

# What Is Structural about the Basic Structure?

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In her criticism of “the distributive paradigm,” Iris Young advanced one of the most powerful challenges for contemporary theorizing about justice. Most powerful about that critique, in my view, is the claim that structural processes have to be, in Rawls’ phrase, the subject of justice.

Yet, I argue in this paper, this claim – that justice is primarily a matter of background norms, rules and institutions – is ambiguous between two claims. One claim makes injustice a wrong *intrinsic* to the workings of the background norms, while the other makes injustice *the outcome* of the norms. According to the former claim, the wrong of injustice is something *about* the workings of the institutions themselves, about the treatment one receives by being involved in these institutions. According to the latter claim, in contrast, the wrong of injustice resides not in the functioning of the institutions, but in something they produce, something related to them only externally. The claim, in other words, is ambiguous between two ways of understanding the *relation* in which background institutions stand to the injustice they are found faulty for.

The two claims are not incompatible. One can hold both without contradiction. One can think that there are two sorts of justice: one is about the treatment persons receive in virtue of their involvement in background institutions, the other about the impact

institutions make on individuals' holdings of goods. Not only does the failure to distinguish these two ideas lead to theoretical confusion, but also, as I show towards the end of this paper, the two ideas of justice point our critique in somewhat different directions, and paint different pictures of our options for redressing injustice.

In the course of making this argument I show that although she was the first to make the distinction between these two ideas of justice, Iris Young's work is partly responsible for this ambiguity, which first surfaces in her contention that there is a tension in Rawls' theory between its distributive impulses and its focus on the basic structure as the subject of justice (Young 2006). In her later work on political responsibility she withdraws from some of the insights she had developed in her earlier criticism of what she called "the distributive paradigm" in contemporary theorizing about justice (Young 1990) when she conceptualizes "structural injustice" as a structural position resulting from actions of well-intended individuals following just laws (Young 2011).

In making both of these contentions she fails, I contend, to distinguish between two ways in which basic social institutions can be evaluated from the point of view of justice. One of these is implicit in her criticism of the distributive paradigm and made explicit in her conceptualization of justice non-oppression and non-domination. The other comes out in her conceptualization of the plight of homelessness as produced by well-intentioned individuals, acting according to just rules and laws. By understanding justice in this second sense, she comes close to the target of her former criticism. For in her idea of structural injustice she seems to think the injustice is a matter of the *outcome* of the basic structure rather than intrinsic to its functioning. Spelling out the difference between these two ways in which the basic structure can be said to be unjust is the main aim of this

paper. Keeping them apart helps us see what is distinctive about Young's original insight about the distributive paradigm and, consequently, what is distinctive about her ideas of oppression and domination.

### I. Young's criticism of the distributive paradigm

In *Justice and the Politics of Difference*, Iris Young criticizes contemporary theorizing about justice for its widely-shared reliance on what she calls the distributive paradigm. By "paradigm" she means "a configuration of elements and practices which define an inquiry: metaphysical presuppositions, unquestioned terminology, characteristic questions, lines of reasoning, specific theories and their typical scope and mode of application."

On this account, the "distributive paradigm" defines social justice as the morally proper distribution of social benefits and burdens among society's members" (Young 1990, 16). In spite of their differences and disagreements, contemporary theorists of justice work largely within this paradigm (Young 1990, 16). They work with a model according to which "all situations in which justice is at issue are analogous to the situation of persons dividing a stock of goods and comparing the size of the portions individuals have" (Young 1990, 18).

This model makes several assumptions. One is that "individuals are externally related to the goods they possess." Another is that the only relation between individuals relevant for an evaluation of justice is the comparison of the amount of goods they possess. Finally, the model is "pattern-oriented," i.e. "it evaluates justice according to the end-state pattern of persons and goods that appear on the social field." To make an evaluation

of social justice is to compare alternative patterns to determine which is the most just (Young 1990, 18).<sup>1</sup>

The trouble with the distributive paradigm is that it fails to capture a wide-range of claims of justice made in contemporary politics.

Young gives several examples of such claims, many of which, she contends, are not primarily about the distribution of goods, but rather about voice and authority to decide important issues about the life of a community. She writes:

“Citizens in a rural Massachusetts town organize against a decision to site a huge hazardous waste treatment plant in their town. Their leaflets convince people that state law has treated the community unjustly by denying them the option of rejecting the plant (Young 1983). Citizens in an Ohio city are outraged at the announcement that a major employer is closing down its plant. They question the legitimacy of the power of private corporate decisionmakers to throw half the city out of work without warning, and without negotiation and consultation with the community. *Discussion of possible compensation makes them snicker; the point is not simply that we are out of jobs and thus lack money, they claim, but that no private party should have the right to decide to decimate the local economy.* Justice may require that former workers and other members of the community have the option of taking over and operating the plant themselves (Schweickart, 1984). These two cases concern not so much the justice of material distributions as the justice of decisionmaking power and procedures.” (Young 1990, 20, my emphasis).

