

Structural Injustice and the Place of Attachment

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ABSTRACT

Reflection on the historical injustice suffered by many formerly colonized groups has left us with a peculiar account of their claims to material objects. One important upshot of that account, relevant to present day justice, is that many people seem to think that members of indigenous groups have special claims to the use of particular external objects by virtue of their attachment to them. In the first part of this paper I argue against that attachment-based claim. In the second part I suggest that, to provide a normatively defensible account of why sometimes agents who are attached to certain external objects might also have special claims over them, the most important consideration is whether the agents making such claims suffer from structural injustice in the present. In the third part I try to explain why structural injustice matters, in what way attachment-based claims relate to it and when they count.



I. INTRODUCTION

In early August 2013, an Australian mining company was fined \$150,000 for desecrating and damaging “Two Women Sitting Down”, an allegedly sacred site in the custody of the aboriginal people of Kunapa living near Tennant Creek, in the Australian Northern Territory. The damage was ascribed to blasting at a nearby mine that caused the collapse of an overhanging rock and the consequent split of the site into two parts, provoking irremediable damage to it. Although aboriginal representatives had been consulted when undertaking the works, the mining company was

accused of “abusing their trust” and concealing the full extent of the impact of the operation. The collapse, according to the Kunapa people, made it impossible for them to continue perceiving the site as part of a traditional songline (in this case narrating the story of blood spilled during the fight between a marsupial rat and a bandicoot) making it “much harder for Aboriginal people to recognise the dreaming” (see Jabour, 2013).

Many people tend to think, and I agree, that the verdict of the Australian courts in this case was justified. The Kunapa people had been affected in some non-negligible way; indeed, they had been wronged. Many people also think that the Kunapa were wronged *because* people who are attached to particular external objects ought to have a special say on how those objects are used. Both the diagnosis of the wrong and its suggested remedy, I want to argue, is misguided. Although attachment to particular external objects is a very important component of our descriptive explanation of why people object to the way others (who may not share the same sense of attachment) make use of such objects for other purposes (including distributive purposes), it does not help us construct a plausible account of *why* that complaint is normatively defensible. To provide a normatively defensible account of why sometimes agents who are attached to certain objects might be granted special claims over them, a more promising route is to ask whether agents making such claims suffer from structural injustice in the present. The first part of this paper explains and defends that claim. The second part illustrates the implications of my position. It suggests that while attachment is irrelevant for grounding special claims, it might have a role to play in determining the content of remedial obligations. The third part examines some objections.

II. CLAIMS BASED ON ATTACHMENT

One reason for why attachment-based claims appear promising is that they seem to give us reason for understanding why *particular* agents might have special claims over *particular* external objects – an issue that seems difficult to settle by endorsing a conventionalist account that makes the allocation of objects to people depend on institutional norms that may or may not reflect the *particularity* of the relation.¹ The Kunapa people are connected to the rocks of Tennant Creek in some unique way:

1. For some recent discussions of the problem of particularity as related to attachment see Armstrong (2014), Stilz (2014), Moore (2015, , ch. 3 ff).

such objects are central to make sense of who they are, to the pursuit of purposive activities together with others they are related to, and to the distinctive system of rules and norms that they have reason to value. Thus, external objects are thought to matter because to be attached to those objects the way, say, Kunapa people are, implies to structure an entire life around activities sustained by access to those objects, and to do so in a way that recognizes and supports the meaning and values of certain group practices. To deny the Kunapa a special access to such objects central to their life plans, implies interfering with their autonomy to construct these lives as they see fit. This understanding of the role of attachment is implicit in the multicultural demand for the recognition of group-differentiated rights required to protect cultures as the context of choice in which individual autonomy often takes shape (see for example Kymlicka, 1989; Appiah, 2005; Raz 1994, esp. ch. 8).

Cultural attachment takes us to the problem of whether special claims to particular external objects can be justified with reference to the role that such objects play in promoting particular cultures and in sustaining the life plans of individuals whose lives are shaped by this belonging. Claims based on cultural attachment are often defended as pro-tanto claims, claims that are typically granted *some* validity but that can also be overridden. But under what conditions can they be overridden and when is it more difficult to do so? The crucial question, I want to argue, is whether agents making special claims to certain objects on grounds of cultural attachment suffer from structural injustice in the present. To introduce my argument, let me begin by contrasting two examples.

