

Exploitation, Domination, Competitive Markets, and Unfair Division

Saying that one agent exploits another is not always casting any aspersions, as when we praise a football team for exploiting the opponent's poor pass defense in a close game. But sometimes to be described as exploiting is to be characterized as behaving in a way that is morally wrong or at least pro tanto morally wrong. What is this wrong? This essay considers this question mainly with a view to exploring under what conditions engaging in mutually beneficial voluntary interaction with others, as in market exchange, qualifies as exploitation with a connotation of moral wrongness.

1. Exploitation and domination.

Explaining what is wrong with exploitation, Allen Wood writes, "Most of us believe that when people are weak or vulnerable, others should not use their weakness or seek to benefit from it, but instead should seek to help them and rescue them from their bad situation." He adds that he does not mean to say that exploitation occurs only when there is failure to comply with an obligation to help. Rather the point is this: "Proper respect for others is violated when we treat their vulnerabilities as opportunities to advance our own interests or projects. It is degrading to have your weaknesses taken advantage of, and dishonorable to use the weaknesses of others for your ends."¹

We should reject these moral claims, whether or not they are widely shared. The sentiment here is too high-minded. One can readily identify examples in which people exploit the weaknesses of others—use these vulnerabilities to secure advantages for themselves—but in which there is no unfair division of advantages from the interaction and so nothing that qualifies as morally objectionable exploitation. Nor for that matter need there be any intention to treat others fairly. One can seek advantage for oneself without seeking unfair advantage for oneself. Consider an example introduced in another context by Harry Frankfurt:²

UTILITY COMPANY. You live in a cold climate, and you desperately need to heat your home in the winter. The local utility company is a monopoly supplier of power for home heating. The business is unregulated, so the company could charge any price it likes, within a broad range. The company does not take advantage of your weak bargaining position. It charges a clearly fair price for the power you need to heat your home, and profits from the exchange. If people did not need extra power in the winter to offset the threat of cold, the company's profits would be less.

Another example of the same:

CANCER TREATMENT. I live in an isolated rural region, in a region in which health care insurance is unavailable. There is only one qualified surgeon in the territory. After a routine check-up she informs me that I have a cancer that will swiftly kill me unless surgery is done. Only she can do the surgery. I'd be willing to give everything I own in exchange for the needed surgery, but the actual price she charges is modest, better than fair. This is business as usual for the surgeon. She makes her living by striking bargains like this with people in conditions like mine. She makes a good living.

In another range of cases, considerations of deservingness should affect the moral assessment of transactions in which some profit from the weakness of others.

COMEUPANCE. For a time my wife is unemployed, and her bargaining position when it comes to family interactions is weak. I successfully demand that we watch a steady diet of horror movies and grade B action films. The tables are suddenly turned. She now has a good job and I have no steady income. She now drives a hard bargain when the question arises, what movies to see. We end up watching a stream of romantic comedies, which she likes far more than I do.

One might protest that in this sort of example the stakes are so low that our intuitions regarding exploitation are not to be trusted. But one can invent examples with higher stakes. For the sake of having ready to hand an easy clear example, just suppose that we should accept a Shelly Kagan type view to the effect that those who are more deserving should get higher well-being.³

ANT AND GRASSHOPPER. As in the fable, Ant works hard all summer and has ample provisions for the winter. Grasshopper lazes about and in January has an empty cupboard. As it happens, cardinal interpersonal comparisons of desert and well-being can be made. Without interaction, Grasshopper will end up with welfare level two, which amounts to dire misery, and Ant with 3, bare sufficiency, and in this scenario Ant is comparatively more deserving; the gap between the welfare level Ant has and what he deserves is far greater for him than is the comparable gap for Grasshopper. Ant proposes to sell some provisions to Grasshopper at a very high price. Grasshopper accepts the deal, though he would prefer to pay less and get more. With this deal in place, Grasshopper ends up with welfare level three and Ant with twelve. (Ant buys a cell phone.) Even after this transaction, Ant's welfare level is less than he deserves, by comparison with the situation of Grasshopper.

According to Wood's proposal, the utility company, the surgeon, my wife, and the ant are all perpetrating wrongful exploitation in these examples. They all use the opportunity provided by the weakness of others to gain profit for themselves. But using others in these ways does not plausibly amount to wrongful exploitation. Not only are these individuals as described not doing wrong all things considered, there is nothing *prima facie* wrongful in what they do. Wood's proposal should be rejected.

