ARTICLES

Aesthetic Injustice*

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Our aesthetic judgments are embedded in and shaped by unjust social orders. But can our aesthetic judgments themselves—"this is beautiful; that is not"—be unjust? This article argues that they can. Admitting that this is so does not require us to be unduly revisionary with respect to our concept of justice. Rather, the thought that aesthetic judgments are unjust flows naturally from familiar egalitarian constraints.

> When a number of flute players are equal in their art, there is no reason why those of them who are better born should have better flutes given to them; for they will not play any better on the flute, and the superior instrument should be reserved for him who is the superior artist. (Aristotle, *Nicomachean Ethics*)
>
> If it's done by a man it's high art; if it's done by a woman it's decorative. (Judy Chicago)

Suppose that an art school's end-of-year exhibition separates out the work of its men and women students. The men are given a large, well-lit space in which to exhibit their work. The women—because they are women—are given access only to a small, dark, cramped space. The women

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are unjustly blocked from having their creative work be aesthetically appreciated.[1] They suffer an aesthetic injustice.

Now suppose that the men and women students are given access to the same exhibition space, but red paint is poured over the women's work before the exhibition. The women students' work is, on account of their gender, disfigured. This, too, is aesthetic injustice. The disfigurers unjustly block the women from having their work be aesthetically appreciated.

Finally, suppose that the men and women students are given access to the same exhibition space. No red paint is poured. But the students are working within a sexist society. Men are widely assumed to be capable of skilled creative work. Women are not. The students' work is exhibited next to their full names, from which attendees can, by and large, determine the gender of the artist. These assumptions color the attendees' experience of the art show. The men's work is judged daring and original. The women's work is judged chaotic and gimmicky.

Here, too, I contend, the women suffer an aesthetic injustice. They have been given light and space, but they are nonetheless, on account of their gender, deprived of a similarly crucial appreciative resource, namely, nonsexist patterns of cultural valuation. Those who judge the women's work chaotic and derivative do the women students an injustice by so judging. By so judging, they unjustly block the women students from having their work be aesthetically appreciated. This is a special kind of aesthetic injustice: aesthetic injustice inflicted by way of an unjust aesthetic judgment.

This article is an exploration of aesthetic injustice. It has three main aims. The first is to show that aesthetic judgments may be unjust. *A* can, by making an aesthetic judgment of *B*'s creative work, do *B* an aesthetic injustice. The second aim is to delineate a species of aesthetic injustice I call *artistic injustice*. The third aim is to argue that the category of aesthetic injustice is not a mere theoretical curiosity but a meaningful political category. In Section I, I clarify the goals of the article, make explicit my starting assumptions, and show how my project relates to existing work. In Section II, I introduce my preferred normative framework. Section III shows that aesthetic judgments may violate the demands of egalitarian justice. In Section IV, I discuss artistic injustice. Section V responds to objections. In Section VI, I argue that aesthetic injustice is a meaningful political category.

1. Not all blocks to aesthetic appreciation are unjust blocks. Suppose a lottery is used to determine whose work is consigned to the less favorable exhibition space. If *A*'s work ends up in the poorly lit space because of bad luck, he is blocked from having his work be aesthetically appreciated, but not unjustly blocked.

I. GROUND CLEARING

A. Aims and Assumptions

The claim that aesthetic judgments can be unjust is a bold claim. It might seem obvious that our aesthetic judgments lie beyond the claims of justice. I demur. An agent suffers an aesthetic injustice when she is unjustly blocked from having her work be aesthetically appreciated. And *A*'s aesthetic judgments of *B*'s creative work can block *B* from having her work be aesthetically appreciated. How? By constituting a failure of aesthetic appreciation. Suppose that I judge Bach's cello concertos ugly. This judgment constitutes a failure of aesthetic appreciation. No one who makes such a judgment can fully aesthetically appreciate Bach's cello concertos because fully aesthetically appreciating the concertos requires full sensitivity to their aesthetic features. Such sensitivity is not compatible with making aesthetic judgments that they do not (aesthetically) merit.

An adequate account of aesthetic injustice must not overgenerate. Justice does not require that all creative work be esteemed. Suppose *A* judges that William McGonagall is a terrible poet and so judges because her aesthetic judgments track McGonagall's poems' bad-making features. *A*'s judgment is unobjectionable from the perspective of justice. Or suppose that *B* hates birds and so judges Keats's *Ode to a Nightingale* ugly. *Ode to a Nightingale* does not deserve this assessment. *B*'s negative judgment might wrong Keats, or be unfair to him. But the wrong is unconnected to any broader patterns of social advantage and disadvantage. To call it unjust would be unduly censorious because not all wrongs are injustices. It would be wrong for me to break my promise to cook dinner for you, but it would not be unjust. This is an important distinction because wrongs need not concern the state. The state should not care whether or not I break my promise to cook dinner for you. The state should not punish me or compensate you for my breaking the promise. But if something is an injustice, it is prima facie legitimate for the state to take action against it. This connection explains why someone might be reluctant to allow that aesthetic judgments can be unjust. It is not appealing to think that the state might interfere with our aesthetic judgments. I discuss this worry in Section V.

To be a plausible injustice, then, an aesthetic judgment must "connect up" in some relevant way to broader social patterns of advantage and disadvantage. Aesthetic judgments "connect up" to social patterns of advantage and disadvantage in the relevant way if they are expressive of social hierarchies. (Note that this articulates a sufficient but not a necessary condition. I am neutral on the corresponding biconditional.) Where an aesthetic judgment is expressive of hierarchy, the interaction of which that judgment is a part is inegalitarian. Inegalitarian social

interactions are unjust. Justice requires that agents treat each other as equals; inegalitarian interactions violate this requirement.

This article argues that aesthetic judgments may be unjust because they may violate the demands of specifically egalitarian justice. So my argument won't work on everyone. A sanguine inegalitarian, for example, will not be moved by my argument. I don't take that to be a problem. It is unrealistic to expect an argument to work on everyone. If aesthetic judgments can violate the demands of egalitarian justice, that's an interesting result.

My commitments as to the nature of aesthetic judgment are minimal. I assume only that aesthetic judgments are judgments as to whether some object or group of objects—broadly construed—possess aesthetic value. There are many ways to judge whether an object has aesthetic value. The most obvious way to judge whether an object has aesthetic value is to judge whether it is beautiful. But other "thick" aesthetic judgments—judgments as to, for example, elegance, vivacity, or profundity—will do just as well. Those who are more opinionated as to the nature of aesthetic judgment are invited to plug their preferred story in as they see fit. It will make no difference to the overall argument. (There are some places where it might seem to make a difference. I discuss these in Secs. III and V.)

There is some dispute over whether works of art may possess both artistic value and aesthetic value, where artistic value is construed as something interestingly distinct from aesthetic value.[2] Originality, for example, is plausibly artistically but not aesthetically valuable. For the purposes of this article, "aesthetic value" should be understood broadly, so as to include artistic value. Those who prefer to consider values like originality as specifically artistic are welcome to substitute their preferred terminology.

One might wonder, what makes aesthetic injustice distinctively aesthetic? When agents are unjustly blocked from having their creative work be aesthetically appreciated, isn't this just garden-variety injustice showing up in an aesthetic context? I discuss the distinctiveness of aesthetic injustice in detail in Section VI. Here is a taster of the view I develop. Agents are aesthetically marginalized when they are unjustly prevented from accessing the material, cultural, and institutional resources required to engage in aesthetic production in contexts of recognition and reciprocity. Aesthetic production is a politically significant social practice, so aesthetic marginalization is a politically significant kind. The category of aesthetic injustice earns its theoretical keep by picking out an overlooked source of aesthetic marginalization.

2. Dominic McIver Lopes, "The Myth of (Non-aesthetic) Artistic Value," *Philosophical Quarterly* 61 (2011): 518–36; Louise Hanson, "The Reality of (Non-aesthetic) Artistic Value," *Philosophical Quarterly* 63 (2013): 492–508.

B. Relation to Previous Work

In the 1970s, Beardsley argued that opportunities for aesthetic welfare are a currency of distributive justice.[3] My project differs from Beardsley's. First, I take no position on whether opportunities for aesthetic welfare are a currency of distributive justice. Second, Beardsley's concept of aesthetic welfare is consumer focused. I have a high level of aesthetic welfare if I am exposed to artifacts and environments which I find sufficiently aesthetically gratifying. By contrast, my concept of aesthetic injustice is creator focused. It is crafted not to capture the interests of the would-be appreciator in having access to aesthetically pleasing objects but to capture the interests of artists in having their work properly assessed.

The literature on the politics of bodily taste and "body oppression" asks whether and how judgments of bodily (un)attractiveness may be ethically or politically suspect.[4] By contrast, my concern is with aesthetic judgments of artworks. Artifacts rather than bodies are my focus.[5] This is not a superficial difference. The domains have different normative profiles. Suppose we agree that judgments of bodily attractiveness can be ethically or politically suspect. Various plausible-sounding stories about why that might be so do not translate to the artifactual case. One story says that aesthetically evaluating a body comes with the moral risk of objectifying its inhabitant.[6] But at first blush, there seems to be no comparable moral risk in aesthetically evaluating a novel or a symphony.[7] Another story says that judgments of bodily unattractiveness can be oppressive because (i) they are tied to agents' unchosen and hard-to-change features, like facial birthmarks or severe burn scars, and (ii) they have pervasive effects across domains in which appearance is irrelevant.[8] For example, those

3. Monroe C. Beardsley, "Aesthetic Welfare," *Journal of Aesthetic Education* 4 (1970): 9–20; Monroe C. Beardsley, "Aesthetic Welfare, Aesthetic Justice, and Educational Policy," *Journal of Aesthetic Education* 7 (1973): 49–61.

