenkins insists that the widespread acceptance
 310 of rape myths prevents the concept from genuinely being at a victim's disposal.
 311 Common rape myths include beliefs such as "consent is automatically present if a
 312 prior consensual sexual act between the same parties recently took place," and "rape
 313 is only committed by strangers and cannot occur within a marriage/a relationship/a
 314 friendship" (Jenkins 2017, 192). Employing Sally Haslanger's (2012) distinction
 315 between manifest and operative concepts, Jenkins argues that unacknowledged rape
 316 victims suffer from hermeneutical injustice due to a conceptual lack. While the
 317 concepts may be *manifest* in legal statutes, they are not *operative* in legal and social
 318 practice. Instead, the operative concept is shaped by rape myths that are either
 319 explicitly or implicitly accepted in public discourse in general and by unacknowl-
 320 edged rape victims in particular.

321 Jenkins points to a 2004 study by psychologists Zoe Peterson and Charlene
 322 Muehlenhard, which found that unacknowledged rape victims were more likely to
 323 accept rape myths and to have been victimized in ways that were consistent with
 324 those rape myths. When women resist labeling their experiences of sexual violence
 325 as rape, they do so because their working understanding of rape excludes their experi-
 326 ence. That is, rape myths hinder the manifest concept from becoming operative.
 327 As a result, Jenkins argues, unacknowledged rape victims can be understood as
 328 lacking the conceptual resource necessary to make sense of their experience.

329 While Jenkins' account of the role of rape myths in preventing some victims
 330 from being able to recognize their experiences of rape as such, it does not account
 331 for them all. Phillips found that the same women who call their own experiences
 332 "just a bad night" or "really complicated" were willing to use words like *rape*, *bat-*
 333 *tering*, *victimization*, and *abuse* to describe other women's experiences in similar
 334 circumstances. For example, when Phillips asked one 22-year old woman how she
 335 would define the experience if it had happened to a friend, she responded,

Wow, that is so awesome! If my roommate came home and told me the exact same story had happened to her, I'd tell her, "You call the hotline, you call the police! You're a victim! That guy raped you and you should report it!" Wow! But, I don't know. For her it would be rape. For me is [sic] was just so complicated. (Phillips 2000, 154)

Similarly, a 21-year old woman admitted that she should label her experience as rape, but nevertheless resisted doing so.

I mean, consciously I know, and if I were examining other women's experiences or something, and she said, "I went home with this guy and I didn't want to have sex but he forced me or I was so intimidated that I just did," I would say that's rape. But I feel like I have another standard and I did internalize a lot of ideas that it was sort of my fault, and how can I say it's rape when I went up there? You know, what was I expecting? (Phillips 2000, 155)

These interviews suggest that not only can we not explain women's inability to name their experiences of rape as such as a result of a conceptual lack, since the concept of date rape has been developed and is present in policy and law, but we also cannot explain that inability as a result of lack of practical applicability of the concept of date rape, since the victims in question are able to apply the concept to other women's experiences.

While Fricker and Jenkins describe hermeneutical injustice as a product of a conceptual lack, other philosophers such as Jose Medina argue that in pluralist societies there are often "diverse publics with heterogeneous interpretive resources and practices" (Medina 2013, 101), thus, one must attend to the ways in which *competing* interpretive resources can produce hermeneutical injustices. He writes, "When it comes to hermeneutical harms and injustices, the question is not simply whether or not there are expressive and interpretative resources available for meaning-making and meaning-sharing, but how those resources are used, by whom, and in what ways" (Medina 2017, 43). This description of hermeneutical injustice as a product of competing interpretive resources, rather than as only a result of a hermeneutical incapacity, offers a powerful explanation for the intractability of hermeneutical injustice with respect to date rape.

Consider, again, the testimonies from the young women in Phillips' book. On the one hand, Phillips describes the young women in her study as having been clearly influenced by feminist sensibilities. She writes, "The participants spoke often and easily about feminist politics and gender, race, class, and sexual inequalities. They were outspoken about violence against women.... And all were able to critique the sexist (and often racist, classist, and heterosexist) images they encountered in their women's magazines, in movies, and on TV" (Phillips 2000, 35).

