

The Triviality Worry about Gender Terms and Epistemic Injustice

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Abstract: According to contextualism, a gender term such as ‘woman’ does not invariantly refer to a specific social *or* biological kind. Instead, gender terms have different extensions depending on the context of utterance. Contextualism accommodates that speakers are perfectly able to use gender terms in very different ways and still be coherent and successful in their communicative exchanges. However, while the flexibility of contextualism is its primary asset, it has also turned out to be its potential demise. The worry is that the view not only makes trans-*including* claims true but also allows that trans-*excluding* claims can be true and therefore, does justice to the claims of trans people only in a trivial sense. This paper defends the view that contextualists can respond to this worry by showing why trans-excluding claims are often morally problematic even in contexts where they are true. Contextualists are well-equipped to say that when speakers insist on using gender terms in trans-excluding ways, they engage in a meta-linguistic negotiation about how gender terms ought to be used – where using them trans-excludingly is treated as normatively superior. This constitutes a kind of epistemic injustice.

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1. Introduction

It has turned out to be a difficult challenge within philosophy of language and social ontology to offer an account of what gender terms such as ‘woman’ and ‘man’ refer to. We want our account of the meanings of gender terms to be consistent with the way people use them. However, since gender terms can be used in very different ways, it is difficult to see how we can reasonably expect to find definitions of these terms that apply in all contexts. One conclusion to draw from this is that gender terms do not invariantly refer to any single kind at all. Instead, the terms have different extensions depending on the context of utterance, as *contextualism* maintains.

An advantage of contextualism is that it can accommodate trans-including uses of gender terms. If contextualism is correct, it will be true that a trans-woman is a woman insofar as the relevant contextual parameters at the context of utterance determine that the extension of ‘woman’ is trans-including. However, according to *the triviality worry*, contextualism thereby does justice to the claims of trans people only in a trivial sense, because there will also be contexts where trans-excluding claims are true.¹

In this paper, I argue that contextualism can respond to this worry. I will argue that it is a mistake to expect that contextualism must predict that trans-excluding claims are always false. Instead, contextualists should be able to account for the way that trans-excluding claims constitute an injustice and are offensive, even in contexts where they are true.

¹ This worry is raised by Saul (2012) and has been further discussed by Díaz-León (2016), Ichikawa (2020), Laskowski (2020) and Chen (2021).

2. Contextualism and The Triviality Worry

There have traditionally been two lines of response to the question of what gender terms such as ‘woman’ or ‘man’ mean. These terms either pick out *biological* kinds or *social* kinds. According to biological accounts, the term ‘woman’ refers to people who possess certain biological features, such as having XX chromosomes and vaginal genitalia, whereas the term ‘man’ refers to people who possess certain other biological features, such as having XY chromosomes and penile genitalia. By contrast, social accounts instead contend that ‘woman’ and ‘man’ refer to people who share two distinct social roles, characterized by their position in a hierarchical social structure.

There are at least main two objections to biological accounts. First, the distinction between female and male biological sex is not as clear cut as folk intuition might have it. Second, the biological account entails that it can never be true that a trans woman is a woman and that a trans man is a man, since a persons’ gender will be completely bound up with their biology. Moreover, people who identify as non-binary will be forced into the gender category that their biological sex corresponds to (Saul, 2012, pp. 197–200).

One might conclude from these problems that gender terms refer to social kinds. However, the social account also faces problems. The main problem is that a gender term such as ‘woman’ is not uniform enough to apply to all women. The features that have traditionally been taken to constitute being a woman have reflected the experiences of white, middle-class women. But there is a wide range of social roles associated with women depending on other socially significant categories, such as, class, race, disability, cultural background or sexual orientation (Friedan, 1963; Spelman, 1990; Harris, 1997; Butler, 1999; Young, 2002; Stone, 2007). It is therefore difficult to see that there would be a single social role shared between all women – and how to characterize this role more precisely.

