



Conceptual Injustice

Lisa Bastian¹ 

Received: 11 July 2023 / Accepted: 27 March 2024
© The Author(s) 2024

Abstract

In recent years, there has been significant interest in injustices that do not consist in inflicting physical or material harm on others, but operate in more subtle ways, e.g. by targeting our status as epistemic agents. In a similar fashion, this paper aims to bring to the forefront a currently overlooked kind of injustice that occurs in relation to our concepts: *conceptual injustice*, which is characterised by wrongful in- or exclusion from the application of a concept. The first part of the paper is concerned with spelling out the notion, discussing its characteristic wrongs, and with tracing it in a number of examples. In the second part, I discuss conceptual injustice in relation to connected but different forms of injustice, such as epistemic injustice. This highlights the advantages of having the notion on hand: it enhances our understanding of other forms of injustice like hermeneutical injustice, and allows us to capture a ‘remainder of injustice’ for which we could not account otherwise.

Keywords Injustice · Concepts · Epistemic injustice · Moral injury · Discrimination

1 Introduction

The ways in which we can wrong each other are numerous. Over the last decades, there has been significant interest in injustices that do not consist in inflicting physical or material harm on others, but operate in more subtle ways, e.g. by targeting our status as epistemic agents. In a similar fashion, this paper aims to bring to the forefront a currently overlooked kind of injustice that occurs in relation to our concepts: conceptual injustice. I argue that conceptual injustice allows us to capture what I call

✉ Lisa Bastian
l.bastian@vu.nl

¹ Department of Philosophy, VU Amsterdam, Faculty of Humanities, De Boelelaan 1105, Amsterdam 1081HV, Netherlands

a ‘remainder of injustice’ that would otherwise be left unaccounted for in many cases of injustice. As such, it is a distinct kind of injustice but can co-occur with familiar kinds of injustice. Let’s warm up to the idea of conceptual injustice by considering three examples that will guide us through the paper.

Illness

Sara is suffering from endometriosis. As a result, she experiences frequent and intense episodes of pain, and has been struggling to keep up with work. When talking to her doctor about the issue, she is told that she is not ill and her pain is dismissed as regular albeit intense period pain. Having to go to work while being in severe pain, Sara’s performance suffers. This, together with her increased absences, make her boss doubt Sara’s fitness for the job.

Woman

Ella, a transgender woman, is having dinner with some friends. When she leaves the table to use the bathroom, a staff member denies her access to the women’s bathroom. Ella proceeds regardless, and the staff member waits for her outside. Before she can return to her table, Ella finds herself in the middle of an altercation with the staff member and the restaurant manager, who insist that only women are allowed to use the women’s bathroom.¹ After various threats to call the police, Ella is eventually asked to leave the restaurant.²

Recidivism

John is a male African-American. He has rightly been convicted of a crime and has been sent to prison. Throughout his time in prison, John has been a model inmate. He has stuck to the rules and used the time for reckoning with his past and self-improvement. After a significant part of his sentence has elapsed, he is up for early release. The body in charge of the decision relies on information about John’s behaviour in prison and an algorithm that is used to predict the likelihood of recidivism. Based on John’s demographic, the algorithm predicts a high risk of recidivism. John is denied early release, despite having no intention to reoffend.

Incidents of this kind have garnered a lot of attention in recent years. Calls to take endometriosis seriously and to increase diagnoses, to respect the gender identity of transgender folk, and to critically evaluate the biases and accuracy of algorithms have become more numerous. I take this to be evidence that many believe that *something* wrong is happening to the people involved: their treatment seems *unjust*. I agree with diagnosing these cases as instances of injustice. What I argue for in this paper is that merely diagnosing them as familiar cases of injustice does not fully account for the

¹ Let me state clearly at this point that in my view, trans women are women. I am going to assume this. If one disagrees, one can spot my assumption and nonetheless engage with the phenomenon of conceptual injustice.

² This case is based on an incident in 2018, where Charlotte Clymer, a transgender woman, was asked to show her ID before using the women’s bathroom at a Washington D.C. bar, with the employee insisting that “‘female’ must be on an ID to use the women’s restroom” (Wang 2018).

wrongs the victims are experiencing. To fully account for these, we need to recognise the *conceptual injustice* that occurs in the cases.

Here is the plan for the paper: in the next section, I provide my characterisation of conceptual injustice, along with some preliminary clarifications. Section 3 discusses the characteristic wrong that lies at its heart, and that allows us to recognise conceptual injustice. In Sect. 4, I defend the claim that conceptual injustice is a distinct kind of injustice and compare it to a number of different but related forms of injustice. Section 5 delimits conceptual injustice from discrimination and addresses a further worry and objection. Finally, Sect. 6 concludes the paper by stating the advantages of recognising conceptual injustice and including it in our repertoire.

2 What is Conceptual Injustice?

I have claimed that the previous cases exhibit conceptual injustice. To fully understand this claim, we need a better understanding of what conceptual injustice actually is. Here is the characterisation I will be working with:

Conceptual Injustice (CI) occurs if an agent is wrongfully excluded from (or included in) the application of a concept.

These claims, as well as the notion of conceptual injustice itself, obviously need unpacking. In particular, the notion of *wrongful in- or exclusion* from application of a concept does much of the heavy-lifting: it is essential for recognising conceptual injustice. All of Sect. 3 is dedicated to its discussion. But before I take this up, some preliminary clarifications are in order.

First, let's consider *who* can experience conceptual injustice. As it stands, CI is formulated as something that happens to *agents*. This is in line with the three cases I presented. I take it that paradigmatic cases of CI are indeed experienced by agents, though I do not claim that CI is unique to agents. Anyone who can be *wronged* by in- or exclusion from the application of a concept can potentially experience CI. This includes persons, but potentially also non-human animals, or other beings that we commonly classify as moral patients. We might also think that groups can experience CI.³ I ultimately remain neutral about who belongs to the set of entities that can be wronged in the way CI wrongs, but membership of this set is a necessary condition for being able to experience CI.

Second, my characterisation of CI includes the notion of a *concept*. There is a plethora of work on the nature of concepts, surveying which is beyond the scope of this paper.⁴ But this need not worry us. Given the aim of the paper – establishing conceptual injustice as a distinct type of injustice – we can settle on three core commitments about the nature of concepts.

³ If one is willing to accept the existence of group agents, then conceptual injustice straightforwardly also applies to those groups that meet the requirements for agency.

⁴ For an overview, see Margolis and Laurence (1999).

One, for conceptual injustice to have any bite and to be a relevant kind of injustice, we need concepts to *matter* in some way. And arguably they do: they are “crucial to such psychological processes as categorization, inference, memory, learning, and decision-making” (Laurence and Margolis 2021); they are of “importance to all aspects of cognition” (Laurence and Margolis 1999: 3). Consequently, “[f]ew things in the world are more important to human cognition and interaction than our concepts. They shape how we think about the world, how we communicate with each other, how we pursue our personal lives, and how we organize our society” (Koch 2021: 1955). Given the significant role concepts play in our lives, any potential injustice arising from them should be taken seriously.

Concepts play such a crucial role in human cognition partly because of their *representational* nature. This brings us to the second core commitment: concepts are ultimately “representational devices” (Cappelen and Plunkett 2020: 3) or “mental representations” (Koch 2021: 1956, Sawyer 2020b: 1007), which we use to represent and navigate the world around us.

The third commitment is that concepts are located at the sub-propositional level, which explains why they can play such a *fundamental* role: they are the “constituents” (Cappelen and Plunkett 2020: 8, Sawyer 2020b: 1007), “ingredients” (Burgess and Plunkett 2013: 1095), or “components” of thoughts (Sawyer 2020a: 387). This distinguishes them from beliefs, which are propositional, and also from conceptions, which are sets of beliefs (Sawyer 2020b).⁵ What exactly concepts take as their content (if not propositions) depends on the endorsed view of concepts.⁶ For my purposes, we can think of concepts as “the most fundamental constructs in theories of the mind” (Laurence and Margolis 1999: 3), which have a largely representative function.⁷ Besides these core commitments, my discussion remains neutral regarding the more specific questions about the correct account of concepts.⁸

⁵ This marks a difference to related forms of injustice which involve propositional content, such as epistemic injustice (see Sect. 4).