4. Thanks to an anonymous reviewer for encouraging me to discuss how my work relates to this existing literature. See Anne Eaton, "Taste in Bodies and Fat Oppression," *Body Aesthetics* 37 (2016): 37–39; Sara Protasi, "The Perfect Bikini Body: Can We All Really Have It? Loving Gaze as an Antioppressive Beauty Ideal," *Thought: A Journal of Philosophy* 6 (2017): 93–101; Sherri Irvin, "Resisting Body Oppression: An Aesthetic Approach," *Feminist Philosophy Quarterly* 3 (2017): 1–25; Céline Leboeuf, "What Is Body Positivity? The Path from Shame to Pride," *Philosophical Topics* 47 (2019): 113–28; Heather Widdows, "Structural Injustice and the Requirements of Beauty," *Journal of Social Philosophy* 52 (2021): 251–69; Robin Zheng, "Why Yellow Fever Isn't Flattering: A Case against Racial Fetishes," *Journal of the American Philosophical Association* 2 (2016): 400–419.

5. Of course, some bodies constitute or are parts of artworks. Think of Yoko Ono's *Cut Piece*.

6. Charles W. Mills, "Do Black Men Have a Moral Duty to Marry Black Women?," *Journal of Social Philosophy* 25 (1994): 131–53; Zheng, "Why Yellow Fever Isn't Flattering."

7. However, see Sec. IV.

8. Irvin, "Resisting Body Oppression," 2–3, 12.

judged attractive are more likely to be judged intelligent as well.[9] Such an account is too narrow to translate well to the artifactual case. Consider the jazz musicians whose music was denigrated as "noise" in the early twentieth century.[10] Suppose these musicians could have accessed aesthetic esteem had they chosen to work in a musical tradition racialized as white, rather than in one racialized as black. Then, the denigration of their music would have been tied not to the musicians' unchosen features (racial identity) but to their chosen expressive tradition. The denigration still seems objectionable. It is also unclear whether judgments of artifacts' aesthetic (dis)value are leaky. But even if they are, that seems normatively incidental. The jazz musicians were wronged by the judgment that jazz is noise even if that judgment had no effects outside the aesthetic domain.

There is a second point of difference between the literature on bodily taste and my project in this article. The literature on bodily taste tends to use the register of emancipatory social theory. It speaks of "oppression," for example, rather than "injustice." By contrast, I am working with the idiom of injustice. That's not because I think it's somehow "better" to think about injustice than to think about oppression. It is because the article addresses those to whom it is not antecedently obvious that aesthetic judgments are an appropriate object of political critique. The familiar liberal idiom of injustice is the natural choice for such an address. From the perspective of emancipatory social theory, it is practically a truism that aesthetic responses are properly subject to political critique. That they are so subject is less obvious from the perspective of liberal political philosophy. The best way to dislodge the familiar, tempting picture on which aesthetic judgments are shielded from political rebuke, then, is to show that aesthetic judgments can be politically objectionable even from the perspective of the liberal-egalitarian political tradition. And the best way to do that is to show that, given a familiar conception of what justice requires, aesthetic judgments can be unjust.

II. EGALITARIAN JUSTICE

Here's one way in which aesthetic judgments might be unjust. Distributive justice says that there are some things ("the goods") such that inequalities with respect to those things are permissible only given special circumstances (e.g., when they are traceable to agents' free choices). Suppose that having one's creative work be esteemed is one of those goods. And suppose inequalities with respect to the goods are unjust when they

9. Ibid., 3.

10. "Jass and Jassism," *Times-Picayune*, June 20, 1918; Ingrid Monson, *Freedom Sounds: Civil Rights Call Out to Jazz and Africa* (Oxford: Oxford University Press, 2007).

are traceable to differences in brute luck.[11] Differences in natural talent are differences in brute luck. So if your creative work is esteemed more than mine because you have more raw artistic talent than me, that's unjust.

That's not how my argument will go. Aesthetic esteem is not a plausible currency of distributive justice. It is a specific rather than a primary good. And it could not be redistributed without serious affronts to values other than equality. So when aesthetic judgments are unjust, it is not because they violate the permitted distributions of aesthetic esteem. It is because they violate the requirements that justice imposes on interpersonal relations. Egalitarian justice requires that citizens stand to each other in relations of equality. Aesthetic judgments are unjust when they violate this requirement. I argue that making an aesthetic judgment can be a way of treating someone as one's social inferior. Such judgments are unjust because treating someone as one's social inferior is incompatible with meeting them as an equal. For some egalitarians—relational egalitarians—the demand that citizens meet as equals lies right at the heart of egalitarian justice. Justice is fundamentally an interpersonal virtue: the "disposition to treat individuals in accordance with principles that express, embody, and sustain relations of social equality."[12] So relational egalitarians should be happy to accept my key normative claim.

But not all egalitarians are relational egalitarians. Liberal egalitarians who are not relational egalitarians will not give interpersonal relations of equality the level of normative and theoretical centrality given to them by relational egalitarians. But ideals of civic equality still have an important role to play for most liberal egalitarians. Most liberal egalitarians will take the social bases of self-respect to be a currency of distributive justice. For such egalitarians, justice requires (approximate) equality in the social bases of self-respect. But there is an important connection between the social bases of self-respect and the quality of interpersonal relations. Those who are treated as inferiors are robbed of the social bases of self-respect. So the requirement of interpersonal equality is a derivative requirement of justice. Agents must meet as equals in order to secure an egalitarian distribution of the good that is one of the social bases of self-respect. So my argument will have force for liberal egalitarians regardless of whether they count as specifically relational egalitarians.

The argument comes in two main steps. Step 1 establishes that interactions which are expressive of social hierarchy are unjust. In an inegalitarian interaction, the parties do not treat each other as equals and so violate the demands of egalitarian justice. Step 2 argues that aesthetic judgments may be expressive of social hierarchy. It follows that aesthetic

11. Gerald A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99 (1989): 906–44.

12. Elizabeth Anderson, "The Fundamental Disagreement between Luck Egalitarians and Relational Egalitarians," *Canadian Journal of Philosophy* 40 (2010): 1–23.

judgments may violate the demands of justice. I execute step 1 in the remainder of this section. I execute step 2 in Section III.

Social hierarchies are "durable group inequalities that are systematically sustained by laws, norms, or habits."[13] Hierarchies come in different flavors. Some are hierarchies of domination: members of "inferior" social groups are subject to arbitrary interference from their "superiors." Some are hierarchies of standing: the interests of socially "inferior" groups are given less weight in deliberation than the interests of their "superiors."[14] The hierarchies relevant to aesthetic injustice are hierarchies of esteem. Hierarchies of esteem are direct or indirect. In direct hierarchies of esteem, social "inferiors" are systematically subject to demeaning stereotypes which authoritatively and directly represent them as disgusting, dangerous, stupid, or worthless. For example, a society in which members of one group refuse to touch members of another group because the latter are seen as "unclean" has a direct hierarchy of esteem. In an indirect hierarchy of esteem, patterns of cultural valuation are more subtly biased. Social inferiors are not subjected to stereotypes which directly represent them in a denigrating fashion. Rather, activities and traditions which have a strong cultural association with socially inferior groups are authoritatively represented as disgusting, dangerous, frivolous, or worthless. Such activities and traditions do not offer pathways to social honor. Consider a society in which caring and domestic labor is strongly feminized (viz., done mainly by women and strongly associated with women in the cultural imaginary) while noncaring labor outside the home is strongly masculinized (viz., done mainly by men and strongly associated with men within the cultural imaginary). If only work outside the home offers a pathway to honor and appraisal respect, while caring and domestic labor is authoritatively stereotyped as unimportant and unskilled, this society is structured by an indirect hierarchy of esteem.[15] Direct and indirect hierarchies of esteem, while being analytically separable, will often interlock and reinforce each other.[16]

Egalitarian justice requires that citizens meet as equals. Social hierarchies impair citizens' ability to so meet. Two citizens meet as equals only so long as neither party treats the other as his social inferior. *A* treats *B* as his social inferior if *A*'s conduct toward *B* is expressive of a relevant social hierarchy, namely, a hierarchy with respect to which *A* is advantaged relative

13. Elizabeth Anderson, "Equality," in *The Oxford Handbook of Political Philosophy*, ed. David Estlund (Oxford: Oxford University Press, 2012), 40–57.

14. Ibid., 43–44.

15. See Nancy Fraser, "Social Justice in the Age of Identity Politics: Redistribution, Recognition, and Participation," in *Redistribution or Recognition? A Political-Philosophical Exchange* (London: Verso, 2003), 6–109, 20–21.