It thus turns out to be a difficult task to figure out a definition of what ‘woman’ and ‘man’ mean that applies in all contexts – we cannot find some essential feature that is constitutive of womanhood or manhood that captures all individuals that we want to call women and men. One conclusion we might draw from this is that gender terms do not invariantly refer to any single kind *at all* – social or biological. Instead, gender terms should be given a semantics that allow them to pick out different sets of individuals depending on the context of utterance (Bettcher, 2009; Saul, 2012; Laskowski, 2020). According to such *contextualist* views, there is no single privileged meaning for ‘woman’ that holds across all contexts of utterance, and we need therefore not search for *the* biological or social kind to which this term refers (and the same goes for ‘man’).

It is important to bear in mind that the role played by context in content determination is a vast and complex topic in philosophy of language more generally. There are therefore many different possible versions of contextualism about gender terms, depending on how one conceives of context sensitivity. Although my discussion will not revolve around any specific kind of contextualism, I will give a brief sketch of what I take to be at least three contextualist options – where contextualism is understood as quite a broad category of views in this context.

First, gender terms might be treated as indexicals (such as ‘I’, ‘here’, ‘now’, etc.) that have a systematic context sensitivity in the sense that the extension is directly determined by a relevant parameter at the context of utterance (such as a speaker, time or location parameter). For instance, a simple version of this account for gender terms would be that the criterion for ‘woman’ or ‘man’ is determined by a standard that the speaker subscribes to. Second, gender terms might be treated as context sensitive in the sense that the broader conversational setting helps determine the exact content of what is said. For instance, the content is modulated depending on the purpose or aim of

the interaction and pragmatic guidelines (such as Gricean maxims), which help determine the exact content of what is said by a gender expression at a context.

Lastly, gender terms might be understood as polysemous expressions (Laskowski, 2020). Polysemous expressions conventionally have several distinct, but related, meanings. For instance, ‘drink’ can be used in a narrow sense to refer to *alcoholic drink* or more generally to refer to *drinkable beverage*, and ‘book’ can be used in a narrow sense to refer to a *physical book* or to a *piece of literary work*.² One way of thinking of polysemy in relation to other forms of context sensitivity is that polysemy arises when the context sensitivity of a term has become conventionalized (Recanati, 2017). As such, a term becomes polysemous because of a history of modulation. In relation to gender terms, this allows us to say that ‘woman’ may have started out as a term that referred only to individuals with certain biological properties but has been modulated to refer to other groups as well and that once these modulations become conventionalized, we end up with a polysemous expression.

Contextualists might not only disagree about how the context influences the content of gender terms, but they might also disagree on what the different possible extensions are. On the one end of the spectrum, one might opt for a coarse-grained account where ‘woman’ can have one out of two possible extensions – e.g. one sex-involving reading and one gender-involving reading (corresponding to the biological and social accounts described above).³ On the other end of the spectrum, we find fine-grained alternatives where there are multiple possible meanings of ‘woman’

² Polysemy is different from *homonymy*, which include terms such as ‘bank’, which has two distinct, unrelated meanings that share phonology.

³ It is worth noting that depending on how we understand the gender-based reading, it is not obvious that trans-women would be included into this definition either (cf. criticism of the social account of gender mentioned above).

– for instance, determined by some standard adhered to by the speaker which determine a set of criteria.

To illustrate, Bettcher distinguishes between a *dominant* use of ‘woman’ that assumes a view of the world that does not allow for trans-identity and a *resistant* sense of ‘woman’ that assumes wholly different gender practices and ways to view the world. This suggests that Bettcher’s view should be understood as a version of the coarse-grained alternative. However, she adds that within the trans subculture there are also “multiple and sometimes conflicting accounts of gender” (Bettcher, 2009, p. 246), suggesting a fine-grained alternative reading of the view as well.

