

On “epistemic injustice” and victimization in prisons – an empiric exploration into Chilean reality¹

Sobre injusticia epistémica y victimización en la prisión: una exploración empírica de la realidad carcelaria chilena

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ABSTRACT: The article looks for reasons that explain the different results of criminal investigations conducted inside and outside prisons. We ask if and how the concept of epistemic injustice, as developed by Miranda Fricker, helps to understand those variations. The underlying

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hypothesis is that epistemic injustice is a symptom of a wider problem. The authors assume that the treatment of victims of violent crime inside prison has structural rather than interpersonal explanations. In a qualitative approach the study uses data from a series of semi-structured interviews with prisoners and prison officers (40 interviews in total). It explores the dynamics of the decision to report crime committed inside prisons and the role of different institutions involved in the investigation of these crimes from the perspective and experience of prisoners and prison officers. As result it is argued, that Fricker's concept of epistemic injustice suffered by victims of violent crime inside prison. It can be better understood in the terms of epistemic oppression used by Dotson. Thus, it is not about assigning blame but how to change the underlying social relations and institutions that subordinate prisoners on epistemic grounds.

KEYWORDS: prison violence; epistemic injustice; victims.

RESUMEN: *Este artículo indaga en las razones que explican las diferencias en los resultados de la investigación de delitos que se cometen dentro y fuera de la cárcel. El trabajo toma como principal herramienta de análisis el concepto de injusticia epistémica desarrollado por Miranda Fricker para preguntar si este concepto ayuda a comprender qué hay detrás de estas diferencias. El trabajo toma como idea principal que la injusticia epistémica que se observa en el contexto carcelario es un síntoma de problemas a nivel estructural. La hipótesis central de este trabajo es que las formas en las que se trata a las víctimas de delitos violentos dentro de la cárcel tendrían explicaciones de tipo estructural que superan las explicaciones basadas en las relaciones interpersonales. El artículo utiliza metodología cualitativa en la que se analizan 40 entrevistas semi-estructuradas con personas privadas de libertad y funcionarios de custodia, en el análisis se exploran las dinámicas detrás de la decisión de denunciar (o no) los delitos que se comenten en las cárceles y las percepciones de estas personas sobre el rol de las distintas instituciones del sistema de justicia involucradas en la investigación de delitos intracarcelarios. En este artículo se argumenta que el concepto de injusticia epistémica tal como lo define Fricker presenta limitaciones al momento de comprender la injusticia epistémica que sufren las víctimas de delitos violentos dentro de la cárcel y propone que este fenómeno se puede explicar de manera más precisa en términos de "opresión epistémica", concepto desarrollado por Dotson. Finalmente, no se trataría de preguntarse a quién culpar o cómo esclarecer, sino cómo modificar la subordinación de*

las personas privadas de libertad en términos epistémicos a través de las relaciones sociales y las formas en las que las s instituciones funcionan al tratar el fenómeno de la ocurrencia de delitos violentos dentro de las cárceles.

PALABRAS-CLAVE: *violencia intracarcelaria; injusticia epistémica; víctimas.*

SUMMARY: Introduction; I. Analytic context: 1. Epistemic injustice, 2. Contributory injustice, epistemic oppression and epistemic redlining; II. Results: 1. Methods, 2. Interviews with prisoners, 3. Interviews with prison officers; III. Discussion; Conclusions; References.

INTRODUCTION

In earlier works comparing data on prosecution and convictions for crimes committed inside and outside prisons, we found that the outcomes differ greatly between these groups, suggesting that prisoners suffer discrimination when it comes to the investigation of crimes where they are victims.⁵ Our figures show that in the case of homicides, physical or bodily harm and sexual crimes in prison, the results of the investigations have fewer judicial outcomes than when the same crimes are investigated outside prison. We also showed that the principle of discretionary prosecution (principle of opportunity)⁶ is used in a higher percentage of crimes within prisons. Regarding temporary filing,⁷ in the

⁵ See: STIPPEL, Jörg, MEDINA, Paula. Discriminación en la persecución penal. *Acerca de las diferencias entre delitos intracarcelarios y delitos cometidos fuera de prisión.*

⁶ Power granted by law to prosecutors not to initiate criminal prosecution or to abandon a prosecution already initiated, in respect of an act that does not seriously compromise the public interest, unless the minimum penalty assigned to the offence exceeds 540 days or it is an offence committed by a public official in the exercise of his or her functions.

⁷ VITAR explains that archiving operates when the background of a case does not allow an investigation to be conducted with a reasonable expectation of success. See: VITAR, Jorge. El archivo provisional y su adecuada aplicación en el proceso penal chileno. In: FUENTES, Claudio (org.) *Diez Años de la Reforma Procesal Penal en Chile*. Santiago: Ediciones Universidad Diego Portales. pp. 110-152, 2011. p. 114

prison context it doubles and sometimes triples its use in relation to its use outside prison. In comparison to criminal investigations conducted outside prisons, there is a considerably higher proportion of unsanctioned cases for crimes that are committed inside prisons.

These findings raise several additional questions. Some are ethical and deal with the legitimacy of the criminal justice system, while others raise doubts about possible injustice suffered by prisoners when they themselves are victims of violent crime. Nicola Lacey argues that the treatment of all on equal terms is “a litmus test of the justice of a criminal justice system”.⁸ In this article we will explain that a failure to respond to crimes carried out inside prisons are a threat to the overall legitimacy of the criminal justice system. Drawing on the idea of Lacey, the unjust disadvantages for those in prison are damaging to the perceived legitimacy of the system.

They are also, “corrosive of the state’s normative claim to legitimate authority.”⁹ Thus we understand a failure to respond to the crimes committed in prison, as a dangerous threat to the overall legitimacy of the correction and criminal justice system.

Our study analyses the possible reasons behind the outcomes of investigation into violent crime inside Chilean prisons. We want to know: if and how the concept of epistemic injustice, as developed by Miranda Fricker, helps to understand the way violent crime is being dealt with when the victim is incarcerated?

Our hypothesis is that epistemic injustice is just a symptom of a wider problem. We assume that the treatment of victims of violent crime inside prison has structural rather than interpersonal explanations.

To make our point, we ask if prisoners who have suffered violent crime inside a Chilean prison are victims of epistemic injustice. Thus, we want to find out if those prisoners are diminished in their credibility (or capacity as knowers) because of some lack of testimonial sensibility of the perceiver, in our case the correction officers? Or could we argue

⁸ LACEY, Nicola. Criminal Justice and Social (In)Justice, *International Inequalities Institute Working Papers* (84). London School of Economics and Political Science, London, UK, p. 5.

⁹ Ibidem.

that victims of violent crime inside prison are unfairly disadvantaged in their capacity to make sense of their experience to themselves or to the investigating authorities, specifically prison officers?

We use data from a series of semi-structured interviews with prisoners and prison officers (40 interviews in total) in which we explore the dynamics of the decision to report crime committed inside prisons and the role of different institutions involved in the investigation of these crimes from the perspective and experience of the interviewees.

The first chapter contains the analytic context of our research, where we also clarify the terminology in use. The second chapter presents the analysis of semi-structured interviews and surveys. We then discuss the implications of our findings in the third chapter and provide some conclusions at the end.

