Laidlaw Reflective Report – *Redefining Structural Injustice*

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When I set out, my vision for my Laidlaw research project was that I would take human rights theory, and use it as a way of setting out responsibilities for structural injustice – two well-established areas of political philosophy, which I would simply start to fit together. In this report I outline how this vision evolved over the course of my research, what I learnt from the process, and what my findings were in the end. Throughout that, I hope to introduce and explain some of the concepts and methodologies I was working with.

Introduction to this area of research

My project is in the overlapping disciplines of political theory and moral philosophy. The job of a theory, concept, or argument in this area is to help us understand our social and political world, or explain how we should act in it. 'Structural injustice' (SI) is a concept meant to do both of these things. 'Structures' refer to the unplanned, often unintended networks of unspoken rules, common practices, and social positions which shape our actions through validating certain behaviours, distributing resources, and attaching costs to deviating from the validated behaviours. These structures can often create patterns of actions, and sometimes, if those patterns of actions produce particularly bad outcomes for other groups of people and we think this should be changed, we might want to call this a *structural injustice*. It's important to note that things can be terrible without necessarily being *wrong* or an *injustice* – things that are unjust are legitimate causes for grievance and resentment (Estlund, 2020), and demand that some people act differently. However, the quintessential feature of the 'canonical' conception of SI in the literature is that SI can be *unjust* and *wrong* without anyone being at fault for that. Most theorists of structural injustice add that people who reproduce those problematic structures can have responsibilities to change the situation, but cannot really be blamed for failing to do so.

I am interested in using human rights theory as a way of setting out who is responsible for structural injustices because human rights are a uniquely powerful moral and political tool. So many people genuinely believe in human rights that if it was convincingly shown that structural injustices could be human rights violations, this could convince a range of people – policymakers, lawyers, donors to charities – to take structural injustices more seriously. On the face of it, the challenge of integrating

these two approaches was that a human rights violation implies that someone was *at fault* for violating that human right – which (some would argue) misses the point of structural injustice.

Beginning my research project

My initial plan was to dedicate weeks 1-3 to doing a literature review, in particular on the structural injustice literature, weeks 3-4 to developing a way of applying human rights theory to structural injustice and testing that with different arguments, and weeks 5-6 to write a research paper and my research report and blog post. For the first two weeks, I immersed myself in the literature. I had already studied some human rights theory in the past, so I focused on structural injustice to start with – primarily Iris Marion Young's seminal book, *Responsibility for Justice*. The more I read and the better acquainted with Young's theory I got, though, the more confused I became. There seemed to be substantial gaps in Young's argument, and I became increasingly sceptical about whether Young's theory could actually explain what is unjust about structural injustice. I had several ideas for how I could analyse and explain what I thought Young was trying to do in defining the concept of structural injustice – I started to call Young's approach a 'thick' conception of structural injustice, and I contrasted it with what I called a 'thin' conception which defined structural injustice in terms of existing moral concepts (I will return to this later).

I was excited about this – having glanced through a literature review, it seemed pretty clear that the analysis I made in the 'thick' conception hadn't been pointed out by anybody else. I met with my supervisor, Adina, who thought that (on the basis of what I said) it sounded promising. I spent a week pulling together a document in which I explained this analysis in detail (the document comfortably came to 5,000 words). Unfortunately, my supervisor was off work with Covid for almost two weeks, so I spent a few days at a loose end. When she returned, she read my document carefully, and then meticulously explained why it didn't make any sense. She was right, of course – but even more disappointingly, not only was my analysis confused, but I had very poorly explained even some relatively straightforward points I had wanted to make. This was difficult to hear. I think I'm pretty good at responding to criticism; I knew from the start that her comments were immensely valuable. It helped that we had a very positive and constructive relationship; I knew she absolutely had my best interests at heart, and we were on the same team. All that said, I had still sunk much of two weeks' work into developing this idea, and I'd been brought down hard. I learnt that although I respond well to feedback in terms of accepting it and learning from it, *emotionally* I feel it acutely, especially at the start. The timing of that feedback was unfortunate too – I'd been having something

of a career crisis that week, and I'd been going through a short anxiety flare-up. I had a difficult few days, and lost a few nights' sleep.

