

Injustices That Will Not Pass

About: Catherine Lu, *Justice and Reconciliation in World Politics*, Cambridge University Press

by Magali Bessone

How can we think about our responsibility in the face of past crimes whose consequences continue to weigh on the living conditions of their victims or descendants? One first step, for the philosopher Catherine Lu, would be to acknowledge and theorise the colonial roots of our world order.

In 1904, on the territory of present-day Namibia, German colonial troops, in response to a Herero uprising led by Samuel Maharero against conditions under the German colonial regime, embarked on a programme of systematic extermination of the Hereros and Namas: this massacre, which was publicly acknowledged as constituting ‘a war crime and genocide’ by the German Foreign Affairs Ministry in 2015, gave rise to major efforts to process this history and these memories, but also to demands for justice. This case, among others connected to the history and practices of colonial wars and colonialism in particular, raises complex questions for political and moral philosophy and for the theories of international relations that are precisely concerned with putting forward normative frameworks for justice and reconciliation at the global level. What normative framework should we use to reflect on crimes committed in the past? How should we evaluate and measure current responsibilities? How can we identify these past injustices which still weigh on the structure and organisation of the world order and on interstate or transnational relations? What principles of redistribution or rectification can be formulated to correct these injustices? In her recent book, Catherine Lu offers a powerful theoretical and normative framework, supported by a precise historical and historiographical analysis, which allows her to emphasise the structural dimension of international injustices and to promote, starting from the diagnosis of said injustices, principles of transformation for a just international order.

Theoretical Framework: a Four-Term Analysis

Catherine Lu's analysis makes a distinction between two key concepts in international relations, the concepts of justice and reconciliation, and then analyses each of them in view of two separate dimensions, an interactional and a structural one.

Firstly, we must make a clear distinction, in analytical terms, between justice and reconciliation; while these two concepts are far from synonymous, they both come into play in practices that are neither contradictory nor opposed to each other. Examining their theoretical differences is precisely what allows us to understand how it is possible to aim for an international order that is both just and reconciled. According to Lu, we are grappling with a question of justice when we are concerned with righting wrongs; and with a question of reconciliation when the issue is to put an end to various types of 'alienation', be it those that produced the wrongs in the first place and that these wrongs revealed, or those that these wrongs themselves have caused. Doing justice and promoting reconciliation after conflicts or mass atrocities are two separate and indispensable aims of the international order. Identifying these concepts in all their specificity thus allows us to avoid two symmetrical mistakes: either, in an idealistic vein, assuming that one will necessarily occur when the other one is accomplished (doing justice being supposed to lead *de facto* to the reconciliation of opposed parties, or the reconciliation of old enemies allowing to satisfy in itself demands for justice); or, in a realistic vein, viewing them as objectives that are mutually opposed, as though the procedural nature of justice required the enduring reification of the oppositions between victims and perpetrators, or as though reconciliation could only be based on amnesty, forgiveness or forgetting.

Furthermore, these two concepts must be analysed according to two separate dimensions: an interactional dimension and a structural dimension.

Interactional justice is that which settles accounts between individual or collective agents (victims and perpetrators) following instances of harmful or prejudicial conduct, i.e. unjust interactions which have led to undeserved wrongs. The aim is to punish the perpetrator and to compensate the victim. The main characteristic of interactional justice is to have a function of backward-looking rectification: this is the traditional role of corrective justice, in particular in its criminal form.

Structural justice, for its part, is concerned with 'the institutions, norms, practices, and material conditions that played a causal or conditioning role in producing or reproducing objectionable social positions, conduct, or outcomes' (p. 19). It has at once a backward-looking and a forward-looking function: rectifying structural injustices involves both righting the wrongs that they have caused and countering the enduring effects that unjust structures may continue to produce or reproduce.

Lu specifies what she means by structural injustices by differentiating these from ‘structured’ injustices, which can be dealt with using the traditional procedures of interactional justice. Structured injustices are caused by individual agents in their capacity as members of institutions which, within the framework of specific political systems, have been involved in mass violence or crimes. These include, for example, individuals at different hierarchical levels of a military apparatus that has been involved in a war of conquest during which war crimes were committed. In this respect, structured injustices can be dealt with within the framework of international criminal law, according to an interpersonal or interstate perspective. In contrast, structural injustices do not immediately implicate an easily identifiable (individual or collective) moral agent, and thus force us to conceptualise the question of the responsibility of agents in a way that is covered neither by international criminal law nor by international civil law. In particular, the structural approach allows us to respond to the numerous difficulties raised by the notion of collective responsibility and that of contemporary responsibility for actions committed in the past. Where an interactional analysis falters when it comes to attributing responsibility or to identifying the nature of the relationship between past and present, the structural approach developed by Lu on the basis of the work of Iris Marion Young¹ allows us to provide an answer:

it is because all contemporary agents are *burdened* by historic injustice—in the form of structural injustice—that they have responsibilities. (p. 148)

Being burdened by historic injustices today means continuing to live in a world which reproduces the structural patterns of domination, exploitation and marginalisation that were established in a criminal way in the past. It is therefore the responsibility of contemporary agents (individuals, states, international organisations... at different levels or scales of justice) to acknowledge and rectify the institutions, discourses and practices that have unjustly developed historically and still endure today.

Analysed from these two angles, *justice* in the international order thus implies both a duty to provide reparations for interactional injustices and a duty to correct structural injustices.