Similarly, critics of the television industry for its stereotypical description of African Americans, Arab Americans, Mexicans, women or gays and lesbians do not raise an issue of material distribution, but one about cultural imagery and symbols. The same can be said about critics of the repetitive nature of clerical work, whose claim is that no one should have to spend the entirety of her working day typing a mindless set of numbers at monitored high speed (Young 1990, 20).

The issues raised by critics of the division of work are similar. They are not about access to jobs, but about how to define the tasks associated with these jobs (Young 2006, 93). For instance, on the distributive paradigm, questions about the gender division of labor get framed in distributive terms as whether family work should be shared between men and women equally, or whether the partner who earns wages should compensate financially the partner who performs unpaid work. However, “this interpretation of gender justice leaves unquestioned ... the structural division between private domestic care work and public...salaried work” (Young 2006, 93).

Young advances two critiques of the distributive paradigm.

The first problem with the distributive paradigm is that it presupposes and obscures the structural processes that produce the goods that are subject to distribution. As claims of injustice in the American contemporary society like the ones above cannot be understood in distributive terms, theorists working in the distributive paradigm tend to ignore the issues they raise and to presuppose the institutional context<sup>2</sup> their theories would have to evaluate if they were to analyze them. Thus, they either uncritically accept background institutions (such as capitalist relations of production, class relations, the nuclear family, the gender division of labor, etc.) or they are compelled to construe the issues they raise (issues of decision-making power and procedures, division of labor and culture<sup>3</sup>) as having to do with politics or democracy, not justice. In this way, in light of the distributive paradigm, these issues are excluded from the scope of justice (Young 1990, 15, 18-24).

Young considers an objection to the above critique. “It may be true that philosophical discussions of justice tend to emphasize the distribution of goods and ignore institutional

issues,” the objection goes. “But this is not a necessary consequence of the distributive definition of justice. Theories of distributive justice can and should be applied to issues of social organization beyond the allocation of wealth, income, and resources” (Young 1990, 24). Moreover, “many theorists explicitly extend the scope of distributive justice to such nonmaterial goods.” Rawls, for example, clearly includes rights and duties related to decisionmaking, social positions, power, etc. in addition to wealth and income among the rights and duties whose distribution is the domain of justice (Young 1990, 24). David Miller explicitly says that the “benefits” whose distribution has to be evaluated by justice “should be taken to include intangible benefits such as prestige and self-respect” (Miller 1976, 22, cited in Young 1990, 24). Similarly, William Galston insists that “issues of justice involve not only the distribution of property and income, but also such non-material goods as productive tasks, opportunities for development, citizenship, authority, honor, and so on” (Galston, 1980, 6; cf. 116, cited in Young 1990, 24).

Indeed, the objection continues, it is a virtue of the distributive paradigm that it can “accommodate any issue of justice, including those concerning culture, decisionmaking structures, and the division of labor” (Young 1990, 24). It does so by formulating each “issue in terms of the distribution of some material or nonmaterial good among various agents.”

But this, Young argues in advancing her second criticism of the distributive paradigm, is precisely “the main problem with the distributive paradigm: it does not recognize the limits to the application of a logic of distribution” (Young 1990, 24). By conceiving of nonmaterial goods, such as rights and power, on the model of material goods, it misrepresents them as standing in an external relation to individuals (Young 1990, 15-16,

27). The distributive paradigm, that is, implies a misleading social ontology. It “implicitly assumes that social judgments are about what individuals have, how much they have and how that amount compares with what other people have. This focus on possession *tends to preclude thinking about what people are doing*, according to what institutionalized rules, how their doings and havings are structured by institutionalized relations that constitute their positions, and how the combined effect of their doings has recursive effects on their lives” (Young 1990, 25, my emphasis).

Moreover, the distributive paradigm “reifies aspects of social life that are better understood as functions of *rules and relations* than things.” It also conceptualizes social justice primarily in terms of end-state patterns rather than *social processes* (Young 1990, 25; my emphasis).

One example is Rawls’s reliance on the traditional family a breadwinner head of family and his dependents, for which he was criticized by Okin (1989). One could say that Rawls can abandon his reliance on the traditional family. Indeed, in *Justice as Fairness: A Restatement*, he follows Okin in proposing that stay-at-home wives be entitled to a share of their husbands’ earning. The first problem with this solution to the problem of gender justice is that it continues to assume the structural division between paid employment and unpaid family work (Rawls 2001, cited in Young 2006, 93).