For my purposes here, it will not matter much how exactly we want to cash out the way that the extensions of gender terms are context sensitive nor what the different meanings are. From now on, I will take the central thought for any form of contextualism to be that what is said by a sentence that contains a context sensitive expression gets modulated depending on features of the context, such as the purpose of conversation, or the speaker’s intentions, standards or the norms of her community – and that gender terms are context sensitive in this way. Hence, what matters is that gender terms are expressions that have different extensions depending on the context in which they are uttered and that the terms ‘woman’ and ‘man’ can be used to refer only to individuals that share certain biological properties in some contexts, but not in others.

Contextualism can accommodate that biological definitions of gender are commonplace in everyday use by ordinary speakers and correspond to the definitions that one would find in most dictionaries. According to contextualism, this is because there is a dominant use of gender terms which treats gender as biological sex, but in addition, that there are other uses as well. To illustrate, consider the following two cases from Laskowski:

Case 1: Lee, who has XX chromosomes, vaginal genitalia, and the like, utters ‘I’m a woman’ in a discussion concerning screenings for vaginal cancer at a medical office.

Case 2: Harper, who has XY chromosomes, penile genitalia, and the like, utters ‘I’m a woman’ in a discussion among trans-inclusive feminists. (Laskowski, 2020, p. 41)

Laskowski argues that a contextualist semantics for gender terms can accommodate that both Lee and Harper say something true in their respective contexts. The contexts of utterance will determine the relevant parameters for the extension of ‘woman’.

This is an important benefit, because contextualism can therefore accommodate how competent speakers of the English language seem perfectly able to use gender terms in very different ways and still be successful in their communicative exchanges. However, while the flexibility of contextualism is its primary asset, it has also turned out to be its potential demise. The problem is that although Harper’s claim is true in Case 2, it would be false in Case 1 where the relevant standard for ‘woman’ is trans-excluding. In other words, contextualism not only entails that trans-*including* claims can be true, it also entails that trans-*excluding* claims can be. This is illustrated by Chen in the following case, which I will call Case 3:

Case 3: The government orders that all people of Charla’s age be screened for either cervical or testicular cancer. Charla goes to the hospital in a sundress and is received

by Charlie, a transphobic medical professional. Charlie finds Charla's voice masculine and notices her Adam's apple. Charlie quickly points Charla to the section where screening for testicular cancer is conducted and says, "You should go there because you are not a woman." Charlie also says to other colleagues, "Charla is not a woman." (Chen, 2021, p. 586)

In this case, the contextual parameters that settle the correct sense of 'woman' are the same as in Case 1 – that is, a standard of womanhood where having a uterus is required. This means that Charlie's claims turn out to be true. Charla is not a woman in this context.

The worry about this result is that contextualism does justice to trans-people's claims merely in a trivial sense. As Saul puts the worry: 'What the trans woman needs to do justice to her claim is surely not just the acknowledgment that her claim is true but also the acknowledgement her opponent's claim is false' (Saul, 2012, p. 210). Similarly, Díaz-León grants that contextualism 'seems to do justice to the claims of trans women only in a very trivializing way, because it can also render true the claims of trans-misogynist speakers' (Díaz-León, 2016, p. 247). This is the triviality worry against contextualism about gender terms.

In what follows, I will defend the view that contextualism can respond to the triviality worry by offering an account of why trans-excluding claims are often morally impermissible by virtue of constituting a kind of epistemic injustice, even in contexts where they are true (cf.

(Bettcher, 2009; Ichikawa, 2020; Laskowski, 2020).⁴ I will argue that this view is better than an alternative way of responding to the triviality worry defended by Díaz-León (2016).

3. Epistemic Injustice as a Response to the Triviality Worry

Contextualism can maintain that trans-excluding claims are offensive or inappropriate, even in contexts where they are true. Hence, the contextualist can say that, regardless of whether the claim is true or false, the speakers should not have said what they said because it is offensive or constitutes an injustice.

