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Unjust History and Its New Reproduction—A Reply to My Critics

Alasia Nuti¹

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Abstract

Demands calling for reparations for historical injustices—injustices whose original victims and perpetrators are now dead—constitute an important component of contemporary struggles for social and transnational justice. Reparations are only one way in which the unjust past is salient in contemporary politics. In my book, *Injustice and the Reproduction of History: Structural Inequalities, Gender and Redress*, I put forward a framework to conceptualise the normative significance of the unjust past. In this article, I will engage with the insightful comments and try to address the concerns of the contributors to the symposium on my book. I will discuss (i) whether and in what sense my framework incorporates past-regarding duties, (ii) how it is different from causal interpretations of the relationship between past and present injustice, (iii) whether it can carve out a greater place for blame in our thinking about responsibility for (historical) structural injustice, (iv) whether such a responsibility needs to hinge upon an account of solidarity, and (v) how de-temporalising injustice can cast new light on immigration politics. In particular, I will stress and further clarify the importance that the notion of ‘structural debt’, which my book develops to reflect on historical responsibility, can play in thinking about what is owed to an unjust history.

Keywords Historical injustice · Structural injustice · Reparations · Responsibility · Solidarity · Immigration

Demands calling for reparations for historical injustices—injustices whose original victims and perpetrators are now dead—constitute an important component of contemporary struggles for social and transnational justice. Black Lives Matter, arguably the most influential anti-racist movement in the twentieth first century, endorses the idea that justice for Black people (in the US and across the world) requires reparations for the history of discrimina-

✉ Alasia Nuti
alasia.nuti@york.ac.uk

¹ Department of Politics, University of York, York, England

tion, oppression and exploitation that those racialised as non-white suffer from.¹ Although such calls for reparations do not seem to fade away over time, they rarely receive a widespread support from the general public and even some egalitarian political theorists have pushed against them (see, famously, Vernon 2003 and Waldron 1992).

Notwithstanding widespread scepticism about reparations for historical injustices, it is hard to deny that the unjust past still profoundly shapes our present reality. Consider, for instance, the so-called Windrush scandal, which took place in Britain in 2018 and involved hundreds of Commonwealth citizens being wrongly detained, denied legal rights and, in some cases, deported by the UK Home Office. Many had been born as British subjects in British colonies and belonged to the ‘Windrush generation’—nearly half a million people from the Caribbean who moved to the UK between 1948 and 1973 to work and build a new life after The British Nationality Act 1948 gave all citizens of the United Kingdom and Colonies the right of settlement in the UK. The Windrush scandal was one of the most infamous and glaring ways in which the UK government’s ‘Hostile Environment’ legislation impacted on Commonwealth citizens: Launched in 2012, this policy required landlords, the NHS, employers and banks to carry out ID checks to enforce immigration controls and was aimed at turning the UK in an inhospitable place for ‘undocumented’ migrants and forcing them to leave.² However, it also seems difficult to separate the Windrush scandal and the Hostile Environment legislation leading to it from the history of British colonialism and imperialism and, specifically, from the deep and insidious ways in which the current immigration system has been shaped and grounded on such history.

My book *Injustice and the Reproduction of History: Structural Inequalities, Gender and Redress* attempts to provide a framework to conceptualise the normative significance of the unjust past. The framework that I have developed ultimately rejects the idea that we can (and should) neatly distinguish the past from the present because unjust history is newly reproduced in the structural fabrics of our societies and transnational order. The new reproduction of unjust history generates stringent obligations of justice and redress and challenges even those societal and transnational features that we do not tend to question. Or, so I argue in my book.

All the contributors of this symposium on my monograph, which has been put together by Jennifer Page, explore why the unjust past might matter in our theorising about justice and prompt me to clarify and further reflect on my own intuitions about the complex relationship between history and the present. The range of issues they raise is incredibly comprehensive: from the existence of pure past-regarding duties to the importance of causal interpretations of the interplay between past and present injustice, to the place of blame and solidarity in accounts of responsibility for historical and structural injustice, to the unjust historical structural roots of contemporary immigration politics. I am enormously grateful to all the contributors for their profound insights and for engaging so seriously with my arguments. In what follows, I offer a preliminary reply to their concerns with the hope that this is only the start of a conversation about why unjust history does matter.

¹ https://blacklivesmatter.com/whyreparations/?_cf_chl_jschl_tk__=pmd_xcoKxM6QUpMI9WyVbxXWiz-Cve6Dxei.D.ajiC7yFQ3k-1634801791-0-gqNtZGzNAICjcnBszQjl Accessed September, 21, 2021.

² On the ‘Windrush scandal’, see <https://www.jcwi.org.uk/windrush-scandal-explained> Accessed September, 21, 2021.