⁶ Margolis and Laurence (1999, 2021) provide a detailed discussion of the various views.

⁷ This brings us close to the “Classical Theory”, according to which “[m]ost concepts (esp. lexical concepts) are structured mental representations that encode a set of necessary and sufficient conditions for their application, if possible, in sensory or perceptual terms” (Margolis and Laurence 1999: 10). This characterisation is helpful but contains a fair amount of idealisation, as Margolis and Laurence note.

⁸ This also includes debates surrounding externalism and internalism, or anti-individualism and individualism about concepts. As will be explained further in Sect. 3, whether conceptual injustice occurs does not depend on whether someone used the ‘correct’ concept (assuming this exists) or whether they used a given concept ‘correctly’. What determines an occurrence of CI is the existence of a *moral injury* as the result of in- or exclusion from the application of a concept. Assuming an anti-individualist, external view of concepts, it is possible for CI to occur in cases where the ‘incorrect’ concept was used correctly (e.g. when excluding a woman who was raped by her husband from the application of ‘rape victim’ prior to 1991, when marital rape was legally recognised in England). But it is also possible for CI to not occur when using the ‘incorrect’ concept incorrectly (e.g. when (mistakenly) including the wife in ‘rape victim’ pre 1991). In the same way, it is possible for CI to occur when using the ‘correct’ concept incorrectly (e.g. when mistakenly excluding the wife post 1991). Assuming an individualist, internal view, there could be two concepts, one covering marital rape and one not, none of which would have more of a claim to correctness than the other. CI can occur when using concepts ‘correctly’ (e.g. when excluding the wife from the concept that excludes marital rape), but also when using concepts ‘incorrectly’ (e.g. when excluding the wife from the concept that includes marital rape). These points show that correct concept usage does not determine CI, and that CI is possible on both anti-individualist, externalist and individual-

Third, let me say a bit more about *how* conceptual injustice can take place. A more detailed account will follow in Sect. 3.1. We have just seen that concepts are of “importance to all aspects of cognition” (ibid.). Hence, they impact both our speech and practices. Accordingly, conceptual injustice can be committed through speech, by explicitly in- or excluding someone from the application of a concept, but also through practice. What’s more, the practices that lead to conceptual injustice need not be singular and specific. Instead, they can be structural and institutionalised, for example if a health care system is set up in ways that make it difficult for certain health conditions to be recognised and for transgender women to access women-specific health care services. Similarly, criminal justice systems can be and often are designed in ways that reinforce biases and existing injustices.

Finally, I take wrongful *exclusion* and *inclusion* from concept application to be symmetrical: both can constitute an instance of conceptual injustice. Put differently, whenever the wrongs of conceptual injustice occur, we are facing an instance of conceptual injustice, regardless of whether the wrongfulness was due to exclusion or inclusion. Our examples show this: Sara’s and Ella’s cases are cases of wrongful exclusion, whereas John faces a wrongful inclusion. For ease of exposition, I mostly only refer to exclusion. But given their symmetry, all my claims apply to in- and exclusion equally.

Now that I have provided some clarifications of various aspects of my characterisation of conceptual injustice, let us briefly revisit the opening examples in light of what we have established so far. In *Illness*, a person (Sara) is wrongfully excluded from the application of ‘ill person’ through speech (“You are not ill”) and practice (refusal to write a doctor’s note). In *Woman*, a person (Ella) is wrongfully excluded from the application of a concept (‘woman’) through practice (direct interference with her going to the women’s bathroom), and potentially also through speech (“The female bathroom is for women only!”). In *Recidivism*, a person (John) is wrongfully included in the application of a concept (‘recidivist’) through practice (denying early release).

We have already made some headway towards accounting for the three cases. To provide a complete account, and to appreciate the difference between CI and familiar kinds of injustice, we need to pay closer attention to the element that is essential to CI: the notion of *wrongful* in- or exclusion.

3 The Wrongs of Conceptual Injustice

I have claimed that *wrongful* in- or exclusion does most of the heavy-lifting: it is characteristic of conceptual injustice and crucial for recognising it. *Wrongful* in- or exclusion from the application of a concept is what distinguishes CI from familiar kinds of injustice, and also from mere conceptual mistakes. The wrong that is char-

ist, internalist views. That being said, it is worth noting a possible connection: the absence of CI when using a concept correctly could be used as an argument for having found the ‘correct’ concept by the anti-individualist, if they accept that correct concepts, used correctly, have the property of not involving moral injuries that could constitute CI.

acteristic of CI is connected to the victim's value: exclusion from the application of a concept is wrongful if it inflicts a *moral injury* on the victim, understood as frustrated moral entitlements. A mere conceptual mistake, like excluding bananas from the application of 'fruit', is not an instance of conceptual injustice. Despite there being an exclusion, it is not a wrongful one: no one is wronged when excluding banana from the application of 'fruit'. As it stands, wrongful in- or exclusion from the application of a concept is a sufficient condition for conceptual injustice. I am inclined to also accept it as a necessary condition. But whether conceptual injustice could also occur in other ways needs further investigation and so I content myself with the sufficiency claim here.

3.1 Agential Wrongs

The opening examples clearly suggest that CI can involve practical wrongs, understood as negative practical consequences. These will be further explored in Sect. 3.2. But I have claimed that in cases like Sara's, Ella's and John's, agents are also being wronged in another way, which is characteristic of CI. Merely pointing to practical disadvantages does not fully capture what is happening to them. In this section, I want to make good on my promise of capturing this 'remainder of injustice', which leads us to the heart of conceptual injustice: I argue that in cases of conceptual injustice, the wrongful in- or exclusion consists of a *moral injury* to the agent in question, which can be understood as the frustration of moral entitlements, often mediated by a lack of recognition respect. This is obviously a mouthful, and we will tackle the argument that takes us there step by step.

3.1.1 Moral Injuries

The notion of a *moral injury* is crucial for understanding the wrongfulness of in- or exclusion from the application of a concept. It has gained a lot of traction in legal philosophy and psychology.⁹ I will focus on Hampton's (1992) version, stemming from her work on retributivism in the justice system. Hampton maintains that there are certain actions whose wrongfulness cannot be understood as tangible harm, be it physical or psychological. Rather, these wrongful actions inflict *moral injuries* (Hampton.: 1666). Such injuries are the consequence of the violation of a *moral standard*, which constitutes an *affront* to the victim's *value or dignity* (Hampton 1992). Take Hampton's case of an elderly man who is robbed of his assets by his financial advisor (Hampton: 1671). Since the man does not know about his advisor's deceit, he suffers no psychological harm. Yet, so Hampton argues, he suffers a moral injury, since the advisor's behaviour violates moral standards, and hence constitutes an affront to the man's dignity. To expand on Hampton's case, even if the advisor ultimately failed in appropriating their client's possessions, the moral injury would persist, despite there not being any tangible (physical or psychological) harm.

Since the way in which exclusions from the application of concepts can be wrongful cannot be fully cashed out in terms of practical wrongs, the notion of a moral

⁹ For a helpful survey of the various uses of 'moral injury', see Wiinikka-Lydon (2019).

injury, with its focus on immaterial (i.e. non-physical and non-psychological) harms and wrongs is well-suited to account for the ‘remainder of injustice’ in cases of CI.¹⁰

But before we trace the moral injuries in our three cases, we need to fully unpack the notion. Hampton (1992: 1678) continues to explicate it by linking a moral injury’s affront to someone’s dignity or value to the *diminishment* of value. She introduces two ways in which one’s value can be diminished: (i) by failing to acknowledge someone’s value, or (ii) by failing to realise someone’s value. In a next step, Hampton explains how these two ways of diminishing one’s value can ultimately be understood in terms of *entitlements* (Hampton 1992). A failure to (i) acknowledge one’s value consists in mistakenly not attributing someone their entitlements. For example, assume the advisor mistakenly believes that, given their old age and fading cognitive capacities, old persons are not entitled to respectful treatment. If, upon being called out on their behaviour, they show no sign of remorse or understanding of their wrongdoing, the advisor fails to acknowledge their client’s value by not attributing their client an entitlement which the client very much has.