The response to these latter injustices is closely connected to the political struggle for reconciliation as a response to the various types of social and political alienation that have led to political catastrophes and mass atrocities or that are the result of such events. Reconciliation is also analysed in both interactional *and* structural terms: as a regulatory ideal, it refers both to the moral quality of interpersonal relations between agents *and* the affirmation or mutual recognition of agents regarding the relevance and value of the political and social *structures* that organise their interactions on the local, national or international level (p. 19). Ensuring structural reconciliation is thus a fundamental requirement, in normative terms, for promoting interactional reconciliation: the former provides a shared interpretative framework for various forms of alienation and allows for ‘genuine’ communication between

¹ Iris Marion Young, *Responsibility for Justice*, Oxford, Oxford University Press, 2011.

conflicting groups. The historical colonial relations that endure today between states (ex-colonies and colonisers) but also within so-called postcolonial states, between certain groups, contribute to producing a condition of ‘structural indignity’ (p. 184) for some of the colonised agents, thus preventing the establishment of basic conditions for a common dialogue. Only agreement regarding this enduring colonial structure will allow for reconciliation.

In addition, the framework for an analysis of reconciliation is further complicated by the introduction of a third level of analysis, which is essential to understanding all of the political challenges connected to it—what Lu calls ‘existential’ reconciliation, ‘the disalienation of agents whose subjective freedom has been distorted by [colonial] injustice’ (p. 20). This third form is aimed at countering the self-alienation of agents that accompanies the two preceding forms, and which is, as has been shown by Frantz Fanon whom Lu quotes (for example on p. 184, 204), one of the most destructive effects of colonialism.

The International Order as a Colonial Order

This theoretical framework has two strengths, a descriptive and a normative one: it helps reveal the unjust structures of the current international order, *as a major effect of the injustices arising out of colonialism*; and it is used to formulate the shortcomings of traditional theories of international justice, which remain interactional, and to put forward new, appropriate normative and political orientations.

In each of the book’s eight chapters, the theoretical framework sheds light on a case study in which the failure to enduringly produce a just international order takes on a new meaning, whether we are dealing with peace treaties that fail to guarantee a peaceful world, with judicial institutions that are denounced for their partiality, or relationships of domination that are internationally accepted and legally recognised. The fragility of the Versailles Treaty, the war between North Vietnam and the United States, the limits of the International Criminal Court, Japanese colonialism in Korea, German colonialism in Namibia, the relations between the Canadian state and the indigenous nations, are neither interpreted as interactional anomalies (the punctual effect of the will to power of an agent, a nation or a state, being exercised on another), nor as the product of the ‘natural’ interactions of collective agents existing in an anarchic and normless state of nature, to which international law would be attempting to provide norms of justice and equality transposed from the national order. Lu shows that these failures must be understood as the consequences of our blindness to the colonial injustices that have pervaded and structurally organised the international order for over four centuries, in spite of the official rejection, in the 1960s, of the colonial structure of international relations.

This theoretical apparatus provides the basis for a major historical and substantial thesis, which is constructed through the analysis of these case studies and their effects: the contemporary international order is a colonial intergovernmental order based on structural injustices that no one has ever made an effort to rectify, because no one has ever made the effort to conceptualise them as such.

Lu's demonstration opens on her brilliant analysis, carried out in the first chapter, of the causes of the failure of the Versailles Treaty and of its enduring effects. The spectacular failure of the policy of justice and reconciliation at the end of the First World War cannot simply be analysed using the terms of realist theoreticians: according to them, Versailles guaranteed peace at the price of reconciliation, but given the reality of interstate power relations, this choice was inevitable. However, we cannot either understand this failure using the terms of liberal theoreticians, who see in it the premises of an international order founded on human rights but marred by the excesses of the 'victors' justice' that prevented Germany from reconstructing after it was defeated, and of which the failings, which were correctly analysed, were supposedly then corrected after the Second World War. In reality, the major failure of the Versailles Treaty and of the League of Nations was to continue to validate colonialism as a fundamental marker of power—of which Germany, in addition, was deprived in accordance with the terms dictated by the peace treaty—and to not modify the unjust structure of the international system.

This failure continued and reinforced the alienation of colonised groups and peoples in the face of the established international order, which was dominated by Western powers; it caused and shaped the course of the anticolonial and anti-imperialist struggles that dominated most of world politics during the 20th century and continue to influence contemporary global political conflicts in the 21st century. (p. 62)

The blindness to these continued structural injustices weighed on subsequent developments in international law, which was exclusively preoccupied with interactional (interpersonal and interstate) injustices, according to two principles for action: identifying the agents responsible for massive human rights violations and providing reparations to victims. But as the following chapters show, the interactional framework, while it is necessary, is not enough to identify the real nature of international and transnational injustices and to conceptualise the responsibilities that arise out of these injustices (p. 23), including those of the international community as a whole. It remains incapable of comprehending the structural injustices that continue to feed into the normative framework of contemporary alienations and that arise out of the global colonial order that is still ours.

This is why, in her last two chapters, Lu shows how the policies of reparation that are usually adopted in international law are insufficient and builds upon Iris Young's analyses in order to analyse the types of engagement required of us, once we have accepted the nature of our responsibility in the perpetuation of structural injustices. She puts forward three types of strategy to redirect our approach to promoting a just international order. We must strive to

decolonise (the political, social and normative structures of the international and transnational order), to decentralise (knowledge, institutions and governmental practices) and disalienate (oppressed peoples' ability to act). These strategies must be implemented at all formal and informal institutional levels and commit us individually and collectively. Once we have gained a critical awareness of our responsibilities, it is our duty to accept them—or we make ourselves guilty today of not changing the conditions of the colonial order perpetuated throughout our history.

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