Before moving on, we should note another problematic feature in Wood's proposal. He says it is disrespectful to others to use their vulnerabilities as opportunities to advance our projects. Among other things, whether this is so in particular cases depends on the nature of our projects. Sometimes using other to advance good causes can be acceptable when using others for our personal enrichment would be unacceptable or marginally acceptable. Consider:

GOOD CAUSE. Rich is wealthy (rich). He sells snow shovels. A terrible blizzard falls on a large city, and Rich makes a bundle selling snow shovels to other wealthy people who desperately need snow shovels. As he planned, Rich devotes the windfall profits to a project that alleviates the poverty of distant needy strangers, very poor individuals in very poor countries.

Even if we should think it wrong for one wealthy person to extract extra profit from transactions with other wealthy persons who are temporarily in need, we should not think it wrong to extract extra profit from needy rich people in order to confer benefits on needy poor people, at least when the gains to poor are appropriately proportioned to the losses suffered by the rich (their loss from actual purchase compared to the baseline of what they would have paid in ordinary circumstances).

My objection to Wood's proposal consists in presentation of some counterexamples. A defender of his account might reply that my discussion begs the question by implicitly assuming that if transactions are wrongfully exploitative, they must result in unfair or wrongful division of the benefits generated by the transaction. But Wood explicitly repudiates this assumption. His idea is that our ordinary idea of exploitation of a person is the idea of using your power over another to extract benefits for yourself. What is wrong here is domination, a wrongful use of power over another. This can occur regardless of whether the distribution of benefits is fair or unfair.

In a recent essay Nicholas Vrousalis develops this idea at some length.⁴ In a nutshell, his view is that "exploitation is domination for self-enrichment."⁵ Domination according to Vrousalis is making use of power that one has over other people. He explicitly repudiates the suggestion that exploitation essentially involves distributive unfairness, even if we confine the suggestion so it characterizes only exploitation that takes place via transactions that are fully voluntary on the part of all participants (so there is no force or fraud or coercion). Exploitation as he understands it is wrongful, but the wrong that he takes to be at the core of exploitation is disrespectful treatment of others. The conceptual connections here are supposed to be that domination, always morally wrongful, is taking advantage of one's power over others in some way that is disrespectful and exploitation is doing just that.

In the discussion to come I shall refer to the Wood-Vrousalis account of exploitation and of what is wrong with exploitation and raise some criticisms of their account. Lumping their accounts together in this way is not implying that there are no differences between their views, but the differences will not matter for my purposes.

On the face of it, interpreting the vice in exploitation as a type of domination has a lot going for it. Interpreted in this way, the critique of exploitation contributes to the elaboration of an ideal of democratic equality that also seems to have a lot going for it. Such prominent theorists as Elizabeth Anderson and Samuel Scheffler have argued that we should not make a fetish of distributive considerations and should not take the central egalitarian value to be a norm to the effect that everyone should have the same or get the same treatment or be equally well off according to some metric of advantage. Rather the central egalitarian idea is that we should treat all persons as equals and should build and sustain societies in which people relate as equals rather than hierarchically.⁶

2. Wertheimer and hypothetical competitive market prices.

The attraction of conceiving of exploitation as something like domination for self-enrichment shows itself in unexpected places. If we scratch just slightly below the surface of Alan Wertheimer's tentative suggestion as to what might render mutually beneficial voluntary exchange exploitative, we find the domination for personal advantage thought lurking in his ideas.⁷

Wertheimer distinguishes between dealing with someone on the basis of unfair background conditions and dealing with someone unfairly. Suppose the distribution of income and wealth is unfair. Some have far more than others, and there is no good moral reason that explains and justifies this disparity. Nonetheless, this is our situation. Now suppose Rich interacts with Poor. Wertheimer insists we should set aside our beliefs about background unfairness when we assess the moral character of the discrete interaction under review. His thought is that it might well be that Rich interacts with

impeccable fairness toward Poor, and Poor toward Rich, even though the background unfair distribution might play a role in determining the terms of their interaction. Suppose the interaction consists of Poor's baking a pie and selling it to Rich. Given his (ex hypothesi, unfair) great wealth, Rich may not much need a pie, and may be willing to pay little to get it. Given his (again, unfair) poverty, Poor may be very concerned to interact on profitable terms with Rich, even if the terms of trade are not very favorable. Wertheimer wants to confine the application of the idea of exploitation (in the sense that implies prima facie wrongdoing) to cases in which there is something amiss in the specific transaction under review. The background unfairness in their situations does not automatically taint the specific transaction. Yet some such dealings will be unfair. Which ones?

Wertheimer sees light shining through this murky issue. We can consider voluntary exchanges that are mutually beneficial as exploitative if they deviate from the terms that would have been reached had there been a fully competitive market for the goods being exchanged, with many buyers and sellers of the goods, full information on all sides, no externalities, and so on. When there are thin markets, and agents take advantage of the thin market setting to extract extra benefit for themselves above what an hypothetical competitive market would have delivered, we reasonably judge there to be transaction unfairness (as distinct from background unfairness).