More precisely, trans-excluding language can constitute *epistemic injustice*. In her influential account of epistemic injustice, Fricker (2007) introduces cases in which speakers are treated unjustly *as knowers*. There are two types of epistemic injustice, which can roughly be defined as follows. First, a speaker suffers a *testimonial* injustice when her testimony is assigned less credibility because of a prejudiced stereotype about her social identity held by the listener. Second, a speaker suffers *hermeneutical* injustice when she lacks the relevant terminology to properly describe, communicate and understand her experiences. As such, testimonial injustice consists in having an unjust deficit of credibility, whereas hermeneutical injustice consists in having an unjust deficit of intelligibility (Fricker, 2007, p. 2).

The type of epistemic injustice that I will focus on here is primarily a kind of hermeneutical injustice, but there is an important sense in which hermeneutical injustice can be caused or

⁴ Although I defend contextualism against the triviality worry in this paper, I acknowledge that there might be *other* objections to the contextualist views by Bettcher, Laskowski or Díaz-León that are not discussed here. A full defense of contextualism about gender terms would need to address all objections that the view faces. It is, however, beyond the scope of this paper to do so here.

enforced by testimonial injustice. That is, although testimonial and hermeneutical injustice are two distinct categories of epistemic injustice, there is an intimate relation between them. As Fricker and Jenkins (2017) argue, when members of a social group continuously suffer testimonial injustice as they are trying to communicate, they will be prevented from generating new terminology to describe their experiences. As a result, the hermeneutical resources that help describe their experiences remain within the in-group at best and ‘members of out-groups do not gain the conceptual know-how embodied in the in-group’s would-be hermeneutical contributions’ (Fricker and Jenkins, 2017, pp. 270–271).⁵ In this way, sustained testimonial injustice *produces* hermeneutical injustice and leads to ignorance from the out-groups.

This type of epistemic injustice is prevalent in the treatment of trans people, according to Fricker and Jenkins. They contend that this is partly because the discourse concerning trans identity has revolved largely around clinical settings where trans people are the patients or research subjects. The power within this discourse has thus largely resided in researchers or medical professionals who study and treat them, who often have no first-hand experience of being trans. Moreover, trans people often lack the power to set the terms of the discourse in other contexts as well, such as the media and the legal system. As a result, the hermeneutical resources available in various contexts have not (primarily) been shaped by trans people themselves (Fricker and Jenkins, 2017, pp. 271–274).

The examples of hermeneutical injustice discussed by Fricker mainly involve the introduction of new terminology to help describe certain experiences. This is primarily exemplified with the introduction of the term ‘sexual harassment’ – without which it had been difficult for

⁵ Cf. Medina (2012) and Pohlhaus (2012).

women to understand, describe, communicate and be compensated, for their experiences of mistreatment at workplaces and the like (Fricker, 2007, pp. 149–151). Similarly, in the case of trans people, the introduction of new terms – such as ‘gender identity’ or ‘cis-gender’ – might aid in the ability to communicate one’s experiences.

Although there is plenty more to be said about this, I will focus on how hermeneutical injustice can arise regarding established words, such as ‘woman’ and ‘man’, rather than the introduction of new terms. We can thus distinguish between two types of hermeneutical injustice. The first kind arises when one is unable to introduce *new words* to properly describe one’s experiences (such as with ‘sexual harassment’, etc.). But more importantly, there is also a second kind of hermeneutical injustice. It arises when one is unable to influence the way *existing terms* are used and can also create obstacles for properly describing one’s experiences. In much the same way as the first kind of hermeneutical injustice can be enforced by testimonial injustice, so can this second kind be. When members of a social group continuously suffer testimonial injustice, they can be prevented from influencing existing terminology in ways that would enable them to properly describe their experiences.