Changing plans

I took a step back to reconsider my approach to both my research question, and my day-to-day routine of conducting that research. I wasn't entirely convinced that *all* of my ideas had missed the mark (Adina agreed – despite making clear mistakes, she thought that I was going in a good direction). After a few exhausting days thinking through what went wrong, I wrote her an email broadly outlining a reimagined version of my approach. This second version focused more on creating an innovative *alternative* approach to SI, rather than innovating in my analysis of the existing approach. Adina thought it 'sounded promising'. Around that time, I travelled to London to meet Professor Jo Wolff from Oxford University, and had an immensely informative and encouraging discussion about both structural injustice and human rights. However, I increasingly realised how little I'd read of political philosophy in general, and human rights theory in particular. I probably hadn't appreciated how ambitious my initial project plan was. I met with my supervisor again, and decided to substantially change my Laidlaw research project – my new approach was to focus on reframing the concept of structural injustice for now, with a view to introducing human rights in the future. Notwithstanding the failed first attempt, both Adina and I felt optimistic that some of the ideas I'd had about structural injustice could turn into some actual research paper. At the same time, I recognised that I didn't have the time or the understanding of the literature to properly introduce human rights theory. Changing plans mid-stream is something that comes quite naturally to me, and I think it was the right move.

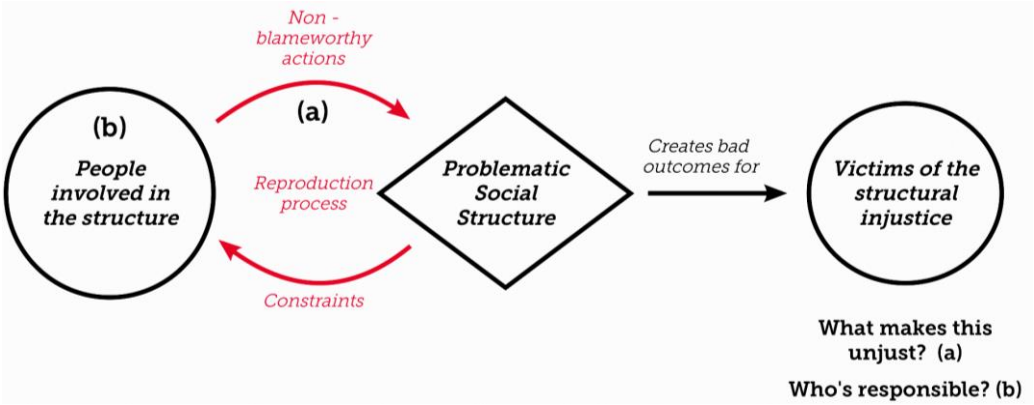
That left me with approximately 3 weeks to read some relevant papers, plan a more extensive argument for why we should redefine structural injustice in this way, turn this into a draft paper, and produce my Laidlaw submissions. Because I planned to work a lot in my final two weeks, I started off quite slowly; primarily because I wanted to make sure that I took some breaks to prevent burnout after the stress and exhaustion of the previous week. Prioritising a more sustainable work ethic seemed like a good decision at the time, and I still think it was – but it also meant I wasn't making the most of time I *could* have worked more productively. Unfortunately, over the final week some unforeseen requirements came up in my personal life, which took a pretty substantial amount of time and energy, severely curtailing the effort I could put in to finishing my project. From past experience I know that prioritising sustainability is important for me, but I could have struck a better balance – the fact that I'm writing these words on a flight to South Africa speaks to the mistakes I

made in time management. Another self-management skill I realised I should work on is work-life balance. I tend to work in bursts of high energy, and when I have a high-energy day my instinct is to work long hours. This works in the short term – but about halfway through my project, I realised that the lack of clear boundaries between my working hours and time off were demoralising (working from home didn't help). Although *changing* my plans for my project worked well, my experiences of both time management and work-life balance reaffirmed my knowledge that carefully planning my time (both daily, weekly, and long-term) is an area to work on. 'Going with the flow' serves me well at times, but not always.

My findings

So; the new remit of my research project was to investigate whether there was a way of re-conceptualising structural injustice in a way that solved the problems in the canonical conception, while still preserving the usefulness of structural injustice as a concept. Ideally, this conception would be designed such that it would cohere well with human rights theory.