(i) *Seal-hunting*

The first example is the prohibition on seal-hunting. A directive from the European Council bans the import of products drawn from the hunting of seal pup, including luxury clothing, bags and jewellery (see European Commission, 1989). The ban, which affects a number of non-EU countries involved in the commerce of seal-skin, including Russia and Canada, is fiercely opposed by a number of fur traders but explicitly exempts products obtained by traditional indigenous communities such as the Canadian Inuit. Animal rights activists were pivotal to the enforcement of the ban and engaged in sharp debates rejecting the claims of fur traders. However, they also supported the exemption in the case of the Canadian Inuit. As the executive director for the Humane Society International Canada, an association which campaigned in favour of the prohibition of commercial seal hunt, put it: “we have

always argued that there should be an exemption for products from traditional Inuit hunters” (CBC News, 2014).²

It is tempting to argue that the case in favour of the exemption can be grounded on an argument from attachment: some traditional practices (e.g. seal-hunting) are central to the way particular indigenous groups structure their activities, promote particular ends and sustain a sense of who they are. Indeed, this is exactly how the animal-rights activists who supported the campaign in favour of the ban supported the exemption: they explained that they recognised that the tradition of seal-hunting played a unique role in the life of Inuit groups and that it would not be justifiable to deprive such groups from access to resources they were attached to and that were crucial to sustain traditional practices. This sounds plausible at first sight. But now contrast seal-hunting with a second example: fox-hunting.

(2) *Fox-hunting*

Fox-hunting is an activity, which involves the chasing, hunting and killing of foxes with the use of scent-hounds. It was practiced in England for some 300 years before coming to an end with the introduction of the Hunting Act in 2004, legislated by the then Labour government. The ban, which the House of Lords refused to approve despite an overwhelming majority voting in favour of it in the House of Commons, followed a controversial campaign against the ban, which listed among its supporters several celebrities, the then Conservative Party Leader Iain Duncan Smith and even members of the royal family (Anderson, 2006, p. 727). Pro-hunting activists insisted during their campaign on the importance of fox-hunting to sustain traditional English values and a rural way of life, increasingly threatened by city elites. Indeed, the vision of the Countryside Alliance, the pressure group established to mobilize against the hunting ban, was to promote “equal access to those facilities enjoyed in urban communities and where people can pursue their business, sports and pastimes according to the dictates of their own conscience, and in a society that appreciates and understands their way of life” (Countryside Alliance, 2013 [accessed]). Notwithstanding these protests, the ban was supported by many Britons who saw fox-hunting as a social practice essential only to sustain an aristocratic pastime which reproduced divisive class distinctions (see Burns et al, 2000). Oscar Wilde’s reference to “the English country gentleman galloping after a fox” as “the unspeakable in full

2. The controversy is still ongoing due to difficulties with the implementation of the exemption and the trouble with separating the Inuit harvest from that of East Coast seal hunters.

pursuit of the uneatable” seemed to capture well the mood of the public over the character of those who were interested in fox-hunting and their reasons for it (Wilde, 1998, p. 106). It was therefore no surprise when, several years after the legislation was passed, and despite all the lobbying efforts designed to change the legislation, surveys showed that 71% of the British public continued to express support for the ban (Wainwright, 2012). Despite all that, the Conservative Government led by Prime Minister Theresa May pledged on the wake of the June 2017 snap general election to give MPs a free vote on the repeal of the Hunting Act (see Bekhechi, 2017).

Fox-hunting and seal-hunting are in many ways similar. Members of groups attached to such practices have preferences over the use of external objects that are challenged by others. There is a clear tension concerning whose claims to prioritise. In both cases, an argument about attachment seems to be in play. In both cases, attachments have an important collective dimension that affects individual pursuits: they are central to a particular way of life, sustained by particular structured activities. In both cases such activities cannot be easily replaced by others without some loss to the customs and traditions of that particular social group. Interference in both of them involves some degree of restriction of agents’ autonomy. But why are we not as concerned about a bunch of aristocrats losing their privileges over activities essential to sustaining their life style as we are about indigenous people’s claim to land and objects central to their pursuits? If the answer were just an argument from attachment, it should have similar force in both cases. However, that argument needs to be further scrutinised.