But, secondly, it also misrepresents the issues of justice in the family to fit the model of persons owning goods. The cost of this incorrect social ontology is that it does not provide an illuminating analysis of the issues of power in the family, in terms of the differentiated social positions of “husband” and “wife.”

I take Young's criticism here to be something like the category mistake charge. There is nothing wrong with saying "I *have* the right to free movement" as long as it is used in usual contexts. The distributive paradigm, however, takes it beyond usual contexts and construes it to mean that I stand in the same relation to my right to free movement as to my laptop. But the logics of the two cases are different. Having a right refers to having some abilities to do certain things, not to an ownership relation. When I say that I have a right I do not refer to an object outside myself with whom I have an ownership relation. Rather, I refer to activities I can do, and the social rules that specify what I can do in relation to other people. And, on the other hand, when I speak of not having a right, I do not refer to an object in the world that I do not own, but to the socially instituted rules that do not allow me to take certain actions.

We are now in the position to give a first approximation to the distinction between the two senses in which institutional structures can be said to be unjust. On one approach, the problem raised by justice is one about the distribution of some good. Rights, for example, are understood on this approach to raise a problem that can be understood in terms of the bundle of rights each person has, and the comparison between different bundles of rights.

A second approach connects the idea of right to what the agent can or cannot do and to the "institutionally defined rules specifying that people can do in relation to one another" (Young 1990, 25). On this approach, the issue of justice is about the social rules that define *barriers* and *enabling conditions* for action that a person experiences. On this approach, raising the issue of rights becomes an evaluation of the institutional rules constituting the institutional context of the agent's action. And this, in turn, makes questions of social structure constitutive to questions of justice. To speak of the justice of

rights arrangements is to look at the position that person occupies in a social structure, for each position is defined by the set of constraints and enabling conditions experienced by those who occupy it. Hence, it is to the extent to which a person occupies a certain position in the social structure that she can or cannot take certain actions, i.e. has or does not have certain rights. Thus, on this approach, to discuss the justice of a regime of rights is to make claims about the social structure that enables or constrains action. And these are claims about the relation different social positions stand to each other.

Young argues that such claims of justice are claims of oppression and domination. In this way, her criticism of the distributive paradigm enables her to displace the distributive paradigm in favor of a paradigm focused on justice as non-oppression and non-domination.

Oppression refers to the systematic institutional constraints to each person's self-development, ability to develop her capacities. Domination refers to the institutional condition or hierarchical positioning that constrains a person's equal voice in determining the conditions of her action (Young 1990, 37-38).<sup>4</sup>

Unlike distributive patterns, oppression and domination (as well as their opposites, non-oppression and non-domination) can only be *understood* by reference to the structure, its social positions and, importantly, in terms of *the relations* between the social positions that constitute a social structure.

In contrast, as I show in Section IV, Young's later idea of "structural injustice" is only *the causal result* of the socio-structural processes that constitute the social structure; while we cannot understand how unjust structural positions *came into being* without reference to social-structural processes, what makes them *unjust* can be thus understood.

The problem with this conceptualization of justice and injustice is that it too is misleading. It focuses our attention on the position people are in and away from the relation it stands to other people's positions. It directs our attention to intrinsic features of one's situation and away from the institutionally defined rules that define social positions in relation to each other, and thus, importantly, define the constraints operating on one social position in relation to (and constituted by) the options available to those occupying a different social position.

## II. Young's reading of Rawls on the basic structure

In a 2006 article, Young contends that there is a tension in Rawls's thought between, on the one hand, his acceptance of the distributive paradigm and, on the other, his focus on the basic structure as the subject of justice. To take Rawls's idea that "the subject of justice is the basic structure" seriously means, she suggests, to move away from focus on patterns of distribution of resources, income and opportunities to assessing the institutional structures that produce these patterns.

Her contention seems to be that Rawls's focus on the basic structure as the subject of justice gives him a reason internal to his theory to go beyond distributive questions to questions about the justice of the background rules and institutions themselves.

Nothing could seem less controversial. Early on in *A Theory of Justice*, Rawls says:

"Our topic, however, is that of social justice. For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation" (Rawls 1971, 7).

And in *Political Liberalism* he defines the basic structure “as the way in which major social institutions fit together into one system, and how they assign fundamental rights and duties and shape the division of advantages that arise through social cooperation” (Rawls 1993, 258).

Rawls’s claims that the basic structure is the subject of justice is the claim that justice requires an evaluation of the background institutional structure – understood as the system of major institutions responsible for the assignment of rights and duties, benefits and burdens resulting from social cooperation. And this is precisely what Young had criticized the distributive paradigm for *failing* to do: to raise questions about the justice of this institutional background. Hence, Young is right to detect a tension in Rawls’s theory between its focus on the basic structure and its distributive impulses.