It is this set of interpretive resources that women draw upon when characterizing other women's experiences of sexual violence. Despite the influence of rape myths in their social landscape, they are able to make the manifest concepts in law and policy operative, at least with respect to other women. On the other hand, when describing their own experiences, the women express feelings of guilt and self-blame, which flatly contradict their conscious beliefs, values, and attitudes. The women emphasize what they did preceding the assault: "I was in the car with him;" "I was there;" and "how can I say it's rape when I went up there?" They also empha-

380 size what they didn't do: "I could have chosen not to go;" "I never exactly said no
381 to him;" and "I could have said, 'Get the hell off me! I want to go home!' But I
382 didn't."

383 These reflections are offered as justification for their refusal to identify them-
384 selves as rape victims. Notice that the perpetrator's actions are less relevant than the
385 victim's. Implicit in these testimonies is a narrow concept of victimization. Because
386 the women exercise some modicum of agency, they cannot qualify as victims. To be
387 considered a genuine victim, then, requires that they experience utter powerless-
388 ness, complete helplessness, and irrecoverable trauma.

389 4.4 Conclusion

390 Caught between two competing interpretive resources, the women interviewed by
391 Phillips use one interpretive frame for understanding other women's experiences,
392 and use another frame for understanding their own. Faced with a choice between
393 identifying as victims or blaming themselves, the latter often pays better dividends.
394 While identifying as a victim normally allows one to claim the benefits of legal
395 recourse and social sympathy, these benefits are all too often denied to victims of
396 rape. When women report sexual victimization, their claims are rarely deemed cred-
397 ible and even rarer still do their assailants face legal consequences. Self-blame, on
398 the other hand, invites a sense of agency and control, which is critical for someone
399 who has been victimized.

400 In *Shattered Assumptions: Towards a New Psychology of Trauma*, psychologist
401 Ronnie Janoff-Bulman (1992) describes self-blame as a common adaptive strategy
402 that functions to preserve three widely-accepted basic assumptions about ourselves
403 and our world, namely that the world is benevolent, the world is meaningful, and the
404 self is worthy. When a person survives a life-threatening event, these fundamental
405 assumptions are challenged: perhaps the world is not a good place filled with good
406 people; perhaps the world is not meaningful or sensical; perhaps I am not a person
407 who deserves good things. Janoff-Bulman argues that self-blame reflects a person's
408 attempt to make sense of her victimization, that is, to answer the question, "Why
409 me?" and to be able to proceed into the future with the hope that her future actions
410 can help her avoid additional harm.

411 For many women, to identify oneself as a victim of date rape requires an ability
412 to reconcile what appears to be a conceptual conflict: how can one exercise agency
413 and yet be a victim? Reflecting on why so many women who endure date rape do
414 not self-identify as victims, Warshaw writes,

415 Because of her personal relationship with the attacker, however casual, it often takes a
416 woman longer to perceive an action as rape when it involves a man she knows than it does
417 when a stranger assaults her. For her to acknowledge her experience as rape would be to
418 recognize the extent to which her trust was violated and her ability to control her own life
419 destroyed. Indeed, regardless of their age or background, many women interviewed for this
420 book told no one about their rapes, never confronted their attackers, and never named their
421 assaults as rape until months or years later. (Warshaw 1988, 26)

It is instructive that some of these women eventually come to identify as rape victims, and that this revised interpretation of their experience is frequently influenced by comparing their own experience to that of others. Describing her own realization that she was a victim of date rape, Warshaw writes, “one day, after a close friend became head of a local rape-crisis group, I was listening to her tell me about some of her group’s recent cases. They were all rapes committed by strangers, but the stories evoked a rush of feelings about my own experience. Then I knew: I had been raped” (Warshaw 1988, 6). That is, while having the concept as an available interpretive resource is useful, it is not always sufficient for motivating the choosing of one worldview over another. Being able to see oneself as one among many, who is empowered through empathy with others in similar circumstances, helps one understand one’s suffering not as an isolated incident, but as part of a larger social pathology that can be collectively resisted.