In the competitive market setting, each agent must take prices as given and cannot influence the terms on which exchange occurs, in the sense that if one party tried to gain more for himself than the competitive outcome, the other party would decline to deal with him and get a better bargain from someone else offering the full competition terms.

Wertheimer comments, "I do not want to deny that exploitation can occur in a perfectly competitive market. Nonetheless, when we say that A takes unfair advantage of B, we typically assume that A could have chosen not to take unfair advantage of B, that their specific transaction could have occurred on fairer terms. And this is precisely what generally cannot occur in a perfectly competitive market."

Wertheimer returns to the issue later in his book: "Still, even though a competitive market price does not reflect a deep principle of justice, it does reflect a crucial moral dimension of the relationship between the parties in the transaction. The competitive market price is a price at which neither party takes special unfair advantage of particular defects in the other party's decision-making capacity or special vulnerabilities in the other party's situation. It is a price at which the specific parties to the particular transaction do not receive greater value than they would receive if they did not encounter each other. It may or may not be a "just price," all things considered, but it may well be a nonexploitative price, for neither party takes unfair advantage of the other party."⁸

As the passages indicate, Wertheimer suggests the idea that when people exchange goods and services voluntarily on a competitive market, the interaction is not exploitative. He does not commit to the idea and in fact holds it somewhat at arm's length. But he suggests reasons to favor it and no reasons to reject it.

The passages indicate that what underlies Wertheimer's attraction to the proposal under review is that when the market is fully competitive, no agent has power to affect the terms of the transaction so no agent is vulnerable to another. No one is dominating those with whom she interacts. Vrousalis observes that under full competition, the class of employers might together have power over the class of workers and those seeking

employment. But if collusion among large groups of people could occur, the market would no longer count as fully competitive. So Wertheimer might defend his claim that competitive markets eliminate domination. If this diagnosis is right, then the Wood-Vrouslis position is exerting a magnetic attraction on Wertheimer's evaluation.

There is a problem in Wertheimer's position as just stated. On a competitive market, I cannot improve the terms of trade in my favor, but nothing blocks me from accepting less favorable terms of trade, and maybe morality sometimes requires me to make this sacrifice. This is true when I am a customer purchasing goods and services. It is equally so when I am an employer or seller of goods and services. If I am manufacturing cars on a perfectly competitive market, I cannot raise the price of what I am selling without my sales immediately dropping to zero, if buyers are looking for the best deal. But perhaps I should pay my workers more and take less pay myself. Perhaps I should offer less profit to shareholders, and seeing the moral claims of those who benefit when they are offered less than competitive profit from their investment, maybe these shareholders should accept less profit. If people start behaving in this way, the market ceases to be fully competitive, but the existence of a perfectly competitive market is not a clamp that constrains people's behavior against the generous actions just envisaged.

To put the point another way: the gains that people receive on a fully competitive market may not correspond at with what they morally deserve or what they are entitled to according to sound principles of distributive justice, so the fact that I am a price-taker on a competitive market does not rule out the possibility that what I do is exploitative and all things considered, wrong on that account. To reiterate for emphasis: the fact that I have no power to alter the terms of interaction in my favor, when acting on a fully competitive market, does not preclude the possibility that without enjoying any such power, my dealings with others, just taking the advantages that competitive conditions afford me, are substantively unfair.

The possibility sketched here might seem merely abstract and airy, in the absence of a theory of just interaction including just prices. Providing such a theory is a tall order, which I do not know how to fill. I am just relying on on the vague intuitive idea of gouging or lopsided gains. Market competition processes might deliver huge windfalls to some by luck and might by luck impose hard choices on others. The price of oil unexpectedly rises in China in ways no one could have anticipated, and my bank account wealth soars or plummets.

So far I have made an exegetical claim: that Wertheimer's tentative embrace of the idea that fully competitive market prices provide a benchmark for nonexploitative exchange reflects a tentative embrace of the idea that exploitation is domination for self-enrichment. I have also claimed that it is implausible to regard perfectly competitive prices as any sort of ideal. I can gouge people, gain an unfairly large share of the advantages that cooperation with them generates, when acting on a perfectly competitive market. Sailing along on the competitive tide allows exploitation.

Why suppose there is anything especially normatively attractive in the outcomes of fully competitive markets. On certain standard assumptions, the equilibrium of fully competitive market trading will be Pareto optimal—one cannot make one person better off without making someone else worse off. This is a nice property, it might be considered a minimal condition of fairness, but surely does not suffice for fairness. My

diagnosis that Wertheimer is melding in domination considerations into his thinking helps explain though it does not justify his tentative semi-embrace of hypothetical competitive market prices as a standard of fair division.