Yet, I think it is a mistake to believe so. It is right that Rawls’s theory of justice is a theory about the justice of the basic structure of society. And it is true that this limit to the scope of the theory of justice commits him to evaluating the institutional background of actions. But this is not enough to move him beyond the distributive paradigm. For the standard used in this evaluation is the distributive pattern *resulting* from the basic structure rather than the rules constituting the basic structure themselves.

The distributive paradigm is a set of assumptions and beliefs about the *meaning* of justice; the basic one is that justice is a matter of the distribution of goods. Rawls needs not abandon these assumptions in order to maintain that the institutional background is essential in determining a distributive patterns – that of the rights, burdens and benefits of social cooperation.

His distributive impulses are not at odds with his idea of social justice as the virtue of social institutions. On the contrary, they are part and parcel of that idea. His distributive concerns motivate him to focus on the basic structure as the subject of justice. He believes that without such considerations about institutional background, a just distribution cannot be achieved.

Hence, the basic structure is the subject of justice precisely because its impact is essential to the distribution of the goods of social cooperation. This leaves Rawls's theory squarely within the distributive paradigm; for him, justice is still a matter of distribution. The institutional background is properly in need of evaluation from the point of view of justice, but what makes it so is its *impact* on the distributive pattern of basic benefits and burdens of social cooperation, not the particular rules that constitute it. In short, there is no tension in Rawls' theory.

To show that this is the case, and that Rawls's commitment to the idea that the basic structure is the subject of justice does not give him reasons to move beyond the distributive paradigm, I now turn to examining his reasons for focusing on the basic structure as the subject of justice. I argue that clarifying these reasons will allow us to see both how they differ from Young's earlier concerns in her critique of the distributive paradigm and how they are similar to Young's later concerns in her work on political responsibility for structural injustice.

### III. Rawls's anti-Nozick-an reasons

In "The Basic Structure as Subject," Rawls explains his reasons for restricting the focus of his theory of justice to the basic structure. One set of reasons has to do with his

rejection of utilitarianism. In restricting the scope of justice to the basic structure, he rejects utilitarianism as a completely general theory, i.e. as a theory that applies equally to all social forms, to the actions of individuals, as well as character and dispositional traits, etc. (Rawls 1993, 260-262).

Another set of reasons, with which I am mostly concerned, has to do with Rawls's rejection of Nozick's libertarianism. On Nozick's account, starting from a just initial situation, "a just configuration of holdings is defined recursively: a person is entitled to hold whatever is acquired in accordance with the principles of justice in acquisition and transfer, and no one is entitled to something except by repeated application of these principles" (Rawls 1993, 263). In other words, justice obtains as long as the rules of justice *for individuals* are followed without violation. There is no further demand of justice. Moreover, all forms of legitimate associations, including the state, are created by individuals by voluntarily consenting to them.

Rawls has a fundamental disagreement with this view. The initial idea that "people's relationships to one another should develop over time in accordance with free agreements fairly arrived at and fully honored" is attractive to him (265). But he thinks it involves more than Nozick-an justice. For it requires an account of what makes an agreement free and under which social circumstances agreements are fair. Moreover, social circumstances under which agreements are fair can be undermined over time. Importantly, they can be undermined without any violation of the rules of justice for individuals.

Rawls writes: "while these conditions may be fair at an earlier time, the accumulated results of many separate and ostensibly fair agreements, together with social trends and

historical contingencies, are likely in the course of time to alter citizens' relationships and opportunities so that the conditions for free and fair agreements no longer hold."

Institutions are therefore necessary to preserve fair conditions. The role of the institutions in the basic structure is "to secure just background conditions against which the actions of individuals and associations take place" (Rawls 1993, 266). Because "there are no feasible and practicable rules that it is sensible to impose on individuals that can prevent the erosion of background justice" (Rawls 1993, 267),<sup>5</sup> we need institutions to regulate and *adjust* the background conditions. Otherwise, "an initially just social process will eventually cease to be just, however free and fair particular transactions may look when viewed by themselves" (Rawls 1993, 266).

Only within these social conditions maintained fair through regulation and adjustment of the individual entitlements resulting from individual transactions are individuals free to pursue their ends without themselves making continuous readjustment to prevent the erosion of basic background conditions of justice. The theory requires a division of labor between two kinds of social rules that comprise the basic structure: one defining the social background ("those operations that continually adjust and compensate for the inevitable tendencies away from background fairness," such as income and inheritance taxation "designed to even out the ownership of property), the other defining rules governing transactions between individuals and associations (such as rules relating to fraud and duress) (Rawls 1993, 268).