When we fail to (ii) realise one’s value, the entitlements in question are attributed to the agent, but are ultimately violated. If the advisor is fully aware of the wrongfulness of their deceit, then they acknowledge their client’s value, but fail to realise it by violating the client’s entitlement to respectful treatment. Going forward, I summarise these two ways of inflicting a moral injury as *frustrated moral entitlements*.

I take Hampton’s explications to suggest that there are moral entitlements which are intimately bound up with one’s value or dignity. Presumably, we have these moral entitlements in virtue of our moral status as beings worthy of respect and dignity. Providing an exhaustive account of such genuine moral entitlements is a task for first-order normative theorising, which I do not attempt to undertake here. Presumably, these genuine moral entitlements include entitlements to having our identity respected, having challenges to our well-being taken seriously, and being treated equally.¹¹ When these moral entitlements, stemming from our status as beings worthy of respect and dignity, are frustrated, either because they are not acknowledged or not realised, we are dealing with moral injuries.

Let’s apply this to conceptual injustice: moral injuries that are caused by in- or exclusion from the application of a concept are what is characteristic and constitutive of CI. They are what makes in- or exclusions of the application of a concept wrongful. In cases of CI, the victim suffers a moral injury, understood as frustrated moral entitlements, as the result of being in- or excluded from the application of a concept. It is the presence of a moral injury that accounts for the ‘remainder of injustice’ in these cases.

Before I trace the moral injuries in the three examples in detail (Sect. 3.3), I want to briefly expand on *how* moral injuries can be brought about. To anticipate the conclusion of the next section: moral injuries can be mediated by a lack of recognition respect.

¹⁰ The relation between CI and practical wrongs is discussed further in Sect. 3.2 and 4.1.

¹¹ While I don’t think this commits one to a specific first-order normative theory, it is worth nothing that some, like a Kantian framework, will lend themselves more naturally to the idea of moral entitlements that we hold in virtue of being entities worthy of dignity and respect.

3.1.2 (Lack of) Recognition Respect as the Mediator of Conceptual Injustice

Hampton herself is somewhat cryptic about how moral injuries can be brought about. She maintains that moral injuries are the result of behaviour “whose meaning is such that the victim is diminished in value” (Hampton 1992: 1679).¹² This reference to the ‘meaning’ of behaviour invites many controversial questions, such as how one could even establish the meaning of behaviour. One might also worry that what Hampton really means is the *intention* behind an action. These are complex questions that I do not wish to settle here. Instead, let me highlight that we already know of at least one way in which moral injuries can be brought about – namely through in- or exclusion from the application of a concept. In cases of conceptual injustice, the causal factor is in- or exclusion from the application of a concept. It is this in- or exclusion that causes a moral injury.¹³

Nevertheless, we may want to say a bit more about the process that takes us from in- or exclusion to a moral injury. Drawing on Darwall’s (1977) notion of *recognition respect* will be helpful in this regard. Darwall characterises recognition respect as a “disposition to *weigh appropriately in one’s deliberations* some feature of the thing in question and to act accordingly. [...] Since this kind of respect consists in giving appropriate consideration or recognition to *some feature* of its object in deliberating about what to do, I shall call it recognition respect” (Darwall 1977: 38, emphasis added). Recognition respect amounts to appropriately weighing important features of an entity in our deliberation, and, in a next step, willingness to constrain our behaviour accordingly. I take it that the ‘thing’ or ‘object’ in question is probably limited to the sets of entities that can be respected or disrespected. Presumably, paradigmatic cases involve agents, or beings that can be wronged, which makes the area of application of recognition respect compatible with that of conceptual injustice. The ‘feature’ that needs to be appropriately considered can include the simple fact that the object is a person, as well as one’s feelings, or social roles (Darwall 1977), but could also be one’s moral entitlements. Take again Hampton’s deceitful financial advisor. The advisor fails to appropriately weigh in their deliberation their client’s moral entitlement to respectful treatment, and is not willing to constrain their behaviour accordingly: they proceed to steal from their client regardless – they are not treating their client with recognition respect.

Since we can trace (lack of) recognition respect in Hampton’s example of a moral injury, it is only natural to suppose that they are connected. And indeed, this connection has previously been observed by Jenkins (2020), who argues that moral injuries go hand in hand with a failure to pay an agent their due recognition respect. When placing these remarks in the context of conceptual injustice, it is plausible that (lack of) recognition respect can function as an intermediary step in the process from in- or exclusion from concept application to moral injuries. Plausibly, what can

¹² Earlier on, she states that moral injuries are brought about by behaviour “whose meaning, appropriately understood by members of the cultural community in which the behavior occurs, represents [the victim’s] value as less than the value she should be accorded” (Hampton 1992: 1670). Since she drops the reference to a specific cultural community and the qualification “appropriately” in the later, authoritative definition, I do not discuss it here.

¹³ Note that I am not claiming that moral injuries could only occur in this way.

happen when I exclude someone from the application of a concept, is that I do not appropriately weigh in my deliberations a ‘feature’ of theirs and do not constrain my behaviour accordingly, that is, that I do not afford them recognition respect. If this ‘feature’ that I do not appropriately consider is one of their *moral entitlements*, then my lack of recognition respect frustrates their moral entitlements (by not weighing them appropriately in my deliberations and by not constraining my behaviour accordingly). So, lacking recognition respect *for one’s moral entitlements* can cause moral injuries because it can frustrate moral entitlements. This allows us to refine the earlier claim that in- or exclusion causes moral injuries: in- or exclusion from a concept can, as an intermediary step, cause lack of recognition respect (of moral entitlements), which in turn can cause moral injuries.

Understanding the relation between recognition respect and moral injury this way also allows us to think of the *behaviour* that Hampton takes to bring about moral injuries as the shortcoming in deliberation that Darwall describes, which avoids Hampton’s reference to the ‘meaning of behaviour’.

3.2 The Role of Practical Wrongs

The opening examples should have elicited the intuition that something wrong is being done to the agents in question, and that they are experiencing injustice. I have suggested that these can be understood as instances of conceptual injustice, i.e. as wrongful in- or exclusion from the application of a concept, where the wrongfulness consists in a moral injury. But we also notice a number of *practical* wrongs in the cases: the agents are made practically worse off by negative practical consequences which are detrimental to their well-being or their interests.

The presence of these practical wrongs is not characteristic of CI, but is related to it in a number of ways. One, conceptual injustice can (but need not) co-occur with other familiar types of injustice, such as social or political injustice, which involve practical wrongs. This link between CI and familiar kinds of injustice is not a necessary but a strong one and will be elaborated in Sect. 4.1. Two, the frustration of moral entitlements (which is the characteristic wrong of conceptual injustice) can manifest in a practical manner, through negative practical consequences: if my moral entitlement to have challenges to my well-being taken seriously is frustrated, this can have the negative practical consequence of not being granted sick leave. Three, in- or exclusion from concept application typically also leads to a change in contingent entitlements which can amount to negative practical consequences.

This latter point needs some more careful unpacking. Whether a concept is applied to one has consequences for one’s entitlements: someone who is included in the application of ‘citizen’ is entitled to vote, and someone who is excluded from the application of ‘employee’ is not entitled to receive a salary from this company. Exclusion from application of concepts results in not (or no longer) having these entitlements, which can have negative practical consequences. Importantly, these entitlements are contingent on features like social or legal setting, unlike moral entitlements, which

we hold in virtue of our moral status as beings worthy of dignity and respect.¹⁴ When someone is in- or excluded from the application of a concept, their contingent entitlements change, which can have negative practical consequences. But importantly, this change in contingent entitlements and the presence of such negative practical consequences cannot be used to identify cases of conceptual injustice. While they are also caused by in- or exclusion, this need not have been wrongful, that is, need not have caused a moral injury, understood as frustrated moral entitlements. For example, excluding a tourist from ‘citizen’ leads to them not having the contingent entitlement to vote, but this is not wrongful, since it does not constitute a moral injury, i.e. does not frustrate a moral entitlement.