16. See ibid., 23.

to *B*.[17] Suppose *A*, a Brahmin, meets *B*, a Dalit, in a social context in which it is usual to shake hands. Suppose *A* refuses to shake *B*'s hand because he sees *B* as unclean. In refusing to shake *B*'s hand, *A* does *B* an injustice. He does *B* an injustice because he treats *B* as his social inferior. His conduct is expressive of hierarchy. In treating *B* as his social inferior, *A* violates a requirement of justice.

There are (at least—this is not meant to be an exhaustive taxonomy) two ways for *A* to treat *B* as his social inferior. First, *A*'s conduct toward *B* may be guided by relevantly hierarchical norms (as when *A* refuses to shake *B*'s hand because he sees *B* as unclean). Second, *A*'s conduct toward *B* might express hierarchical meanings. *A*'s conduct toward *B* is guided by relevantly hierarchical norms and assumptions if *A*'s conduct toward *B* is guided by norms and assumptions which play a role in marking or constituting *B* as *A*'s social inferior. This counts as *A* treating *B* as his social inferior because, in general, *A* treats *B* as an *F* if *A*'s conduct toward *B* is guided by the norms and assumptions which socially mark or constitute *B* as an *F*. I treat Charles Windsor as a king when I curtsy in his presence, because part of what it is to be a king is to be such that one's subjects ought to curtsy (or bow) in the king's presence. I am treated as a citizen when I am given a ballot paper, because part of what it is to be a citizen is to have the entitlement to vote. When the Brahmin refuses to shake the Dalit's hand, he treats the Dalit as his social inferior if his conduct is guided by norms and beliefs ("Dalits are unclean; Brahmins mustn't touch them") which partly constitute the social hierarchy which elevates Brahmins above Dalits and hence which partly constitute the Dalit as the Brahmin's social inferior.

Hierarchical beliefs and norms may guide interactions in more or less overt ways. Maybe *A*, the Brahmin, refuses to shake the Dalit's hand because he thinks to himself, "Brahmins should not shake Dalits' hands because Dalits are unclean. So I will not shake *B*'s hand." *A*'s refusal is guided by hierarchical beliefs and norms because *A*'s practical deliberation appeals to and relies on those beliefs and norms. Here hierarchy plays a justificatory role. Now suppose that *A* is a progressive who consciously disavows the ideology of caste. Nonetheless, a long process of socialization has left him feeling vaguely uneasy at the thought of touching

17. What about cases where *A*'s conduct toward *B* is expressive of a nonrelevant hierarchy? Consider a case in which *A* and *B* are both women but *A*'s conduct toward *B*, on account of internalized misogyny, is guided by sexist stereotypes. In such a case, *A* does not treat *B* as her inferior. But she does treat *B* as someone's inferior, because her conduct—given that it is guided by hierarchical norms and assumptions—is expressive of a hierarchy. In my view, this also makes for a violation of egalitarian justice, but as it is beyond the article's scope to make that case, I restrict my attention to cases of conduct guided by relevant hierarchies. Thanks to Jim Grant for suggesting this point.

a Dalit, so he pretends not to notice when the Dalit extends his hand to offer a handshake (perhaps feeling rather guilty about it). *A* does not—and would not!—rely on hierarchical norms or assumptions in his deliberation. Nonetheless, his conduct is expressive of hierarchy because his conduct is guided by a habitus—a network of affective, somatic, and interpretive dispositions—which has been shaped by hierarchical norms. Here hierarchy plays a habituating, rather than a justificatory, role.[18]

A second way in which interactions may be expressive of hierarchy is by communicating hierarchical social meanings. An interaction may communicate hierarchical social meanings without actually being guided by hierarchy. Suppose that *A* has a blanket policy of not shaking anyone's hand because he is embarrassed by his sweaty palms. His refusal to shake *B*'s hand might still be expressive of hierarchy, because the most natural interpretation of this refusal, both for *B* and for onlookers, might well be that *A* has refused because he considers *B* unclean. Here, despite *A*'s conduct not being guided by hierarchical norms, *A* treats *B* as his inferior because the broader social meaning of his behavior is not "up to him."

This picture has two nice features worth noting. First, it leaves open the possibility of egalitarian interpersonal relations even within a hierarchical society. When *A* is hierarchically elevated relative to *B*, it is not inevitable that *A* will treat *B* as her social inferior, for it is not inevitable that her conduct will be expressive of hierarchy. It may well be very difficult for *A* to "cast off" hierarchical norms in the way that justice requires. But the fact that *A* is hierarchically elevated relative to *B* does not automatically condemn *A* to doing *B* an injustice when they interact. So the norms of egalitarian justice can be meaningfully action-guiding even under hierarchical conditions. Second, this picture of egalitarian justice leaves space for people to meet as equals without thinking equally highly of each other. People have different levels of virtue and talent, so that *A* thinks poorly of *B* and not vice versa need not be expressive of hierarchy. This is a plus. Egalitarian justice, if it is to make for a plausible ideal, must be compatible with the recognition of differences of virtue and talent.[19]

The presentation thus far has abstracted away from intersectional dynamics. In most hierarchical societies there are multiple social hierarchies, for example, hierarchies of race and gender. These hierarchies

18. Thanks to an anonymous reviewer for helping me to get clear on this distinction.

19. Elizabeth Anderson, "What Is the Point of Equality?," *Ethics* 109 (1999): 287–337; Carina Fourie, "To Praise and to Scorn: The Problem of Inequalities of Esteem for Social Egalitarianism," in *Social Equality: On What It Means to Be Equals*, ed. Carina Fourie, Fabian Schuppert, and Ivo Wallimann-Helmer (New York: Oxford University Press, 2015), 87–106; Samuel Scheffler, "The Practice of Equality," in *Social Equality: On What It Means to Be Equals*, ed. Carina Fourie, Fabian Schuppert, and Ivo Wallimann-Helmer (New York: Oxford University Press, 2015), 21–44.

interact in complex ways.[20] *A* may be elevated with respect to *B* relative to one hierarchy (say, gender) but internalized relative to another (say, race). In such cases, on my analysis, it may be possible for both *A* and *B* to treat the other as their inferior, because it may be possible for both *A* and *B* to be constituted as the other's social inferior relative to different social hierarchies. In what follows, I will, for the sake of exposition, concentrate mainly on hierarchies of race and gender and on cases in which hierarchical relations are unidirectional. I do not mean to imply that there are not other consequential social hierarchies, or that hierarchical relations are generally unidirectional.

III. UNJUST AESTHETIC JUDGMENTS

If *A* treats *B* as her social inferior, *A* violates the demands of egalitarian justice. If *A* can treat *B* as her social inferior by making an aesthetic judgment of *B*'s creative work, then one can violate the demands of egalitarian justice by making an aesthetic judgment. This section argues that *A* can treat *B* as her social inferior by making an aesthetic judgment of *B*'s creative work because *A*'s aesthetic judgment of *B*'s creative work can be guided by relevantly hierarchical norms and beliefs. It follows that aesthetic judgments may be unjust.

Suppose that Mary-Ann is a brilliant novelist, but the manuscripts she submits to publishers are routinely rejected; her writing is dismissed as amateurish, kitschy, and sentimental. Eventually, she decides to submit her manuscript under a male pen name. Once the pseudonym is in place, her writing is recognized as experimental, lyrical, and raw. Assumptions about the writer's gender affect readers' aesthetic appreciation of the work. When readers assume that the novel is written by a woman, they judge it to have low levels of aesthetic value (amateurish, kitschy, sentimental). When they assume that the very same novel is written by a man, they judge it to have much higher levels of aesthetic value (experimental, lyrical, raw).

The readers, when they judge Mary-Ann's novel to be amateurish, sentimental, and so on, treat Mary-Ann as their social inferior if their judgments of her work are guided by relevantly hierarchical representations. Where the readers are men, gender is a relevant hierarchy (viz., a hierarchy relative to which the men are socially positioned as Mary-Ann's superiors). Gender has, historically, made for a direct hierarchy of esteem,

20. Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum* 1989 (1989): 139–68; Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," *Stanford Law Review* 43 (1991): 1241–99.

in which (white) women were subject to socially authoritative denigrating stereotypes which marked them as frivolous, stupid, overly emotional, and inept. These stereotypes play a role in constituting women as men's social inferiors and guide characteristic interactions between men and women. They can also guide readers' aesthetic responses. When they do, the resulting aesthetic judgments are expressive of hierarchy.

The load-bearing claim is the claim that the denigrating stereotypes ("women are frivolous," etc.) can guide readers' aesthetic responses. So I will concentrate on showing how this might happen. One way the stereotypes might guide readers' aesthetic judgments is by guiding readers' interpretations of their experiences when reading the novel. For example, a reader might register that he had an intense emotional response to the novel but think about this emotional response differently depending on whether he takes the novel to have been authored by a woman. When he takes the novel to be written by a woman, perhaps he is inclined to judge that the intensity of his emotional response must be due to the book's being sentimental (because women are overly emotional and hence prone to writing sentimental books). If he takes the novel to be written by a man, he is inclined to judge the intense emotional response to be indicative of a different and more positively valenced aesthetic quality—perhaps something like rawness.