I. ANALYTIC CONTEXT

1. EPISTEMIC INJUSTICE

At a first sight, it seems convincing that prisoners can easily be victims of what has been discussed under the terms of epistemic injustice. But we need to define more precisely the concept to be able to understand its implications.

Eve Hanan explains that epistemic injustice is a new area of political philosophy that deals with “how knowledge production is damaged by excluding or discrediting the speech of certain social groups.”¹⁰ Miranda Fricker, who coined the term, distinguishes two forms of epistemic injustice: testimonial and hermeneutical injustice.

A. TESTIMONIAL INJUSTICE

Fricker argues that somebody suffers testimonial injustice when the level of credibility attributed to his or her word “is reduced

¹⁰ HANAN, M. Eve. *Invisible Prisons*, p. 1214.

by prejudice¹¹ operative in the hearer's judgement." She advises that "testimonial injustice not only blocks the flow of knowledge, it also blocks the flow of evidence, doubts, critical ideas and other epistemic inputs that are conducive to knowledge"¹². As an effect, "hermeneutical marginalization" might be created or increased. Fricker understands this to be the "epistemic damage" caused by testimonial injustice.¹³

At this point, it is important to note that Fricker refers to prejudice, not to a willful misunderstanding.

Eve Hanan explains that, prisoners are a group, "against whom identity prejudice is at work". She argues referring to several rules that show, in the case of the US, how general sentiments that prisoners ("convicts") are untrustworthy are in place.¹⁴ José Medina shares a similar view, applying the concept of "agential epistemic injustice" to the case of detained subjects. He argues that they suffer a special form of agential epistemic injustice he termed "epistemic neglect". Medina explains that this form of undermining epistemic agency emerges "when a subject's epistemic agency becomes negligible because the epistemic significance of the subject's contributions is unfairly diminished or rendered ineffectual by being given defective uptake or no uptake at all."¹⁵

As a strategy to confront testimonial injustice, Fricker asks "What sort of critical awareness is needed for a hearer to be able to correct for identity prejudice in a given credibility judgement?"¹⁶ Her answer to this question refers to the role of the social positions or identities of the parties involved, thus, the hearer of the claims has to be

¹¹ Doan argues that: "While prejudice is surely one 'ethical poison' from which epistemic injustice can be derived, it is certainly not the only or most important one." In: DOAN, Michael. *Epistemic Injustice and epistemic redlining*, p. 11.

¹² FRICKER, Miranda. *Epistemic Injustice and The Preservation of Ignorance*. In: PEELS, Rिल्s, BLAAUW, Martijn (org.). *The Epistemic Dimensions of Ignorance*. Sheffield: Cambridge University Press, 2016, p. 3.

¹³ Ibidem, p. 4.

¹⁴ HANAN, M. Eve. *Invisible Prisons*, p. 1215.

¹⁵ MEDINA, José. *Agential Epistemic Injustice and Collective Epistemic Resistance in the Criminal Justice System*. *Social Epistemology*, v. 35, n. 2, 2021. p. 3.

¹⁶ FRICKER, Miranda. *Epistemic Injustice: Power & the Ethics of Knowing*. Oxford: Oxford University Press, 2007, p. 90

aware not only of the place of the speaker (in our case, the victim who happens to be a person deprived of liberty) but also of their position and how this will have an impact on their capacity to address or judge the credibility of certain accounts or narratives (in this case, how plausible it is that someone who is in prison could be a victim of crime themselves). The ideal is a hearer able to neutralize “the impact of prejudice in her credibility judgements”.¹⁷

We will try to establish if prisoners who have become victims of violent crime, are seen as lacking in credibility by operators of the criminal justice system particularly by prison officers. Further on, we will also discuss if Fricker’s “remedy” to testimonial injustice would be applicable.

B. HERMENEUTICAL INJUSTICE

On the other hand, the English philosopher understands hermeneutical injustice to be “a purely structural phenomenon with no individual perpetrator”.¹⁸ She proposes to differentiate two sorts of hermeneutical injustice. One she refers to as the “radical case”. Here “the person concerned is at least temporarily unable to make full sense of her own experience even to herself.” The second form of hermeneutical injustice is described as moderate and considers the cases in which persons are able to understand their experience and also can share it with other people belonging to their social group but they still lack of the ability to communicate it further or “render it intelligible across social space to some significant social other to whom she needs to convey it”.¹⁹ As to Fricker both, hermeneutical injustice, like testimonial injustice, are “typically a face of oppression” as they tend “to preserve ignorance that serves the interests of dominant groups.”²⁰

¹⁷ FRICKER, Miranda. *Epistemic Injustice: Power & the Ethics of Knowing*. Oxford: Oxford University Press, 2007, p. 91.

¹⁸ Ibidem, p. 15.

¹⁹ Ibidem, p. 6.

²⁰ FRICKER, Miranda. *Epistemic Injustice and The Preservation of Ignorance*. In: PEELS, Rikls, BLAAUW, Martijn (org.). *The Epistemic Dimensions of Ignorance*. Sheffield: Cambridge University Press, 2016, p. 19.

The ideas of the American philosopher Iris Young can enhance the previously mentioned theories. She states that oppression itself is a “condition of groups”.²¹ She understands social groups to be a “collective of persons differentiated from at least one other group by cultural forms, practices, or ways of life.”²² This highlights that the main characteristic of social groups is the sense of identity that they share rather than other attributes that they may have in common.²³ From this point of view, Young understands oppression to be structural “rather than the result of a few people’s choices or policies”²⁴ and the causes of oppression are, therefore, invisible for the many, because they are rooted in a set of social and symbolic rules expressed in habits and assumptions that shape the ways in which institutions work and the ways in which society solves conflicts through setting certain consequences for abiding by or breaking rules.”²⁵

Prisoners fit well under Young’s definition of social group. Due to imprisonment, their way of life is at least very different to the one of prison officers. Applying the idea of hermeneutical injustice to our case, we are interested in if victims of violent crime in Chilean prisons are unable to make sense of their own experiences. This would be the “radical case”. Looking for the “more moderate sort of case” of hermeneutical injustice we need to check if the victims of violent crime in prison understand that they are victims and can communicate this knowledge to other inmates, but are unable to have prison officers, prosecutors or other relevant actors to understand that they are victims of crime and need the same kind of answer from the justice system that someone out of prison would receive. In this last case, they would suffer from agential epistemic injustice, in the specific form of epistemic neglect.

²¹ YOUNG, Iris Marion. *Five Faces of Oppression* (Chapter 2). In: YOUNG, Iris Marion. *Justice and the politics of difference*. Princeton: Princeton University Press, 2012. p. 39-65, p. 40.

²² Ibidem, p. 43.

²³ Ibidem, p. 44.

²⁴ Ibidem, p. 41.

²⁵ YOUNG, Iris Marion. *Five Faces of Oppression* (Chapter 2). In: YOUNG, Iris Marion. *Justice and the politics of difference*. Princeton: Princeton University Press, 2012. p. 39-65, p. 41.

2. CONTRIBUTORY INJUSTICE, EPISTEMIC OPPRESSION AND EPISTEMIC REDLINING

Thanks to the insights of Kristie Dotson and Michael Doan we count on some additional concepts for our analysis.