I remain neutral on the question of whether some changes in contingent entitlements and their associated negative practical consequences could be so severe that they actually amount to a moral injury, in which case there would be conceptual injustice. But importantly, this would be because of the presence of a moral injury (caused by in- or exclusion), and not simply because of the presence of frustrated contingent entitlements or negative practical consequences. To sum up, what is crucial for conceptual injustice is the presence of a moral injury (caused by in- or exclusion), which can but need not involve frustrated contingent entitlements and negative practical consequences.

3.3 Putting Together the Pieces

Let me briefly re-iterate the view so far. Conceptual Injustice occurs if an agent is wrongfully excluded from (or included in) the application of a concept. What makes such in- or exclusion *wrongful* is the existence of a moral injury as the result of said in- or exclusion. This allows us to identify as the characteristic wrong of CI moral injuries that are caused by in- or exclusion from the application of a concept. Moral injuries of this sort are constitutive of CI. They consist of frustrated moral entitlements, which we hold in virtue of being entities worthy of dignity and respect. Lack of recognition respect for moral entitlements can be an intermediary step from in- or exclusion to moral entitlement frustration and hence moral injury. Negative practical consequences often but not necessarily accompany CI for reasons stated in the previous section.

With the view laid out completely, we can now fully analyse the three opening cases and spell out the ‘remainder of injustice’ that is left unaccounted for if we were to only focus on familiar forms of injustice, or the possible negative practical consequences.

In *Illness*, the doctor and Sara’s boss exclude her from the application of ‘ill person’. This frustrates her moral entitlement to have challenges to her well-being taken seriously and her suffering acknowledged, which she holds in virtue of being an agent worthy of dignity and respect. This is a moral injury caused by exclusion from the application of a concept, making the exclusion wrongful and hence qualifying the case as conceptual injustice. In Sara’s case, it is also plausible that lack of recogni-

¹⁴ Some contingent entitlements, like an entitlement to vote, might ultimately be grounded in or entailed by moral entitlements.

tion respect played an intermediary role: the exclusion caused the doctor and her boss to not weigh appropriately in their deliberations her moral entitlements, and to fail to constrain their behaviour accordingly. Otherwise they would write her a doctor's note, or interpret her shortcomings at work as the result of her health condition. Sara's case also involves negative practical consequences: she is not entitled to sick pay or medical leave. These do not serve to identify her case as CI, but can accompany it, e.g. as the result of not having the contingent entitlement to sick pay that an 'ill person' would have.

In *Woman*, the staff member excludes Ella from the application of 'woman', thereby frustrating her moral entitlement to have her identity respected, which she holds in virtue of being an agent worthy of dignity and respect.¹⁵ Since this is a moral injury which has been caused by (therefore wrongful) exclusion, this is a case of conceptual injustice. Plausibly, as an intermediary step, the exclusion caused the staff member to lack recognition respect for Ella's moral entitlements, which they fail to appropriately weigh in their deliberations (e.g. when deciding whether to interfere), and to constrain their behaviour accordingly (otherwise they would grant Ella access to the women's bathroom). Ella's case also features negative practical consequences: she faces a potential altercation with the police and is robbed of a pleasant night out with friends. Once we shift focus to issues faced by transgender women generally, we can think of other more wide-ranging practical consequences, such as no access to women-specific support programmes like women's shelters (Apsani 2018), or disadvantages in custody battles (Stotzer, Herman and Hasenbush 2014). Such negative practical consequences cannot identify Ella's case as conceptual injustice, but can accompany CI.

Turning to *Recidivism*, the decision-making body includes John in the application of 'recidivist'. This frustrates his moral entitlement to equal, fair and unbiased treatment and hence causes a moral injury, which makes the inclusion wrongful and this into a case of CI. If we assume that the board generally acknowledges John's moral entitlement to fair, equal and unbiased treatment and simply thinks trusting the algorithm is a way of doing so, while being unaware of its bias, lack of recognition respect might not have acted as an intermediary step here. Nevertheless, his moral entitlements are still frustrated, not because they are not acknowledged, but because they are not realised. So he still suffers a moral injury, which was caused by inclusion in the application of a concept, making this into a case of CI.¹⁶ Like in the other two cases, John also faces negative practical consequences: he is denied early release, which takes away his opportunity to build a new life in freedom and commits him to more years of incarceration and hardship. These alone do not qualify his case as one of CI, but can accompany CI and may be the result of other familiar forms of injustice, such as social or political injustice.

¹⁵ Darwall (1977: 38) is explicit about such cases: failing "to take seriously the person as the presented self in one's responses to the person is to fail to give the person recognition respect as that presented self or in that role."

¹⁶ This raises interesting questions about accountability and blameworthiness for CI to explore in further research.

This concludes my explication of the analysis of the opening cases. Even though the cases also involve practical wrongs, understood as negative practical consequences and potentially other forms of injustice, focusing solely on these aspects would overlook an important way in which the agents are wronged. This ‘remainder of injustice’ can now be accounted for by pointing to the conceptual injustice they endure. The presence of a moral injury caused by in- or exclusion from concept application is constitutive of conceptual injustice and demarcates it from injustice.

4 Placing Conceptual Injustice on the Map

We now have a firm grasp of conceptual injustice, and have seen a number of examples. Throughout, I have pointed out how conceptual injustice is different from conceptual mistakes and from other familiar kinds of injustice. This section draws out these differences even more. I first consider the relation between conceptual injustice and injustice. Next, I investigate how conceptual injustice relates to other forms of injustice that also have an important cognitive component. Since I aim to place conceptual injustice on the map as a distinct kind of injustice, this section plays an important role in my argument and further clarifies conceptual injustice.

4.1 Conceptual Injustice Without Injustice

I have argued that conceptual injustice is a distinct form of injustice that allows us to account for an otherwise overlooked ‘remainder of injustice’. To do so, I appealed to three examples as instances of CI. However, one could argue that the examples simply illustrate the many ways in which injustice can take place, but fail to show that there is anything distinct about CI. Could we not account for the wrongs in the examples with our existing notions of injustice?

To provide support for the claim that CI is indeed a distinct form of injustice, we should show that there can either be:

- i) CI without injustice: removing all other forms of injustice from a supposed example of conceptual injustice would need to leave a remainder that can plausibly be understood as CI; or:
- ii) Injustice without CI: removing conceptual injustice from an example that supposedly involves CI as well as other forms of injustice needs to leave a lacuna.

Let’s start with i). In Sect. 3.2, I have argued that conceptual injustice often involves practical wrongs, but that their presence is not necessary for CI. The characteristic element of CI is the presence of a moral injury, caused by in- or exclusion from the application of a concept. Hence, it will be instructive to consider cases that *don’t* involve practical wrongs, but *do* involve a moral injury. We already warmed up to such cases: if the deceitful financial advisor is unsuccessful, then they don’t cause the client practical or psychological harm. Yet, they inflict a moral injury because they unduly diminish the client’s value, which manifests in frustrated moral entitlement. Cases of undiscovered voyeurism are further examples of a moral injury that does

not involve practical or psychological harm. Here, the victim never finds out that they are the target of voyeurism and as such, their life is not negatively affected. Yet, they are plausibly wronged by having their moral entitlement to privacy frustrated, and as such, suffer a moral injury.¹⁷

Next, we need to find a scenario which not only involves merely a moral injury, but also one that is caused by in- or exclusion from the application of a concept. Consider a revised version of *Woman*. The employee registers Ella as transgender and believes that as such, she should not be allowed to use the women's bathroom. But they do not intervene because they are scared Ella would lash out at them, if confronted, since they associate aggressive and short-tempered behaviour with transgender folk. Thus, Ella does not suffer any practical wrongs, but is nevertheless wrongfully excluded from the application of 'woman', since she suffers from a moral injury, because her moral entitlement to have her identity accepted is frustrated.

Turning to *Illness*, we can imagine a version where the doctor writes Sara a doctor's note, not because he acknowledges her endometriosis as a serious health condition, but rather because he sees in front of him a woman who is making a fuss about nothing and probably doesn't belong in the workplace anyway. Despite now being able to take sick leave, Sara is still wrongfully excluded from the application of 'ill person', because she suffers a moral injury by seeing her moral entitlement to have challenges to her well-being taken seriously frustrated.