Before proceeding with the main claim, it might be worth reflecting on one preliminary objection to the similarity between the two examples introduced above. One could argue that there is a difference between the projects and pursuits that are valuable to sustain a certain culture (like the culture of particular indigenous groups) and different ways of orienting one’s preferences in a society made up of different social groups (as with members of particular social classes). But it is too simplistic to dismiss the fact that there might be a distinct and pervasive culture associated to class as well as ethnic belonging. Think about all those 19th century novels (from Dickens, to Stendhal, from Tolstoy or Balzac) that narrate the difficulties that members of particular social classes encountered in trying to climb up the ladder of social hierarchy because of the fundamentally distinct habits, activities and practices associated to the practices of distinct social classes. Events like the French Revolution really did deprive the upper classes of objects (both land and resources) to which they were

significantly attached, and which played an essential role in sustaining their identities; to doubt this would be to profoundly misunderstand the impact of such events. Access to particular objects played a central role in the location of aristocratic life plans and depriving specific upper-class groups from having a special say on how resources were used significantly impaired their ability to make projects for the future thus interfering with their cultural context of choice. But how much should we worry about it?

Of course, some might worry about the process through which certain decisions were enforced, about the fact that in extreme cases they tended to involve the execution and imprisonment of members of aristocratic families. We might also worry that the suddenness with which certain events unfolded left many people hardly able to adjust to new circumstances - think about the scene in *Doctor Zhivago* where Yuri returns to Moscow on the eve of the Bolshevik revolution and is told by his wife Tonya that they now have to get used to live in a small space because many of the rooms in their big family house had to be offered to the new agricultural academy.³ But all this has little to do with the fact that attachment to certain objects gives those who are related to such objects special claims on their use. So why are we more sympathetic to the claims of members of some groups but not others?

III. INJUSTICE AND SPECIAL CLAIMS TO EXTERNAL OBJECTS

The claims of fox-hunters, like the claims of Queen Elizabeth to the parks, forests and animals surrounding Balmoral Castle seem importantly different from the claims of the Inuit and the claims of the Kunapa people over the rocks of Northern Australia. But if we ask ourselves why, we would struggle to find an adequate answer in an argument from cultural attachment and the centrality of particular objects to the pursuit of particular ends and activities. What might be an alternative account? I think we would be on stronger ground if we ceased to look for an argument that links particular external objects to the preferences of particular people and if we focused instead on the relations between people themselves. The case for paying *more* attention to the special claims of aboriginal groups and indigenous people than to Her

3. As one of the characters commenting on the events puts it: "This new thing, this marvel of history, this revelation, is exploded right into the very thick of daily life without the slightest consideration for its course. It doesn't start at the beginning, it starts in the middle, without any schedule, on the first weekday that comes along, while the traffic in the street is at its height." See Pasternak (1960, p.163), and in general all of chapter 6 for a good account of the disruption.

Majesty and her relatives does not rest on the special place that particular external objects occupy in sustaining their way of life, nor does it rest on the modality of relation to such objects or on their significance from the point of view of the claimants. From that point of view, there is no difference between aristocratic life plans and those of aboriginal communities. Both are the result of circumstances with which members of such groups strongly identify. Both play a significant role in how agents see themselves and their lives, who they regard as their peers and how they share with particular others specific values and purposive activities. And an abstract principle of equal respect commands concern for both. If we grant that in both cases the claim from attachment can be overridden, it should be overridden in both.

However, there are also important differences. While members of the first group have traditionally been implicated in systems of rules that they have coercively imposed on others, members of the second group have been victims of injustice and ongoing oppression whose effects persist in the present (Barry, 2001, ch. 7). Unlike privileged upper class representatives, indigenous people and members of aboriginal groups have found themselves on the receiving side of an endless chain of murder, persecution, abuse, exploitation and oppression with ongoing present-day implications for their relative power position in the societies of which they are members. It is in virtue of their subjection to injustice perpetuated by an objectionable system of rules and the social structures it replicates over time, a system that they did not contribute to making and that they still struggle to endorse, that sometimes we owe members of particular groups a special say on the use of external objects.⁴

To understand these points, consider first a simple, abstract case, which will become more complex in the next section. For years and years, Victor, the local bully, has persecuted and abused his neighbour Nora: prevented her from exiting her house, forced her to work for him, frightened her with constant threats, and always insulted her with unbearably offensive barbs. As a result, Nora is very badly-off, her dignity has been insulted and her self-respect severely impaired. At one point, and after several attempts, Nora successfully rebels and Victor has a change of heart: he realizes his mistake and, genuinely upset, decides to apologize, make appropriate amends and promises to never torment her again. Now suppose that from this point on Nora and Victor have to decide on how to use a shared allotment. In the past, Victor enjoyed a veto over how such allotment had to be used, he decided which vegetables to grow, what to do with them, and how to invest the income derived from

4. I emphasise “sometimes”, because this argument will be qualified in the next section.

their sale. But now Nora says she would rather plant flowers than grow vegetables in the allotment. Should Victor listen to her? Or should they take turns? I think, if Victor is not starving and can get vegetables from elsewhere, he ought to grant Nora her special request. He owes it to her in virtue of the effects of their tainted history of past interaction in the present, to make up for the injustice and abuse she has been suffering for all those years, and to allow her to develop her own interests and pursue her preferences unthreatened by the fear of her bullying neighbour. Victor, after all, had a chance to grow vegetables for as long as he wanted, and now it's Nora's turn to decide how to use the allotment.