References

American Law Institute. 1985. *Model penal code: Official draft and explanatory notes: Complete text of model penal code as adopted at the 1962 annual meeting of the American Law Institute at Washington, D.C., May 24, 1962*. Philadelphia: The Institute. 436-438

Brownmiller, Susan. 1975. *Against our will: Men, women, and rape*. New York: Fawcett Columbine. 439-440

———. 1999. *In our time: Memoir of a revolution*. New York: The Dial Press. 441

Burgess-Jackson, Keith. 1999. A history of rape law. In *A Most detestable crime: New philosophical essays on rape*, ed. Keith Burgess-Jackson, 15–31. New York: Oxford University Press. 442-443

Cochran, Augustus. 2004. *Sexual harassment and the law: The Mechelle Vinson case*. Lawrence: University Press of Kansas. 444-445

Fricker, Miranda. 2007. *Epistemic injustice: Power and the ethics of knowing*. Oxford: Oxford University Press. 446-447

Haslanger, Sally. 2012. What are we talking about?: The semantics and politics of social kinds. In *Resisting reality: Social construction and social critique*, ed. Sally Haslanger, 365–380. Oxford: Oxford University. 448-450

Janoff-Bulman, Ronnie. 1992. *Shattered assumptions: Towards a new psychology of trauma*. New York: The Free Press. 451-452

Jenkins, Katherine. 2017. Rape myths and domestic abuse myths as hermeneutical injustices. *Journal of Applied Philosophy* 34 (2): 191–205. 453-454

Kanin, Eugene J. 1957. Male aggression in dating-courtship relations. *American Journal of Sociology* 63: 197–204. 455-456

———. 1965. Male sex aggression and three psychiatric hypotheses. *Journal of Sex Research* 1: 221–231. 457-458

———. 1967. An examination of sexual aggression as a response to sexual frustration. *Journal of Marriage and the Family* 29: 428–433. 459-460

———. 1969. Selected dyadic aspects of male sex aggression. *Journal of Sex Research* 5: 12–28. 461

———. 1971. Sexually aggressive college males. *The Journal of College Student Personnel* 12: 107–110. 462-463

———. 1984. Date rape: Unofficial criminals and victims. *Victimology* 9 (1): 95–108. 464

———. 1985. Date rapists: Differential sexual socialization and relative deprivation. *Archives of Sexual Behavior* 14 (3): 219–231. 465-466

- 467 Kirkpatrick, Clifford, and Eugene J. Kanin. 1957. Male sex aggression on a University Campus.
468 *American Sociological Review* 22: 52–58.
- 469 Koss, Mary P. 1985. The hidden rape victim: Personality, attitudinal, and situational characteris-
470 tics. *Psychology of Women Quarterly* 9 (2): 193–212.
- 471 MacKinnon, Catherine A. 1979. *Sexual harassment of working women: A case of sex discrimina-*
472 *tion*. New Haven: Yale University Press.
- 473 Medina, Jose. 2013. *The epistemology of resistance: Gender and racial oppression, epistemic*
474 *injustice, and resistant imaginations*. New York: Oxford.
- 475 ———. 2017. Varieties of hermeneutical injustice. In *The Routledge handbook of epistemic injus-*
476 *tice*, ed. Ian James Kidd, Jose Medina, and Gaile Pohlhaus Jr., 41–52. New York: Routledge.
- 477 Meritor Savings Bank, FSB v. Vinson. 1986. 477 U.S. 57.
- 478 Mills, Charles W. 2017. Ideology. In *The Routledge handbook of epistemic injustice*, ed. Ian James
479 Kidd, Jose Medina, and Gaile Pohlhaus Jr., 100–111. New York: Routledge.
- 480 Peterson, Zoe D., and Charlene L. Muehlenhard. 2004. Was it rape? The function of women’s rape
481 myth acceptance and definitions of sex in labeling their own experiences. *Sex Roles* 52.3 (4):
482 129–144.
- 483 Phillips, Lynne M. 2000. *Flirting with danger: Young Women’s reflections on sexuality and domi-*
484 *nation*. New York: New York University Press.
- 485 U.S. Equal Employment Opportunity Commission. 2010. Enforcement guidance: Vicarious
486 employer liability for unlawful harassment by supervisors. <https://www.eeoc.gov/policy/docs/harassment.pdf>. Accessed 1 June 2018.
- 487
488
489
- Warshaw, Robin. 1988. *I never called it rape: The Ms. report on recognizing, fighting, and surviv-*
ing date and acquaintance rape. New York: Harper and Row.