Finally, imagine a scenario where John is granted early release due to a processing mistake in registering the decision body's recommendation. Now, he suffers no practical wrongs but nevertheless was wrongfully included in the application of 'recidivist' by the decision-making body, since the inclusion caused a moral injury, that is, since it caused his moral entitlement to fair and unbiased treatment to be frustrated.

These scenarios show that, while controlling for practical wrongs, we were able to find versions of our examples that include only moral injuries which are the result of wrongful in- or exclusion from the application of a concept, making these into cases of conceptual injustice.

To bring out more clearly the remainder of injustice that CI can account for, let's turn to ii). We should see a notable difference when looking at plausible modifications of the examples which maintain the various practical wrongs but remove the conceptual injustice. Starting with *Woman*, imagine a version where staff members deny access to the bathroom to guests whose names begin with 'E'. This clearly has practical negative consequences for the concerned guests who are arguably subject to unjust treatment. But in this case, Ella is not (wrongfully) in- or excluded from the application of a concept, which hence does not cause a moral injury – she experiences injustice, but not conceptual injustice. Turning to *Illness*, let's imagine a doctor with a strong protestant work ethic that places a lot of value on discipline and grit. As a result, they object to writing doctor's notes on principle. Now, Sara obviously suffers from practical wrongs, and arguably also from unjust treatment, but not from a moral injury as the result of in- or exclusion, since she is not (wrongfully) excluded from the application of 'ill person' – the doctor may even accept endometriosis as

¹⁷ For discussion and other examples of moral injuries without practical or psychological harms, see Frowe and Parry (2019) and Slavny and Parr (2015).

an illness but doesn't believe it to be a valid reason for granting sick leave. Finally, picture a version of *Recidivism* in which an error works to John's disadvantage: he is denied early release based on a processing mistake. This arguably constitutes unjust treatment, but does not involve (wrongful) inclusion in the application of 'recidivist'. The decision-making body correctly assessed his recidivism risk and granted him early release; it was a processing mistake that led to the denial. Since John was not wrongfully included in the application of 'recidivist', he does not suffer a resulting moral injury.

Now that we have considered i) cases that only display conceptual injustice and ii) cases that only display practical wrongs or other injustices, my claim that CI is a distinct kind of injustice that can account for a remainder of injustice should be clearer: CI can account for what is left in cases like i) and what is missing in cases like ii). In the next few sections, I will compare and contrast CI to some forms of injustice to which it may seem similar. Finally, I elaborate on how to understand the connections between CI and other injustices.

4.2 Ontic Injustice

Let's start with Jenkins' (2020) notion of *ontic injustice*. The underlying idea here is that when people are socially construed as members of social kinds, they are subject to certain constraints, and are given certain enablements, specific to this social kind. Ontic injustice occurs when these constraints and enablements are wrongful to the person – namely when there is a gap between what someone is morally entitled to, and what they end up being entitled to as the result of being construed as a member of a certain social kind. As an example, Jenkins uses the social kind *wife*. When someone was construed as a *wife* prior to 1991, they were not fully in charge of sexual access to their body, since marital rape was only legally recognised in England and Wales in 1991. The thought is that a woman is entitled to control sexual access to her body and to report crimes against her bodily integrity. But given that she lacks this enablement if construed as *wife*, there is an entitlement gap, which indicates that the constraints and enablements that come with *wife* are wrongful, making this an instance of ontic injustice.

The idea of an entitlement gap can be used to shed further light on the wrongs involved in conceptual injustice. Another way of thinking about moral injuries is to say that the ensuing frustrated moral entitlements represent a gap between one's moral entitlements, and the entitlements one eventually is granted. Thus, conceptual injustice can lead to wrongful entitlement gaps. This is not surprising, given that Jenkins also draws on Hampton's (1992) notion of moral injury and links it to Darwall's (1977) recognition respect: "[t]here is a strong relationship between failures of recognition respect and moral injuries. When a failure of moral recognition respect occurs, the individual toward whom the respect was owed suffers a moral injury, because damage has been done to the acknowledgment of their value" (Jenkins 2020: 196).

So, there are similarities between Jenkins' account of ontic injustice and my account of conceptual injustice – they share a wrong. But this does not mean that they are the same. The similarities are related to the wrongs involved, but not to what creates these wrongs. Two different injustices can produce similar wrongs with-

out making them into the same injustice. For example, marginalised groups often find themselves wronged in practical and financial ways by both social and political injustice. However, this sameness in wrongs does not justify doubting the distinction between social injustice and political injustice, and hence, we should not question the distinction between ontic and conceptual injustice either.

The big difference between ontic and conceptual injustice is their subject matter and what they posit as the source of the wrong. Ontic injustice is the result of being socially construed as a member of a social kind, whereas conceptual injustice stems from wrongful in- or exclusion from the application of a concept. Conceptual injustice is not concerned with or restricted to social kinds. In fact, it does not require an agent to be construed as a member of a social kind in the first place, and hence goes beyond social kinds, as the example of endometriosis shows. We can conclude that ontic injustice is different from conceptual injustice, but also that its discussion yields further insights into the wrongs of conceptual injustice.

4.3 Categorical Injustice

According to Ásta (2019), *categorical injustice* occurs “when agents are systematically thwarted in their attempts at performing actions by how they are socially constructed” (Ásta.: 392).

This happens when someone has the institutional authority to perform a certain action, but this authority is not recognised because they are taken to be a member of a group which is assumed to lack said authority. For example, a junior staff member has the institutional authority to openly challenge the argument of a senior staff member on the grounds of invalidity. But because they are placed in the category ‘junior staff member’, which is taken to lack the authority to challenge a senior staff member, they are now unable to successfully challenge the invalid argument – not because they lack the institutional authority to do so, but because their authority is not recognised.¹⁸ There is a “mismatch between what a person is institutionally entitled to do and what they are able to do, given how they are socially constructed” (Ásta: 401).

This might strike one as similar to conceptual injustice, since both kinds of injustice involve putting people into boxes, so to speak. But conceptual injustice is broader than categorical injustice. Categorical injustice is only concerned with thwarted actions, as Ásta makes clear: “I am interested in the cases where the status of a person in a context makes actions either impossible or unintelligible”, “[t]here can, however, be harms and injustices that do not involve thwarted action and categorical injustice is not meant to capture those” (Ásta: 398, 402). Conceptual injustice is not restricted to thwarted actions, or even to actions generally. Take Ella’s case: here, thwarted action is not crucial, since Ella did succeed in using the women’s bathroom, but nevertheless experiences CI. She is wronged because she suffers a moral injury, caused by in- or exclusion from the application of a concept. It is this wrong

¹⁸ Ásta also introduces a second version of categorical injustice which they call ‘cognitional’, where the agent is placed in a social group that is seen as lacking the properties necessary to perform a certain action *at all*. When the agent then tries to perform this action, their attempt is not even interpreted as such, and as a result, the action is thwarted – e.g. if the junior staff member’s remarks were interpreted as a light-hearted joke rather than an open challenge of the argument.

that CI picks out.¹⁹ What's more, CI can occur even if the victim is not attempting to carry out any specific action at all. Neither John nor Sara attempt a specific action, but still experience CI. So while categorical injustice only occurs in the case of thwarted action, conceptual injustice can occur in a wider range of cases.

A further difference lies in *what* is mismatched. Categorical injustice picks out a mismatch between one's institutional entitlement and how one is socially constructed.²⁰ But conceptual injustice picks out a more general mismatch, namely between one's moral entitlements and the concept(s) from whose application one is in- or excluded. There can of course be cases where one's institutional (or contingent) and moral entitlements align, and where one's social construal tracks wrongful in- or exclusion from concept application. One such case might be a father who has sole custody of his child but whose parenting decisions are routinely disregarded by the maternal grandmother who believes she knows what is best for the child. Plausibly, the father is both morally and institutionally (contingently) entitled to make parenting decisions, and this is mismatched with how he is socially construed (since 'men are less able to make good parenting decisions than women'), which tracks his wrongful exclusion from the application of 'responsible parent'. In such cases, categorical and conceptual injustice may overlap. But the *institutional* entitlements of Sara, Ella and John (whatever they may be) are not relevant for locating the moral injury they face. While there may be cases where categorical and conceptual injustice overlap, they remain distinct – and as discussed in 4.2, (partial) sameness in wrongs does not give us reason to see their sources as identical.