But I don't think it matters to settle the case in favour of Nora rather than Victor to know that Nora is attached to flowers and Victor is attached to vegetables, or that the activity of flower-planting is crucial to Nora's life plans and to the development of her projects. I think we would grant Nora her special claim over the use of the allotment, even if she didn't have any plans at all, or if flowers didn't feature in them, or if we didn't know about any of her projects, or if she kept changing her mind on what to do with the allotment every day. The grounds on which the case in favour of Nora is made have very little to do with what contributes to a valuable pursuit of life projects, or with one's purposive goals and activities or with one's emotional investment in those activities or with what one is entitled to as a matter of abstract consideration.

But suppose Nora and Victor have now both died, and it is their children who are next door neighbours. What should they do with their shared allotment? Victor's grandchildren would like to go back to growing vegetables and Nora's family still like to plant flowers. If continuing to grant Nora's family a special claim over the use of the allotment is important to ensure that they feel respected by their neighbours, that they remain integrated in the area, that they continue to be free from stigmatization and disrespect, and that they are not bullied by the family of Victor ever again, then they should retain their special prerogatives. If none of this represents an ongoing threat and the descendants of Victor and Nora are in a roughly similar position, they might consider a different way of making these common decisions, one that gives both parties a more strictly equal say and where special claims over external objects no longer play a normatively relevant role.

IV. STRUCTURAL INJUSTICE AND THE ONGOING EFFECTS OF PAST OPPRESSION

The example with which I concluded the previous section simplifies matters enormously. The real victims of past injustice are hardly ever free from the burdens of the past. The tainted history of interaction with their bullying colonial masters continues to affect the way these groups relate to each other, the position in society of their members, whether they suffer from path-dependent disadvantages and whether they have a *de facto* equal say in matters of common concern. Yet the answer to whether they should have special claims over the use of external objects is similar to that in the simplified example above. To the extent that past abusive systems of rule continue to have a profound and pervasive effect on the lives of members of formerly oppressed groups, such groups should be granted a special say over the use of external objects and resources. This is so because despite any good faith effort at treating as equals victims of past injustice, the effects of that injustice are present and persistent even if the intentions of current members of former colonial societies are now different from those of their ancestors.

To better understand this point we should think about the effects on particular social groups of what I have referred to with the term structural injustice. A structure is commonly defined as a set of rules and resources recursively implicated in the reproduction of social systems in a way that both presupposes and creates certain patterned constraints on agents' positions and on the degree of social and political power that they control.⁵ Structural injustice is often understood as the disempowerment of members of particular social groups resulting from the subjection to formal and informal rules that systematically thwart their access to resources, opportunities, offices and social positions normally available to other groups. This limited or unequal access may be the result of a causal history of subjection to particular social and political institutions or it may be the effect of unintended consequences leading to the consolidation of corrupt structural rules which are in turn upheld as a result of either complicity or indifference by others. Structural injustice then indicates the patterned constraints resulting from the cumulative effects of membership in partic-

5. For similar analysis of structure see Giddens (1984, 2). Young (2001) criticizes Giddens for placing too much emphasis on agency and the intentional role of agents in changing social structures. For further discussion of the various components of this definition see Sewell 1992. For the emphasis on the question of power in explaining the distinctive wrong of structural injustice, see Forst (2014, ch. 1).

ular groups marked by persistent disadvantage in agents' ability to create and uphold the rules of a social system responsible for the relative degree of social and political power they have within that system.⁶

If this analysis is correct, members of indigenous communities might be victims of structural injustice resulting from the persistent effects of former colonial structures on the opportunities and social roles available to them, without any member of the current society intending for this to happen. Empirically this is not far from true. To take only two relevant examples, Aboriginal Australians and Native Americans typically have lower incomes, higher infant mortality rates, lower levels of education and less access to desirable professions than members of any other groups in their societies, which suggests the presence of a pattern of structural injustice with effects that are difficult to remove in the present. It is in virtue of this that their special claims on the use of particular external objects are normatively appealing.