To these points it is worth adding that if Wertheimer is correctly read as maintaining that the prices that would obtain on a competitive market fix the terms that determine whether exchanges that occur in thin markets where some have bargaining power are fair or unfair, then in the end he does revert to a domination-inflected distributive justice standard. If I have bargaining power, and use it to push the terms of exchange in my favor, but not beyond the terms for the exchange of those goods that would have obtained on a perfectly competitive market, there still exists domination for self-enrichment but no interaction with another in ways that unfairly take advantage of that person. According to Wertheimer's analysis of what counts as exploitation in the context of voluntary nonfraudulent market exchange, domination for self-enrichment turns out to be necessary but not sufficient for an exchange to be exploitative. In contrast, the view defended in this essay is that domination for self-enrichment is neither necessary nor sufficient for voluntary exchange exploitation.

3. Fair background conditions and fair transactions.

Let us now consider Wertheimer's idea that the background distribution cannot influence the assessment of a particular assessment as fair or unfair. We should reject this idea.

In a nutshell, we should maintain instead that how comparatively well off or badly off are the persons who trade for mutual benefit and the persons who ultimately benefit or suffer loss from the exchange is always a factor in the determination of what would be fair terms for the exchange. The background conditions of the people who offer goods and services for exchange partly determine what constitutes a fair price. Consider these examples of helping oneself to the advantages that trading in thin markets can afford:

WINDFALL FOR POOR. Maggie is a homeless person who can cook a little. She lives in a hovel tucked among mansions if the rich. A sudden natural disaster disrupts normal trade in goods and services, and she earns \$500,000 in temporary employment in a few days cooking for rich folk who are desperate for the help.

WINDFALL FOR RICH. Tom lives in a loft above his downtown office. His neighbors are all homeless people. A sudden natural disaster disrupts normal trade in goods and services, and he gains \$100 in a few days simply by selling food staples from his larder to homeless people who are now desperate for something to eat.

We can fill in details of these examples so they are similar in morally relevant respects, except that in the first example the windfall profit comes to a very badly off person and the profit is gained from very well off people, and in the second example the reverse holds. This single difference can render it the case that Maggie deals fairly with her temporary employers and Tom exploits his homeless customers.

4. Domination accounts should be rejected. Profiting from another person's vulnerability may be OK.

Despite its appeal, conceiving of exploitation as domination for self-enrichment is implausible if one is seeking an account of exploitation as a morally objectionable way of dealing with people—maybe not always morally wrong all things considered, but always

prima facie wrong. Exploitation viewed in the Wood-Vrousalis fashion is not plausibly regarded as a wrong-making property.

Why not? Some of the examples already introduced, including UTILITY COMPANY, CANCER TREATMENT, COMEUPANCE, and ANT AND GRASSHOPPER, literally involve what Vrousalis would count as domination for self-enrichment, but in none of these examples is it plausible to claim that what the agent (whose conduct is under review) is doing is prima facie wrong. One might quibble about COMEUPANCE. Perhaps what the woman in the example does turns the tables, corrects for past wrongdoing, and would not be justified but for this background specification. What would standardly be wrong becomes permissible given the wrongful past behavior of the person who is now vulnerable in a way that becomes a source of advantage for the perpetrator. So one might hold. In reply: The crucial feature of the example is not that the victim of what some might see as exploitation has done himself what some might see as exploitation in the past. The crucial feature is that the transaction as described contributes toward an overall just outcome (more just than would occur if the transaction did not occur) and does so in a way that is not procedurally unfair or wrongful. We could make the example one of reciprocity. Suppose my wife and I have been taking turns going to movies that first one of us and then the other prefers, and that it is now her turn to get her way. Her being able to wield power over me ensures this fair result occurs. She brings about a just outcome by a not unfair means.

Vrousalis and I are talking past each other, one might insist. He explicitly denies that exploitation in itself involves unfair distribution of gains. As already noted, his point is rather that using the power one has over another to wrest benefits for oneself is wrongful domination, wrong in virtue of being disrespectful. Here he makes an intuitive appeal, observing that poster child cases of what we are ready to call exploitation such as lord and serf relations are essentially cases of domination. In classical feudal relations the lord uses power he holds over another to his benefit. To recognize this as exploitation we don't have to pore over the account books to see how benefits are shared.