4.4 Epistemic Injustice

Epistemic injustice is arguably the most prominent and influential kind of injustice that raises awareness for how injustice can operate on a more cognitive level. As such, it will be insightful to see how conceptual injustice relates. To anticipate my conclusion: conceptual injustice remains distinct from epistemic injustice but can provide valuable insights into hermeneutical injustice.

4.4.1 CI and Testimonial Injustice

Fricker (2007) identifies two kinds of epistemic injustice: testimonial and hermeneutical, which I discuss in turn. Testimonial injustice is characterised as a credibility deficit on the side of the speaker, due to identity prejudice on the side of the hearer. A classic example is testimony by victims of sexual assault who belong to marginalised groups. Here, the victim's testimony is often not taken seriously or brushed aside entirely, regularly resulting in mild or no sentencing. Importantly, this is due to the speaker not being awarded the credibility they are due *because* they belong to a marginalised group, which is subject to prejudice on the side of the hearer.

¹⁹ This is not to say that thwarted action isn't a wrong, or that it could not also be present.

²⁰ Earlier in the paper, Ásta seems to also allow for a type of 'communal' entitlement which is rooted more in social rather than institutional norms, but they later posit institutional entitlement as the focus of categorical injustice.

CI and testimonial injustice may seem similar because the examples used often involve members of marginalised groups. But there are clear and obvious differences. To start with, testimonial injustice requires testimony. As the examples of CI have shown, the existence of conceptual injustice need not involve testimony, or even any sort of claim-making on the side of the victim. For example, it is not necessary that Ella testifies ‘I am a woman’ for her to experience CI; trying to use the restroom was enough. Similarly, the responsible father can be a victim of CI without having to testify ‘I am a responsible father’ to the maternal grandmother.²¹ Another difference lies in propositionality. Since testimonial injustice is concerned with propositional attitudes like beliefs and knowledge, it requires propositional content. But conceptual injustice is concerned with wrongful in- or exclusion from the application of concepts and as such does not require propositional content. Lastly, Fricker identifies identity prejudice as the cause for the credibility deficit that is characteristic of testimonial injustice. However, conceptual injustice can occur even without identity prejudice. For example, we can imagine a version of *Illness* that involves Fred, a white male professional who struggles with moderate depression, and who is wrongfully excluded from the application of ‘ill person’.

Nevertheless, there are similarities between the two injustices when we focus on their wrongs. In cases of testimonial injustice, Fricker (2007: 44) claims that one is wronged in one’s capacity as a knower, which she considers “a capacity essential to human value.” Arguably, being wronged in a capacity that is essential to human value can be understood as moral entitlement frustration and hence a moral injury. This is not surprising, since we may plausibly understand being wronged in one’s capacity as a knower as a consequence of being wrongfully excluded from the application of ‘knower’. So both testimonial and conceptual injustice can involve moral injuries. However, as discussed in relation to Ásta’s and Jenkins’ notions of injustice, this need not push us to collapse the distinction between testimonial and conceptual injustice.

4.4.2 CI and Hermeneutical Injustice

Fricker understands hermeneutical injustice as “having some significant area of one’s social experience obscured from collective understanding owing to hermeneutical marginalization” (Fricker 2007: 158). Take sexual harassment (Brownmiller 1999). Before this notion existed, victims of sexual harassment could not make sense of what was arguably a very ‘significant’ part of their social experience, which was ‘obscured from collective understanding’. Maitra (2018) argues that in central cases of hermeneutical injustice, this is the result of gaps in our linguistic or conceptual resources. Without the notion of ‘sexual harassment’, victims are unable to understand and communicate their experience because our existing notions of ‘affront’ or ‘rape’ leave a gap: the victims’ experience is more normatively significant than an ‘affront’ but also different from ‘rape’. These gaps produce the primary harm of her-

²¹ At the very least, Ella’s and the father’s actions and behaviour do not amount to the paradigmatic instances of testimony that testimonial injustice discusses. While such instances of testimony might come up in ensuing conversations between the victims of CI and the offenders, their presence is not required for CI, and neither is the clear speaker-hearer dynamic that is present in cases of testimonial injustice.

hermeneutical injustice: a “communicative disablement” which makes it impossible to intelligibly communicate the experiences in question in a way that appropriately represents their normative significance (Maitra: 347). Moreover, the disablement results from ‘hermeneutical marginalisation’, that is, from being disadvantaged with regard to hermeneutical participation and access to the resources necessary to render intelligible and communicate one’s experiences.

Maitra proposes as a remedy that we find labels for these experiences that correctly represent their normative significance: by creating the label ‘sexual harassment’, victims are able to understand and appropriately communicate their experience (Maitra: 353).

With this in place, we can see that there are clear differences between hermeneutical and conceptual injustice. For one, conceptual injustice need not involve ‘obscured understanding’. Whether a victim of conceptual injustice possesses the conceptual resources to make sense of their experiences is irrelevant to whether they are being wrongfully excluded from the application of a concept by someone else. A case in point is Ella: presumably, Ella and the staff member have the relevant concepts (namely, ‘woman’). Ella in particular has all necessary conceptual resources to assess whether she is entitled to use the women’s bathroom, and also to interpret and communicate her experience at the restaurant appropriately.²²

This difference is brought out further by Maitra’s and Fricker’s characterisations of communicative disablement as the primary harm of hermeneutical injustice. In contrast, conceptual injustice is not primarily focussed on communication, and the ways in which it wrongs are not only communicative. What is essential to conceptual injustice are moral injuries, understood as frustrated moral entitlements, caused by in- or exclusion from the application of a concept. These can but need not amount to communicative disablement. A case in point is John: he is not unable to communicate his experience, and yet experiences conceptual injustice.

Finally, for CI to occur, there must be a concept from whose application one can wrongfully be excluded. But many cases of hermeneutical injustice are cases where the relevant concept does not (yet) exist. Previously unintelligible and uncommunicable experiences can be made sense of by creating a new concept (or ‘label’, to use Maitra’s term). These are cases of hermeneutical but not conceptual injustice.

This leaves open the possibility for hermeneutical and conceptual injustice to overlap in cases where (a) the relevant concept already exists and hermeneutical injustice can be remedied by taking an existing label for the experience and co-opting or modifying it, and (b) the frustrated moral entitlement manifests as communicative disablement. Regarding (a), Maitra suggests that in some cases, we need not create a new label, but can build upon an existing one, e.g. when co-opting ‘stalking’ to also apply to the online domain. This is also a case of conceptual injustice, since online stalking victims can be seen as wrongfully excluded from the application of ‘stalking victim’. The communicative disablement experienced by online stalking victims

²² This should not be confused with disagreement: while the restaurant staff may disagree with Ella that she is allowed to use the women’s bathroom, or that she has any claim to unjust treatment, this disagreement does not challenge Ella’s status as being able to understand and communicate her experience.

when trying to report the incidents, can be seen as a manifestation of their frustrated moral entitlement to protection by the law.

In cases where the two overlap, conceptual injustice can serve as an *explanation* of hermeneutical injustice, since it is located at a more fundamental level. If concepts are the sub-propositional building blocks of thought (Margolis and Laurence 2021), it is plausible that they are the precursor to understanding and communicating our experiences. Being excluded from the application of the relevant concept can explain why one is unable to understand and communicate one's experience.

Summing up this section, we have seen that since we can isolate conceptual injustice (4.1), it is indeed a distinct kind of injustice that accounts for an important remainder of injustice. Moreover, the previous sections showed that despite some similarities to other related injustices, conceptual injustice remains distinct (4.2–4.4).²³ Finally, conceptual injustice can enhance our understanding of other, already familiar injustices (like hermeneutical injustice) because there is reason to see it as more fundamental. It inherits its fundamental nature from its subject matter – concepts. Since concepts are the ingredients or constituents of thought, they are fundamental to anything that involves thought, i.e. to all aspects of cognition, whether it's how we “describe or represent the world: [how] we ask questions, make plans and promises, bullshit each other, etc.” (Burgess and Plunkett 2013: 1094), or “how we think about the world, how we communicate with each other, how we pursue our personal lives, and how we organize our society” (Koch 2021: 1955). This suggests that conceptual injustice may be fundamental to other types of injustice that include a cognitive element, such as social kind construction or epistemic activity, since concepts are fundamental to these elements of cognition.