It is important to clarify that although structural injustice may include forms of distributive injustice, it is not reducible to them. When we speak of distributive injustice we typically refer to instances of problematic inequality between the amount of goods, resources or opportunities⁷ available to different individuals, given a counterfactually just distributive background. In condemning that inequality and in seeking to remedy it, we do not necessarily reflect on the distinctive features of the process through which the goods in question are produced and might even be indifferent to how the relations between the individuals entitled to different bundles of goods have come to be what they are. We might ask, of course, whether individuals behave responsibly or irresponsibly in claiming particular shares or we might wonder what distributive principle would govern the rules of the social structure if individuals could choose without knowledge about their particular social position. But in all these cases, the political problem of unjust relations is seldom treated as a fundamentally distinctive kind of wrong from, say, an accident of fate with distributive implications for the life of different groups of people.⁸

When we focus on structural injustice, we focus on something different and more basic than the allocation of goods following ideally just distributive principles. Structural injustice is not reducible to any long-term departure from such an ideally

6. My account here is indebted to Young (2001, pp. 14-15). See also the discussion of the distinction between agential and structural injustice in Haslanger (2012), esp. chs. 7 and 11.

7. Here I use these terms without committing to a particular metric of distribution.

8. For a similar critique of the distributive paradigm see Young (1990) and Forst (2014, ch. 1).

just distribution, it has to do with the processes and relations through which that distribution comes about. The different focus on the relational wrongs responsible for the emergence of unjust structural rules has important implications for how we think about remedying structural injustice, the status and epistemic position of victims, the relation between groups that have been historically privileged or disadvantaged, and the ascription of duties required to take remedial action. The solution here is not identifying how much an agent has compared to another against an ideal baseline of who is entitled to what. Priority is given to the construction of appropriate political relations able to prevent fundamental social structures becoming vehicles of ongoing oppression. This is not to say that a just distributions of claims to external objects is of no importance. But it matters derivatively, as part of the establishment of ownership regimes able to remedy the failures of previously oppressive arrangements and in virtue of their effects to the distribution of current power relations. Special claims to resources and the related advantages conferred to particular groups are important in so far as they contribute to restoring the social positions of these groups such that they are no longer at risk of oppression in the present.

From this point of view then, certain special claims to external objects are more difficult to override not because those who make such claims are attached to the objects and the practices related to them. They have force as part of a process of empowerment (whether political, economic or symbolic) that helps members of structurally disadvantaged groups overcome the effects of past oppression. That they happen to be claims about objects to which members of these groups are attached, as in the case of the Kunapa or the Inuit, might affect the nature of plausible remedies and the content of the duties corresponding to them but not the grounds on which special claims are made. Empowerment requires taking measures designed to ensure that victims of structural injustice are able to participate in a society of equals without risking the ongoing silencing, marginalisation or stigmatisation of their claims by other more powerful groups (see Young, 1989). Of course, in some cases, where there is a basic recognition of the authority of existing institutions, members of formerly oppressed groups might be able to articulate their views and obtain fair resources and opportunities within functioning political structures without need to attend to special claims. But in many other cases, the effects of the past unilateral imposition of different political structures, and alien social norms and conventions might be so profound that the recognition of special claims becomes part of a process of empowerment that is instrumentally or symbolically important to avoid the ongoing

non-consensual political incorporation of these groups.⁹ In both cases, as I said, attachment might be descriptively important to see why members of particular groups demand access to this or that particular object and to establish the content of specific duties able to remedy structural wrongs. But the mere fact of attachment neither grounds such claims nor explains why they seem difficult to override.

To see this last point, consider the following example. Suppose that instead of asking to have a special say on the particular rocks of the Australian National Territory to which they are attached, the Kunapa people asked for special quotas for their children to access schools they have never been admitted to before. If accommodating that claim could help remedy the effects of historical injustice on their present-day condition as part of a process of conferring economic, political, cultural or symbolic powers of resistance to the structural injustice that endangers such groups, special claims are plausibly made on grounds of forward-looking aspirations rather than backward-looking attachments, a point to which I shall return .