To understand how this type of hermeneutical injustice works, we need to acknowledge that when speakers use a term differently from one another, they can engage in a *meta-linguistic negotiation*. Meta-linguistic negotiations are disagreements over what concept ought to be used or what boundaries for a concept ought to be employed at a given context. As Plunkett and Sundell put it:

Metalinguistic negotiations [...] may not at first glance appear — either to the speakers themselves or to the theorist — to reflect disagreements about concept choice. But in fact they do reflect disagreements about concept choice. Many disputes that theorists have thought must be analyzed in terms of the shared literal content are thus best analyzed as speakers using their words in different ways, advocating (metalinguistically) for their preferred usage. (Plunkett and Sundell, 2013, p. 3)

Since contextualism maintains that the extension of a gender term can change depending on the context of utterance, there are several different extensions that we might employ. Therefore, the contextualist can say that although speakers *can* use gender terms in trans-excluding ways, there are trans-including gender terms available that they *should* use. Since there are different meanings available, interlocutors can engage in a meta-linguistic negotiation about which option ought to be employed.

This way of looking at the political and ethical aspects of linguistic choices makes contextualism particularly well-equipped to account for the epistemic injustice suffered by trans-people in relation to gender terms such as ‘woman’ and ‘man’. As Bettcher argues, behind the choice between the dominant and the resistant concepts of ‘woman’ and ‘man’ (cf. section 2) there is a deep conflict about how to think about gender. As such, the question of which concept to employ should be understood as a political question that “concerns *which* concept we should take seriously, and this is connected to the larger question regarding which gendered vision of the world (if any) we commit to” (Bettcher, 2009, p. 244). Ichikawa argues trans-excluding uses of gender terms constitute a *contextual* injustice, which is defined as the injustice that a person or group suffers when the contextual parameters are unjustly set to disadvantage them. By selecting a trans-

excluding sense of ‘woman’ or ‘man’ as the dominant use in society, speakers disadvantage trans people.

As such, the fact that trans-excluding sentences can turn out true is an important part of the explanation for what is so harmful about the selection of trans-excluding gender terminology. When the trans-misogynist speaker gets to dictate the meta-linguistic boundaries, trans people are, by definition, excluded from the gender they identify as. As Ichikawa puts it, ‘part of the reason it can be so insidious and harmful is precisely that its inappropriate verdicts are literally true’ (Ichikawa, 2020, p. 15). Laskowski makes a similar point, arguing that a contextualist account – more precisely, a polysemy view – can accommodate that there is a widespread trans-excluding use of gender terms and that this fact is part of the very injustice that trans people suffer. As Laskowski puts it:

It’s hard to deny that mainstream usage of ‘woman’ often excludes trans individuals. That’s part of the reason there even exists trans-inclusive feminist activism. It’s precisely because so many speakers in the world use the excluding senses of ‘woman’ that trans-inclusive feminist activism has teeth. Trans-inclusive feminist activism would make little sense if everyone were already using ‘woman’ in a trans-inclusive way. (Laskowski, 2020, p. 48)

Hence, contextualism has the resources to say that trans people suffer epistemic injustice *because* they are too often disadvantaged by the result of the meta-linguistic negotiation of gender terms. Speakers often use gender terms in trans-excluding ways, rather than trans-including ways, which deprives trans people from the hermeneutical resources to properly describe their experiences in

these contexts. As Bettcher argues, the “conflict over meaning is deeply bound up with the distribution of power and the capacity to enforce a way of life” (Bettcher, 2009, p. 242). The meanings we assign to our terms can thus have important consequences.

Moreover, expressions that refer to social identities are especially prone to this type of normative meta-linguistic debate. The reason is that such expressions seem to have a *dual character* in the sense that they have a descriptive and a normative reading (Knobe, Prasada and Newman, 2013; Leslie, 2015). For instance, the normative reading of ‘woman’ depicts what “real” or “true” women are like, thus characterizing an ideal of how women ought to behave and what features they ought to have. In relation to contextualism, we can cash out this idea by saying that if contextualism is correct, there are several different possible readings of ‘woman’ and ‘man’, but that speakers can put forward one of these as the normatively superior one. For instance, in Case 3, Charlie can be interpreted as not only putting forward a sense of ‘woman’ were having a uterus is a necessary condition for the purposes of that particular context – but in addition, also putting forward this criterion of womanhood as the only way of being a “real” or “true” woman. This normative reading of ‘woman’ and ‘man’ can also include features that are not only trans-excluding but also exclude other ways for women and men to be and behave. For instance, that “real” women prioritize their family over their career and that “real” men don’t talk about their feelings.