5 Further Issues

5.1 Conceptual Injustice and Discrimination

If one accepts that conceptual injustice is indeed distinct from other injustices, one might still worry that conceptual injustice really is nothing other than discrimination. Is Ella's case not a prime example of discrimination against transgender women, Sara's case one of discrimination against women, and John's case one of discrimination against African-Americans?

Despite the intuitive appeal of this suggestion, the phenomenon of conceptual injustice is distinct from the phenomenon of discrimination. Since it goes beyond the scope of this paper to decide on the correct account of discrimination, I will rely on the SEP characterisation as sufficiently representative. In his SEP article, Altman (2020) maintains that “discrimination consists of acts, practices, or policies that impose a relative disadvantage on persons based on their membership in a salient

²³ Admittedly, this survey is by no means complete. As work on injustice continues, it will have to be extended accordingly. I have opted for the candidates with most potential overlap to conceptual injustice.

social group.”²⁴ For our examples of CI to be instances of discrimination, it would need to be the case that Sara, Ella and John (i) suffer from a disadvantage, (ii) this disadvantage is relative to the adequate comparison group and (iii) the source of the disadvantage is membership of a social group.

It certainly is the case that (i), Sara, Ella and John suffer from disadvantages in the shape of the practical wrongs associated with their cases. But as we have seen, these practical wrongs are not essential to CI and need not be present – moral injuries, caused by in- or exclusion from the application of a concept are the marker of CI. Turning to (ii), Sara’s, Ella’s and John’s disadvantages are indeed relative, compared to contrast groups like ill people, women, and white US citizens. When looking at (iii), we can see that the disadvantages in cases of CI have a different source: they are the result of wrongful in- or exclusion from the application of a concept, instead of social group membership (though it is of course possible that the application of a concept amounts to a social group).

This difference in source matters, because it allows us to see that there can be cases of conceptual injustice that aren’t also cases of discrimination. For one, not all applications of concepts can be equated with social groups.²⁵ As such, it is at least possible that there can be cases of CI that don’t involve social groups, and hence would not be discrimination. Furthermore, CI is often the result of wrongful *exclusion* from the application of a concept. For example, Ella’s disadvantages are better described as stemming from *non-membership*, or exclusion from, a social group, as opposed to *membership*, as postulated by (iii). So even in cases where concept application amounts to social group membership, there can be differences between CI and discrimination. What’s more, there can also be cases of discrimination that are not cases of CI. Take school segregation as a paradigmatic example of discrimination. By having less access to high quality education, (i) Black people suffer a disadvantage, (ii) relative to the social group of White people with such access, (iii) based on membership of the social group Black people. But school segregation cannot straightforwardly be understood as an instance of conceptual injustice, since there is no wrongful exclusion from the application of a concept: it is not the case that Black people are wrongfully excluded from the application of the concept ‘White people’ here.²⁶

Since there can be cases of CI that aren’t also cases of discrimination, and vice versa, the two are distinct. Nevertheless, conceptual injustice can supplement our understanding of discrimination: cases of discrimination can coincide with cases of CI if first, the disadvantage at play can be understood as a moral injury (possibly also accompanied by practical wrongs), and second, the wrongful inclusion in application that caused the moral injury amounts to membership of a social group.

²⁴ Altman offers this as a first approximation and then goes on to discuss some of the nuances, but maintains its core components. Since I do not attempt to provide a full discussion of the nature of discrimination here, the first approximation will suffice.

²⁵ Discussing the nature of social groups goes beyond the scope of this paper, but I take it to be uncontroversial that to qualify as a social group, more structure is required than just a common feature.

²⁶ One might think that this case of discrimination, too, can be interpreted as an instance of conceptual injustice: Black people are being excluded from the concept of ‘person entitled to high quality education’. I address this possibility in Sect. 5.2.

5.2 An Overgeneration Worry

Following the remarks in the previous section, I want to address a potential overgeneration worry. Could we not cast almost every form of mistreatment, or discrimination, as an instance of conceptual injustice? For example, I have just presented school segregation as a case of only discrimination and not of conceptual injustice, since individuals are not wrongfully excluded from the application of ‘White people’. However, one might argue that this is the wrong concept to consider. Could we not say that segregated schools wrongfully exclude Black people from the application of the concept ‘person who deserves access to quality education’, thereby making this into an instance of conceptual injustice after all?

We can respond to this worry by appealing to the role that concepts play in our cognition. If concepts are indeed the most fundamental cognitive representational devices, it is plausible that we cannot extend or compress them as we please (as we have just done in the example), since “it’s *better* to think and speak in joint-carving terms” (Sider 2011: 61, emphasis in original).²⁷ Arguably, the putative concept ‘person who deserves access to quality education’ is too specific to be one of the joint-carving “most fundamental constructs in theories of the mind” (Laurence and Margolis 1999: 3). To further motivate this thought, note that despite their differences, most theories of concepts have some principled way of individuating concepts.²⁸ They disagree about how this is to be done or how finely concepts need to be individuated to still count as joint-carving, but agree on the need for a principled approach. Since it is not the aim of this paper to settle on a correct account of concepts, and since the phenomenon of CI can be investigated and explored using just a few core commitments about the nature of concepts (Sect. 2), we can outsource the worry about overgeneration to the respective theories of concepts. Their answers on how concepts should be individuated will differ, and as a result, what can potentially count as conceptual injustice will also differ, because any limitation on the scope of concepts has consequences for what can count as in- or exclusion from their applications. For now, I content myself with acknowledging the interactions between the phenomenon of conceptual injustice and the debate about the correct account of concepts.

5.3 A Counter-Example?

Finally, one might worry about the implications of conceptual injustice. So far, the examples mostly included members of marginalised groups, or phenomena that are somehow associated with lower standing in our social structures. One might worry that conceptual injustice is plausible only because these examples cohere with our intuitions about there being some kind of injustice in these cases. Does conceptual injustice retain its plausibility once we use more challenging examples?

Imagine a White male reactionary who receives public pushback for his views. When his complaints about this treatment are not met with compassion but indifference, he takes

²⁷ Sider allows for some concepts to not be joint-carving but maintains that “it’s worse to employ non-joint-carving concepts” (Sider 2011: 61).

²⁸ For example, concepts can be individuated according to their semantic content (Krippe 1972), cognitive value (Frege 1948), or functional role (Block 1986).

himself to experience conceptual injustice, because he is wrongfully excluded from the application of ‘victim’. If his claim is correct, it might strike many as an implausible or undesirable consequence of conceptual injustice, casting doubt on its plausibility.

In response, let me first note that whether conceptual injustice obtains is independent of whether agents *think* it obtains in their case. That people claim to be wrongfully excluded from the application of a concept is not enough to establish that they are actually experiencing conceptual injustice. The hallmark of CI is wrongful in- or exclusion. To decide whether CI obtains, we need to assess whether there was *wrongful* in- or exclusion from the application of a concept, that is, whether there is a moral injury caused by in- or exclusion.

Arguably, this is not the case here. I suspect that most of the time, reactionaries and their ilk are not wronged in the ways described. People who are not met with compassion because of their racist, misogynist or otherwise objectionable views often cannot claim that their moral entitlements are frustrated, and hence they would not be suffering a moral injury. That is because in these cases, these reactions are perfectly justified – we may think worse of people with morally reprehensible convictions, and this need not amount to frustrating their moral entitlements. This brings out another strength of CI: it piggy-backs on the notion of ‘moral entitlement’, which is familiar in normative theorising. Disagreement about cases of CI can ultimately be settled at the level of entitlements: it boils down to the moral entitlements we ascribe to an agent, and whether these have been frustrated as the result of in- or exclusion from concept application. This does not make such disagreement easy to solve, but demystifies it.²⁹

Returning to the example, I think it unlikely that a case like the reactionary’s claim to conceptual injustice will qualify as such, so the case does not challenge the plausibility of conceptual injustice after all. However, I maintain that if a reactionary is in fact suffering a moral injury caused by in- or exclusion, then they have a claim to conceptual injustice as much as anyone else. This would not so much be a bullet to bite, but rather a welcome implication of the view, since it indicates that the notion is not tied to existing ideological commitments. The claim to conceptual injustice is not dependent on subscribing to a certain worldview, and instead is open to anyone who is wronged in the described ways.