But what are the limits of these claims? I emphasised that we should be prepared to consider special claims, *if* doing so helped to remedy particular groups' condition of structural injustice. But it is also important not to fuel further injustices towards members of other groups. If the claims of the Kunapa can be accommodated without modifying the structural relations of other similarly positioned citizens, then we should be sympathetic to them. But such sympathy extends to claims with a past-oriented character as much as a future-oriented ones . This suggests that whatever objects are claimed by victims of past injustice it is not the historical attachment to such objects that gives special reasons for *why* members of these oppressed groups have a unique claim to them. What grounds the special claims are obligations to ensure that the effects of such injustice are not persistent in the present. It is hard to say what these obligations entail exactly in any given case. Sometimes (very often) what is needed is access to the economic resources necessary to fight poverty, inequality and social marginalisation and special claims to external objects help groups preserve traditional economic activities (fishing, hunting etc.) that are also important in the present. Sometimes it is a voice (and where necessary a group differentiated voice and even extensive rights of self-government) that would restore the equal standing of members of previously oppressed group in political institutions and structures largely set up by past colonial masters. Sometimes it is the symbolic

9. For a discussion of the relation between non-consensual political association and domination, see Ypi (2013).

recognition of particular claims demanded to restore the sense of dignity and self-respect that would empower these groups against the threat of ongoing injustice.¹⁰ None of these decisions can be made in the abstract and without full involvement of members of these groups themselves. But notice that not much in this process relies on knowing anything about the previous structure of entitlements (who is attached to what, who deserves what or who got there first). Acknowledging the obligation to remedy present injustice is owed less to the loss or damage or mishandling of certain objects to which some people are attached and more to the wrong of treating as equals members of particular groups (for example by failing to apply the same conventions about property that were applied to members of other groups) *and* for the resulting structural injustice that is fuelled by that failure. But attachment seems to play very little role in grounding the claims. Claims based on attachment are no stronger than alternative (past-oriented) justifications that connect particular agents to particular objects (such as desert, improvement or labour).¹¹ If attachment matters at all, it is only in so far as claims based on attachment help remedy the condition of structural disadvantage that victims of past injustice suffer in the present and enables us to further specify the particular method of correction of current unjust relations.

V. OBJECTIONS

We might wonder here about the exact link between remedying structural injustice and obligations that requires us to grant members of certain groups special claims over the use of particular external objects. If attachment plays no role in linking particular agents to particular objects does it mean that members of formerly colonised groups can claim pretty much anything regardless of the grounds of their particular relation to what they claim? I emphasised that they can, *if* granting such claims helps overcome their position of structural injustice and that satisfying their demands is possible without causing more injustice than we are trying to overcome. This means that the particularity issue that theories of attachment (and more generally historical theories of justice) seek to solve is, from my point of view, unsolvable. How particular shares are linked to particular objects is largely a matter of convention and I doubt that it is possible to find an account of how agents came to acquire a special title over

10. See Forst (2013, ch. 12.) for a good account of these different types of claims.

11. I also think (though I do not argue the case here) that they are no stronger than potential (future-oriented) justifications based on our imagining a special connection to objects that we never accessed in the past (objects that play a role in our dreams or aspirations, for example).

certain shares that can claim superiority over any other. But while it might be both unproductive and unnecessary to reflect on what justifies such conventions at their source, it is imperative to think about how they affect justice in the world we have, in what way such conventions can be improved and whether outstanding injustices can be overcome.

This might seem to lead to a second problem: if granting special claims to the use of particular external objects is conditional on overcoming structural injustice, should one rather not welcome other equally (or even more) effective ways of obtaining the same goal that do not depend on what indigenous people want? What if instead of granting the Kunapa a special say on the rocks of the Northern Territory or conceding the Inuit the right to hunt seals, they were provided with better opportunities for healthcare, education, and overall more resources enabling them to reacquire the political, economic and symbolic power necessary to overcome their condition? Wouldn't that be preferable?

I am in principle open to this suggestion but it comes with a few troubling features that are worth highlighting. A key problem here is what factors enable structural injustice to emerge and persist, who decides what counts as an effective remedy to it, through which processes that verdict is reached and who has a say in these processes. This is also why structural injustice speaks to a deeper and more basic problem than distributive injustice, a problem that is not indifferent to the reciprocal position of agents whose shares are affected. Imagine, to go back to my Nora and Victor case, that now Nora is back to planting flowers but Victor who (recall has had a change of heart) suggests that it would be much better for her if she joined in his activity of cultivating vegetables, perhaps taking some extra free courses on how to do it properly and having a greater share of the vegetables sold. And suppose that this is furthermore true. Since Victor has been the local bully for a while, he has managed to shape the preferences of other people in accordance with his. As a result, flower planting is now neither economically rewarding nor a particularly valued form of activity; it might just make Nora feel good but it does not help at all with improving her position in the neighbourhood. Growing vegetables on the other hand and selling them would be much more likely to bring Nora on a par with the rest of her neighbours and, in the long run, make her kids better off and more similar to everyone else. Now, I think we would still regard Victor's intervention just as a subtler instance of the same kind of dominating behaviour he has displayed all along. We would start doubting whether Victor ever really regretted what he did since what he ends up doing, yet again, is