One might object. This assumes that aesthetic judgments can be reasoned to. But that's controversial. Plausibly, aesthetic judgments must be directly based on perceptual experience, without any intervening inferences.[21]

I find this unduly restrictive. Here is one reason why. Some drawings are such that, to properly judge their aesthetic value, we need to know what they are drawings of.[22] Suppose I draw you a picture of a tree.[23] I am very bad at drawing. The drawing is so inept that you struggle to say what it depicts. But you know I love trees. You infer that it is (an attempt at) a drawing of a tree. Once you know that the drawing is an inept attempt to depict a tree, you judge that the drawing has low aesthetic value, because the depiction of the tree is so inept. This seems to be a genuine aesthetic judgment. But precisely because the drawing is so bad, no judgment that it is a bad drawing of a tree could be directly based on perceptual experience.

But even very restrictive conceptions of aesthetic judgment should allow that aesthetic judgments can be expressive of hierarchy. Hierarchical assumptions might guide the reader's mode of engagement with the

21. For critical discussion of this view, see Errol Lord, "The Nature of Perceptual Expertise and the Rationality of Criticism," *Ergo* 6 (2019): 810–28.

22. Nick Zangwill, *The Metaphysics of Beauty* (Ithaca, NY: Cornell University Press, 2018), 63.

23. Ibid., 63.

novel. Suppose our readers disavow the demeaning stereotypes which cast women as "overly emotional." They might nonetheless have acquired, via socialization, a durable habit of focusing more on expressions of emotion when they are dealing with people they assume to be women. For such readers, which aspects of a text are salient to them will depend on the assumed gender of the author. In texts that they assume to be written by women, aspects of the text related to the expression of emotion will "jump out" more (be more prominent) and figure more centrally in their holistic evaluation of the text. For such readers one and the same novel might seem sentimental (and so aesthetically flawed) when it is read as the work of a woman and unsentimental (and so, ceteris paribus, less aesthetically flawed) when it is read as the work of a man. Here the influence of the stereotypes will "reach into" readers' experience of reading itself, rather than coloring only their interpretation of that experience.

The above example concerns directly denigrating assumptions. Assumptions about the gender of the author drive readers' evaluation of Mary-Ann's novel. But aesthetic judgments may also be guided by indirectly hierarchical norms and assumptions. Genres, styles, and media can be, for example, racialized. In 1956, André Hodeir noted that "sharp attacks, rough timbre, hard touch, and vibrato" were black-coded features of jazz.[24]

Where such stylistic features are both racialized as black and aesthetically stereotyped as, say, "crude," then we have a context in which black people are indirectly denigrated. Suppose that, within such a context, John, a black musician and composer, has written a piece of music which makes heavy use of stylistic features that are coded as black. A white music critic who listens to the music might, on account of the aesthetic stereotyping of black-coded styles, hear the music as coarse and brutish, rather than playful.[25] Because the relevant hierarchical norms and assumptions are, in this case, indirectly rather than directly hierarchical, it is not John's (presumed) racial identity that is guiding the critic's negative evaluation of his music, but rather qualities of the music itself. Even if the critic were somehow under the impression that John were a white musician, his judgments would inflict an aesthetic injustice on John where those judgments are guided by assumptions which tie black-coded styles to crudeness.

As with the more directly denigrating stereotypes considered above, this indirectly denigrating aesthetic stereotype might guide the critic's judgment in various ways. Maybe the critic finds the experience of listening to the music thrilling, and the only way he can make sense of this

24. André Hodeir, *Jazz: Its Evolution and Essence* (New York: Grove, 1956), quoted in Monson, *Freedom Sounds*, 83.

25. See, e.g., Monson, *Freedom Sounds*; and Angela Y. Davis, *Blues Legacies and Black Feminism: Gertrude Ma Rainey, Bessie Smith, and Billie Holiday* (New York: Vintage, 2011).

thrill, given his commitment to the stereotype, is by interpreting the music as coarse and brutish. Or perhaps the racist aesthetic stereotypes are worked more deeply into his sensibility, shaping his patterns of attention so that, in music with black-coded stylistic features, moments of chaos and discord are more salient to him than moments of order and harmony, so that he directly experiences the music not as thrilling but as an unpleasant, raucous assault.

Let us take stock. Justice requires that we not treat fellow citizens as our social inferiors. We treat agents as our social inferiors when our aesthetic judgments of their work are expressive of hierarchy. If denigrating stereotypes play a role in marking or constituting *A* as *B*'s social superior and *A* makes an aesthetic judgment which is guided by these denigrating stereotypes, *A*'s aesthetic judgment is expressive of hierarchy. Such stereotypes can guide aesthetic judgments. So aesthetic judgments can violate the demands of egalitarian justice.

Further, these violations of egalitarian justice make for specifically aesthetic injustices. When readers of Mary-Ann's novel unjustly judge that it is sentimental, this constitutes an unjust failure to aesthetically appreciate her novel. When the white critic judges that John's composition is brutish, this constitutes an unjust failure to aesthetically appreciate his composition.

This account of aesthetic injustice does not overgenerate. It does not predict that McGonagall or Keats are done any injustice when *A* and *B* judge that their poems are bad. In general, it does not predict that a biased assessment of a work of art must do the artist an injustice. Suppose *C* is an "inverted snob." She is biased against any work that she perceives as self-consciously highbrow.[26] This bias does not reflect well on *C*. But a bias against self-consciously highbrow work does not play a role in constituting or maintaining durable group inequalities. "Highbrow artists" are not a social group in the sense at issue. For *G* to be a social group in the sense at issue, membership of *G* must track socially conferred advantage and disadvantage across a wide range of social contexts.[27] Aesthetic assessments guided by *C*'s "anti-elitist" bias will generally be insensitive and unfair. But my account does not call them unjust, because they are not expressive of hierarchy.[28] Similarly, suppose *D* is a woman who is biased against male

26. Thanks to an anonymous reviewer for encouraging me to discuss this sort of case.

27. Exactly which groups satisfy this description will often be a matter of ongoing political contestation, e.g., whether fat people constitute a class in the relevant sense is currently contested; see, e.g., Ariane Prohaska and Jeannine A. Gailey, "Theorizing Fat Oppression: Intersectional Approaches and Methodological Innovations," *Fat Studies* 8 (2019): 1–9. It is beyond the scope of this article to adjudicate on every case.

28. However, it does not call them just either. My account provides sufficient but not necessary conditions for aesthetic injustice; it is not what Dotson calls a "closed conceptual

artists and in favor of female artists. When she negatively evaluates, say, David Foster Wallace's *Infinite Jest* on account of this bias, her evaluation is insensitive and unfair to the author. But it is not expressive of hierarchy because there is no durable group inequality which elevates women over men, and so no social hierarchy for the evaluation to express.[29]

The examples of aesthetic injustice considered so far are examples in which an injustice is done by (i) a negative aesthetic judgment that (ii) is not merited by the work. What of positive aesthetic judgments? What of judgments which are merited by the work?

Positive aesthetic judgments can inflict aesthetic injustices because it is possible for positive aesthetic judgments to constitute failures of appreciation that are expressive of hierarchy.[30] Consider the denigrating stereotypes historically directed at (white, middle-class) women that cast them as weak and ineffectual. Such stereotypes might lead one to perceive a woman's painting as delicate even when such a judgment is not merited by the work. Delicacy is a positively valenced aesthetic category. One can judge something to have aesthetic value by judging it delicate. But if such a judgment is guided by denigrating sexist stereotypes, rather than responsive to the work's qualities, it is nonetheless (i) a failure of aesthetic appreciation that is (ii) expressive of hierarchy, and so an aesthetic injustice.[31]

Judgments which are merited by a work can also constitute aesthetic injustices. That's because a merited judgment that *x* is *F* can constitute a failure of full aesthetic appreciation. If a merited judgment is not appropriately sensitive to the features of the work which merit the judgment, then it is a deficient appreciative response. Suppose *A* judges that *Some Like It Hot* is funny. That's a merited judgment. But suppose *A* would find just any black-and-white film funny, or would fail to notice the film's jokes were the film shot in a slightly different aspect ratio. *A*'s judgment is a deficient appreciative response because it is not appropriately sensitive to

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structure." Kristie Dotson, "A Cautionary Tale: On Limiting Epistemic Oppression," *Frontiers: A Journal of Women Studies* 33 (2012): 24–47.

29. One might think that such an evaluation could communicate—and so express—patriarchal social meanings. On this article's conception of communication, that is unlikely. On that conception, an evaluation communicates hierarchical social meanings only if it would naturally be interpreted by onlookers as guided by hierarchical norms and assumptions. *D*'s biased evaluation might naturally be interpreted as informed by and as a reaction to patriarchal social meanings. But to be informed by and a reaction to *N* is not sufficient for being guided by *N*. The behavior of someone who drives on the right because they enjoy violating a *drive on the left* norm is informed by and reacting to the *drive on the left* norm, but they are not guided by it. Thanks to an anonymous reviewer for pushing for clarity on this point.

30. See Emmalon Davis, "Typecasts, Tokens, and Spokespersons: A Case for Credibility Excess as Testimonial Injustice," *Hypatia* 31 (2016): 485–501; Jules Holroyd, "Oppressive Praise," *Feminist Philosophy Quarterly* 7 (2021).