1 Between Past and Present: De-temporalising Injustice

In my book, I built on some insights into philosophy of history offered by Reinhart Koselleck to argue that we should de-temporalise injustice, that is, when it comes to certain types of injustices, we should avoid the conceptual separation between the past and the present and think of unjust history as newly reproduced (Nuti 2019, pp. 13–29). This entails regarding some historical injustices as not really past, but also conceiving of their presence as deep, persistent and dynamic. In particular, I contended that ‘[d]e-temporalising injustice is necessary to capture (1) the relation between past and present injustice, and consequently (2) the complex interplay between persistence and change’ (Nuti 2019, p. 13). In other words, the framework of the de-temporalisation of injustice aims to overcome the long-standing (but—I think—not necessarily highly productive) divide between so-called ‘backward-looking’ and ‘forward-looking’ considerations about why past injustices are normative significant.

In their thought-provoking articles, Daniel Butt and Megan Blomfield challenge my framework by, respectively, stressing the importance of pure past-regarding duties of justice and suggesting that ‘causal’ interpretations of the link between past wrongs and present inequalities should not be rejected but, instead, complemented by the de-temporalisation framework. Although there is much I admire about and sympathise with these two careful and astute comments, in what follows I will try to address their concerns about my account and to defend my approach.

1.1 Past-regarding Duties and Present Injustice

Butt (2021) perceptively vouches for what he calls ‘[a] pluralist approach of reparative justice’, which might give priority to historical structural injustices while still recognising the existence and strength of past-regarding duties that cannot be conceptualised as obligations for the reproduction of an unjust history but are authentically backward-looking in their direction, i.e., they are duties of rectification that we owe to the unjust past itself. More specifically, Butt (2021) points out that there might be at least three scenarios where it is important to acknowledge that, even if we concur that present-based duties always come first, past-regarding duties have force: (i) when ‘backward-looking concerns of corrective justice have a motivating effect on contemporary actors’ (2021); (ii) when agents that might not be bound by obligations of historical structural justice have specific past-regarding duties towards certain historical wrongs (2021); (iii) when the “integrity of the reparative project in question” hinges on considering obligations to the dead.

Let me address these cases in turn. As for (i), I am sceptical that grounding ‘pure’ past-regarding duties on the possible motivating effects on some contemporary agents is a good strategy to show the existence and stringency of such duties. In his previous work, Butt has compellingly shown that libertarians and liberal nationalists who are generally hostile to duties of distributive justice at the domestic and (in the case of liberal nationalists only) the global level, often recognise that there are duties of corrective justice (Butt 2009, 13–17). Resorting to corrective justice arguments might then be a way to persuade those holding such views to bring about a just domestic and global society. Now, it seems to me that this ‘strategic’ argument undermines the intrinsic importance of ‘pure’ past-regarding duties, rather than proving it. When we engage in conversations with others and we participate to the public sphere, we might want to use (whether it is ethical or not) all sorts of arguments

that might be effective in persuading our interlocutor. However, that does not mean that those arguments are compelling in themselves. By arguing that backward-looking arguments can be deployed to serve present duties of domestic and global justice, this line of thought reinforces—wrongly, in my view—the idea that it is the latter that ultimately matters.

Argument (ii), instead, more clearly rests on the intuition that we have ‘pure’ past-regarding duties, by suggesting that there might be actors who do not appear to have obligations of historical structural justice but might still have responsibilities of corrective justice tied to their specific past. As mentioned by Butt, many universities, for example, have a history of injustice and/or were actively complicit with societal and global historical injustices. For instance, Brown University—an Ivy League academic institution—had such close ties with slavery and the transatlantic slave trade that one might think it impossible to disentangle the history of the former with that of the latter. Indeed, under the leadership of the then-President Ruth Simmons, a detailed report on the relationship between Brown University and the institution of slavery was prepared and released in 2006.³

Here, it is important to point out that my account of responsibility for historical structural injustice would not deny that collective agents like Brown University have backward-looking obligations of justice. Unlike the majority of structural injustice approaches, my framework actually advocates for holding accountable certain agents for their (unjust) past. It does so by introducing the novel notion of ‘structural debt’, which refers to the ‘debt [such agents] have accumulated over time through their actions (and inactions) within unjust structures’ (Nuti 2019, 157). De-temporalising injustice also entails looking at how some present agents that display continuity over time and have the power to influence structural processes have acted (or failed to act) within unjust structures that have been reproduced over history. Although I illustrated the notion of structural debt mainly by looking at states, other collective agents that can be meaningfully described as corporate agents persisting over generations might have accumulated a structural debt.⁴ This seems to be the case with universities; as institutions of knowledge and often sites of privilege, universities have arguably an important role in influencing structural processes. On this basis, they should be held accountable for their contributions to the reproduction of, say, racialised unjust structures over history. More generally, as I will further explore in the next sub-section, the notion of structural debt incorporates some of the backward-looking concerns raised by Butt, while recognising that backward-looking responsibility is not merely directed at redressing past injustice, but it is aimed at addressing the newly reproduction of such injustice. The de-temporalisation framework, thus, identifies a wide range of agents as potentially accountable for an unjust history.