telling Nora what to do and what is best for her, imposing values, standards and preferences on her which she does not really recognise as her own. And we would think so *even if* he does this with (what he thinks are) Nora's best interests in mind, and *even if* his strategy looks more successful in the long run. Even if we concede that there might be preferable alternatives other than following what members of previously oppressed groups tell us we should do in order to enable them to overcome structural injustice, it should trouble us that what those alternatives often imply ends up consolidating the same values, preferences and indicators that are at the basis of the system of rules that we are trying to improve or overcome. It is for this reason, I think, that we need to hear what victims of injustice have to say themselves about what they want (including where what they want is special access to particular objects). It is for this reason also that recognition of those special claims is often thought to play a key role in the instrumental and symbolic empowerment of such groups against the ongoing threat of structural injustice.

Finally, let me add a few words on the place of historical injustice in my argument. I have emphasised that the reason we care so much about historical injustice has to do with its effects on the lives of current generations of members of historically oppressed groups. The French committed grave injustices against the Spanish during the War of the Spanish Succession but we have no reason to be concerned with such injustices now (except for learning from and about them). History matters because events of the past have contributed to shaping the system of rules and resources that we have inherited and which is responsible for the generation of patterned constraints over the resources, opportunities and social positions available in the present. This is also where my argument differs from standard treatments of historical injustice, including those cases where authors are prepared to concede that historical injustice can be "superseded" (see Waldron, 1992). My strategy is not to acknowledge the existence of past-oriented claims to particular external objects or resources and then concede that they can be overridden by present-oriented ones.¹² My argument leads to reflect on the very category of *historical* injustice, questioning its normative significance when taken in isolation from current manifestations of

12. For a longer discussion, also of cases where wrongs of a territorial nature are at stake, see Ypi (2014).

wrongful structural relations. This leads to more plausible guidance on the grounds on which claims to supersession can be made.¹³

But here one might ask whether there is any principled difference between members of groups that have been exploited and oppressed throughout history and more recent victims of injustice, say members of particular immigrant groups facing structural threats of domination, discrimination and stigmatisation. If we are prepared to concede special claims over the use of external objects to indigenous people, conditional on such claims helping us remedy structural injustice, should we also be prepared to recognise special claims to other groups who are threatened in the present? If instead of the Kunapa people a group of recently arrived Somali immigrants laid a claim to the rocks of the Northern Territory (say because they always aspired and dreamt about living there) would we be prepared to endorse their request? I cannot see any strong reason to deny their claims. If the injustice from which these groups suffer is equally grave and pervasive, and if providing access to particular external objects helped remedy those injustices then we could not grant to one particular group privileges that are denied to the other. But what if there was a conflict between two equally oppressed group (say the Kunapa people and the Somali immigrants) over who can make special claims to the use of the Northern rocks? Again here, the answer cannot be given simply with the help of an attachment theory. It depends on the availability of other means to overcome injustice, on the process through which these alternatives are formulated and on the participation to that process of members of oppressed groups and the balance of reasons given for any set of preferences. There is very little we can say in advance of that process about who has more or less claim to what. What we can do instead is consider the relative position of those who advance such claims and the extent to which structural injustice affects their lives in an ongoing way.

Therefore, there is no reason to single out attachment as the most important argument for granting special claims. What matters, as I argued above, is not the relation between people and certain objects but the relationship of people to each other. What grounds the special claims to the use of external objects is the fact that agents making such claims suffer from structural injustices that might be remedied if such agents are empowered (both from a material and from a symbolic perspective). Structural injustice, as I argued, stems from the replication of system of rules and re-

13. The absence of a link between historical injustice and ongoing structural oppression is why the claims of indigenous people are still relevant and cannot be easily superseded, a weakness in existing theories about supersession.

sources with pervasive effects on the opportunities, offices and social roles available to members of particular groups. If the recognition of special claims is required to remedy such injustices, then these claims would be justified. The same does not apply if other groups, who are not victims of structural injustice (think about my example of aristocrats above) were to make such claims. But if we single out attachment as the most important ground for recognising special claims, we have no principled way to resist that extension.