To better understand what this new conception does, let's first look at the existing conception it replaces. As I mentioned, it's important to recognise that something – an action, an outcome – can be terrible without being *unjust*. So any conception of structural injustice must explain what makes it *unjust* instead of just *bad*. The 'canonical' account of SI (Young, 2010) explains *why* SI is unjust and *who* is responsible for it as follows:



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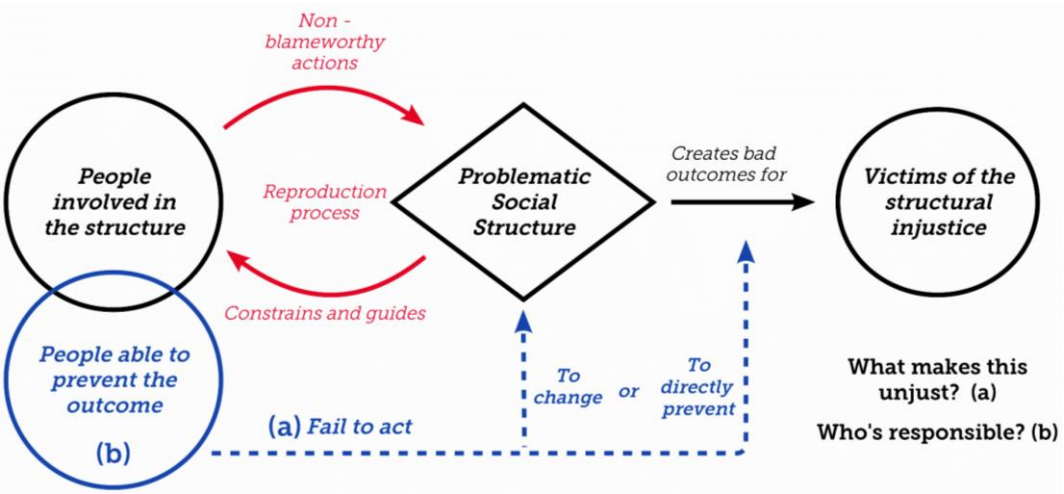
- The reason why the structural harm is unjust is that it was caused by human actions (a), even though not all of these actions were blameworthy.
- Even though many of them haven't done anything wrong, it's the individuals involved in the structure (b), who are responsible for changing this injustice.

Drawing on work by Aragon and Jaggar (2018) and Estlund (2020) I argue that each of a and b is inadequately justified. Following Estlund, I point out that the outcome could have been brought about by a natural process – for example, Sandy's house could have been destroyed by a hurricane, leaving her just as vulnerable. From there,

- P1: the outcomes are the same with or without human involvement, and
- P2: the human actions which produce that outcome are assumed to be blameless
- C: it's unclear why those human actions can make it unjust in a way it wouldn't be otherwise, and equally unclear why those people must be responsible

There is little point in rejecting one approach without a satisfactory alternative. Instead, I suggest defining SI in terms of preventability:



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- The reason that the process is unjust is because there are people who reasonably could have changed it (b) and prevented the bad outcomes for the victims, but failed to do so (a).
- All of the people (reasonably) capable of changing this process (b) are the ones responsible for doing so, either through changing the structure or directly preventing the structure from affecting the victims.

This approach applies the pre-existing moral/legal concept of 'culpable negligence' in a new context. This approach is also designed to apply to the same cases but more convincingly explain who's responsible for them. Appealingly, in adopting a culpability-based framework, the new conception leaves significant scope for applying existing theories of moral responsibility to structural injustice. Using the new conception to apply human rights theory to SI is one promising area for future research – something I'm enthusiastic to work on in the future.

Citations

Aragon, C. and Jaggar, A. (2018) 'Agency, complicity, and the responsibility to resist structural injustice', *Journal of Social Philosophy*, 49(9), pp. 439–460. Available at: https://doi.org/10.1111/josp.12251.

Estlund, D. (2020) 'What's Unjust About Structural Injustice?', in. NYU: Unpublished - Draft Version. Available at: https://www.law.nyu.edu/sites/default/files/ESTLUND-DRAFT-Structural%20Injustice-NYU%20version%20Nov%202020_0.pdf (Accessed: 19 June 2022).

Young, I.M. (2010) *Responsibility for justice*. Oxford University Press.