Finally, Butt suggests a third case (iii) in which pure past-regarding duties seem to be crucial, i.e., when thinking about obligations to the dead is an integral component of a reparative project. According to Butt, this very interesting case is exemplified by the recent successful public campaign in England and Wales for ‘pardoning’ men who were cautioned or convicted under historical legislation that prohibited same-sex sexual acts.⁵ The cam-

³ More information about the report detailing Brown University’s relationship with slavery, which was the outcome of a three-year long project led by the appointed Steering Group on Slavery and Justice, can be found at https://www.brown.edu/Research/Slavery_Justice/. Accessed September, 21, 2021.

⁴ On corporate agents’ responsibilities for historical injustice, see Kukathas (2003).

⁵ My use of the term ‘pardoning’ simply refers to the official language used by the UK government, but it does not endorse it. The fact that the UK government decided to pardon men convicted wrongly, rather than

campaign led to the enactment of the legislation informally known as ‘The Alan Turing law’, which emblematically is named after one of the most-renowned victims of homophobic state-sanctioned violence, i.e., the mathematician and computing pioneer Alan Turing. Not only men still alive were ‘pardoned’; posthumous pardons were included in the bill. In what follows, I ask whether the campaign leading to the Alan Turing law does show the existence of ‘pure’ past-regarding duties, which are independent of present injustices or not.

Two observations are worth making. First, the very campaign arguably has linked past-regarding and present-regarding duties of corrective justice more closely than Butt acknowledges. Tying together obligations towards living men wrongly convicted because of their sexual orientation and those owed to those dead, including Alan Turing, might have been a particularly effective strategy to obtain justice for the former. By reminding the UK government of what had been done to men like Turing, the campaign has managed to push the government to recognise what it was still doing to those alive who unjustly had a criminal record.

Second, whether or not this type of reparative project did actually fully respect the dead victims of homophobic state-sanctioned violence is more complicated to determine than one might think. Consider Alan Turing himself. According to Butt, if the original proposal and campaign had not made explicit reference to what was owed to Turing, it would have instrumentalised him and other dead victims. However, there are reasons to suggest that Turing has still been treated as a means, rather than an ends in himself, even though the proposal and campaign made explicit reference to him. Turing was not a gay rights activist during his lifetime; whatever the reason behind it might have been, sexual emancipation was not one of the projects that Turing devoted himself to. He was arguably heralded as a “gay icon” and a “gay martyr” not because of his commitment to LGBTQ rights but because the LGBTQ movement understandably needed it to advance its goals and because the way Turing was treated resonated so much with many gay men alive today. Recasting Turing as a gay martyr has certainly been pivotal for LGBTQ politics in the UK (including for the reparative project under discussion) and the collective memory of the movement (Doan 2017); but it is unclear whether it has been respectful towards Turing himself, i.e., to how he perceived his identity and life plans.⁶ The original proposal and campaign leading to the pardoning of dead and living gay men actually shows how difficult it is to neatly separate past-regarding duties and present justice, especially in politics.⁷

In sum, I am not sure that ‘pure’ past-regarding duties conceived as completely independent from the present exist. However, the de-temporalisation approach does not cancel out backward-looking obligations. Quite the contrary, it shows that it is only when an unjust

simply apologise, erase the criminal record and offer reparation arguably constitutes an injustice in itself.

⁶ For an account of obligations to the dead centred on the dead’s desires, see Ridge (2003). In the case of Turing (and others), it might be particularly difficult to establish what his desires regarding sexual emancipation were because he lived at a time when his sexual orientation was criminalised. That being said, it is still far from clear that becoming a gay martyr was what Turing would have wanted based on how he conducted his life.

⁷ I cast aside whether the UK government had a *special* duty of reparative justice towards Turing because of his distinctive contribution to society. Although Turing was undoubtedly an exceptional mind who hugely contributed to his country (and arguably the world) at an extremely critical time, I am assuming that, if corrective justice is owed to victims of past injustice who are now dead, it should be owed to all wrongly treated in the past independently of their brilliance or contribution to society.

history is framed as newly reproduced over time through structural processes that we can recognise the enormous debt to that history, which some agents have accumulated.