A. CONTRIBUTORY INJUSTICE AND EPISTEMIC OPPRESSION

Kristie Dotson introduces, what she calls, a third form of epistemic injustice: “contributory injustice”. She explains that “contributory injustice is caused by an epistemic agent’s situated ignorance, in the form of willful hermeneutical ignorance, in maintaining and utilizing structurally prejudiced hermeneutical resources that result in epistemic harm to the epistemic agency of a knower.”²⁶ The elements that shape contributory justice according to this author are “the structurally prejudiced or biased hermeneutical resources and the agent’s situated ignorance”, in a situation that combines individuals’ agency and structural factors to contribute to maintain (or even perpetuate) epistemic injustice for certain groups.²⁷

Dotson argues that “*situated ignorance*” follows from “the social position and/or epistemic location of the person,” which works to “institute epistemic differences, while obscuring those same differences”.²⁸ Her point is that “there is always more than one set of hermeneutical resources available.”²⁹ This finding leads her to dissent with Fricker’s view. As to Dotson, concerning hermeneutical injustice “credibility is no longer the site of epistemic injustice”. She argues that “the socioepistemic structures that create and sustain situated hermeneutical inequality are the problem”.³⁰

Dotson understand all three different forms of epistemic injustice discussed thus far (testimonial, hermeneutical and contributory) as forms

²⁶ DOTSON, Kristie. A Cautionary Tale: On Limiting Epistemic Oppression. *Frontiers: A Journal of Women Studies*, v. 33, n. 1, p. 24–47, 2012, p. 31.

²⁷ Ibidem.

²⁸ Ibidem.

²⁹ DOTSON, Kristie. A Cautionary Tale: On Limiting Epistemic Oppression. *Frontiers: A Journal of Women Studies*, v. 33, n. 1, p. 24–47, 2012, p. 31.

³⁰ Ibidem, p. 30.

of epistemic oppression that result in exclusion of certain groups from knowledge production, perpetuating negative consequences for them.³¹ One of the main consequences of epistemic exclusion is the damage to epistemic agency of individuals or knowers, diminishing their chances to take part fully in certain “epistemic communities”.³² Contrary to Fricker, Dotson sees epistemic oppression as a “multifaceted oppression that cannot be addressed by any one particular countermeasure”³³ due to its structural nature.

For our analysis it is important to underline the idea of willful hermeneutical ignorance and consider the possibility of structural perpetuation of epistemic injustice. Victims of violent crime inside prison could not be heard because of willful hermeneutical ignorance of prison officers that has them utilizing structurally prejudiced hermeneutical resources.

B. EPISTEMIC REDLINING

Another American philosopher, Michael Doan, finds that his colleagues “have been unduly focused on “culprit-based” forms of epistemic injustice”.³⁴ This focus, he argues, tends to preclude discussion of structural varieties.³⁵ Doan introduced the concept of “epistemic redlining” defined as a “form of group-based credibility discounting not readily countenanced by existing, ‘culprit-based’ accounts of epistemic injustice”.³⁶ In this line, Doan argues that “such discounting tends to have structural causes that can be difficult to identify and uproot”.³⁷ This author maintains that epistemic redlining³⁸ shall be understood as

³¹ Ibidem, p. 36.

³² Ibidem, p. 24.

³³ Ibidem, p. 36.

³⁴ DOAN, Michael. Resisting Structural Epistemic Injustice. *Feminist Philosophy Quarterly*, v. 4, n. 4, 2018, p. 3.

³⁵ Ibidem.

³⁶ Ibidem, p. 1.

³⁷ Ibidem, p. 11.

³⁸ In DOAN, Michael. Epistemic Injustice and epistemic redlining, p. 6 the author explains that he “borrow the name from a term coined by sociologist and community activist John McKnight in the late 1960s.” He explains that “The

a form of epistemic injustice even though it is not necessarily linked to prejudice and cannot be corrected by measures taken at individual level.³⁹

Doan criticizes Fricker's point of view on epistemic justice, arguing that she conceives "epistemic injustice in individualistic terms".⁴⁰ Thus her theory draws "attention away from social relations and institutions that subordinate people and groups on epistemic grounds, precluding consideration of efforts to redress what are arguably more fundamental wrongs."⁴¹ He also finds that "Fricker inspired theories" sidestep "some crucial questions of power and authority, and thereby fail to do justice to the complexities of epistemic relations—complexities that only come fully into view when considered from below."⁴²

The Canadian philosopher Rebecca Mason adds an addition element to these complexities. She points out that knowledge practices are crucially affected by "what is in our interests to know and what is in our interests to ignore". Thus, she argues, this relation "cannot be explained by conventional epistemological frameworks." As Mason this insight also shows "how the interests of others, in particular powerful or dominant groups, can limit or occlude knowledge production and transmission by powerless or marginalized groups."⁴³ The philosopher then differentiates between two kinds of unknowing. The first affects members of non-dominant social groups "by virtue of their systematic hermeneutical marginalization".⁴⁴ This assumption would also fit under Medina's description of "epistemic neglect". The second form of unknowing Mason identifies, is characteristic for members of dominant

practice is called 'redlining' because it literally involves drawing red lines on maps to delineate areas where banks will refuse to invest; meanwhile, green, yellow, and orange lines are drawn around neighborhoods whose residents are deemed to be of higher economic value."

³⁹ DOAN, Michael. Resisting Structural Epistemic Injustice. *Feminist Philosophy Quarterly*, v. 4, n. 4, 2018, p. 3.

⁴⁰ Ibidem, p. 11ff.

⁴¹ DOAN, Michael. Epistemic Injustice and epistemic redlining. *Ethics and Social Welfare*, v. 11, n. 2, 2017, p. 11-12.

⁴² Ibidem, p. 11.

⁴³ MASON, Rebecca. Two Types of Unknowing. *Epistemic Justice, Ignorance, and Procedural Objectivity*, v. 26, n. 2, 2011, p. 294.

⁴⁴ Ibidem, p. 295.

groups “by virtue of their ethically bad knowledge practices.”⁴⁵ In the last scenario members of these groups could have knowledge, but do not want to, they consciously ignore certain information (that doesn’t fit with their worldview). Here we find similarities to Doan’s argument on epistemic redlining.

Doan proposes that epistemic injustice “ought to be understood as rooted in the oppressive and dysfunctional epistemic norms undergirding actual communities and institutions”.⁴⁶ In order to resist structural epistemic injustice, he wants to examine “epistemic assumptions undergirding legislation”⁴⁷. Doan argues that these assumptions are “gradually legitimized and normalized through the practices allowed by specific laws, and by the political distinctions these laws enact.”⁴⁸

The implications of Doan’s theories are that in order to understand the epistemic situation of victims of crime inside prisons, other factors will need to be considered including legislation, vested interests, power relations and authority. This implies that epistemic injustice is rooted in the oppressive and dysfunctional norms that are undergirding the prison.

In the rest of our paper, we will use these theories to understand and describe the reality of the Chilean prison system, and particular its victims of violent crime.

II. RESULTS

1. METHODS

The source of our results are 40 interviews with prisoners (22 cases) and prison officers (18 interviews). The interviews followed a semi- structured guideline that was prepared in advance. The interviews were conducted between January and October 2022, in six prisons across

⁴⁵ Ibidem.