In short, I have argued that contextualism can put the triviality to rest. Contextualism can show that although trans-excluding claims can sometimes be true, the practice of using gender terms in a trans-excluding way is part of a broader epistemic injustice against trans people. I will now consider a possible objection to this response.

3.1. Objection: The Triviality Worry Remains

In response to the proposal defended above, an objector might insist that the triviality worry is not solved at all by this account of epistemic injustice against trans people. Remember, the problem was that to do justice to the claims of trans people, the contextualist must be able to say not only that trans-including claims are true but that trans-excluding claims are *false* (Saul, 2012, p. 210; Díaz-León, 2016, p. 247). The appeal to epistemic injustice fails to meet this challenge because contextualism still allows that trans-excluding claims can be true.

So, should a contextualist do justice to the claims of trans people in this sense, rather than by appeal to epistemic injustice? Díaz-León (2016) presents a contextualist account that aims to do precisely this. According to this view, the truth-value of a sentence depends on objective features of the *subject* of the sentence rather than the preferred standard of the *speaker* at the context of utterance. These objective features include moral and political requirements for how the subject ought to be treated. Since there are moral and political reasons to allow trans-people to self-identify their gender, Charlie's claim that Charla is not a woman in Case 3 is false, regardless of whether Charlie believes that Charla does not have the right to self-identify as a woman (Díaz-León, 2016, p. 257). In other words, moral and political facts are part of the contextual parameters that determine the truth-conditions for sentences that contain gender terms.

Díaz-León's view faces problems, helpfully presented by both Chen (2021) and Laskowski (2020). A first problem is that this form of contextualism will give different results depending on our deeper metaethical commitments. For Díaz-León's contextualism to provide the verdict that trans-excluding claims are always false, it must be an objective moral fact that people have the right to self-identify their gender (Chen, 2021, p. 585). But if moral relativism is true, then moral truths are relative to the speaker (or assessor) at the context of utterance (or assessment). Hence,

the moral parameter that determines the extension of gender terms would differ depending on the context of utterance. And so, trans-excluding claims would turn out true in contexts where speakers accept trans-excluding moral norms if moral relativism is true.

A second problem is that it is questionable whether Díaz-León's view is a genuine form of contextualism at all (Laskowski, 2020, p. 44; Chen, 2021, p. 583). The main benefit of contextualism is that it allows flexibility with the term 'woman' such that it can make sense of different uses of the term – including situations such as Case 1 where 'woman' is used in a purely biological sense. But if there are objective moral factors that make self-identification the relevant standard for determining the extensions of gender terms at all contexts, then the flexibility of contextualism is lost. Put differently, it seems that Díaz-León's view abandons too much of what was appealing with contextualism to begin with.

This latter worry illustrates a deeper problem about the triviality worry, namely that we should not expect a contextualist to say that trans-excluding claims are false in all contexts. This begs the question against contextualism – the main benefit of which is to accommodate different uses of gender terms. But once we can account for the epistemic injustice committed by speakers who insist on using gender terms in trans-excluding ways, we can see that it is simply not necessary to include moral considerations into our semantics. We should come to acknowledge that the original formulation of the triviality worry was misplaced from the start. Contextualism is supposed to be a descriptive semantic view that provides a correct verdict about the actual meaning and use of gender terms. Once we take moral aspects into consideration, we instead embark upon a project in conceptual engineering concerning how we *ought to* use gender terms – which is an important, but distinct, project.