1.2 Persistence, Change, and Structural Debts

In her article, Blomfield zooms in on the differences between the de-temporalisation approach and the causal approach, which argues that past injustices are normatively important because they caused present inequalities. She suggests that the two approaches are more similar than I have acknowledged; both seem to be open to what I called the ‘redundancy objection’ (i.e., that a strong commitment to present justice would make the unjust past of no normative importance), while having the resources to address it. Blomfield then argues that the de-temporalisation and causal approach should be better framed as complementary. According to her, when theorising obligations of historical justice, ‘we should understand ourselves to be engaged in an ameliorative project; a project that is guided by, and designed to help us to achieve, our legitimate purposes’ (Blomfield 2021). There are instances in which the de-temporalisation approach is more apt, whereas the causal approach can be particularly helpful in other circumstances. For instance, Blomfield (2021) points out that if we aim “to investigate certain contemporary effects of British slaveownership as a particular and unique historical institution”, the causal approach appears a perfectly adequate analytical framework, which can also cast light on the achievements of abolitionists in ending a form of injustice.

Blomfield’s insightful comments offer me the opportunity to clarify the relationship between the de-temporalisation and the causal approach—a relationship that I have admittedly failed to fully spell out in the book. I certainly agree that the two approaches share many aspects; in many respects de-temporalising injustice entails incorporating some insights offered by causal understandings of the interplay between past and present injustices. However, I also believe that the de-temporalisation approach offers a more sophisticated account of both persistence and change. Conceptualising how injustices endure over time is pivotal to address them. The causal approach, which tends to frame present inequalities as an effect caused by past wrong does not explain how history is present, i.e., by means of unjust structural processes, and how present mechanisms reproduce that unjust history. Likewise, although it draws a link between past and present injustices, that link is too mechanic and does not take into account the possible changes occurred since the original wrongs were committed—changes that should be factored in as they are often fundamental tools whereby history is reproduced.

Consider, for instance, the systematic infringement of black women’s reproductive rights in the US, which I discuss in Chapter 8 of my book (Nuti 2019, 157–160). Conceptualising such an injustice merely as an effect of the sexual violence and exploitation of black women’s reproductive capacities during slavery would be a poor account of (i) how reproductive injustice against black women has endured over time and (ii) which changes in US society have enabled such endurance. For instance, reforms to the welfare system and the ‘war on drugs’ were pivotal in the continuous violation of black women’s reproductive rights during the 1990s. Similarly, the marketing and distribution of specific (and highly dangerous) contraceptives—something unavailable at the time of slavery—through Medicaid were essential mechanisms that ensured the violation of black women’s reproductive rights in an era characterised by the rule of law and formal equality of opportunity.

These differences allow the de-temporalisation approach to point out the full injury of injustices that have persisted over time through changes. Even more importantly, by conceptualising certain injustices as having been newly reproduced over history, such an approach, unlike causal approaches, is not exclusively forward-looking; it gives history more normative importance. This matters when it comes to holding certain actors accountable for injustice. While the causal approach allocates responsibilities only for present inequalities, the de-temporalisation framework also traces accountability over time and demands that powerful agents who played a crucial role in enabling (or failing to address) unjust structural processes pay their debt for what they did or failed to do over history. Imagine that the US government had started to address the reproductive injustice against black women through, for instance, significant reforms to the child-welfare system and greater support to black communities. The causal approach (like other forward-looking approaches) would probably suggest that, since the US government is now seriously addressing racial reproductive injustice, it should not be held responsible for what the US state did (and failed to do) in the past and offer reparations for it. Instead, the de-temporalising injustice approach entails a more complex picture of historical responsibility, which does not cancel out an agent's structural debt when that agent starts tackling present unjust structural processes. In our hypothetical scenario, the fact that US government is taking positive steps towards addressing reproductive injustice against black women does not mean that it should not be historically accountable for the role it kept playing in the systematic violation of black women's reproductive freedom over time. Therefore, the US state would still owe reparations for that historical role.

Blomfield's suggestion of conceiving of historical justice as an ameliorative project, which would sometimes be achieved through a de-temporalisation framework, while being other times more aptly pursued through a causal approach, is compelling and stimulating. However, I would like to resist this suggestion by looking at the interesting example Blomfield provides. I am not sure that, if we want to understand the impact of British slave-ownership on British society, the causal approach is the best one. It seems to me that, in order to fully grasp that impact, we would need to ask whether how the racialised unjust structural processes underpinning the institution of British slave-ownership have unfolded over time and how the exploitation of racialised bodies is ingrained in the fabrics of British society, including its urban infrastructure. Endorsing the de-temporalisation approach to pursue this kind of project would not preclude from 'examining how the wealth resulting from [British slave-ownership] has passed down family or company lines' (Blomfield 2021). Nor would it entail neglecting the achievements of abolitionists that fought to end slave-ownership in Britain. A de-temporalisation approach would simply push us to examine the relationship between British slave-ownership and contemporary British society in a deeper way, including tracing down the different powerful agents that have enabled the reproduction of racialised structures of exploitation and oppression after the abolition of slavery.