⁴⁶ DOAN, Michael. Resisting Structural Epistemic Injustice. *Feminist Philosophy Quarterly*, v. 4, n. 4, 2018, p. 15.

⁴⁷ Ibidem, p. 16.

⁴⁸ Ibidem.

different regions of the country (covering northern, central and southern regions, as well as the Metropolitan Region of Santiago)

Our research project is guided by a desire to improve our understanding of the main elements behind the differences in the way that different practitioners within the criminal justice system approach dealing with crime that is committed inside prisons. We approached this question using mixed methods, including revision of secondary sources (statistics provided by the Public Prosecutor Office and the Prison Service, official documents and legislation), conducting a survey for prisoners and prison officers and a series of qualitative interviews. In this article we present findings from the qualitative section of the study.

The qualitative part of the study consisted of a series of semi-structured interviews with people in prison, prison officers, prison authorities and stakeholders, policy makers and practitioners from the Chilean criminal justice system. In this article we present the analysis of 22 interviews with prisoners and 18 interviews with prison officers. The study follows a purposeful sampling strategy, which has been defined as “strategically selecting information-rich cases to study, cases that by their nature and substance will illuminate the inquiry question being investigated”⁴⁹. Thus, we sought information-rich cases from different carceral contexts considering aspects as⁵⁰ prison size, geographical location and conflict levels according some key indicators related to violence. The number of interviews was adjusted as information was collected and early patterns emerged from the data in order to find cases that allow testing initial ideas taken from the literature and expand the understanding of local or particular experiences described by interviewees in an iterative process seeking additional data based on findings as they emerge during data gathering itself.

⁴⁹ PATTON, Michael. *Qualitative research & evaluation methods: integrating theory and practice*, p. 402.

⁵⁰ The variables considered were: geographic zone (the north, center and Metropolitan area and the South of the country); prison population (including small, medium and big prisons); rates of death due to physical harm per 1000 prisoners (below and over national average) and statistics about crimes committed in prison reported to the Public Prosecutor. Also women's prisons were included in the sample.

All the interviews were conducted under explicit consent and all interviewees were informed they could withdraw at any time or skip any topics that they wanted. The research project was approved by Universidad Central's Ethics Committee on May 4th, 2021.

The analytic approach used was thematic analysis and the coding strategy was what Saldaña⁵¹ describes as eclectic, i.e., designed with enough flexibility to fit research questions and the purpose of the study. In practice, we coded the data from both, a deductive and inductive approach as we started from the themes given by the topics used in the interview guide, but expanded to new topics and concepts emerging from the accounts given by the participants. We follow that a “theme” refers to concepts discovered in the data that are meaningful for understanding the phenomenon of interest⁵². The information gathered has been triangulated as interviewees accounts has been cross checked within each group (prisoners and prison officers) and across different types of interviewees. NVivo software was used to analyze the interview data, which allows coding to be stored and shared between members of the research team for triangulation purposes.

2. INTERVIEWS WITH PRISONERS

A. *FEAR AS A MECHANISM THAT HINDERS KNOWLEDGE TRANSMISSION*

The “taboo of reporting crime” among inmates is deeply rooted and is common across the prison population⁵³. Anyone who breaks this tacit mandate faces sanctions and / or reprisals, the intensity of which are difficult to quantify, although testimonies abound to illustrate the effects.

⁵¹ SALDANA, Johnny. The coding manual for qualitative researchers, p. 188ff.

⁵² RYAN, Gery W. and BERNARD, H. Russell. Techniques to Identify Themes. Field Methods

⁵³ GARCÍA, Mercedes, QUESADA, Lucía. Violación sexual e impunidad en el sistema carcelario en Costa Rica, p. 33ff. Also see: KUBIAK, Sheryl Pimlott; BRENNER, Hannah; BYBEE, Deborah; CAMPBELL, Rebecca; FEDOCK, Gina. Reporting Sexual Research, p. 95ff.

Reprisals against those who do not adapt and transgress this norm are expressed, according to those interviewed, as follows: *“You know what prison is like! ...the one who snitches (sapea) goes to the box or to the hospital to touch the ground”*⁵⁴.

According to those interviewed, these practices are well known by the prison officers. They avoid interfering in the fights that take place inside the cell blocks, although they are attentive to those who require medical care, as one inmate affirms: *“Sometimes the fights are with sabers, daggers! They take you out to the courtyard, they take you out there and in a heartbeat, you are stabbed! And they (the officers) come looking for you... and (they ask) ‘Who did it?’ ‘I have no idea’...afterwards they get to know what happened anyway”*.⁵⁵

The “taboo of reporting” is therefore based on a prison culture that promotes a rudimentary system of conflict resolution, where it is forbidden to intervene and even less to appeal to rationality or justice, because the fear of reprisal from the other inmates is much greater, as one inmate points out: *“If you get involved in that mess, play blind, deaf and dumb! even if you have a guilty conscience. Because you’d still like to say “it was him”... but you can’t, because the prison system is cruel (like) the system in the street. Because I don’t know if I can be OK now, but I can get out of here at the same time they kill me”*.⁵⁶

Sometimes inmates are pressured to report crimes by prison officers, who try to obtain information about crimes within the prison, which gives them a difficult dilemma, especially if their survival inside the prison is at stake, as one interviewee recounted: *“...one tries to leave it between inmates, but suddenly, as you are surrounded by cameras, the official makes you declare that you should denounce your fellow inmate because if it is not you it will be someone else and someone else will be harmed, then you have to inform the relatives, the prison officers, ask for explanations and the whole story”*⁵⁷. Even so, and despite the pressure and the risk, prisoners will generally prefer not to report an incident (taboo of reporting), according

⁵⁴ Interviewee #26

⁵⁵ Interviewee #26

⁵⁶ Interviewee #41

⁵⁷ Interviewee #42

to the same interviewee: “*you don’t do that, it’s part of my codes that you can’t go around snitching, you can’t go around... that’s like going too low*”⁵⁸. The general rule is silence, rather than ignorance.

This fear of reporting crime is maintained by the control that the inmates themselves exercise over others, especially the newer inmates who arrive at a yard or a block, who are subjected - in a certain way - to an “induction” where they must learn the expected codes and behavior’s, especially those linked to silence in the face of violence between prisoners, as one inmate interviewed pointed out: “*What they (the officers) know is that if something happens in the yard, that we knew there was something there and they come straight there [...] it’s because someone from inside the yard, from the people we know, said something! And that’s why we are the ones we are, and those who come in, new ones from other yards, we interrogate them and we all keep an eye on them... Until he adapts...*”.⁵⁹

Reprisals can also come from prison officers. According to the inmates interviewed, this would happen in cases when a prisoner decides to report or draw attention to some situations that compromises the officials, there would be the possibility of consequences against them: “*(better not) to talk about anything else, because... it costs a lot! It can lead to very serious problems, it can affect you because the officials don’t like to be talked about... an official here finds out about something, they’re going to have you touch ground, it doesn’t cost an official anything to come up and leave a ball of marijuana under your pillow... There have been cases, I’ve seen it, I’ve experienced it!*”⁶⁰.