With these claims we should disagree. A claimed justification of feudal relations is that in lawless times the feudal lord offered protection from bandits to those working the land and the farmers receiving the security of this protection who were forced to supply unpaid labor were being required to make a fair return for the lord's services. Given the nature of protection services, a voluntary contract would not have been a feasible means of sustaining this relationship of reciprocal benefit. Whether this claimed justification ever fit the facts of any actual feudal relations or was just a piece of feudal ideology is not relevant to this discussion. What is relevant is that to the degree it was ever in any circumstances plausible to make these claims, it would be plausible to deny that in these circumstances playing the lord's part must inherently be wrongfully disrespectful to the serfs, any more than it would be inherently respectful for the protection entrepreneur who establishes a rule of good order over a territory (that gradually takes on the aspect of a state) to impose penalties on those inhabiting the territory who enjoy the protection benefits but decline to pay the taxes that are (we may suppose) a fair return for those benefits.

The lord who interacts with local farmers in what we might call the idealized feudal mode need not by his conduct be expressing any attitude that demeans them or denies their rational agency capacities or treats them as inherently inferior beings or the

like. The lord in this imagined scenario might be expressing a fairminded concern for those caught up in this relationship of reciprocal (even if forced) cooperation. In this setting, being disposed not to extract excessive profit from the arrangement, and having reasonable and correct beliefs about what here would constitute excessive profit taking, rules out the charge that one is exploiting one's cooperative partners, and also rules out the charge that one is by one's conduct expressing wrongfully disrespectful attitudes towards them. Vrousalis (and Wood) and I are not simply offering competing definitions if the term "exploitation" or specifying different conceptions of the idea, both of which might have their uses in different contexts. Conduct that, described in a certain way, Vrousalis and Wood say must be morally wrong, I deny is necessarily morally wrong or objectionable at all.

Perhaps the objectionable attitude lurking in the conduct in question is a morally dismissive willingness to use superior power over others to achieve one's ends. Overpowering a recalcitrant weed that threatens to spoil one's garden, or even mastering a bear or a squirrel who poses a similar threat by forcibly chasing him off the premises would be one thing, but treating a rational agent, a person, in a similar way would be inherently disrespectful and deeply morally offensive. So one might hold. Of course, opportunistically using the dire plight of a person to gain a favorable bargain for oneself with that imperilled person is not the same as threatening oneself to place a person in a dire plight if she does not conform to one's will, but one might tell a story whereby something of the moral offensiveness of the latter also taints the former. Moreover, Vrousalis himself appears ready to take this line or something close to it.

At this point there may be rock-bottom disagreement. Using social power one possesses to advance morally admirable or simply morally permissible ends is not in itself morally bad, I would submit. There may be limits on acceptable deployment. But credibly assuring the manufacturer of widgets my firm could use that I will buy widgets from him only if he improves their quality in a specified way might in context simply be using acceptable means to strive to implement a fair deal, and this judgment still holds even if we add that he has no other likely buyer and I could insist that he also cut his price in half, which we would all agree would be an unfair bargain at his expense.

5. Domination accounts and luck egalitarianism.

The defender of the Wood-Vrousalis account has another card to play. Consider any example of exploitation that is claimed to occur via mutually beneficial interaction the participants in which all voluntarily consent to participate. How can it be wrong to interact with someone who voluntarily consents to the interaction and benefits from it, in circumstances when it would not be wrong to refrain from interaction at all and have nothing to do with the person, who would then be worse off than he will be when the questioned interaction occurs? We can at the same time suppose that what the alleged exploiter does in this situation does not impose any harmful wrongful externality on anyone. That is to say, no nonconsenting third party to the interaction in question is wrongfully harmed by it. In these circumstances, what is wrong with interacting on mutually agreeable terms? The question has special significance for Marxists, who aspire to vindicate the conviction that the ordinary wage labor contract under competitive market conditions is exploitative (in a morally objectionable sense), whatever its terms. Any profit taking by a capitalist is exploitative. How is this so?

A formidable response to this question, associated with the prominent theorists John Roemer and Gerald Cohen, affirms that whether voluntary exchanges, for example, those between a capitalist and a worker he employs, are exploitative, depends on the fairness of the background distribution of property and resources that gives rise to the exchange.⁹ If capitalist A fairly owns her property, and potential employee fairly owns her property, and neither is entitled to more, and the two voluntarily agree on a wage labor contract, the exchange is not unjust, given that the desires that motivate the agents to deal with each other are unmanipulated, autonomous preferences. For simplicity, just suppose that a fair initial distribution is an equal distribution, and that further shifts in property ownership proceed by exchanges that are not unjust, down to the transaction under review. If this transaction satisfies the conditions just stated, it is not exploitative, not unjust. The distinctive Marxist position to the effect that virtually all profit-taking by capitalists is exploitative will rest on a particular doctrine of fair initial distribution of resources.

The theorist who conceives of exploitation as domination for self-enrichment will balk at this conception that takes distributive justice principles to be the underlying bases of charges of exploitation. Consider an example in which someone behaves reasonably but has bad luck and ends up severely deprived.