This puts Rawls's reasons for making the basic structure the subject of justice squarely within the distributive paradigm. His concern is that without rules that readjust individual entitlements, individual transactions would become unfree and unfair. This

conceives of the importance of the basic structure for justice in distributive terms. That is, the basic structure is essential to justice because the entitlements individuals can only receive in virtue of their positions in the basic structure are essential to ensuring that their agreements are fair and free, and more generally to ensuring that individuals can pursue their good.

Yet the basic structure remains, in this respect (i.e. its importance for justice) in the business of distributing goods. It is true that these goods are major (or “primary”), as the enjoyment of other goods depends on them. There is no reason, however, to go beyond the distributive paradigm to understand what makes the basic structure just or, conversely, what makes it unjust. It is just when it distributes goods – understood to refer to rights, opportunities and the social bases of self-respect, in addition to income, wealth and other material goods – in such a way as to ensure that individuals can enter in free and fair agreements and generally be able to pursue their good. Conversely, the basic structure is unjust when it fails to distribute goods in such a way, either by failing to distribute enough of some goods to some positions, or by creating inequalities between positions and thus creating the conditions under which individual transactions cannot be just.

Thus, the justice of the basic structure depends its outcome: if its regulations succeed in adjusting the conditions within which individual transactions take place, to maintain them fair, then it is a just basic structure; otherwise it is an unjust one. Something about this outcome-oriented evaluation of the basic structure, I argue in the next section, is also present in Iris Young’s understanding of the sort of injustice that concern her in *Responsibility for Justice*.

However, one may object, Rawls's basic structure is constituted by social positions, and to the extent to which his theory concerns the justice of these positions, he departs from the distributive paradigm.

The idea of social position in itself does not constitute a departure from the distributive paradigm. The institutions of the basic structure do indeed define social positions. But the problem of justice for Rawls is how to distribute primary goods to these basic social positions, and to individuals only to the extent to which they occupy these positions (as opposed to individuals seen from the point of view of their personal histories<sup>6</sup>). And this still places him in the distributive paradigm.

It is true that by relying on the idea of the basic structure, defined by different positions, Rawls comes closer to Young in one respect: both of them think that social justice is a matter of entitlements we enjoy in a *systematic and socially created way*. Indeed, on the issue whether justice is a matter of individual action or systematic position, Young explicitly sides with Rawls in his debate with Murphy (1998) and Cohen (1997). She reiterates the importance of a division of labor between social justice – which defines principles of justice for social structural processes – and a theory of responsibility – which refers to the moral demands on individual action (Young 2011, 70).

Nevertheless, she does propose a modification to Rawls's idea of the basic structure, which, she says, will avoid the ambiguity in Rawls's understanding of the basic structure pointed out by Cohen. This is the ambiguity between understanding the basic structure as the legal coercive apparatus of a society or the informal practices, relationships and institutions that may have as much impact on individuals' lives (Young 2011, 67). The ambiguity is due to the fact that Rawls thinks of the basic structure as a *part* of the

society. But this is a mistake. Instead, we should think of the basic structure as “a certain way of looking at the whole of society, one that sees patterns in relations among people and the positions they occupy relative to one another. This way of conceiving of the basic structure will help us see the basic structure as “the structural processes that tend to produce injustice for many people.” These structural processes can vary from one issue to the other, they do not refer to one small set of institutions, “and they do not exclude everyday habits and chosen actions” (Young 2011, 70).

Even with this modification, I think she maintains a certain outcome-orientation in the evaluation of justice of the social structure. Or, at least, there is an ambiguity at the center of this understanding of social structure, a tension between the Sartre-an and the Marx-an strands in her argument that comes up in the how she understands the *injustice* that characterizes these social processes. I now turn to spelling out that ambiguity and the distinction that we would have to make to avoid it.

#### IV. Young on structural injustice

In her posthumously published *Responsibility for Justice*, Iris Young proposes “political responsibility” as the best way to think about responsibility for the particular sort of injustice she calls “structural injustice.” In this paper I am mostly concerned with this concept of injustice rather than with her conception of political responsibility. In particular, I am interested in what about the situations she identifies as “structurally unjust” makes them unjust.

Young models her idea of structural injustice on the example of housing insecurity, or *vulnerability to homelessness* (Young 2011, 45), which she makes vivid through Sandy’s

example. Sandy is a single mother who cannot renew her lease on her rental apartment after her apartment building has been sold to a developer who plans to convert it into condominiums. Sandy starts looking for another apartment. She would like an apartment within a decent commute to her workplace that would give her children access to a decent public school and a safe neighborhood. After a long search, she realizes her options are very limited. There are very few apartments for rent close to her workplace; most residential property near the mall where she works as a sales clerk is single-family houses, and the few rental apartments are out of her price range. Suburban apartments in her price range are located on the other side of the city, and most rental apartments in the city that she can afford are located in neighborhoods she does not feel are safe for her children. In either case the bus commute would be long and arduous, so she decides to buy a car. Finally, she settles on an apartment smaller than what she initially hoped for, within a 45-minute drive from her work. However, once she makes the down payment on the car, she cannot afford the 3 months rent deposit that she learns is typical landlord policy. She faces the prospect of homelessness (Young 2011, 43-44).