2 Historical Structural Injustice and Blameworthiness

The notion of 'structural debt' not only incorporates backward-looking obligations into the framework of structural injustice; it also carves out a space for blame within that framework, which has famously defended a conception of political responsibility without blame (Young

2011). Jennifer Page insightfully asks how my account of historical structural injustice and responsibility would further conceptualise the blameworthiness of morally impermissible acts committed in contexts of structural injustice. In particular, she zooms in on two interesting cases: (1) a boss of a firm charged with sexual harassment; and (2) the authorisation of a series of workplace raids to deport ‘undocumented’ poultry plant workers granted by the Trump’s administration, which strikingly resembles the infamous Operation Wetback under the Eisenhower administration resulting in the mass deportation of Mexican migrants. As for (1), Page (2021) asks whether ‘beyond being blameworthy for wrongful acts themselves, are culpable wrongdoers [like the boss] blameworthy for contributing to structural injustice?’ Case (2), instead, raises challenging questions of historical moral ignorance; specifically, should we think that ‘present-day wrongdoers ought to be more morally knowledgeable than their historical predecessors, meaning that the Trump administration ought to be judged more harshly than the Eisenhower administration for deportation drives?’ (Page 2021). Page offers different intriguing routes that an account of responsibility for historical structural injustice can take to address (1) and (2). In what follows, I reflect on these two cases in turn, by gesturing towards some possible answers.

Let’s start with the boss of a firm who has been charged with sexual harassment. The boss is surely blameworthy for his wrongful conduct; however, is he also blameworthy for his own contribution to structural gender injustice? Considering the boss’ influence and power in the firm he runs, we might intuitively think that he should not be easily taken off the hook. But, why is this the case? One could simply suggest that the boss’ responsibility to address unjust gendered structural processes (and the responsibility of any other individual behaving wrongly in a context of structural injustice) directly derives from the independent reparative obligations that he has because his wrongful actions arguably have some structural effects. Like Page, I find this possible answer problematic. It seems to lead to the full dissolution of the distinction between the liability model and the social connection model, which structural injustice approaches hinge on. Although, as argued in the book, I believe that such a distinction should be refined and, in some cases, blurred (Nuti 2019, 154–166), completely erasing it fails to acknowledge important differences among individuals; that is, it neglects that the boss occupies a specific social position in virtue of which he can exercise considerable influence over structural processes.

Two alternative routes, which Page lays out, precisely capture this insight. One possibility would be to *expand the notion of ‘powerful agents’* so as to include actors like bosses of firms (Page 2021). The other would *limit the scope of reparative duties* to the structural effects that the boss’ wrongful behaviour had on the local context of his firm (Page 2021). I find these two routes quite attractive. In particular, both reveal the need for structural injustice approaches to consider in their accounts of responsibility what might be called *the ‘meso-level’ level of analysis*. While structural injustice theories tend to focus on the micro-level (i.e., direct interactions among individuals within unjust structural processes) and the macro-level (i.e., the contributions of individuals to unjust societal and transnational structures), the meso-level (i.e., the contributions of individuals within specific communities and organizations) is seldom theorized, especially as a specific site of obligations for structural injustice. However, I believe that it is precisely by focusing on the meso-level that we can appreciate the contributions of the boss to unjust gendered structures (and potentially holding him accountable for them) while avoiding fully getting rid of the liability/social connection distinction.

We can appreciate how the boss is indeed a powerful agent only when we focus on the meso-level, i.e., his position in the structural processes regulating his firm. It would be far-fetched to argue that the boss is a powerful agent when it comes to the macro unjust gendered structural processes underpinning his society and the transnational order. Surely, like anyone else, he does contribute to them too; however, his contribution does not seem salient enough to hold him accountable for his actions (or failures to act) within such processes because it is unlikely that he has the individual power to influence them. However, the boss *as a boss* certainly has the capacity to change the informal rules and processes regulating his firm. A boss upholding high standards of gender equality and promoting the value of gender justice can do a lot to address and transform the unjust gendered structural processes within the firm he runs. In sum, while the boss is not a powerful agent at a macro-level, he should be counted as such at a meso-level and, thus, he could be held accountable for his contribution to gendered structural injustice within his firm and being blamed for it.⁸

Similarly, we can limit the scope of special reparative duties to the local structural effects of wrongful actions only when we zoom in on the meso-level. While it is unclear whether the sexual harassment perpetrated by the boss made a significant contribution to sexist norms within the society he lives in, it clearly and tangibly contributed directly to the reproduction of a sexist culture within the firm. By endorsing a tripartite analysis of the boss' contributions to unjust gender structural injustice and of his responsibilities for it, we can suggest that:

- a) *At a micro-level*: The boss is liable and blameworthy for his sexual harassment and needs to offer reparation to his victims, following the liability model;
- b) *At a meso-level*: The boss counts as a powerful agent in the local context of the firm; therefore, he also has reparative backward-looking obligations for his failures to influence gendered structural change within the firm—failures he is blameworthy for (Nuti 2019, 184–188);
- c) *At a macro-level*: The boss does not count as a powerful agent (or at least, this is the case in most circumstances as there might be bosses of very resourceful companies who could be considered as powerful in the relevant sense); therefore, he simply shares a political responsibility to join other ordinary individuals in collective action to transform the societal and transnational gendered unjust structural process he acts within; he should not be blamed for his failure to take up this responsibility. This is captured by Young's social connection model.

In sum, introducing a meso-level of analysis from the micro- and macro-levels can provide the basis for a more nuanced account of individuals' responsibilities for structural injustice, by appreciating that one can hold significant influence on structural processes at one level but not at another.

The second type of case discussed by Page raises important questions about whether historical moral ignorance should mitigate responsibility for (historical) structural injustice. Here the comparison is between historical actors (e.g., the Eisenhower administration) and contemporary ones (e.g., the Trump administration) committing similar actions (e.g., deporting 'undocumented' workers), which are underpinned by the same unjust structural

⁸ I have explained why powerful agents should be held accountable, rather than simply politically responsible, and thus seen as blameworthy if they fail to exercise their influence to transform unjust structural process in Nuti (2019, 184–188).

processes (e.g., racialized norms and stereotypes regarding Mexican workers). Should we say that the former must be judged less harshly than the latter for its contribution to racialized unjust structural processes? Like Page, I wish to resist this conclusion. As she insightfully points out, the actions of the Eisenhower administration were plainly cruel and should be condemned on this basis. Moreover, it is important to add that such actions were both relying on and actively reinforcing racist structural processes categorizing a group (i.e., Mexican persons) as unreliable and undesirable.

That being said, one might also suggest that the Trump administration can be morally criticized on an additional ground. A collective powerful agent like a state should actively cultivate a historical memory of the ways in which it failed to morally act in the past, including how it influenced unjust structural process with its actions and inactions. In particular, the US state could be charged with ‘willful forgetfulness’ vis-à-vis the role it played in the reproduction of historical structural injustices against Mexican and other Latino/a/x persons. Willful forgetfulness refers to how forgetting about injustice (and one’s own contributions to it) is hard and active work, which requires the construction of non-knowing and non-remembering the past, by neglecting knowledge and memory that is out there (Fabian 2003). Although both the Eisenhower and the Trump administrations should be held accountable for their political immoralism, as Page suggest, and for their contributions to unjust racialized structural process, as I have argued, the Trump administration could be also criticized for not having morally learned from history, i.e., having willfully forgotten about the role that the US state played in the reproduction of a specific injustice over time. Indeed, the wrongful actions of the Trump administration eerily mirrors those committed under the Eisenhower Presidency. This failure of historical moral learning is a component of the structural debt that arguably the US state owes to Mexican and other Latino/a/x persons. With the passing of time (i.e., from 1954 to 2019), that debt has become larger and larger and historical accountability more difficult to avoid.

3 Solidarity, Responsibility and The Prospects for Historical Structural Justice

David Owen’s and Desiree Lim’s respective papers encourage me to push further my account of historical structural injustice and responsibility in different yet equally stimulating ways. While Owen zooms in on the concept of solidarity and its alleged necessity for an account of structural justice, Lim reflects on whether and how the framework of historical structural injustice could be useful to cast light on the interplay between the phenomenon of “cimmigration”, i.e., the criminalization of unauthorized migrants, and the racialized division of labour migrant work. I will focus on each paper in turn.

3.1 Do Accounts of Structural Injustice Necessarily Need A Theory of Solidarity?

In his thought-provoking paper, Owen argues that accounts of structural injustice (including mine) face a puzzle. On the one hand, responsibility to address a specific structural injustice should mainly fall on those who are privileged vis-à-vis that injustice. On the other hand, if change is not directed by those who are structurally disadvantaged the process of overcoming structural injustice might end up compounding it. As Owen stresses, when we consider

how unjust structural processes intersect with one another, this scenario becomes even more challenging. According to him, what accounts of structural injustices lack is a theory of solidarity, which can help us navigate this dilemma. He then insightfully examines different approaches to solidarity—solidarity as a symmetrical relation (Sangiovanni 2015) and solidarity as an asymmetrical relationship (Kolers 2016). Owen interestingly eases the tension between these two approaches, by showing that they should complement each other. While ‘solidarity as symmetrical’ expresses solidarity between members of the same group (‘in-group solidarity’), ‘solidarity as asymmetrical’ is better equipped to capture what solidarity should look like between members of different groups (‘out-group solidarity’). Both ‘in-group’ and ‘out-group’ solidarity are needed to address structural injustice and make sense of the intersectional positions that we occupy within unjust structural processes.