6 The Usefulness of Conceptual Injustice

In this paper, I have established conceptual injustice as a distinct kind of injustice. I took care to unpack each element of my characterisation, with particular care to the wrongs associated with CI. The presence of a moral injury as the result of in- or exclusion from concept application emerged as the essential characteristic of CI, which can be mediated by (lack of) recognition respect. Following this, I have distinguished conceptual from other kinds of injustice and from discrimination. Finally, I have considered an overgeneration worry, and a counter-example to my proposed notion.

²⁹ One’s choice of first order normative theory will have an impact on which moral entitlements are granted. While a Utilitarian will endorse those moral entitlements which, if generally granted, lead to the best consequences, a Kantian will favour being treated with dignity and respect. The phenomenon of conceptual injustice does not exist in a vacuum but interacts with first-order normative theory via the notion of moral entitlements.

Let me end by highlighting why having the notion of conceptual injustice in our toolbox is useful. As previously stated, CI allows us to capture an otherwise unaccounted for ‘remainder of injustice’. It also supplements and increases our understanding of hermeneutical injustice and discrimination, and may be fundamental to understanding other kinds of injustice, due to the fundamental nature of concepts.

A fruitful application of conceptual injustice beyond the realm of normative ethics can be found in the project of conceptual engineering.³⁰ An important part of it is the ameliorative project, which concerns ameliorating our concepts to promote social justice (Haslanger 2000). But, as Jenkins (2016: 395) points out, engineering concepts for the sake of social justice can create an “inclusion problem”: the new, engineered concepts might be an improvement for some, but might exclude others.³¹ She is specifically concerned with gender concepts, where conceptual engineering runs the risk of “marginalizing or excluding some *prima facie* women”, such as trans women (Jenkins). This would amount to a “[f]ailure to respect the gender identification of trans people [which] is a serious harm and is conceptually linked to forms of transphobic oppression and even violence” (Jenkins: 396). What Jenkins describes here is an instance of conceptual injustice. By being aware of the possibility of CI, we can improve conceptual engineering projects by addressing the inclusion problem.

More generally, I see conceptual injustice as another addition to the growing literature on new forms of injustice. Each of these forms highlights the pervasiveness of social phenomena like oppression, marginalisation and power structures; they analyse the various ways in which they interact, and expose how they affect not only our actions but also our thoughts and deliberations. Conceptual injustice should be seen as contributing to this cartography project which is probably still in its infancy.

Acknowledgements This paper greatly benefitted from the valuable input of many people who discussed and commented on the ideas. Special thanks to Justin Bernstein, Miguel Egler, Lewis Ross, Justin Snedegar, my colleagues at VU Amsterdam, and two anonymous reviewers.

Declarations

Competing Interests The author has no relevant financial or non-financial interests to disclose.

Open Access This article is licensed under a Creative Commons Attribution 4.0 International License, which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence, and indicate if changes were made. The images or other third party material in this article are included in the article’s Creative Commons licence, unless indicated otherwise in a credit line to the material. If material is not included in the article’s Creative Commons licence and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>.

³⁰ For an overview, see Cappelen and Plunkett (2020).

³¹ Diaz-León (2020) has argued that conceptual engineering is drenched with normative considerations at all stages, not just the ameliorative part. This would mean that the inclusion problem is even more pressing, making conceptual injustice an even more useful notion.

References

- Altman, A. 2020. Discrimination. *The Stanford Encyclopedia of Philosophy*. <https://plato.stanford.edu/archives/win2020/entries/discrimination>. Accessed 09 September 2022.
- Apsani, R. 2018. Are women's spaces transgender spaces? Single-sex domestic violence shelters, transgender inclusion and the equal protection clause. *California Law Review* 106(5): 1689–1754.
- Ásta. 2019. Categorical injustice. *Journal of Social Philosophy* 50(4): 392–406.
- Block, N. 1986. Advertisement for a semantics of psychology. *Midwest Studies in Philosophy* 10(1): 615–678.
- Brownmiller, S. 1999. *In our time: memoir of a revolution*. New York: The Dial Press.
- Burgess, A., and D. Plunkett. 2013. Conceptual ethics I. *Philosophy Compass* 8(12): 1091–1101.
- Cappelen, H., and D. Plunkett. 2020. Introduction: a guided tour of conceptual engineering and conceptual ethics. In *Conceptual engineering and conceptual ethics*, eds. A. Burgess, H. Cappelen, and D. Plunkett. 1–26. Oxford: Oxford University Press.
- Darwall, S. 1977. Two kinds of respect. *Ethics* 88(1): 36–49.
- Díaz-León, E. 2020. Descriptive vs. ameliorative projects: the role of normative considerations. In *Conceptual engineering and conceptual ethics*, eds. A. Burgess, H. Cappelen, and D. Plunkett. 170–186. Oxford: Oxford University Press.
- Frege, G. 1948. Sense and reference. *The Philosophical Review* 57(3): 209–230.
- Fricke, M. 2007. *Epistemic injustice: power and the ethics of knowing*. New York: Oxford University Press.
- Frowe, H., and J. Parry. 2019. Wrongful observation. *Philosophy and Public Affairs* 47: 104–137.
- Hampton, J. 1992. Correcting harms versus righting wrongs: the goal of retribution. *UCLA Law Review* 39(1): 1659–1702.
- Haslanger, S. 2000. *Resisting reality: social construction and social critique*. New York: Oxford University Press.
- Jenkins, K. 2016. Amelioration and inclusion: gender identity and the concept of woman. *Ethics* 126(1): 394–421.
- Jenkins, K. 2020. Ontic injustice. *Journal of the American Philosophical Association* 6(2): 188–205.
- Koch, S. 2021. Engineering what? On concepts in conceptual engineering. *Synthese* 199: 1955–1975.
- Kripke, S. 1972. Naming and necessity. *Philosophy* 56(217): 431–433.
- Maitra, I. 2018. New words for old wrongs. *Episteme* 15(3): 345–362.
- Margolis, E., and S. Laurence. 1999. *Concepts: core readings*. Cambridge: The MIT Press.
- Margolis, E., and S. Laurence. 2021. Concepts. *The Stanford Encyclopedia of Philosophy*. <https://plato.stanford.edu/archives/spr2021/entries/concepts/>. Accessed 09 September 2022.
- Sawyer, S. 2020a. Talk and thought. In *Conceptual engineering and conceptual ethics*, eds. A. Burgess, H. Cappelen, and D. Plunkett. 379–395. Oxford: Oxford University Press.
- Sawyer, S. 2020b. Truth and objectivity in conceptual engineering. *Inquiry: An Interdisciplinary Journal of Philosophy* 63(9–10): 1001–1022.
- Sider, T. 2011. *Writing the book of the world*. Oxford: Oxford University Press.
- Slavny, A., and T. Parr. 2015. Harmless discrimination. *Legal Theory* 21(2): 100–114.
- Stotzer, R. L., J. L. Herman, and A. Hasenbush. Transgender parenting: A review of existing research. The Williams Institute. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Parenting-Review-Oct-2014.pdf>. Accessed 14 December 2023.
- Wang, A. 2018. Transgender woman says she was asked for ID to use restroom, then kicked out of D.C. restaurant. *The Washington Post*. <https://www.washingtonpost.com/news/local/wp/2018/06/24/transgender-woman-says-she-was-asked-for-id-to-use-restroom-then-kicked-out-of-d-c-restaurant/>. Accessed 09 September 2022.
- Wiinikka-Lydon, J. 2019. Mapping moral injury: comparing discourses of moral harm. *Journal of Medicine and Philosophy* 44(2): 175–191.

Publisher's Note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.