31. Thanks to an anonymous reviewer for encouraging me to discuss this.

the features of *Some Like It Hot* that merit the judgment of funniness. Similarly, someone who judges that Berthe Morisot's *Woman at Her Toilette* is delicate makes (I think) a merited aesthetic judgment. But suppose they would fail to "pick up" on its delicate features were they to mistake it for the work of a male artist. Then, their merited judgment is defective qua appreciative response.

One might object in the following way: "It makes sense that negative aesthetic judgments can be unjust. Negative aesthetic judgments are a kind of insult. Unjust aesthetic judgments are unjust because it is unjust to insult an agent on the basis of their interiorized status. Positive aesthetic judgments are not burdens or insults, so they cannot be unjust in the same way." This is confused. The insult in aesthetic injustice is the insult of being treated as an inferior. One is treated as an inferior when others' interactions with you are guided by denigrating cultural representations. Positive aesthetic judgments may be guided by such representations. So positive aesthetic judgments may be unjust.[32] This is compatible with recognizing that unjust aesthetic esteem may be preferable to unjust aesthetic disesteem, because the former may come with downstream benefits which the latter does not.

IV. ARTISTIC INJUSTICE

One aesthetically appreciates an object when one appreciates its aesthetic value. One artistically appreciates x when one appreciates x as a K where K is some relevant art kind. Art kinds are things like genres, art forms, or just the kind *works of art*.[33] One fully artistically appreciates x only when, for each relevant art kind K, one appreciates x as a K.[34] One fully artistically appreciates *Pride and Prejudice* only when one appreciates

32. Holroyd ("Oppressive Praise") argues that praise may be oppressive, but her analysis differs from mine in being more forward-looking. Holroyd emphasizes the capacity of praise to entrench oppressive norms. My analysis is more backward-looking—it asks whether judgments express hierarchy, rather than asking primarily about their downstream effects. Pure backward-looking accounts are defective because they struggle to account for the directed character of the relevant injustices. I do you an injustice when I judge that your painting is ugly just because you are a woman. Even if all women are wronged by my judgment, you are my particular victim. Purely forward-looking accounts cannot readily account for this. You are wronged only insofar as you are part of a wronged class, a class of people I have wronged by entrenching norms which disadvantage the class. My backward-looking account can capture the directedness of the wrong. I wrong you, in particular, because I treat you, in particular, as an inferior.

33. Lopes, "Myth of (Non-aesthetic) Artistic Value"; Robert Stecker, "Artistic Value Defended," *Journal of Aesthetics and Art Criticism* 70 (2012): 355–62.

34. Kendall L. Walton, *Marvelous Images* (Oxford: Oxford University Press, 2008), 220; Graham McFee, "The Artistic and the Aesthetic," *British Journal of Aesthetics* 45 (2005): 368–87, 370.

it as a novel and as a romantic comedy—because *novel* and *romantic comedy* are relevant art kinds for *Pride and Prejudice*. Full artistic appreciation of *Pride and Prejudice* does not require appreciation of it as ballet or as pointillism. For *Pride and Prejudice*, these are not relevant art kinds.

This section discusses artistic injustice. *A* does *B* a specifically artistic injustice when *A* unjustly blocks *B* from having her creative work be (fully) artistically appreciated. Artistic injustice must be distinguished from aesthetic injustice because it is possible to aesthetically appreciate an object without artistically appreciating it. There is a beautiful tree outside my window. I aesthetically appreciate the tree insofar as I appreciate its aesthetic value. I do not artistically appreciate the tree because there is no art kind *K* such that I appreciate the tree as a *K*.

Artistic injustice must also be distinguished from morally neutral failures of artistic appreciation. Someone who fails to appreciate *Pride and Prejudice* as a romantic comedy because they have no sense of humor cannot fully artistically appreciate *Pride and Prejudice*, but this failure of appreciation does Austen no injustice, because the failure is unconnected with broader patterns of social advantage and disadvantage.

One may fail to appreciate *x* as a *K* in two ways: via a failure of sensitivity or a failure of classification. Suppose that I read Umberto Eco's *The Name of the Rose*. Full artistic appreciation of that novel involves appreciating it as historical fiction. I am guilty of a failure of sensitivity if I fail to properly register or respond to the aesthetic properties relevant to evaluating it qua historical fiction. I am guilty of a failure of classification if I fail to consider the novel as historical fiction, but rather engage with it only as, say, murder mystery. Failures of sensitivity and classification can occur separately. I might commit no failures of classification and so engage with *The Name of the Rose* as historical fiction but fail to properly register and respond to all of the aesthetic properties relevant to its value qua work of historical fiction. But the failures can occur in tandem and be causally related. I might fail to register the aesthetic features of *The Name of the Rose* relevant to assessing it as historical fiction precisely because I fail to engage with it as a piece of historical fiction. Here a classification failure drives a sensitivity failure.

I consider artistic injustice a species of aesthetic injustice because I consider all failures of artistic appreciation to be failures of aesthetic appreciation. Suppose that I am, when reading *The Name of the Rose*, perfectly aesthetically sensitive. I register and respond appropriately to all the aesthetic features of the novel relevant to its full artistic appreciation. Can I, while being so perfectly sensitive, fail to consider the novel as a historical novel (assuming that *historical novel* is an art kind relative to which the novel must be considered in order to be fully artistically appreciated)? I think the answer is no. If one fails to consider the novel as a historical novel, one must be being imperfectly sensitive to some of its aesthetic features, and

someone who is imperfectly sensitive to some of a novel's aesthetic features cannot fully appreciate its aesthetic value.

Given different background assumptions, the relation between aesthetic and artistic injustice will look slightly different. For example, someone who thinks that there are artistic values which are not aesthetic values (like originality) to which artistic but not aesthetic appreciation must be sensitive will deny that all failures of artistic appreciation are failures of aesthetic appreciation. But little of downstream theoretical importance will depend on the details of the taxonomy. On any account, the relation between aesthetic and artistic injustice will be intimate.

The cases considered so far are cases of both aesthetic and artistic injustice. Mary-Ann's readers fail to appreciate her novel as a novel because they are insensitive to features of the novel relevant to evaluating it as a novel. John's critic fails to appreciate his composition as a composition because they are insensitive to features of the composition relevant to its evaluation as such. These are cases of unjust insensitivity. The main focus of this section will be on cases of artistic injustice in which the injustice occurs because of unjust classification.

One can classify a work as a *K* in various ways. One might explicitly judge that "this is a *K*." But classification does not require explicit judgment. One might classify a work as a *K* by engaging with it in the manner that one characteristically engages with *K*s. One might also classify a work as a *K* by placing it in a certain section of the record store or bookstore, or nominating it for a prize for which only *K*s are eligible. Classification of a work as a *K* (or non-*K*) is unjust if that classification is expressive of hierarchy. More specifically, *A*'s classification of *B*'s creative work, *x*, as a *K* or as a non-*K* is unjust if *A*'s classification is guided by norms and beliefs which partly constitute or help to maintain a hierarchical social ordering which elevates *A* over *B*. (Note that this is a sufficient but not necessary condition. I am neutral on the corresponding biconditional.)

Consider Ralph Ellison's *Invisible Man*. Suppose someone reads the novel but engages with it only as a protest novel (rather than as, say, picaresque) because they believe, perhaps subconsciously, that black people lack what Ellison himself termed "the psychological and emotional distance necessary" for other forms of artistic endeavor.[35] Or suppose someone listens to Solange Knowles's album *When I Get Home* but listens to it only as pop music rather than as avant-garde music because they cannot associate black musicians with the "elite" world of experimental art.[36] These are cases of classificatory injustice. Ellison's and Solange's works are not considered relative to the relevant art kinds because of denigrating assumptions regarding the creative capacities of black artists.

35. Ralph Ellison, *Shadow and Act* (New York: Vintage, 1972), 111.
36. Nicholas Whittaker, "When I Get Home," *Point*, December 19, 2021.

The discussion of classificatory injustice has three main payoffs. First, it allows for a richer account of aesthetic injustice's characteristic mechanisms and harms. In particular, artistic injustices are important to register because an artist can suffer an artistic injustice while having their work be aesthetically admired and even coveted. Second, it will cast light on our moral-cum-aesthetic vernacular. Artists often fear or complain of being pigeonholed. They fear or complain that their work is considered or engaged with either (i) qua *K* where *K* is not, for their work, a relevant art kind or (ii) with respect to an inappropriately restricted range of *K*s. The discussion of classificatory injustice will help to clarify the moral stakes of pigeonholing. Third, it will shed light on the political duties of cultural gatekeepers. Cultural gatekeepers play a large role in determining how works of art are classified. How would-be appreciators of an artifact classify and engage with an artifact is typically influenced by a range of extra-artifactual cues that are not under the artist's control. For example, in 2013 Faber released a 50th anniversary edition of Sylvia Plath's *The Bell Jar*. They chose as its cover a stock photo, styled as though from the 1950s, of a woman with a powder compact, over which the title appeared in a swirly, girlish font.[37] "It should be possible," Fatema Ahmed writes, "to see *The Bell Jar* as a deadpan younger cousin of Walker Percy's *The Moviegoer*, or even William Burroughs's *Naked Lunch*. But that's not the way Faber are marketing it."[38] The cover deprives Plath's work of the subtle cultural and institutional coding required for artifact to be readily legible as art kinds *K* such that full artistic appreciation of the novel requires appreciating it as a *K* (e.g., as literary fiction).