This is aggravated when the inmates take their complaints to human rights lawyers. They are likely to annoy the prison officials, who may try to put pressure on the person to drop the complaint. This pressure is exercised by what they call “*correr leña*”.⁶¹ Another way to pressurize prisoners can be to transfer those involved in reports to another facility. According to one of the inmates interviewed: “*When there are beatings of*

⁵⁸ Interviewee #42

⁵⁹ Interviewee #27

⁶⁰ Interviewee #34

⁶¹ Meaning that prisoners get bashed with batons for misbehaving by breaking internal codes.

inmates and the inmates go to the Human Rights [lawyers or organisations] and (report) the official so much, there they say 'hey talk to this one, tell him he has to withdraw the complaint, that he is not so cool' and there one has to intercede 'hey stop the show because they are going to keep taking revenge with all of us, they will keep beating the module until they give up the complaints some and those who persist the most some of them do well, some don't make it to a good end, for example, they sentenced a "comrade" and the captain told him 'no, you're no good to me here, I need to get you tickets to Valdivia or Puerto Montt' because he was very rebel"⁶².

Thus, prisoners fear reporting violent crime because of the strong possibility to suffer reprisals from other inmates or prison guards. Inside prison, maintaining silence about violent crime becomes a survival strategy. The problem here is not a lack of knowledge but of sharing it.

B. THE CHALLENGE OF COMMUNICATION

Reporting a violent crime within the prison is also a complex matter for an inmate. It is a challenge of communication.

For some inmates, a space to share knowledge about crimes is provided by human rights lawyers (from the National Institute for Human Rights) who visit the prisons on a regular basis. Nevertheless, many inmates are not very clear about the role these lawyers play, nor do they resort to them on a regular basis, as one inmate states: *"Yes, I believe that (these lawyers) are there to protect us, to talk to us... no, so far I have not (seen them), I only know that down there that there are human rights so that if something happens to us, it is possible to use them..."*⁶³ Another inmate said that he would turn to these lawyers, even on extreme occasions, either directly or indirectly through people he trusted, especially if it was an abuse committed by a prison officer: *"Yes, well, I would report it! At least I would shout, 'I'm going crazy! He dragged me! But I doubt it will happen! because I am calm, I'm light, but one of those... I'd still talk to who?"*

⁶² Interviewee #46

⁶³ Interviewee #22

*who would I send to call or what?...I have a friend, who can also tell her family and her family can send the human rights people... “.*⁶⁴

This difficulty of communicating crime to the outside world, is negatively reinforced by the inmates’ lack of trust in prison officers. Thus, their knowledge gets no uptake due to particularities of prison subculture.

In a few cases, a sort of “indirect reporting” is mentioned. As a prisoner said: *“just as I say, (that the event) is something excessive and they take me to the hospital and ask me ‘what happened to you’? This is when I tell them. Me going to complain to the official? Not in a million years! Because you know why? because in my country, the worst thing you can do is being a snitch, that’s the worst thing! I am an enemy of this.”*⁶⁵ Another prisoner puts it like this: *“Even the officials have tried their luck with me, because all of a sudden I told them such and such, and the truth is that I knew that they know that you know, but I’m not even there (to talk)!”*⁶⁶

Thus, there is a lack of appropriate and effective communication channels. Knowledge about violent crime is often not shared, because there is nobody listening or because the person who should listen is mistrusted.

C. EPISTEMIC NEGLECT

In addition to the issues highlighted above, prisoners can find a problem of credibility, with their testimony not being believed, particularly if it contradicts that of a prison officer.

The prisoners are aware that their testimony, in the eyes of the institutions, lacks weight if it is contrasted with that of the prison officer. This is especially likely if an officer has committed an abuse or crime against an inmate. In this way, they perceive that their complaints will not be believed, as one inmate pointed out: *“The same thing you were asking me: if something happens to you here with a prison officer, who’s going to win? You see, I don’t get anything out of telling him that ‘nothing has ever*

⁶⁴ Interviewee #27

⁶⁵ Interviewee #27

⁶⁶ Interviewee #27.

happened to me!”⁶⁷. Another inmate, for his part, saw the situation in a very similar way when faced with the same situation of an asymmetry of power, stating the following: “Look, I’m not going to go to court for that, I’m not going to report anyone... because here if you report an officer, they take you to court, they walk you around the park and put 3 or 4 witnesses, the same officers! And where is the prisoner’s word? And I spend money on a lawyer! It’s money wasted! So it’s better to keep quiet and carry on with the day to day”.⁶⁸

Inmates prefer to remain silent, as they assume they have no chance of their complaint being dealt with. We could follow that there is a type of agential epistemic injustice or “epistemic neglect” in the terms of Medina.

D. HERMENEUTICAL INJUSTICE

In addition to the problem of credibility, there is a general lack of knowledge of the rights of those who enter prison. One of the interviewees, in fact, stated that he was unaware of the possibility of reporting - with the exception of extreme cases, such as an aggression in a fight - and how to do so, which demonstrates a lack of information about the individual security guarantees of the inmate and the instances where such rights can be demanded: *“I don’t think I even knew that it was possible to report! You are just telling me that you can report it if something happens to me here!... I knew that there are many complaints, but in the aspect of a fight or things like that... in reality it would have to be something very serious for me to take action in the matter! because I am from the street, I have a different mentality, do you understand me? That you have to keep quiet... I think that’s like a law of the street”.⁶⁹*

The consistent nature of the prisoners testimonies demonstrate that “a law of the street” inside prison is a typical face of oppression, where the ignorance serves the interest of the prison administration (as they do not have to intervene). We could also understand the lack of

⁶⁷ Interviewee #23

⁶⁸ Interviewee #34

⁶⁹ Interviewee #27

knowledge as a radical case of hermeneutical injustice in Frickers sense, this because the prisoner is at least temporary unable to make full sense of their own experience even to themselves.

Overall, the lack of credibility given to the word of prisoners, together with their ignorance and the apparently scarce dissemination of the rights they have, generate a highly effective mixture that discourages any type of complaint.

E. **DYNAMIC OF SECRECY TO PRESERVE INTERESTS OF DOMINANT GROUPS**

There is also a dynamic of secrecy inspired by professional interests or corruption pushed by prison officials that hinders sharing knowledge about violent crime.

The existence of ambiguous relations between the two groups can be seen, as there are inmates who co-opt officers to be their partners (“postmen”), bringing in and transporting drugs or other valuable things inside the prison, functional to the most powerful prisoners. Officers will have little chance of ending their participation, and will face a high risk of losing their job as well as a danger to their safety. As one prisoner interviewed points out: *“because this paco is with me... yeah, you’re my courier, I’m paying you to bring the drugs in, it’s just the two of us! Do I find out that you’re going somewhere else? I’ll kill you! I don’t lose anything because I’m going to stay... I’m in jail, nothing to do with me! Because if you want a paco for yourself, it’s just for you, not [working] for me and then go and work with someone else...”*⁷⁰. In the event that the prison officer decides to change his “partner” or betray his fellow trafficker, he exposes himself to the inmate’s reporting him or her, a situation that is somewhat *sui generis* in the sense that the inmates perceive it as having no negative impact on them, but a high cost for the accused officer: *“I want you to go and get this for me, I want you to bring it to me in the afternoon... and here I give you other coins, but nobody has to know about it! ...Until something happens to you, then you scream... because sometimes they do something to you just for the sake of doing something to you! For nothing... there it’s ‘look*

⁷⁰ Interviewee #26

what you did to me, now it's my turn' 'take my lieutenant! Look at all this is what this man is doing here in this courtyard.'"⁷¹.