There is much to admire in Owen’s proposal; and, I generally agree with the gist of it. However, I want to cast doubt on whether a fully-fledged theory of solidarity is essential to accounts of responsibility for structural injustice. To be sure, solidarity is becoming an important concept in normative political theory and is crucial in activist politics. Nevertheless, I think that it might be redundant when it comes to accounts of responsibility for structural injustice; this is because a conception of solidarity is already implicitly embedded in such accounts. To show how this is the case, I will rely on some arguments that I (admittedly quickly) sketch in Chapter 9 of my book. Like Owen’s paper, that chapter is concerned with how we should theorise the collective action necessary to address structural injustice and, in particular, on which grounds differently positioned individuals should be responsible to take part in that action. I believe that it is crucial that structural injustice theorists recognize that, while everyone participating to unjust structural processes might have a political responsibility to change them, not everyone has that responsibility on the same grounds. In brief, those who are privileged vis-à-vis a structural injustice (e.g., those racialized as white in a context of racial structural injustice) should take responsibility to collectively address such injustice *because* they are unfairly privileged (Nuti 2019, 189–191). Those who are structurally disadvantaged (e.g., individuals racialised as non-white) in an unjust context (e.g., a society characterized by racial structural injustice) have a responsibility for change too. However, the grounds for such a responsibility are qualitatively different from those generating obligations for the privileged. For instance, they can be based on the relationships with those who are similarly positioned within unjust structures in the present and across generations (Nuti 2019, 191–193).

These different grounds are of normative importance because, as I suggest in my book, differently positioned individuals do not enjoy the same “structural standing” when it comes to criticising others for their failure to discharge responsibility for structural injustice. Specifically, it is only those structurally disadvantaged who have the standing to morally criticise other similarly positioned individuals for doing nothing (or not enough) in the collective fight against the structural injustice(s) they suffer from (Nuti 2019, 193). This way of conceptualizing responsibility can make sense of the fact that we occupy intersectional positions within societal and transnational unjust processes. We might have structural standing when it comes to some unjust societal processes but not to others because our responsibility to address structural injustice is differently grounded depending on the structural processes in question.

It seems to me that this differentiated way of conceptualizing responsibility for structural injustice chimes with Owen’s distinction between ‘in-group’ and ‘out-group’ solidar-

ity. Similarly, the idea of structural standing (and lack thereof) reveals the ways in which ‘out-group’ solidarity should not be exercised by the privileged, e.g., by criticising the disadvantaged for their inaction and presuming to know what the disadvantaged’s interests are in advance. This should not come as a surprise. Conceptions of political responsibility for structural injustice (including Young’s original formulation) have always relied on an understanding of what it means to discharge such a responsibility that is centred on practices of solidarities. Indeed, political responsibility can be taken up only by joining others in collective action (Young 2011, 111–113), which means acting in solidarity with others. My differentiated account of the grounds of political responsibility and Owen’s combination of ‘in-group’ and ‘out-group’ solidarity are two ways of specifying how we should ethically work with others to overcome structural injustice.⁹

That being said, my intuitions slightly depart from Owen’s in one respect. Owen suggests that taking intersectionality and our different positions in unjust structural processes seriously, leads to some specific recommendations for privileged individuals. Practising ‘out-group’ solidarity for them primarily entails supporting members of disadvantaged groups to build “solidarity between themselves and the organisational capacity for [their] articulating claims and goals” (Owen 2021). I think that we should be more cautious at specifying a particular course of action for the privileged. First, how to cultivate solidarity in an intersectional way is something that is often worked out in political practice through trial and error. It cannot be easily pre-determined because it is context-dependent and the result of difficult and challenging activist work. Second, and relatedly, it is not always the case that, for the privileged, expressing ‘out-group solidarity’ (or, in my jargon, discharging political responsibility) entails primarily enabling a disadvantaged group to enhance their capacities for voicing their grievances and claims. Whether this is the case again depends on context. For instance, in contexts where the disadvantaged are deeply distrustful towards members of privileged groups (e.g., in settler colonial societies), expressing out-group solidarity in that way might be counterproductive because such efforts are bound to be taken at best as paternalistic and condescending and at worst as dominating. In those contexts, for the privileged, out-group solidarity might first amount to working towards changing the attitudes and behaviour of other members of their same privileged group.