I began this paper by conceding that there might be a *pro-tanto* argument in favour of attachment-based claims and developed the argument by reflecting on the conditions under which such claim might be overridden. But some might object that in the course of developing my account, I ended up weakening the force of attachment-based claims so much that it is now unclear whether attachment-based claims really matter at all, whether they even have the *pro tanto* weight that I conceded they might have. I find this critique plausible. Developing it further would lead us to question whether attachment grounds an even *prima facie* claim to external objects. To go back to our initial Kunapa case: why should the Kunapas' past relation to the rocks matter more than, for example, the aspiration to live there of the recently arrived group of Somali immigrants? Do backward-looking attachments really matter more than forward-looking aspirations? If the deeper argument on which attachment-based claims rest is the value of respecting agents' autonomy in making life plans, this applies as much to objects related to one's past life-plans as to future ones. Notice however that although I find this more demanding critique of attachment plausible, it is not necessary to endorse it to share my core argument. The main claim of my paper is that attachment-based considerations are harder to defeat when structural injustices are in play than when they are not. A more radical critique of the *pro-tanto* weight of attachment-based claims is compatible with my argument (and I am in fact sympathetic to it) but it is not necessary to endorse the main claims I made.

Before reaching a conclusion, three more clarifications are necessary. Firstly, in saying that structural injustice is crucial to see how some special claims to external objects by particular agents might be linked to the content of the duties to remedy structural injustice, I only mean to explain why we might occasionally be sympathetic to cases like that of the Australian Kunapa with which I started (even when we deny the distinctive role of attachment). But by invoking that alternative account, I do not mean to suggest that we should turn to considerations of structural injustice as providing defeasible reasons that *always* count in favour of granting members of

particular groups special claims over external objects. Other factors also need to be taken into account, and while structural injustice is a very powerful consideration, one would need to know more about other complicating features before coming to an all-things-considered assessment. Therefore, it is possible to formulate my argument in a more conditional way: special claims to external objects might not *always* matter but *if* we believe they do, we will be on stronger ground by invoking duties to remedy structural injustice than by appealing to an attachment-based structure of entitlements.

One other remark is in order here. Arguments that bear on the question of whether groups have special claims over external objects must often confront the thorny question of the relation of individuals to the groups of which they are members. However, it seems plausible that the question of whether members of a particular group can make special claims over the use of external objects in virtue of their position in society is independent of other considerations pertaining to the dynamic of justice within the group (i.e. whether the group oppresses such members and whether justice norms are internally followed). These issues require an independent assessment and in no way interfere with the question of whether members of that group are entitled to special claims given their position of structural disadvantage; how one should balance these considerations with considerations of injustice within the group is a separate matter.

Finally, notice how I began this paper by arguing that attachment to specific objects seems normatively important to address the so-called *particularity* question, i.e. to explain how particular agents relate to particular objects (including particular land, particular territory and particular resources) and why it would be pro tanto wrong to deny them special claims over the use of such objects. I also stressed that, if my argument above is correct, there is no normatively plausible answer to the particularity question.¹⁴ The reason certain agents end up with certain shares is just an accident of history determined (if we are lucky) by convention: there is no nobler story to be told. All we can do is revisit those conventions with the aim of remedying the injustices they inherit and preventing the creation of new ones. Attachment, as such, matters as little to our claim to particular distributive shares as the other ways of connecting particular agents to particular objects that have often been the object

¹⁴. Elsewhere I have examined this question with regard to the problem of colonialism and the occupation of particular territories, trying to explain that the wrong of colonialism does not consist in depriving particular agents of territorial entitlements but in the way through which particular justice-based norms with territorial implications are established and enforced. See Ypi (2013).

of stark critiques (e.g. claims based on labour, desert or improvement). What really matters to justify special claims is not the relation between people and things but the relation of people to each other and the constraints of justice that shape that relation.

VI. CONCLUSION

Attachment-based claims to particular external objects have received a great deal of attention. In this paper I argued that, absent certain considerations of background justice, attachment to external objects is normatively questionable. I also argued that a more plausible reason for granting members of particular groups special claims over the use of external objects has to do with remedying the structural effects of past injustice on their present-day condition. Attachment is easily overridden in grounding special claims but it might play some role in orienting our decisions about the content of the duties required to remedy structural injustice. If granting special claims is necessary to empower oppressed groups and free them from the threat of ongoing structural injustice, such claims need to be taken into account. If they play no such role, attachment-based claims are on much weaker ground (and might not even matter at all).

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