This inevitably leads to the opening of a disciplinary procedure or, an investigation by the Public Prosecutor's Office against the prison guard involved. It is, therefore, a type of complaint that has nothing to do with punishment or aggression against inmates, but on the contrary, aims to punish the officer who is guarding them, becoming corrupt and who has not submitted to their codes. It is, ultimately, a form of revenge for the treatment they receive inside the prison, according to inmates: *"Obviously...! He's going to get out... even if he's still in prison, but it doesn't matter... later you catch him in the street! In the street they walk around with their hands in their pockets, the cops! Because here they do everything they can to you! But in the street, when you see them and they see you, the shins go out of their socks!"*⁷²

Thus, we see how knowledge production can be hindered by powerful and dominant groups. In our case the dominance derives from an institutional design of control that is not relying on predictability created by law, but rather on arbitrary power and corruption. If specific knowledge on violent crime is not in the interests of the dominant groups, it will not be shared.

2. INTERVIEWS WITH PRISON OFFICERS

A. DIFFERENT EPISTEMIC REALITY

When we look into prison officers' views on crimes or misconduct committed in prisons, we find that their accounts are blind to the reality of victims of violent crime.

Officially, all crimes committed in prison either by prisoners or prison staff should be reported. This requirement is clear in the discourse of officers interviewed, even though in their opinions in certain occasions officers may not fulfil their legal duty: *"we have the obligation to report*

⁷¹ Interviewee #26

⁷² Interviewee #26

*all criminal offences. We do not turn a blind eye to issues that constitute a crime because, in the end, it could be that we are committing a crime in our capacity as civil servants. So, there are no difficulties for us reporting crime, unless, I don't know, an officer might, for example, turn a blind eye to some situation"*⁷³.

Although the officers interviewed affirm that supposedly all crimes committed within prisons are reported, at the same time they recognize that there are difficulties in carrying out this task, sometimes making it impossible, as one official points out: *"no [crime situation] is left unreported, because they are all recorded on camera - all of them! Unless they are in a place where the cameras cannot reach, but they are also reported! not with individuated inmates, but it is reported that an (unspecified) inmate suffered an aggression"*.⁷⁴ Thus, a certain level of error is recognized by the officers when it comes to reporting crimes committed in prison due to omission or neglect or because of lack of evidence related to deficiencies in surveillance.

The interviewees criticize that - although attempts are made to report everything that constitutes a crime inside the prison as far as possible - many of these complaints end up being shelved by the Public Prosecutor's Office. Officers explain this by stating that certain less serious situations, especially those that are not related to violence or deaths of inmates, such as drug trafficking, are underestimated, according to one prison guard: *"I don't think the prosecutor's office pays much attention to an inmate who was seen with 0.5g of marijuana... here it is reported quite often that inmates arrive with a small amount of marijuana. I don't think that a case of a death or an assault resulting in death will be filed"*.⁷⁵

Prison officers are aware that assaults are carried out in places with little or no surveillance known by prisoners (specially CCTV blind spots). The problems to collect evidence in cases of violent crimes are mentioned by prison officers as something that impacts directly on the chances of achieving a successful investigation. According to an official interviewed: *"The inmate knows (where) there are no cameras and generally*

⁷³ Interviewee #29

⁷⁴ Interviewee #33

⁷⁵ Interviewee #39

when the inmate is injured, he presents himself at the access gate and tells the official ‘they stabbed me in the back’ or ‘they threw a blanket over my face, they stabbed me and I don’t know who it was’ and the (inmate), (even) knowing that he is not going to denounce who it was who assaulted him”.⁷⁶ In the end, this means that the Prosecutor’s Office is unable to carry out an effective investigation, as it does not have the means to determine what happened and find the culprits. The same interviewee indicates that *“this is why crimes are often shelved, because more years are added to the inmate’s sentence if it can be proved that this person assaulted the inmate, so when there is no support...the inmates do not testify and there is no way to corroborate (the fact)...now if the victim is (captured on camera) and he reports that this inmate assaulted him, there is nothing to do and it is more than enough evidence for the Prosecution to prove it”*⁷⁷.

Many prison officers we spoke to view the use of CCTV as the best way to address violent crime in prison. Can we count these testimonies as misinterpretation, evasion, or self-deception? We rather understand it as a type of situated ignorance that leads to contributory injustice.

B. ETHICALLY BAD KNOWLEDGE PRACTICES

We can also identify what Mason has defined as “ethically bad knowledge practices” in the accounts given by prison officers.

Prison officers explain that one of the main reasons behind prisoners being reluctant to report fellow inmates that commit crimes inside prison are the reprisals taken against them by the offenders, added to the stigma of being a snitch and lower their place in the prison’s hierarchy, as one official commented: *“many facts are not reported within the prison units! mainly out of fear, for fear of reprisals, for being labelled as snitch (sapo)”*⁷⁸. The officers also know that this sanction is not only limited to the social aspect, to a lack of recognition among their peers, but is also associated with physical punishment, those who report a crime will inevitably face some kind of punishment or even torture, as one

⁷⁶ Interviewee #43

⁷⁷ Interviewee #43

⁷⁸ Interviewee #4

of the prison officers points out: *“[if they report a crime] the same thing would happen to them! They would be snitches... so these are prison codes that are frowned upon if not followed and would bring more problems, more problems for them!”*⁷⁹. Such problems are, directly, aggressions that can end in death, as one official states, *“for them [to report a crime] is a fault and this can culminate in assault and even death”*⁸⁰.

For prison officers these practices might create a problem, since refusing to report a crime makes it impossible to continue with the procedure, which in turn implies informing the prosecutor about the suspected offence. This is more complicated, especially among first time in prison inmates, who have difficulties identifying those who threaten them - *“they throw them out”*⁸¹ in prison parlance - so that the procedure that the institution tries to carry out, lacking evidence, ends in nothing: *“If there is no hard evidence, practically, it is impossible, I would call the prosecutor and you as prosecutor will ask me “who is the inmate who is threatening you?” ...I imagine that they are not going to create a case number to investigate something especially if the inmate doesn’t know who is threatening him”*.⁸² The criminal case is therefore often dismissed, even when the inmate is willing to break the internal code and ask for help from prison officers.

From the perspective of prison officers, prison (sub)culture is not only limited to the “taboo of reporting” of crimes committed between prisoners, but encompasses several other dimensions, including the use of a different language and different ways of thinking and doing things: *“there are codes, their internal laws that they keep, so they respect those laws by the book! Here inside the prison unit...they live like in an underworld, with their different rules, different ways of living from those of the street that we all have...(it is) their prison subculture, which ranges from daily customs to their own language!”*⁸³ Another prison officer states more succinctly that:

⁷⁹ Interviewee #33

⁸⁰ Interviewee #43

⁸¹ This term refers to situations in which prisoners do not admit a new entrance in their module or cell and expulse them out of the place.

⁸² Interviewee #43

⁸³ Interviewee #33

“(prison) is an underworld because they have other beliefs, other codes, other values, many times there are crimes inside... and because of the code they have, they do not declare who the aggressor was, which prevents the crime from being investigated in a good way”⁸⁴.