In response, the objector might insist that it is not unreasonable at all to take as a desideratum for a theory of gender terms that it should not render trans-excluding claims true, since such claims are morally objectionable. In support of this, the objector might appeal to a related debate in relation to whether claims that contain slurs can be true. Hornsby (2001, p. 130), Richard (2008) and Hom (2012) argue that sentences containing slurs should never turn out true since they are offensive. As Richard puts it:

Imagine standing next to someone who uses S as a slur. Perhaps you are in front of a building where targets of the slur live or work; the racist mutters *That building is full of Ss*. Many of us are going to resist allowing that what the racist said was true. (Richard, 2008, p. 13)

This objection is (primarily) thought to undermine accounts saying that the derogatory aspect of a slur is not part of its semantic content. For instance, one might contend that the literal content of a sentence such as “David is a kike” is a non-offensive proposition that ascribes to David the property of being of Jewish faith, but that *in addition*, the sentence also pragmatically conveys (through e.g. conventional implicature, pragmatic presupposition or meta-linguistic factors⁶) a derogatory content, such as *that David is despicable or deserves mistreatment, because of being Jewish* (Whiting, 2013; Marques and García-Carpintero, 2020). But this derogatory content does not affect the truth-conditions of what is said. Therefore, “David is a kike”, turns out to be true iff

⁶ Such meta-linguistic factors about the communicative exchange might be: the common knowledge that these words are prohibited, that they have a problematic history or that they are normally used by racists (Anderson and Lepore, 2013a, 2013b; Lepore and Stone, 2018; Nunberg, 2018).

David is Jewish, and a sentence such as “all Jews are kikes” turns out to be *trivially* true since it literally means *all Jews are Jews*. This result, one might think, is unacceptable.

However, there is good reason to think that the truth and the moral status of a claim can come apart if we consider other examples of utterances that constitute acts of derogation but in which the fact that these claims are morally objectionable has nothing to do with whether their truth-conditions are (or can be) fulfilled.

To exemplify, let us start with standard triggers of conventional implicature, such as, ‘but’ and ‘even’. These terms can be used to convey implicature that is derogatory. For instance, a sentence such as “David is Jewish, but he is generous with his money” conventionally implicates that there is a contrast between being Jewish and being generous, thus enforcing an offensive stereotype about people of Jewish faith being greedy. Consider also a sentence such as “even a woman could solve this equation”, which conventionally implicates that women are less able or likely to solve equations – thus enforcing an offensive stereotype that women are bad at mathematics (or that they are just generally unintelligent). According to the standard view of conventional implicature, the implicated content does not affect the truth conditions of what is said. Hence, the first sentence is true iff David is Jewish and generous with his money, and the second sentence is true iff a woman could solve the equation. The semantic contents of the claims can thus be true, even if the claims convey something offensive.

Moreover, speakers can also say offensive things in virtue of conveying contents as conversational implicature. For instance, consider a claim such as “some women deserve equal rights as men”. By uttering this sentence, the speaker conversationally implicates that *not all women deserve equal rights to men*. This scalar implicature is triggered because the use of ‘some’ implicates ‘not all’ (Levinson, 1983, p. 183). However, the semantic content is logically

compatible with the proposition that all women deserve equal rights to men. And so, since it is true that all women deserve equal rights as men, the claim that some do is also true, even though it conveys an offensive implicature.

Finally, consider a case in which Anne says to Bill that she thinks their new presidential candidate is a good politician and asks what he thinks. Now suppose Bill responds, “I just cannot stand her voice. It’s so high and pitchy”. Bill’s claim about the female presidential candidate’s voice as a response to Anne’s question of what he thinks of her as a politician implicates that the sound of her voice is relevant to evaluate her merits, thus enforcing the misogynist habit of treating superficial factors as relevant when we evaluate women’s abilities. Still, the literal content of what Bill says is true iff it is true that *Bill cannot stand her voice*, and *her voice is high and pitchy* – which may very well be true (albeit irrelevant).

The important thing to note is that the fact that all these claims carry morally problematic implicatures does not at all hinge on whether they are true or false. They are offensive regardless of whether their literal content is true. This is evidence that the derogatory aspects of these sentences do not reside in whether they are true and that true sentences can be morally objectionable.