Unjust misclassification can cause failures of aesthetic sensitivity. Most straightforwardly, it can cause would-be appreciators to overlook aesthetic features of a work. How a work is packaged by cultural gatekeepers can change which aspects of the work are salient to would-be appreciators. (Recall the discussion of Plath.) Less straightforwardly, it can cause would-be appreciators to misinterpret aesthetic features as flaws. Whether a given aesthetic feature counts as an aesthetic flaw can depend on which categories are relevant to artistically appreciating the work.[39] A painting's "flatness" is an aesthetic flaw relative to the art kind *realist painting* but not relative to the art kind *abstract painting*. What Whittaker calls the "sonic incoherence" of Knowles's *When I Get Home* would be an aesthetic flaw in a pop album;[40] it is not an aesthetic flaw in an avant-garde work.

37. Alexandra Topping, "The Bell Jar's New Cover Derided for Branding Sylvia Plath Novel as Chick Lit," *Guardian*, February 1, 2013, https://www.theguardian.com/books/2013/feb/01/the-bell-jar-new-cover-derided.

38. Fatema Ahmed, "Silly Covers for Lady Novelists," *London Review of Books Blog*, January 31, 2013, https://www.lrb.co.uk/blog/2013/january/silly-covers-for-lady-novelists.

39. Walton, *Marvelous Images*, 211.

40. Whittaker, "When I Get Home."

The reception of Kara Walker's work provides a second example of such misclassification-driven misinterpretation. Walker's signature silhouette cutouts have some realist elements—her silhouettes' outlines exhibit "naturalistic precision."[41] Other elements of Walker's compositions look to deliberately forswear realism: objects seem to float, and it is indeterminate what exactly is depicted.[42] Such elements suggest that it would be inappropriate to consider Walker's work relative to the category of realist art. But, as Harper argues, Walker is determinedly considered as a realist artist.[43] Relative to this misclassification, elements of her work (e.g., the "floating" objects) appear as flaws. Further, the misclassification is plausibly driven by denigrating racist stereotypes. Black artists, writes Nicholas Whittaker, are consistently interpreted as dealing in a specifically realist artistic idiom because they are imaginatively figured as "naive parrots mimicking what they/we see and hear."[44]

So far, I have examined cases of artistic injustice in which an artifact is misclassified by being considered as an example of some inappropriate art kind, or by being considered relative only to an inappropriately restricted range of art kinds. But in the most extreme cases of artistic injustice, an artifact is such that there is no art kind *K* such that it is considered as a *K*. For those who favor a broadly institutional theory of art kinds, this may occur because which kinds *K* are institutionally realized as art kinds is driven by hierarchical patterns of cultural valuation. For example, suppose that Ella is an artist whose chosen medium is needlework. This is a feminized medium strongly associated with domestic labor. The (male) institutional gatekeepers in Ella's social context acknowledge that she is highly skilled and that she produces beautiful objects. They admit that they would pay good money to decorate their homes with the objects she produces. But they insist that she is not producing art. Examples of needlework, they insist, can never belong to any art kind. They prevent *needlework* from being institutionally realized as an art kind. Assuming that *K* is an art kind only if it is institutionally realized as such, they prevent *needlework* from being an art kind.[45]

There are, of course, all sorts of reasons one might not consider an artifact as any art kind *K*. No one considers the kind *my doodles* as an art kind. That's unobjectionable. A failure to consider my doodles as any art kind *K* is not expressive of hierarchy. Some cases are harder. Consider

41. Phillip Brian Harper, *Abstractionist Aesthetics: Artistic Form and Social Critique in African American Culture* (New York: New York University Press, 2016), 21.

42. Ibid., 24.

43. Ibid., 27.

44. Whittaker, "When I Get Home."

45. Katharine Jenkins, "Ontic Injustice," *Journal of the American Philosophical Association* 6 (2020): 188–205.

someone who insists that food is not art because they agree with Hegel that it is constitutive of art that it must be capable of surviving its appreciation.[46] One might argue that such a criterion is subtly expressive of hierarchy, given that it encodes a division between the male-coded world of culture (in which objects are figured as robust and durable) and the female-coded world of bodily need and reproductive labor, in which objects exist only transiently before being consumed.[47] That such tricky cases exist is not an objection. In some cases, it is simply hard to judge "in the abstract" whether a given norm plays a role in constituting or maintaining social hierarchy. Making such a determination sometimes requires an empirically rich account of the norm's history and functioning.

Ella's case is more clear-cut. She suffers an artistic injustice. Needlework is not institutionally realized as an art kind because her chosen medium has low social status, and its low social status is a product of a relevant social hierarchy—one which denigrates feminized activities relative to masculinized activities. The institutional failure to realize *needlework* as an art kind blocks Ella from having her work be artistically appreciated because, assuming a broadly institutional theory of art kinds, it blocks her from having her work be engaged with as any art kind *K*. (Note that, as in the case of John the jazz composer, it is not Ella's identity which is relevant here; rather, the driver of the gatekeepers' exclusionary impulse is the feminized status of her chosen medium.)

In other extreme cases, an agent's expressive work is engaged with just as though it were a naturally occurring artifact. One can engage with an agent's creative work and be sensitive to a good deal of its aesthetic value without engaging with it as a specifically expressive artifact. When I admire a beautiful shell, I am not admiring the shell as a work of the creative imagination; I do not engage with it as subjectivity realized in artifactual form.[48] If I engage with an agent's creative work as if it were—or only ever as if it were—a shell, I misclassify it. Consider an example given by Harper. As Billie Holiday aged, her voice, it was said, became "coarser." Critics commented on this but interpreted this quality only as a physical symptom, ignoring its expressive dimension: "The vocal quality of 'coarseness' is posited as the consequence not of particular affective experiences, but of a specifically physical phenomenon—deterioration of the vocal cords—wrought

46. Tiziana Andina and Carola Barbero, "Can Food Be Art?," *Monist* 101 (2018): 353–61.

47. Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 2013). For a sustained discussion of how aesthetic judgments of food are sensitive to a range of entangled hierarchies of race and social class, see Krishnendu Ray, *The Ethnic Restaurateur* (London: Bloomsbury, 2016).

48. See Georg Wilhelm Friedrich Hegel, *Introductory Lectures on Aesthetics* (London: Penguin, 1993).

by bodily senescence and stress. . . . The coarse voice sustains not merely a symbolic but an indexical connection to the experiential conditions of age and injury—that is, it materially correlates with and so directly evidences those same conditions."[49] This is not a matter of Holiday's singing being evaluated as music (an expressive medium) but a matter of it being negatively evaluated as such. Rather, a mode of engagement that is sometimes appropriate with respect to natural artifacts has been lifted from that context and has been inappropriately deployed in the context of an expressive artifact. Holiday's voice is "read" in the manner of a horse's teeth or the rings of a tree. This is an objectifying interpretive stance.[50] It reduces Holiday to her body. It is hard not to see such an interpretive stance as being driven by denigrating stereotypes which cast black people as bestial rather than human. Said interpretive stance is surely expressive of hierarchy. Thus, Holiday's singing is unjustly misclassified in having its expressive dimensions ignored.

Let us take stock. *A* does *B* an aesthetic injustice when *A* unjustly blocks *B* from having her work be aesthetically appreciated. One way for *A* to do *B* an aesthetic injustice is to make an unjust aesthetic judgment of *B*'s work. *A* does *B* an artistic injustice when *A* unjustly blocks *B* from having her work be appreciated as a *K* where *K* is some relevant art kind. *A* may do this either via unjust insensitivity or via unjust classification. If she does the latter, she commits a classificatory artistic injustice. This category can be read as regimenting the familiar moral-cum-aesthetic vernacular of "pigeonholing." Artists are pigeonholed when their work is classified in ways that do not facilitate the full artistic appreciation of their work (e.g., by considering a woman's writing only relative to the category of women's writing). Pigeonholing is unjust if the culprit misclassifications are expressive of hierarchy. Cultural gatekeepers play a large role in influencing how artwork gets classified. So they are particularly well-placed to inflict or ameliorate artistic injustice.

V. OBJECTIONS AND REPLIES

First, one might worry that my position presupposes that there are mind- and practice-independent facts about aesthetic value. Call this view *aesthetic realism*.[51] Consider what I say about McGonagall. When *A* judges that his poems are bad, she does not do him an injustice because her judgment is sensitive to their bad-making features. This suggests that a judgment of *x* cannot inflict an aesthetic injustice if the judgment is merited

49. Harper, *Abstractionist Aesthetics*, 93.

50. See Whittaker, "When I Get Home."

51. Louise Hanson, "Moral Realism, Aesthetic Realism, and the Asymmetry Claim," *Ethics* 129 (2018): 39–69.

by and is appropriately sensitive to *x*'s aesthetic features. But now suppose that aesthetic realism is false. Facts about aesthetic value are entirely constituted by our practices of evaluation. Now suppose that, according to our practices, *being made by a woman* counts as an aesthetic flaw. Then, women's art will merit negative aesthetic evaluations because it is made by women. Even blatantly sexist evaluations of women's art ("This is bad because a woman did it") will not count as unjust. They will be merited by and sensitive to aesthetically relevant features.