Prison officers identify themselves as belonging to a different social group with *“other beliefs, other codes, other values”*. There is a sense of otherness when they describe situations, behaviors and group dynamics of prisoners, there is a repeated use of *“they”* in contrast with *“us”* where prisoners appear to belong to a marginalized group that can be coerced into keep silence when they witness or suffer violent crimes. Prison officers, know about the coercion (they eloquently describe reprisals suffered by persons who report crime) but do not consider strategies on how to overcome the problem. Thus, they know about the crimes and about the difficulty to investigate them, they are even conscious of the various ways of hindering the shared knowledge about this situation, but in many instances, they fail to act. We could imply that they could get more information and act in a different way if they wanted to but it seems to be easier not to get involved with the problems of this other group of people.

C. DYNAMIC OF SECRECY TO PRESERVE INTERESTS OF DOMINANT GROUPS

Reporting crimes committed by prison officers or other prison staff is also very rare, not necessarily due to the *“taboo of reporting”* but because those officers linked to inmates in carrying out illicit activities are seen by prisoners as allies or partners who allow the access to certain goods or other favors. One interviewee mentioned: *“[prisoners] do not report, that is quite uncommon... they do not report it formally, but some do collaborate by sharing information! Nobody is going to give their name to report to the Prosecutor’s Office that this [officer] is a [criminal]... no! because then he will go to court and... they can kill him afterwards!”⁸⁵*

These are, therefore, relationships based on convenience, or have an instrumental nature, which allow inmates to jump over certain prison

⁸⁴ Interviewee #43

⁸⁵ Interviewee #39

security fences and let them have access to prohibited elements (drugs, mobile phones, etc.) and for this reason the bond with the corrupt officer tends to be protected, so it is usual for inmates to *“take good care of them (the prison officers), the inmate who is involved with Sodexo⁸⁶ or a prison officer, takes good care of the supply route ‘that guy gets my mobile phones, so I have to look after him’”*.⁸⁷ It is an acknowledged fact among the prison officers themselves that there are corrupt officials who collaborate with inmates to commit crimes, which becomes an additional difficulty for crimes within prisons to come to light, according to one interviewee: *“(they do not report) events where officials are linked to acts of corruption and obviously, they prefer to omit the reports... Because, yes, there is corruption within the prison units and this is in plain sight and in the press”*⁸⁸.

In these cases, the information collected through interviews with prison officers confirm and complement the accounts by prisoners. There is a dynamic of secrecy inspired by the interests of correction officials that hinders the sharing of knowledge about violent crime.

D. EPISTEMIC NEGLECT

Analyzing the interviews with prison officers, allows us to identify cases of epistemic neglect. Here we can identify the lack of uptake or the defective uptake of reports of violent crime by the public prosecutor office.

Prison officers' testimonies point to a series of difficulties in the process of reporting crimes committed in prison. One critical issue is how difficult is to make contact with the prosecutor of their jurisdiction in a timely manner. This generates two major problems: a) the lack of due diligence gathering evidence, which in most cases are carried out by the prison officers themselves under the instructions of the prosecutor, and b) unnecessary delays which jeopardize the investigation.

Regarding the first problem, the interviewees affirm that this is a serious situation, which can alter or derail the entire investigation process

⁸⁶ Sodexo is a French company who runs services in some semi-private prisons in Chile.

⁸⁷ Interviewee #39

⁸⁸ Interviewee #4

and with it, the complaint as such, as one interviewed official points out: *“I think that this [to have difficulty locating the prosecutor] is a tremendous flaw, because many times there are procedures that need guidance...and the prosecutor is the only one allowed to give this guidance, we also cannot take any initiative that later could be taken as invalid criminal evidence that could render without effect another procedure that is directed by a prosecutor⁸⁹”*. There is also a problem concerning the delay in contacting the Public Prosecutor’s Office as it is referred in this account by another prison officer: *“Generally, first contact is delayed and that is why we insist and insist, in situations that are sometimes very simple in fact, but in any case, we leave a record that the phone call was made to the prosecutor and that the call was not answered”⁹⁰*. In addition, there are officials who complain about the scarce availability of prosecutors, starting with those in the capital city: *“For all crimes [there is a lack of prosecutors], when I lived in Santiago there were not enough prosecutors, outside Santiago there is no even one available”⁹¹*. In this sense, it is important to note that the prison officers seek to fulfil their duty by leaving proof of their attempts to reach the prosecutor in order to notify him of crimes committed in prison, this is necessary as the seriousness of the events varies and the responsibility for them may also eventually be greater: *“When they are more serious situations, we insist, insist, insist, insist until they have to respond so we can receive some kind of instructions! because here the routine is already known! if it is a drug issue, we know what they are going to tell us...we still have to make the call because it is drugs⁹²”*.

As well as the delays from the responsible prosecutor, public prosecutors can also be slow in progressing cases and this may be because the accused is confined to prison and so there is no chance to them getting away.: *“(The Public Prosecutor’s Office does not get more involved) because the inmate is in prison, knowing that he is not going to go anywhere and has time to play with that...they say ‘ah, yes, he is in prison and when is he*

⁸⁹ Interviewee #8

⁹⁰ Interviewee #11

⁹¹ Interviewee #44

⁹² Interviewee #11

*going to serve his sentence? Ah, then next year, if I remember, I'll do it".*⁹³ As the same interviewee explains: *"if there were a prosecutor, such as the penitentiary defender, who was in charge of this, in less than a month he or she would be sentenced and charged with another crime"*⁹⁴.

We see how the epistemic agency of prisoners is diminished due to delays in the public prosecutors' actions. Those delays can be associated to the lack of epistemic significance assigned to the report of violent crime by prisoners. This defective uptake is again typical to what Medina calls epistemic neglect.

III. DISCUSSION

After analyzing the testimonies of prisoners and prison officers, we return to our initial question about to what extent the concept of epistemic justice, as developed by Miranda Fricker, can help us to understand the epistemic situation of victims of violent crime inside Chilean prisons.

We found that often there are prejudices at work when it comes to assessing the credibility of the testimonies of victims of violent crime inside prison. There is a reduction or denial of their epistemic authority, that leads to testimonial injustice as defined by Fricker. Nevertheless, this is not necessarily unintended. Narrations show that there is often a willful knowledge practice uninterested in listening which is often accompanied by a practice of silencing victims.

Another relevant finding from analyzing interviews is that at least some victims suffer hermeneutical injustice. Prisoners might not realize that "even" they can be victims that can report a violent crime, and in part this stance relates to the place that violence has in their lives as a normal way of dealing or solving with conflict. We also found that there are difficulties to communicate their experience to members of other social groups like prison officers or public prosecutors. Still the main problem is not that prisoners lack knowledge or appropriate concepts to articulate their experience. Inside prison fear appears to be the principal

⁹³ Interviewee #44

⁹⁴ Interviewee \$44

reason that hinders sharing knowledge amongst different social groups like prisoners and prison officers.

Thus, we find that Fricker's concept of epistemic injustice helps to bring insight into the subject of our study, nevertheless it is insufficient to understand the complex reality that victims of violent crime in prison face when they decide to report a crime (share their knowledge). We also consider that the idea of having a "virtues hearer" able to neutralize any prejudice when it comes to judge the credibility of prisoners reporting crime, does not help. An officer cannot overcome the mechanisms of silencing purely by his or her own reflective social awareness.