Sandy's story illustrates the specific kind of wrong Young calls "structural injustice." It is distinct from two other forms of wrong: "that which comes about through individual interaction, and that which is attributable to the specific actions and policies of states or other powerful institutions" (Young 2011, 45).

For one, the wrong suffered by Sandy is unlike the wrong of lying, deceiving or trying to benefit from someone's vulnerable position. All the individuals Sandy interacts with are, per hypothesis, decent and respectful to her. Some, such as the apartment hunting agent, even go beyond the call of duty to help her (Young 2011, 46). The

landlord, who, by selling the apartment building Sandy used to live in, precipitated her housing troubles, was under economic constraints that made him unable to keep the building without raising the rents.<sup>7</sup>

Further, the wrong experienced by Sandy cannot be attributed to particular unjust laws or policies. Such unjust laws are often responsible for injustice, as it was the case with Jim Crow laws in the US. But this is not Sandy's case. Many laws and policies *contribute* to her troubles, but none can be singled out as the main cause (Young 2011, 47-48).

Her situation is the accumulated effect of many laws, public and private policies and the actions of many individuals "acting according to normal rules and accepted practices" (Young 2011, 46), *none of which are in themselves objectionable*, yet which, together, produce situations such as Sandy's.

Let me emphasize that this is an account of injustice compatible with and even produced by well-intended actors, acting according to just rules for individual behavior, and in accordance with just laws and policies. Young explains social-structural processes as *the unintended consequence* of the uncoordinated actions of masses of individuals pursuing their own ends. Not only are these social-structural processes unintended by the actors whose actions produce them, they also in the end frustrate the ends of those actors. Young conveys this idea by reference to Satre's idea of "counter-finality and the example of the gridlock (Young 2011, 62-63).<sup>8</sup>

Neither is Sandy's plight primarily of her own doing. When we say that it is an injustice we mean that she is not to blame for her situation, that she did not bring it onto herself through her own choices and actions.

Moreover, the judgment that “Sandy suffers injustice refers not to her particular life story, but rather to the *position* she is in”. This is a position Sandy shares with others, similarly situated: the position of being “*vulnerable to homelessness or housing deprived*” (Young 2011, 45).

The claims above explain what is *structural* about the wrong suffered by Sandy. There are three aspects of this claim. First, it refers to something that happens to its victim, not something she has done; it cannot be traced primarily to the victim’s own actions. Sandy is the victim of circumstances beyond her control. However, secondly, unlike a natural disaster, structural injustice is socially created; it is not caused primarily by natural, but by social forces.

Thirdly, the situation in question is systematic, it is not just a matter of (social) bad luck. The social processes that are responsible for Sandy’s situation are patterned; they create certain regularities. Sandy’s situation is unlike that of someone who experiences a hard-to-predict building collapse (building which is up to the most recent code regulations). These regularities are social positions. Persons occupying the same position experience a similar range of options and are subject to similar constraints to their actions, while persons occupying different positions have a different range of available options and are subject to different constraints to their action.

Young calls the position occupied by Sandy “*vulnerability to homelessness or housing deprived.*” Structural injustice is systematic in the sense that it refers to such a position. The problem of justice raised by it, Young says, is “whether it is right that *anyone* should be in a *position* of housing insecurity, especially in affluent societies” (Young 2011, 45).

It may seem that Young's idea of structural injustice continues her earlier conception of oppression and domination. Her focus on the systematic character of structural injustice, of its being a feature of a social structural position – defined by the set of available options and constraints to action of those occupying it – corresponds to her earlier ideas of oppression and domination which, on my reading, are about such constraints.

There is also significant textual evidence to support the idea of the continuity between the two works. In her last book, a whole sub-section of the second chapter is dedicated to theorizing social-structural processes along four related aspects: (1) objective constraint, (2) as a macro social space in which positions are related to one another, (3) as existing only in action and (4) as the unintended consequences of the combination of the actions of many people (Young 2011, 52-64). And there are similar claims about oppression being the result of “the everyday practices of a well-intentioned liberal society,” “the unquestioned norms, habits, and symbols,” “the assumptions underlying institutional rules and the collective consequences of following those rules” in the first book, *Justice and the Politics of Difference* (Young 2011, 41).

But there are also reasons, textual and conceptual, to see a discontinuity between the two books. For one, in the first book the overall suggestion is that the practices, rules and habits responsible for the unjust social-structural positions demand change, while in the second book that suggestion is much attenuated.