UNLUCKY GAMBLER. Jose takes a reasonable high-stakes gamble. The odds of winning are good, and Jose has strong reasons to want to be in possession of the pile of money he will have if he wins. By dint of bad option luck, he loses. He is now severely poor. Rich offers him a sweatshop labor contract—onerous work, grim working conditions, minimal pay. There is no fraud in the offer. Jose has no better offers, and voluntarily becomes an employee in Rich's sweatshop. Rich started with a fair share of resources and has scrimped and saved and had good luck in his gambles, so ends up owning a sweatshop labor factory.

According to domination for self-enrichment, this looks to be a paradigm case or poster-child example of morally objectionable exploitation. Rich takes advantage of his superior power over Jose to gouge him, extracting terms of employment lopsidedly favorable to Rich and unfavorable to Jose. The luck egalitarian distributive justice position on exploitation seems forced to see no exploitation in this situation. This looks to be an embarrassment for the luck egalitarian and a support for the opposed view.

The advocate of exploitation as distributive unfairness and the advocate of exploitation as domination for self-enrichment are not merely deploying different concepts and talking past one another without disagreeing. The former is committed to saying the Jose-Rich exchange as here characterized is not morally objectionable and the latter is committed to saying the exchange is morally objectionable. You can define your terms as you like, but the definitions will not automatically yield substantive commitments. Claims concerning substantive commitments need the support of substantive argument.

We should agree that in the example Rich seems to be perpetrating morally objectionable exploitation, so something is wrong with Roemer's account if it really opposes this judgment. (Whether this characterization of Roemer's view is accurate is an exegetical question that I set aside.) This result is not a defeat for the account of exploitation whose contours are fixed by the theory of distributive justice. The most that can be achieved by the polemical use of the example is to cast doubt on the pure

unvarnished version of luck egalitarianism invoked to support the claim that nothing untoward from the standpoint of distributive justice is occurring here, so there can be no wrongful exploitation present. Voluntary and free exchanges starting from an initial fair distribution of resources can lead to an unfair distribution of resources. In such situations voluntary and free exchanges need to be regulated by distributive justice norms, or else the exchanges may over time slide us off the path of justice and toward the swamp of unjust inequality.

The simplest way to recognize this is to consider random good or bad fortune that strikes people who may have no viable choice except to submit themselves to some lottery of fortune. Or even if they have acceptable options that would not subject their fate to great risk, the option that includes a large lottery element may be by far the most favorable of the options open to them. People unavoidably or reasonably choose courses of action that amount to a lottery with small chances of very bad or very good outcomes. In this way some can come to be very fortunate and some unlucky ones must bear miserable conditions. Further exchanges from these wildly disparate positions can lead to unfair taking of advantage even if these wildly disparate positions can be traced back to an initial distribution that is pure as the driven snow in its pristine fairness, assessed according to whatever is the best theory of fair initial distribution.

Moreover, when people's bad condition now stems from an initial fair distribution via choices that are faulty in some sense, they may not be deserving of bad fortune, or not seriously deserving that. The preferences and values that induce an individual to choose the behavior she exhibits can be an affliction for her, a source of misery, turmoil, and squalor, for which she is not morally responsible, or only at most partially responsible, given that these preferences and values shape her decision making may be beyond her power to control, or controllable by her only with great difficulty and at cost of great pain of renunciation, requiring an effort she may not summon up, and is not seriously blameworthy for failing to put forth. Finding oneself with grasshopper proclivities, one may fail to exhibit steady ant virtue, in contrast with those born with ant-type proclivities, which makes achieving ant virtues to a high degree as easy as falling off a log.

To revert to the gambling behavior that leads to an outcome in which some face grim prospects, we should note another salient point. People can engage in risky behavior that runs the gamut from highly virtuous to perfectly reasonable and prudent to self-destructive and vicious. This is pretty much a truism, but one with moral implications. The sheer fact that one has voluntarily engaged in behavior with a lottery aspect, and then as a result become far better off or far worse off, does not in any way determine whether one has behaved reasonably or unreasonably, in ways that render one deserving or undeserving. In fact, highly virtuous, even heroic choices can risk harm to oneself, and if such a choice brings harm to oneself, "You made your bed, now you can lie in it" is not a morally appropriate riposte. So we should reject the version of luck egalitarianism that says that if you start with a fair share of resources, have available acceptable courses of conduct that do not involve risk, and choose a risky course of action (be it reasonable or unreasonable), you have no grounds for any claim to compensation if the result of your choice leaves you badly off. An example introduced by Nir Eyal drives this point home:¹⁰

IMPRUDENT HERO. Children are stuck in a burning building and threatened with death by fire. You see there is a good chance of saving them if you rush into the

building, but also a good chance you will suffer severe burns in the process. You rush into the flames, save the children, but expectably get severely burned. Through no fault of your own, you lack funds to pay for health care, so you are in big trouble now.