My response is twofold. First, I need not presuppose aesthetic realism. My view is compatible with some versions of anti-realism. Moderate anti-realists take facts about aesthetic value to be entirely constituted by facts about an idealized or "cleaned-up" version of our practices of evaluation. This "cleaning up" might have a moral valence. Perhaps facts about *x*'s aesthetic value are determined by how our practices of evaluation would treat *x* were those practices purged of their hierarchical elements. Anti-realists who reject idealization (either in toto or in its moralized form) are harder to deal with. For such anti-realists, where dominant critical practices are thoroughly infused by social hierarchies, there will be no tension between fully appreciating a work of art and having one's judgments of it be expressive of hierarchy. Still, such anti-realists can be egalitarians. So they can hold that aesthetic judgments made in line with dominant critical practices may be unjust. Such egalitarian anti-realists should adapt their account of aesthetic injustice. They can say that an agent suffers an aesthetic injustice if their creative work is engaged with in a way that is expressive of hierarchy.

Second, one might worry that my view is committed to philistinism. For we ought to aesthetically esteem artifacts only if they merit aesthetic esteem. But my view looks to have trouble accommodating this platitude. Take quilting, a feminized medium. Either all quilts merit aesthetic esteem, or they don't. The former is not plausible. So consider a quilt that lacks aesthetic value. The everyday platitude—esteem only what's good—says I should not esteem it. But my view looks to predict that if I fail to esteem it, I am inflicting an injustice on its artist. Presumably, I ought not to inflict such an injustice. So the platitude comes out false.

This misunderstands my view. I say that the judgment that the quilt lacks aesthetic value is unjust if it is expressive of a hierarchy. The judgment expresses hierarchy if and only if it is guided by or communicates hierarchical norms and beliefs. Must it do either of these? No. Consider guidance first. The judgment that the quilt lacks aesthetic value is in accordance with hierarchical norms and beliefs. But to be in accordance with *N* is not sufficient for being guided by *N*. Someone can drive on the left-hand side of the road without being guided by the norm *drive on the left*. If the judgment that the quilt lacks aesthetic value is made purely in response to its garish colors, for example, that judgment is not guided by a relevant hierarchical norm.

Now consider communication. Must a (public) judgment that a quilt lacks aesthetic value communicate hierarchical meanings? No. We can explain our aesthetic judgments. Someone who expresses their judgment that a quilt lacks aesthetic value can say something like "That quilt lacks aesthetic value not because it is a quilt, but only because it is garish." This does not communicate hierarchical meanings, because the judgment it expresses is not readily interpreted as a judgment guided by hierarchical norms, but rather interpreted as guided by morally unobjectionable norms which speak against garishness. Hence, my view does not predict that someone who judges a quilt to lack aesthetic value invariably inflicts an injustice. For similar reasons, my view is also compatible with (*a*) just agents having different aesthetic tastes and (*b*) a sexist, say, fully aesthetically appreciating (what he knows to be) a woman's art, so long as his sexism does not guide his evaluation of the art. (I take no view on the likelihood of such an eventuality.)

One might still worry. Sometimes we cannot tell whether our judgments are guided by hierarchical norms. Take *A*'s judgment that McGonagall's poems are bad. Perhaps we will discover, say, that our preference for certain metrical patterns—preferences against which McGonagall's poetry offends—are rooted in, say, class hierarchies.[52] Given this uncertainty, making aesthetic judgments will be risky. We won't be able to rule out their being unjust. But to take the risk of inflicting injustice itself seems wrong. So it seems that agents must, to avoid the risk of inflicting injustice, refrain from making aesthetic judgments, either entirely or across an extremely wide range of cases. But that's an absurd demand.[53]

My response is that lots of injustices are like this. For example, it might be very difficult to tell, even for those involved, whether a decision to hire a white man rather than a black woman was discriminatory, or successfully tracked candidate quality.[54] Those on an appointments panel should not be certain that the features they regard as unproblematic markers of candidate quality are unproblematic markers. A preference that was once regarded as unproblematic—for example, a preference for candidates who are fluent in Standard American English—might come to be recognized as expressive of, say, racialized hierarchies. Making hires as we do, then, is a morally risky business. But the right response is not, presumably, to give up on making hires. Where good-faith efforts are being made to manage the level of moral risk, some residual levels of moral risk are acceptable.

52. Thanks to an anonymous reviewer for suggesting this worry.

53. Thanks to a reviewer for suggesting this line of argument.

54. Note that even if it is true that we could never know, of any particular aesthetic judgment, whether it constitutes an injustice, we might nonetheless be pretty confident, when looking at large-scale patterns of aesthetic judgments, that some of them—without being able to say which ones—are unjust.

Thirdly, one might worry that I am committed to an unduly broad conception of aesthetic judgment. Perhaps a judgment of some object *o* is a genuine aesthetic judgment only if the judgment is sensitive only to the object's aesthetically relevant features. This predicts that Mary-Ann's readers are not making genuine aesthetic judgments. Their judgments are sensitive to her gender, which is not an aesthetically relevant feature.

My response is that the narrow view of aesthetic judgment is a problem for my overall view—rather than for my diagnosis of certain cases—only if it suggests that no putative unjust aesthetic judgments involve genuine aesthetic judgments. It is easy to show that it does not have this implication. Suppose someone disdains all art made with feminized media. Their judgments are expressive of hierarchy. But *being made with a feminized media* is, at least sometimes, an aesthetically relevant property. Consider quilts like Grayson Perry's *Right to Life* or Tracy Emin's *Psycho Slut*. Grasping the aesthetic value of the quilts plausibly requires sensitivity to the juxtaposition of the soft, domestic coding of its media to its overtly political (Perry) or studiedly obscene (Emin) content.

Fourthly, one might worry that my view is totalitarian. The claims of justice are enforceable. If we allow that aesthetic judgments are unjust, we allow that it is legitimate for the state to penalize people with the "wrong" aesthetic judgments. (This objection can also be leveled at those who say that aesthetic judgments of bodies can be unjust.)

My response is to reject the objector's account of justice. Feminists typically reject the enforceability constraint as inadequate to the reality captured by the slogan "the personal is political." Take the division of domestic labor between cohabiting heterosexual couples. It's unjust if the women in such couples systematically do more work than the men.[55] Nonetheless, it does not seem appropriate for the state to penalize households in which women do more of the domestic labor than men. Some unjust behavior lies beyond the legitimate reach of the law.[56]

Happily, there are ways for the state to manifest its concern for justice that do not involve penalizing unjust behavior. The state can promote just behavior without penalizing unjust behavior. In the aesthetic context, this might mean, inter alia, offering subsidies to galleries which exhibit work by marginalized artists, or including marginalized expressive traditions within the school curriculum. (This response applies mutatis mutandis in the context of body aesthetics.)

55. Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic, 1989); Gina Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor* (Oxford: Oxford University Press, 2019); Silvia Federici, *Revolution at Point Zero: Housework, Reproduction, and Feminist Struggle* (Oakland, CA: PM Press, 2020).

56. Gerald A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008), 140.

Finally, one might worry about the credentials of "aesthetic injustice" as a specifically political category. *A* does *B* an aesthetic injustice if her aesthetic judgment of *B*'s work is expressive of hierarchy. But all sorts of things—for example, a refusal to shake hands—can be expressive of hierarchy. What's special about the aesthetic case?

One might respond by positing a special kind of aesthetic interest against which aesthetic injustice offends. Aesthetic injustices, one might say, wrong agents in their capacity as artists (cf. Fricker's claim that epistemic injustice wrongs agents specifically in their capacity as knowers).[57]

That's not my preferred strategy. Even if agents have such special aesthetic interests, it's unclear that such special interests should be legible as such from the perspective of a nonperfectionist political theory. I'll explore a different response. That's the task of the next section.

VI. EXPRESSION AND SUBJECTIVITY

I don't think that aesthetic injustice makes for an interesting category because there is anything special about the core wrong it does to agents. It's a mistake to think that political categories must pick out sui generis wrongs. Consider the category of food justice, used by scholars and activists to contest food deserts, exploitative labor practices, and predatory advertising practices.[58] The category does not pick out a special kind of wrong done to agents. Rather, it is useful because it helps to reveal how a functionally integrated set of material and economic practices result in a suite of familiar wrongs and harms. This is a helpful model for the category of aesthetic injustice. Aesthetic injustice makes for an interesting category because of its connection to two politically crucial social practices: hermeneutical contestation and subject recognition.

A. Hermeneutical Contestation

"Hermeneutical contestation" names the multiply realized social practice whereby a culture's expressive resources are shaped and struggled over. It is a politically crucial practice because a culture's expressive resources shape which forms of collective life are possible for its inhabitants and constitute a horizon of intelligibility, beyond which citizens' interests and concerns cannot be subject to meaningful public debate. Agents are *hermeneutically marginalized* when the social groups of which they are members are unjustly blocked from contributing, on an equal footing, to the development of their culture's expressive resources.[59]

57. Miranda Fricker, *Epistemic Injustice* (Oxford: Oxford University Press, 2007), 1.

58. See, e.g., Julie Guthman, *Weighing In: Obesity, Food Justice, and the Limits of Capitalism* (Berkeley: University of California Press, 2011).