In the first book, the rules responsible for the injustice are “unquestioned norms, habits, and symbols,” “the assumptions underlying institutional rules,” as well as “unconscious assumptions and reactions of well-meaning people in ordinary interactions,

media and cultural stereotypes,” (Young 1990, 41). The injustice of oppression is a consequence of a similar complex set off processes and individual action structured by rules as structural injustice. But in the case of oppression the rules themselves are more often identified as the culprits. By being called “unquestioned” or “unconscious” the suggestion is that these rules should be questioned and possibly changed (Young 1990, 41).

Here rules too are distinguished from the well-meaning individuals whose action is guided by them. But these rules – or, more precisely, the injustice of oppression that has to do with these rules – are not separated from the interests of the individuals, or from the benefits that incur to some individuals as a result of the social structure.

For oppression is a relation between social groups. And social groups find themselves in a relation of privilege and oppression. Let me explain.

Earlier I discussed the place the idea of social position plays in Rawls’s a thought. There I argued that the social structure defines social positions, which in turn have different bundles of goods attached to them. The problem of justice for Rawls is to compare these bundles; in this sense his thought is structural; yet it can also be expressed in distributive terms.

Social groups are defined in social-relational terms. They are constituted by those who occupy the same social-structural position, where social-structural positions are defined in relational terms. That is, for each oppressed group – say, non-white persons – there is a privileged group – white persons. The constraints experienced by the oppressed group correlate to the conditions of enablement experienced by the privileged group. The former cannot be understood without the latter. The relation is also arranged in such a

way that, although both groups experience constraints to and enablements of action not available to the other group, the overall effect of the structural relation is that the privileged group benefits while the oppressed group is disadvantaged by the social interaction.

This *overall* feature of the structure, which refers to the *relation* in which positions in the social structure stand to one another, is what raises the question of justice between groups –the type of justice non-oppression and non-domination are. And this is a feature that cannot be understood in terms of the outcomes of the structure, but it is intrinsic to its functioning.

Let me illustrate this in relation to Young’s conception of social group.

Social groups, for Young, are defined in relation from each other. That is, the features of one group (for example “women”) cannot be understood independently from the features of the correlative group (“men”). They are not features of the members of the groups in two senses. First, they are not features intrinsic to the concrete individuals who occupy the positions, features given independently of the social position they find themselves in. (In this respect she contrasts social groups with aggregates of individuals that share a set of features (Young 1990, 43).)

But they are also not features that could be characterized with reference with their own position only. To understand what a woman is (or, more precisely, a claim about women’s oppression), one has to understand more than the constraints and enablements experienced by women; one has to understand the relationship they stand with the constraints and enablements experienced by men and see that the same lines of (gender) constraint and enablement contribute to women’s oppression and men’s privilege. That

the overall effect of the lines of gender lead to women's disadvantage and men's advantage.

In contrast, in the idea of structural injustice, the position of housing vulnerability seems to be defined independently of other positions; their relation is then conceived as a comparison between their independently-given features. Or, at least, the position of housing vulnerability seems marred by an ambiguity when we try to understand what about it is unjust.

Young says that the problem of justice raised by Sandy's example is "whether it is right that *anyone* should be in a *position* of housing insecurity, especially in affluent societies" (Young 2011, 45).

But what about "one being in a position of housing insecurity" is wrong, and what difference does "especially in affluent societies" make for the account?

Is the wrong simply that Sandy cannot afford a home? Is it that she is in a position of permanent vulnerability to losing her living space? Or is it that she is subject to rules she had no voice in making, rules that do not protect her interests, but someone else's? Is the wrong something about the fact that in her society, the position of housing vulnerability correlates with the positions of security and affluence? Or is the wrong that Sandy's position is characterized by fewer choices and more constraints than any other position?

In her more general theoretical account of structural processes, Young speaks of positions of both privilege and disadvantage. And she draws on Marx to convey the relational character of *any* position. But in her characterization of the injustice of Sandy's position there is no correlative position, whose abolishment would be necessary for the

injustice of Sandy's position to be properly addressed. For the latter, redistributive policies that would result in more affordable housing seem to be enough.

For instance, at no point in the analysis of Sandy's situation are we told that the constraints she experience correlate to options other people have, as in Young 1990 (27). Young speaks of constraints in her account of Sandy's situation, but the account of constraints in describing Sandy's situation does not explain how Sandy's position is one of oppression, constituted in relation to positions of privilege. It plays the rather different role of showing that Sandy's position is socially created, not something she is at fault for.

Consequently, instead of an analysis in terms of the privileges enjoyed by some groups at the expense of others, Young's analysis of the treatment Sandy receives in the course of her story is that she was not treated badly by any of the individuals she encounters. That is (per hypothesis) is true. Yet the analysis leaves out the fact that those individuals have more power to determine her situation than she does. The landlord could raise the rents for those who can afford it, or renounce his profits. Or he could organize his tenants to make some of the repairs the buildings need.