No version luck egalitarianism that says either (a) justice prohibits forced transfers of resources from general taxation funds to compensate you for the damage you have suffered or (b) justice does not require forced transfers of resources from general taxation funds to compensate you for the damage you have suffered could be remotely plausible. We should opt for a Deservingness rather than a Choice version of luck egalitarianism if we embrace any version of this doctrine.

Also, if we embrace a luck egalitarian account of distributive justice, we should accept the doctrine in a qualified not an unqualified form. The unqualified form says that distributive justice requires that matters be arranged so that over the course of her life each person gets a level of benefit that accords with what she deserves, no more and no less. This doctrine supposes that benefits and deservingness levels are both interpersonally cardinally comparable, and dictates that all persons with lifetime deservingness 10 (for example) should enjoy some particular benefit level that is fitting in view of her deservingness (this might be 15, for example). A qualified form of the doctrine allows that other factors besides deservingness appropriately play a role in determining what justice requires for the individual in terms of lifetime benefit levels. A qualified form also allows that people's comparative deservingness (how virtuous or vicious one is by comparison with others) appropriately plays a role in determining one's fair share of benefits but gives up the idea that corresponding to each person's deservingness level there is some absolute benefit level that it would be best for her to have, from the standpoint of desert.

A more direct attack on the idea that making use of power one has over others to enrich oneself is in itself morally bad is available. Power is a resource, and like other resources ought to be placed where it will do the most good, at least, other things being equal. Here "good" should be broadly construed so that the fact that outcomes are more fair contributes to their goodness. Suppose people vary in their ability to make use of capital, and in a hypothetical very well functioning capitalist economy, Bill Gates has a lot of capital, and you and I have little.

HYPOTHETICAL BILL GATES. Controlling lots of wealth, Bill Gates has lots of choices. He makes an entrepreneurial choice that is good for him, and also for the rest of us. Were wealth more equally divided, people like you and I would have frittered it away without producing much gain. Bill might have used his wealth in ways that would have triggered unfair transactions, perhaps inducing you and I to pay exorbitant prices for shoddy goods. But he does not make such a choice.

In this example Bill Gates uses his power over others to enrich himself. But the result is not unfair. Nothing *prima facie* morally objectionable occurs in this example. This shows the Wood-Vrousalis idea of exploitation is misconceived.

We can imagine an example of a noncapitalist regime that makes a similar point.

SOCIALIST KING. Fred is the king of a socialist regime, let us suppose. The leading strings of the economy, in which most resources are controlled by the state, are in his hands. He makes judicious decisions, that create prosperity and facilitate lives well lived for the members of society. Fred has effective ownership of vast productive resources, and uses his power to initiate economic policies that benefit himself and

others, with benefits fairly divided among members of society. Fred uses his power over others to enrich himself, but not in a way that could be regarded as violating any plausible principles of distributive justice. Again, there is nothing *prima facie* morally objectionable, nothing that should count as exploitation, in Fred's conduct as described.

These last two examples are farfetched, some might hold. Maybe this is so. But this does not detract from their argumentative force.

6. Vulnerability, necessary to exploitation?

Does exploitation always involve taking advantage of weakness or vulnerability in the person who is exploited? This idea is at the core of the Wood-Vrousalis account, but what they have in mind proves to be somewhat elusive. In a simple sense the exploited person must be vulnerable or weak. That is to say, there must be something in his circumstances that renders him exploitable, otherwise he could not be exploited: If you are actually exploited at a time and in some way then you are able to be exploited at that time in that way: if actual, then possible.

It does not automatically follow, and may not be true, that the person who is exploited must be weak or vulnerable in any more substantial sense. Suppose Sally sells chemistry lessons to adults in her community on these terms: pay what you think is fair. Her dealing with people on this basis need not be precipitated by anything that looks like weakness or vulnerability. She wants to avoid haggling over price, she plans to select clients who will on the whole and on the average pay her reasonably well for her services; she is not destitute or psychologically dependent on the satisfactions of having clients. She wants to be paid fairly for the services she renders, and she has reasonable ideas about the range of payments for a range of lessons she gives that would be in the ballpark of fair. She sells lessons on this basis for years, and some clients pay her too little—they either deceive themselves as to what would be fair, or they simply don't care about what is fair and pay as little as they think they can get away with paying. These clients exploit Sally; they interact with her in a way that takes advantage of her unfairly. It does not seem to be the case that she is substantially weak or vulnerable in the situation as described, though she certainly makes herself exploitable. Notice that she need not continue dealing with those who take unfair advantage of the terms of trade she offers. She could cut off dealings with them if she chose. When she continues interacting with these clients, she continues to be exploited.