3.2 Justice In Migration and Historical Structural Injustice

In her extremely insightful paper, Lim offers what I think is a masterful application of the framework of historical structural injustice to analyse the interplay between criminal law and immigration enforcement (the so-called phenomenon of ‘cimmigration’) in the US. Lim points out how arguments stressing the economic benefits of accepting low-skilled labour migration are deeply problematic. Even though such arguments aim to put a halt to crimmigration, they accept “the existing racialized division of migrant labor, under which Latino/a/x migrants disproportionately perform “dirty” and “difficult” work for citizens’ (Lim 2021).¹⁰ Specifically, Lim shows that crimmigration should be conceptualised as an

⁹ For another attempt to spell out political responsibility for structural injustice (i.e., in particular, global neo-liberal economic unjust structural processes), see McKean (2020). Note that, however, Benjamin McKean’s account is not centred on differentiated grounds for responsibility but on shared interests.

¹⁰ In general, freedom of movement would not end all the types of injustices in migration. For an account of how this is the case in the context of temporary labour migration within the European Union, see Nuti (2018).

ongoing historical injustice, that is, the endurance of the unjust history against Latino/a/x persons in the US. Lim points out that ending crimmigration without tackling at the same time such unjust history, as the argument from economic benefits proposes, would result in an historical structural injustice, i.e., the reproduction of that unjust history of racialised economic exploitation through new means.

Lim's argument is persuasive and compelling. It shows that the framework of historical structural injustice can be further developed to cast light on many unjust phenomena characterising contemporary politics. This is because our societies and transnational order are arguably rooted in unjust histories—histories that, in many cases, are not in the past but they keep being newly reproduced in the present. In particular, I think that there is the scope to further explore the potential of de-temporalising injustice when it comes to migration, both in the case of crimmigration and the racialised exploitation of Latino/a/x workers and beyond it.

First, the notion of structural debt could provide the ground for backward-looking arguments in favour of more open borders, which are distinct and independent of existing and more widely discussed justifications for greater freedom of movement across borders (e.g., a human right to immigrate, see Cole 2000 and Oberman 2016). The history of the borders of 'Western' states is deeply entangled with past injustices like colonialism and imperialism (see, e.g., Mayblin and Turner 2020). One might even venture to suggest that the legacies of colonialism and imperialism reverberate so strongly in immigration politics (from policies of family reunification to asylum policies, to security measures, to the regulation of sex trafficking, undocumented migrant labour, and temporary labour programmes)¹¹ that borders control precisely functions as a crucial tool whereby histories of colonialism and imperialism are newly reproduced today. This means that some contemporary powerful actors (e.g., 'Western' states) might well be accountable for the role they played in sustaining and reinforcing colonial structural processes through the immigration policies they implemented. To put it differently, they might owe reparations for their structural debt. What shape reparations for the reproduction of colonialism and imperialism must take should be result of a participatory (inclusive and intersectional) process involving all affected parties (Nuti 2019, 166–171).¹² However, it seems reasonable to suggest that one possible (yet not exclusive) form of reparation could be making borders more porous (or even lifting all immigration restrictions) for migrants from previously colonised countries, and facilitating their migration projects in a fair way.

Second, and relatedly, de-temporalising injustice in the context of migration politics means assessing whether the ways in which colonial and imperial history is reproduced through migration control should normatively matter when we consider states' right to exclude, beyond issues of reparations. Normative political theory has not devoted enough attention to the entanglement of historical injustice and migration politics (for some exceptions, see Amighetti and Nuti 2016; Espinandola *forthcoming*; Fine 2016), and the framework of historical structural injustice can provide a springboard for a normative assessment of migration regimes, which gives history its due.

¹¹ On the interplay between, on the one hand, colonialism and imperialism and, on the other hand, some of the immigration policies mentioned, see Mayblin (2017), Mayblin and Turner (2020), M'charek (2020), and Turner (2020).

¹² For a deliberative democratic approach to reparations, see Amighetti and Nuti (2015).

4 Conclusion

De-temporalising injustice means recognising and reflecting on how many features of our contemporary societies and transnational order are deeply intertwined with the newly reproduction of unjust histories that many of us now abhor. Acknowledging how we are embedded into and how we contribute to such reproduction can be challenging and unsettling. Nevertheless, however difficult this might be, addressing the reproduction of unjust history is what justice demands.

All the contributors to this symposium have provided new insights into the fraught relationship between historical and present injustices, by pushing me to consider both some limitations of my work and its potential. I hope to have addressed some of their concerns, although fully engaging with the richness of their comments would probably require me to write another book. What I think that this stimulating conversation shows is that redressing the new reproduction of unjust history is an urgent yet extremely difficult moral and political task that cannot be postponed any longer.

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