The analysis also leaves out the fact that the 3-month deposit policy benefits landlords (and renters who can afford it) and it disadvantages poor renters by pushing them out of the market. It may be true that some policies and laws place the same constraints on Sandy as on anyone else, but given their differentiated positions, they have very different effects on Sandy and on the landlord of the buildings where she cannot afford to live.

Similarly, the law of property (that allowed the landlord to sell the building and the buyer to refuse renewing Sandy's lease with no obligation to enable Sandy to find and

move into another apartment) is a law that protects the interests of property owners at the expense of those of those who do not have property. And this would be true even if in Sandy's society nobody would be vulnerable to homelessness. Being subject to such a law is unjust even if it does not have catastrophic outcomes such as homelessness. And this shows that the type of injustice I argue being subject to such a law is not a matter of the *outcomes* of the law.

What is unjust about the law is not that it protects someone else's interests at the expense of Sandy's interest. Laws have to settle conflicts between competing interests and make distinctions between legitimate and illegitimate interests, as well as between more or less important interests.

However, what is specific about the latter form of injustice is that it creates a hierarchy between groups. It establishes group privilege and group privilege, by establishing a higher and a lower status.

### Conclusion

My interest in this paper has been conceptual. I tried to distinguish between two meanings of the famous idea that the basic structure is the subject of justice. Rather than trying to reconstruct the meaning of Rawls's basic structure, or to construct the understanding of the basic structure that would best make sense of Rawls's thought, I focused on *what it may mean* to say that the basic structure is the subject of *justice*. I arrived at a distinction between the justice of the structure as a function of the justice of its *outcome*, the justice of the basic structure as a standard for the social-structural rules that define positions in the social structure in relation to each other.

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<sup>1</sup> Young's use of "distribution" is therefore more restrictive than Nancy Fraser's, who uses it to refer to all economic issues, including those having to do with economic structure, division of labor, division of economic power, etc., which for Young are not well understood on "the distributive paradigm" (See Fraser and Honneth 2003).

<sup>2</sup> Institutional context, Young argues, should be understood broadly as the set of structures and practices, the norms and rules that guide them, as well as the language and symbols that mediate social interactions with them. These practices cannot be restricted to the sphere of legal relations, but include institutions of the state, family, civil society as well as the workplace (Young 1990, 22).

<sup>3</sup> Young 1990 talks of such cultural issues as one face of oppression. In Young 2006, she calls them issues of normativity, and connects them to Nancy Fraser's idea of "status order" (Fraser 2003).

<sup>4</sup> Young defines oppression as "institutional constraints on self-development" (Young 1990, 37), systematic institutional and social processes "which prevent some people from learning and using satisfying and expansive skills in socially recognized settings, or ... inhibit people's ability to play and communicate with others and to express their feelings and perspective on social life in contexts where others can listen" (Young 1990, 38). According to Young, oppression is unjust because a value essential to a good life – self-development – cannot be realized in oppressive conditions. Social justice and the realization of individual good lives are not identical, but a just society "contains and supports the institutional conditions necessary for the realization" of a good life (Young 1990, 37). I think that Cudd's four conditions of oppression pick out the same phenomenon. The first and fourth conditions (the harm and coercion conditions) correspond to Young's idea that oppression restricts the realization of a good of the human life, does so through systematic institutional processes and it is therefore unjust (Cudd 2006, 25). Domination, as defined by Young, "consist in institutional conditions which inhibit or prevent people from participating in determining their actions or the conditions of their actions" (Young 1990, 38).

<sup>5</sup> Rawls goes on to detail some of the reasons for thinking that rules for individuals could not prevent the erosion of background justice. Rules for individuals that could conceivably prevent this erosion would have to be too complex, require too much information and foresight or impose excessive transaction costs on individuals (Rawls 1993, 267-68).

<sup>6</sup> Murphy's (1998) and Cohen's (1997) criticisms of Rawls pertain to this last issue. They argue that a theory of justice that defines requirements for individuals as occupants of social opinions, must also define requirements for individuals independently of their social position.

<sup>7</sup> This is not to say that Young thinks that in the real world some such prejudiced behavior or wrong behavior does not take place. It is only to say that she identifies another type of injustice that cannot be reduced to these other, more familiar wrongs.

<sup>8</sup> Young theorizes social-structural processes as the unintended consequences "of the actions of masses of individuals enacting their own projects, often uncoordinated with many others" (Young 2011, 62), which she further explains by reference to Sartre's idea of "counter-finality": "people pursuing their own ends create a structural system whose teleology runs counter to those individual ends" (Young 2011, 63).