7. Conclusion: this essay's account is radically incomplete.

There is a hole at the center of the doughnut in the account of exploitation this essay offers.¹¹ I have denied that exploitation should be identified with profiting from the weakness or vulnerability of the person from whom one gains profit. First, an exploited person need not be weak or vulnerable, except in the trivial sense that if you are exploited, something in your circumstances must render your exploitation possible. Second, exploiting is interacting with another in a way that takes unfair advantage of that individual, and one may gain profit from interacting with an individual, taking advantage of his weakness or vulnerability, yet without taking unfair advantage. Exploiting is gouging. The exploiter profits excessively, unfairly. (What counts as excessive is (among other things) relative to the cooperative gains that the interaction generates; if our interaction only yields a surplus equivalent to a few kernels of grain, grabbing three

kernels for myself may be excessive, unfair, and exploitative.) Third, I have denied that using one's power or bargaining leverage over another to gain profit for oneself must involve the expression of any wrongful attitude toward that other person (demeaning him or denying his rational agency capacities or regarding him as socially inferior or the like).

This essay has advanced another negative claim. I have denied that there is anything normatively appealing, from the standpoint of distributive fairness, in the outcomes generated by fully competitive markets, beyond the fact that at a fully competitive equilibrium, it is not possible to make someone better off without making someone else worse off. So it is not plausible to take hypothetical fully competitive market prices as a standard, departures from which involve unfair taking of advantage. For example, the fact that there is a competitive market in housecleaning services in the urban area where I live does not make it the case that paying this competitive wage to the person who cleans my house is nonexploitative. Suppose that I could pay twice as much as this competitive wage, while still remaining better off for the exchange. It might be the case that I ought to pay this above-market wage, and that not doing so is taking unfair advantage of the person I hire at the competitive price. This exploitation via competitive market trading might be common as rain in economic transactions, its nature obscured by its familiarity.

However, I come up empty pockets when asked, what moral principle or standard determines what makes voluntary exchanges fair or unfair, exploitative or nonexploitative. Reverting to another tired metaphor, I acknowledge this is a big hole at the center of the doughnut. Here I merely rely on case by case moral intuition. Some bargains, in their setting, strike us as unfair, some not.

¹ . Allen Wood, "Exploitation," *Social Philosophy and Policy* 12 (1995), 136-158.

² . Harry Frankfurt,

³ . Shelly Kagan, *The Geometry of Desert* (Oxford: Oxford University Press, 2012).

⁴ . It should be noted that Vrousalis confines his account to economic exploitation. He is not intending to characterize the idea of exploitation across the board. I do not believe this affects the critical points this essay makes.

⁵ . Nicholas Vrousalis, "Exploitation, Vulnerability, and Social Domination," *Philosophy and Public Affairs* 41 (2013), 131-157.

⁶ . See Elizabeth Anderson, "What Is the Point of Equality?," *Ethics* 109 (1999), 287-337; also Samuel Scheffler, "What Is Egalitarianism?," *Philosophy and Public Affairs* 31 (2003), 5-39; also Carina Fourie, Fabian Schuppert, and Ivo Wallimann-Helmer, eds., *Social Equality: On What It Means to Be Equals* (Oxford: Oxford University Press, 2015).. For skeptical commentary, see [self-identifying references deleted].

⁷ . Alan Wertheimer, *Exploitation* (Princeton: Princeton University Press, 1996). I should record my own indebtedness to this insightful study, which has shaped my own approach. I'm also walking in the large shadow cast by Joel Feinberg, *Harmless*

Wrongdoing, vol. vol. 4 of *The Moral Limits of the Criminal Law* (Oxford: Oxford University Press, 1990).

⁸ . Wertheimer, at 232.

⁹ J. Roemer, “Should Marxists Be Interested in Exploitation?”, *Philosophy and Public Affairs* 14 (1985), 30-65; see also G. A. Cohen, *History, Labor, and Freedom: Themes from Marx and Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008).

¹⁰ Nir Eyal, “Egalitarian Justice and Innocent Choice,” *Journal of Ethics and Social Philosophy* 2 (2007), 1-18.

¹¹ . This essay seeks to explore and clarify the common-sense moral objection raised when someone protests that someone’s conduct is exploitative. The common-sense idea assumes nonconsequentialism as a backdrop (at the fundamental level, moral principles do not tell us always to do whatever would bring about the best outcome). My own leanings are consequentialist. For an account of how an act consequentialist should interpret anti-exploitation norms, see [self-identifying reference deleted],