In the context of our study, we need additional elements to make sense of the reality victims of violent crime face inside prison.

Dotson's idea of epistemic oppression helps to get closer to this purpose. We find that there is a routinized and harmful exclusion of victims of violent crime committed in prison from knowledge production in criminal proceedings. Their testimonies are not heard in court, because these victims do not declare or end in retraction due to fear of reprisals inflicted by either fellow prisoners or officers. But rather than counterbalancing the inner prison code of silence for witness protection programs or other special measures designed to allow knowledge to be shared⁹⁵, prison officers utilize hermeneutical resources they know to be false. This hermeneutical ignorance causes harm to the victims of inner prison violence. An illustrative example of this harm would be the case of a victim of rape committed in prison that does not report this crime due to fear of additional violence and humiliation. If the prison officers do not look for ways on how to protect this victim before asking for his testimony, their situated ignorance then leads to contributory injustice that is not related to the credibility of the victim.

Nevertheless, it seems too easy just blaming prison officers for everything that goes wrong inside prison walls. That's why we agree with Michael Doan when he argues that "Fricker's theory of epistemic injustice

⁹⁵ The experience with the implementation of the Prison Rape Elimination Act in the US could provide helpful ideas. DUNTON, Creag, SMITH, Hayden Patrick. The Prison Rape Elimination Act (PREA): Snitching, Sexuality, and Normalizing Deviance. *International Journal of Offender Therapy and Comparative Criminology*. p. 1-18, 2022.

obscures the necessity of engaging in struggles for epistemic recognition and self-determination in contexts of domination.”⁹⁶ In other words, to be able to properly share their knowledge and to gain the hermeneutical resources to make their knowledge intelligible to dominant groups, it will not be sufficient for prisoners to merely change their prison officers. Thus the root problem of epistemic injustices in the prison context is not the simple communicative act (micro intersubjective) amongst prisoners and state authorities.

Overcoming epistemic injustice in the context of incarceration requires tackling institutional, legal⁹⁷, and other structural elements. This difference to the idea of Fricker is not just a question of perspective. Epistemic injustice in prison contexts can simply not be overcome by addressing the causes identified by the English philosopher.

For the Chilean case, the structure of the prison administration has a key role, and the actions of individual officers are insignificant in comparison.

Luis Vergara argues that military rationale conditions prison staff. This former prison officer and lawyer argues that the rigidity of the military structure that characterizes prison administration in Chile, conditions the perception of the prison officers, placing them in an asymmetrical power relationship with respect to the prisoner, which seeks to dominate him or her through imposition.⁹⁸ As a result, prison officers conceive that there is a pre-eminence of security functions over those that seek to promote and protect the fundamental rights of incarcerated persons.⁹⁹

Hence, we can see the oppressive and dysfunctional epistemic norms undergirding prison administration and their legal framework, as one of the problems to be tackled. These norms are at the base of the credibility prejudices mentioned earlier drawing Michael Doan’s idea of epistemic redlining. It would be the “perceived legitimacy of specific conventions, laws, and institutions, and not just the stubbornness of those

⁹⁶ Doan, Michael. 2018. *Resisting Structural Epistemic Injustice*, p. 16.

⁹⁷ We discussed the necessity of legal reform see: STIPPEL, Jörg. *Cárcel, derecho y política*. Santiago: LOM, 2013.

⁹⁸ VERGARA, Luis. Aproximación al fenómeno de la militarización en la cultura organizacional de Gendarmería de Chile. In: STIPPEL, Jörg, MEDINA, Paula (org.) *La No Ciudadanía. Sobre la exclusión legal y real de las personas en el sistema carcelario*. Valencia: Tirant Humanidades, 2023. p. 273.

⁹⁹ Ibidem. p. 274.

who happen to be charged with implementing them, that is the principal source of epistemic inertia.”¹⁰⁰

From a slightly different perspective, the American philosopher Alison Bailey proposes to understand testimonial and hermeneutical injustice as “an expected epistemic by product of larger social and political systems”.¹⁰¹ She argues that we “can appeal to larger social and historical patterns to explain the cultural failure to believe people of color.”¹⁰² As example Bailey argues that “the historical branding and rebranding of women and men of color as thieves, delinquents, or criminals is what maintains their current credibility deficit: no one believes a crook.”¹⁰³

We can then understand the testimonial and hermeneutical injustice victims of violent crime suffer as an expected by-product of our social and political system. Culturally the idea of being in prison implies suffering, it is meant to be a punishment. Which then raises the question, about the legitimacy of the victim and the extent in which their claims should be heard when they are supposed to be punished. Paraphrasing Bailey: no one believes a prisoner that claims to be a victim. This disbelief is then based on extra-epistemic factors.

Furthermore, Argentine philosopher Moira Pérez argues that social epistemology has extensively demonstrated how “the neglect of social-historical factors that affect knowledge processes actually works to reproduce the mechanisms of exclusion that have historically placed certain subjects and collectives in an inferior position.”¹⁰⁴

Thus, if we just rely on Fricker’s idea of epistemic injustice in our analysis of the epistemic situation of victims of violence in prison, we may commit the error of neglecting social and historical factors. In that case, rather than supporting the cause of marginalized social groups, we may be helping to reproduce or refine the mechanisms of exclusion.

¹⁰⁰ Doan, Michael. 2018. “Resisting Structural Epistemic Injustice, p. 9.

¹⁰¹ BAILEY, Alison. *The Uneven Knowing Field: An Engagement with Dotson’s Third-Order Epistemic Oppression*, p 64.

¹⁰² Ibidem.

¹⁰³ Ibidem.

¹⁰⁴ PÉREZ, Moira. *Epistemic violence: reflections between the invisible and the ignorable*, p. 91.

CONCLUSIONS

When it comes to investigating and sanctioning violent crime committed inside prison, the Chilean justice system does not pass the litmus test of justice that Nicola Lacey refers to. There is no treatment on equal terms of these victims. Our interviews illustrate how this failure constitutes a danger or is eroding the overall legitimacy of prisons and maybe even the whole criminal justice system. In many circumstances, the rule of law can be overridden by the coercive and violent power relations.

Hence Fricker's concept of epistemic injustice is not very helpful when it comes to understand epistemic injustice suffered by victims of violent crime inside prison. It can be better understood in the terms of epistemic oppression used by Dotson as we are confronting a routine and harmful exclusion of a specific domain of knowledge production. Thus, it is not a question of whom to blame, but on how to change the underlying social relations and institutions that subordinate prisoners on epistemic grounds.

Our research also showed that prison officers and inmates do not rely on the same hermeneutical resources. They live in two different realities. Thus, Dotson is right that concerning hermeneutical injustice the problems are the "socioepistemic structures that create and sustain situated hermeneutical inequality"¹⁰⁵.

These problems cannot be addressed by one countermeasure as harvesting testimonial virtue as discussed by Fricker. It is a multifaceted problem that has structural roots and requires them all to be considered and addressed.

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¹⁰⁵ DOTSON, Kristie. A Cautionary Tale: On Limiting Epistemic Oppression. *Frontiers: A Journal of Women Studies*, v. 33, n. 1, p. 24–47, 2012. P. 30.

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