The objector might respond that if these offensive claims were true, then we would be willing to respond to them in conversation by saying “that’s true”. But on the contrary, we are reluctant to do so. As Richard puts it in the quote above, we would not want to *agree* with the racist’s claim. Similarly, the proponent of the triviality worry might argue that we would not want to *agree* with Charlie’s claim in Case 3 – and that this indicates that what Charlie says cannot be true. If the racist and trans-misogynist speakers are saying something true, then we should be willing to agree with what they say in conversation.

This intuition is quite easy to accommodate by appeal to widely accepted accounts of conversational dynamics by Lewis (1979) and Stalnaker (1999). According to these frameworks, speakers aim to add the contents of their utterances to the *conversational score* or *common ground*. Roughly, the score/common ground consists of the propositions that are mutually believed to be accepted by all interlocutors. But as Lewis notes, speakers can get content accepted into the score by speaking as if it is already there. For instance, by saying “even a woman could solve this equation”, the speaker talks as if it is already mutual knowledge that women are worse at mathematics. If this content is not already part of the score, it becomes included through the process of presupposition accommodation. As Langton argues, speakers can in this manner get offensive content included in the conversational score through the ‘back doors’ (Langton, 2018, p. 145).

Bearing this in mind, it is no mystery why we will be reluctant to respond agreeingly to an offensive claim, even if we think that its literal content is true. By agreeing with what is said, the offensive content will sneak into the conversational score through the back doors. Hence, we can explain why we are reluctant to agree with offensive utterances even in contexts where the literal content of what is said is true. In the case of trans-excluding claims, we can explain our reluctance to agree with the speaker because by doing so, we would indirectly go along with the meta-linguistic assumption that the trans-excluding use of ‘woman’ or ‘man’ is appropriate.

In relation to slurs, Whiting argues that by allowing that a sentence such as “David is a kike” can be true, he does not thereby maintain that there is no reason to object to an utterance of it. Rather, “such an utterance is objectionable since it constitutes an act of derogation” (Whiting, 2013, p. 373). As such, the utterance is objectionable not because it is false but because it is offensive. According to Whiting’s conventional implicature account, it is offensive because it

implicates that David (and others of Jewish faith) are despicable and deserve mistreatment. Meta-linguistic accounts may give related explanations. For instance, one might argue that an utterance of “David is a kike” is objectionable because ‘kike’ a prohibited word or because it is associated with the language of anti-Semites. These constitute reasons to think that the sentence uttered is offensive and that it should not be uttered, but this does not constitute a decisive reason to think that its semantic content must be false.

In short, I have argued that the epistemic injustice response to the triviality worry should help us acknowledge that the *truth* of trans-excluding claims is not the heart of the issue for contextualism. Once we distinguish between the truth of a claim and the moral status of making it, we can see that the real issue has to do with the ethics of conversation and the ability to make oneself heard through mutual hermeneutical resources. Contextualism need not say that trans-excluding claims must be false – but the view must be supplemented with an account of why such claims are morally inappropriate, offensive and often ought to be avoided.

4. Conclusion

Contextualism about gender terms is flexible in the sense that ‘woman’ and ‘man’ can be used in either trans-including or trans-excluding ways. Hence, it predicts that it is true of a trans woman that she is a woman insofar as the relevant contextual parameters at the context of utterance determine that the extension of ‘woman’ is trans-including. According to the triviality worry, contextualism thereby does justice to the claims of trans people only in a trivial sense, because there will also be contexts where trans-excluding claims are true. I have argued that contextualism can disarm this objection by calling into question what should be required of a semantic theory of

gender. I argued that it is a mistake to expect that contextualism must predict that trans-excluding claims are always false. Instead, contextualists can account for the ways that trans-excluding language can constitute epistemic injustice, even in contexts where the literal contents of the trans-excluding claims are true.

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