59. Fricker, *Epistemic Injustice*.

The discursive and cultural practices through which agents may contest and contribute to a culture's interpretive resources are various. Fricker's examples include academia, journalism, and law. But art should be included too. Aesthetic production is a key site of hermeneutical contestation. "It is through poetry," says Lorde, "that we give name to those ideas which are, until the poem, nameless and formless."[60] Eaton argues that norms of depiction for the female nude play a role in replicating expectations of female sexual passivity.[61]

Narrative fiction offers its readers a rich suite of interpretive resources.[62] Further, artworks are often more appealing than academic papers or legal judgments. They will often circulate more widely and embed themselves more readily in their audience's cognitive repertoires than the "drier" resources offered by law or academia. To be cut off from aesthetic production, on this picture, is to be cut off from one of the liveliest and most influential sites of hermeneutic contestation.

Let's call agents who are hermeneutically marginalized because they are cut off from aesthetic production *aesthetically marginalized*. We can understand the moral-cum-political significance of aesthetic injustice by appreciating its connection with hermeneutical contestation. Aesthetic appreciation regulates access to resources that agents need (such as materials and audiences) if their aesthetic productions are to be capable of hermeneutical contestation. Thus, the category of aesthetic injustice earns its theoretical keep not by pinpointing sui generis wrong but by picking out an overlooked driver of hermeneutical marginalization.

One might object. The language of an expressive resource is not Fricker's. In characterizing hermeneutical marginalization and its effects, Fricker speaks in terms of interpretive resources and hermeneutical lacunae. The clearest examples of hermeneutical lacunae being filled involve the development of new concepts (e.g., the concept of sexual harassment).[63] So it is natural to think of interpretive resources in broadly conceptual terms. Once the category of hermeneutical marginalization

60. Audre Lorde, "Poetry Is Not a Luxury," in *Strong Words*, ed. W. N Herbert and Matthew Hollis (Hexham, UK: Bloodaxe, 2020), 82–83, 82.

61. Anne W. Eaton, "Where Ethics and Aesthetics Meet: Titian's *Rape of Europa*," *Hypatia* 18 (2003): 159–88; Anne W. Eaton, "What's Wrong with the (Female) Nude?," in *Art and Pornography: Philosophical Essays*, ed. Hans Maes and Jerrold Levinson (Oxford: Oxford University Press, 2012), 277–308.

62. Simone de Beauvoir, *The Second Sex*, trans. H. M. Parshley (New York: Vintage, 1997), 229–78; Zoë Cunliffe, "Epistemic Injustice and the Role of Narrative Fiction," *European Society for Aesthetics* 77 (2019): 169–80; Kate Millet, *Sexual Politics* (Urbana: University of Illinois Press, 2000); Martha C. Nussbaum, *Love's Knowledge: Essays on Philosophy and Literature* (New York: Oxford University Press, 1990); Martha C. Nussbaum, "Poetic Justice: The Literary Imagination and Public Life," *Political Theory* 26 (1998): 557–83.

63. Fricker, *Epistemic Injustice*, 149.

is so regimented, its connection with artistic production becomes insecure. Perhaps some art forms—narrative fiction, say—contribute to a culture's conceptual resources. But surely not all do. Bach's cello suites, for example, are expressive, but they do not express thoughts. Their mode of expression is nonconceptual.

I have two responses. First, Fricker herself is ecumenical when it comes to unpacking the concept of an interpretive resource. For Fricker, not all interpretive resources concern the content rather than "the form of what can be said."[64] Second, the moral stakes of hermeneutical marginalization are grounded in its connection with hermeneutical injustice, which Fricker regards as occurring when agents are not able to make themselves intelligible. One way we make ourselves intelligible is by way of conceptual articulation. But conceptual articulation is not the only way we make ourselves intelligible. We also make ourselves intelligible via nonconceptual expressive resources. Someone feeling a mixture of melancholy and hope might make this complicated mixture intelligible by playing Bach's Cello Suite no. 1. Given that both conceptual and nonconceptual expressive resources have a role to play in making ourselves intelligible to each other, it would be strange for a concept of hermeneutical marginalization to capture only the former. Indeed, in some cases, the tools of nonconceptual articulation are the most fitting when it comes to disclosing and grasping our inner lives. Sometimes our inner lives are nebulous and inchoate, such that any "cleaned-up," specifically conceptual rendering would be a kind of distortion.[65]

One might insist that only failures of conceptual articulation are politically significant, because it is only once experiences receive a specifically conceptual articulation that they can appropriately enter into and influence public discourse. Bach's cello suites might help one friend to disclose their complex feelings to another, but they cannot serve as premises in arguments over policy.

This argument has two flaws. First, it ignores the mediating role that nonconceptual articulation can play. Even if the "end goal" were always a specifically conceptual articulation, getting to this end goal could be facilitated by an intermediate stage of nonconceptual articulation. Imagine speakers of an impoverished language with only two emotion words: 'happy' (which picks out all positively valenced emotional states) and 'sad' (which picks out all negatively valenced emotional states). How might such speakers arrive at a more variegated emotional vocabulary? Nonconceptual art plausibly has a role to play. Nonconceptual art can give voice to and allow speakers to coordinate, albeit roughly, on otherwise incommunicable

64. Ibid., 160.

65. Robert Simpson and Lea Salje, "Composing Thoughts" (unpublished manuscript).

aspects of inner life. This rough delineation of emotional life can serve as a prolegomenon to its fully conceptual articulation.

The second problem with the argument is that it relies on an unduly impoverished conception of public discourse. Arguments and other conceptually regimented forms of expression have a place in public discourse. But they do not and should not exhaust the discursive space. One way to see this is to consider the scope of free speech protections. Freedom of speech protections must, in any genuinely liberal democracy, extend to instrumental music, to dance, to abstract visual art, and so on.[66] It is natural to suppose that said art forms deserve that protection, at least in part, because they have an expressive role to play. They convey values and viewpoints. They do not do this by giving values and viewpoints conceptual articulation. That it would be unpalatable to deny them free speech protections on those grounds suggests that we tacitly recognize the importance of nonconceptual contributions to public discourse.

B. Subject Recognition

A second reason that aesthetic marginalization—and so aesthetic injustice—is a politically significant category turns on its connection to the social process of subject recognition. *A* recognizes *B* as a subject only when *A* recognizes *B* as a "center of deep inner experience, whose feelings and thoughts matter greatly to [her]."[67] Recognizing *B* as a subject is necessary if *A* is to relate to *B* as an equal. Only if *A* recognizes *B* as a subject can she cogently accept an obligation to justify her actions by principles acceptable to *B*.[68]

Cultures can wrong agents by making it difficult for others to recognize them as subjects. On a broadly Hegelian view of subjectivity, we become constituted as subjects through an ongoing process in which we respond to challenges to our status as subjects.[69] A subject constitutes himself in the process of recognizing the distinction between self and other—a distinction which, in the Hegelian tradition, the self is forced to realize when forced to reckon with the claims of an opposing consciousness, relative to which he is an object. Beauvoir argues that women, under patriarchal social conditions, are deprived of the cultural resources required to set up an opposing claim when men's consciousness

66. Ibid.

67. Martha Nussbaum, *Citadels of Pride* (New York: Norton, 2021).

68. Subject recognition is not equivalent to any of the three orders of recognition as theorized by Honneth; see Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, trans. Joel Anderson (Cambridge: Polity, 2005). It is too universal to be love recognition. It is not legal recognition, because recognition of *x* as a rights bearer is not sufficient to recognize them as subject. It is not a solidaristic relation because it needn't involve valuing a person's activities.

69. Ibid.

sets them up as the other. The attempt to "objectify" a competing consciousness is a psychic universal. But the ability to resist objectification depends on the existence of suitable cultural resources.[70]

Members of aesthetically marginalized social groups are often deprived of cultural resources by which they might render themselves socially legible as subjects. In many social contexts, art is regarded as the expression and manifestation of subjectivity par excellence. When art is culturally coded as the paradigmatic manifestation of subjectivity, groups that are aesthetically marginalized are not simply excluded from "one more" social practice that some people care about and which leaves others cold. Rather, members of that group are barred from rendering their subjectivity concrete, in an artifactual form in which it is culturally legible as such.

VII. CONCLUSION

We live in a world in which people starve to death and drown while seeking asylum. In such a world, it might seem tasteless, even decadent, to pay too close attention to the micropolitics of aesthetic appreciation. But political philosophy must think beyond the most obscene and urgent injustices of its day. "The world," wrote Harriet Taylor Mill, "is very young and has just begun to cast off injustice."[71] Part of political philosophy's task is to say what an older, more just world might look like.

My contention is that the demands of justice reach into our aesthetic lives. Our aesthetic responses are not politically innocent. This is not because justice requires that all creative work be admired. Nor is it because some agents deserve aesthetic esteem and are wronged if they don't get it. It is because my aesthetic response to your work may constitute a failure to treat you as an equal. Failures of egalitarian duty may occur in many spheres. But such failures have a special charge when they occur in the aesthetic sphere. For that sphere has a culturally privileged connection with the articulation of our status as subjects and so with the articulation of our status as creatures who can be bound by the duties of egalitarian justice in the first place.

70. Beauvoir, *Second Sex*, 19–21.
71. Harriet Taylor Mill, *Enfranchisement of Women* (London: Trübner, 1868), 8.