

Broadly Utilitarian Theories of Exploitation and Multi-National Clinical Research

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Confronted by fine-grained deontological concepts such as exploitation, the consequentialist is a bull in a china shop. Here are many subtly different varieties of exquisite porcelain dishes, but the distinctions don't matter to the bull, and his hooves smash the plates indiscriminately. For many, this situation exhibits the deep flaws of consequentialism. I disagree, and want to defend the bull's perspective. I hope the results will be of interest even to those whose ethical standpoint is decidedly nonconsequentialist.

The concept of exploitation. In the pejorative and morally interesting sense, exploiting a person is using her to one's advantage in a way that is morally wrongful and that specifically wrongs her. In other words, the one who exploits takes advantage of another person unfairly. In this sense, to characterize a person's conduct as exploitive is either to mark it as prima facie wrong or perhaps as wrong all things considered.

This morally charged sense of the term contrasts with another purely descriptive sense, as when one speaks neutrally of traders exploiting market opportunities and athletes exploiting their particular skills by finding situations where these honed traits will give them a competitive advantage.

Even these groundclearing terminological remarks are controversial. It has been urged that if we insist on regarding exploitation as a moralized concept, we can make no sense of the immoralist, who asserts that the strong ought to exploit the weak and that

successful exploitation is admirable and not to be deplored (though of course it will be deplored to no avail by its victims).¹ If the moralist says exploitation is wrongful and the immoralist disagrees and denies that what the moralist condemns is really wrongful, they must be using the term in the same sense or they are talking past each other and not really disagreeing at all.

In fact this example poses no difficulty for the claim that in one of its uses exploitation is a moralized concept. The immoralist can be regarded as holding that moral considerations do not generate genuine reasons that affect what it is rational for a person to do. What it is rational to do is walled off from moral considerations. For example, an immoralist might hold that what it is rational for any agent to do is whatever is in her interest. So the immoralist can cheerfully acknowledge that in these circumstances stealing is unjust but hold that injustice is exactly what one ought to do. In exactly this same spirit the immoralist can recommend morally wrongful exploitation. From now on I suppose the term “exploitation” has a purely descriptive and a moralized sense and I shall focus entirely on the latter.

To call a transaction exploitive is to say that it is wrongful but not why. Exploitation is wrongful use, but which types of use are wrongful? Analysts distinguish the general concept of exploitation from specific conceptions of it.² The latter are specifications of what it is that qualifies a transaction as exploitive. Two historically prominent conceptions of exploitation in the realm of voluntary economic transactions are the neoclassical and Marxist theories. The former holds that exploitation occurs when advantages are gained beyond what would occur in perfectly competitive markets where many buyers confront many sellers for each good and no agent can exercise any influence

on the price at which transactions occur. The latter holds that any gaining of profit by a property-owner when a worker is hired to work this property to produce a commodity for sale is exploitive. These competing conceptions are rival interpretations of the same concept.

The distinction between the concept of exploitation and various conceptions of it is not intended to suggest that anyone who uses the concept must explicitly or implicitly be invoking some conception of it. Ordinary accusations that this or that transaction is exploitive might be based on a gut feeling or hunch that whatever exploitation might turn out to be, this occurrence that one is calling exploitive will turn out to be an instance of the phenomenon.

Exploitation can occur in interactions that are coercively imposed on some participants. Slave masters exploit their slaves. For simplicity, this essay focuses on transactions in which all those who involved voluntarily consent to be involved. Even with this restriction in place, finding a satisfactory conception of exploitation turns out to be searching for something that eludes our nets.

The consequentialist perspective on the notion of exploitation. If the concept of exploitation is a moralized concept, the way is open for a consequentialist to provide her own account of it. Here *consequentialism* is the doctrine that morally one ought always to choose an act among those available that induces an outcome that is no worse than the outcome that would have been induced by anything else one might instead have chosen. If exploitation is wrongful use of persons, then perhaps the use of persons is wrongful, and so exploitive, just in case the use would violate consequentialist principle.

This last claim might sound obviously wrong. The notion of exploitation might seem to belong in the armory of those who believe that some types of action are inherently wrongful and must not be done whatever the consequences. In this spirit a recent report of the National Bioethics Advisory Commission asserts, “The use of human beings as means to the ends of others without their knowledge and freely given permission constitutes exploitation and is therefore unethical.”³ This statement construes exploitation as a purely descriptive term, so that one can tell whether an action is an instance of exploitation without doing any evaluation of it. It conjoins to this characterization of exploitation the ethical claim that what falls under the heading of exploitation is always unethical, always wrong.

But consider instances in which one can prevent a grave wrong from occurring but only by acting against someone’s moral right. Amartya Sen suggests this example. You can prevent a heinous rape, but only by taking my car without my consent and using it to drive to the scene where the crime is to unfold. One might say that if one identifies the morally best outcome with the outcome in which important human rights are fulfilled to a greater extent, the outcome in which the small wrong of car theft prevents the bigger wrong of rape is better than the outcome in which the car theft does not occur and the rape does. When you take my car, perhaps against my explicit well informed protest and refusal to give consent, you use me as a means to your ends, but given the moral costs and benefits of various choices, you do not wrongfully use me, so what you do does not exploit me. The same would be true if in similar circumstances I were kept in the dark about what was happening to my car so had no opportunity to give or refuse consent. In other words, the use of human beings as means to the ends of others without their

knowledge and freely given permission does not per se constitute exploitation--at least not exploitation all things considered--and is not always unethical.⁴

Another instance of the same is justifiable paternalistic restriction of a person's liberty. If I am using cocaine freely and voluntarily to my detriment, it might be justifiable, by consequentialist calculation, for you to coerce me for my own good, against my will. Here you would be using me as a means to your altruistic and paternalistic ends, but so what? In this example, I submit that if such paternalism leads to the best outcome, it is not wrongful, hence not exploitive.⁵

However, there is no point in running full speed against the ordinary usage of terms by proposing that exploitation in the consequentialist understanding of it is use of a person that is wrongful in virtue of violating consequentialist principle. After all, an act that uses a person in a way that is overly generous to that person counts as exploitive on this conception if consequentialist principles would condemn the generosity as excessive.

The problem we are encountering is not unique to the problem of linking the concept of exploitation to a consequentialist conception of it. The problem arises whenever we try to link an ordinary concept of wrongful behavior to a consequentialist conception of it.

Just as not all homicides that are morally wrong to commit according to consequentialist principles are murders, not all uses of a person that are morally wrong according to consequentialism are instances of exploitation. Self-defense against an evil aggressor is wrong according to act consequentialist standards if this killing will bring it about somehow that two similar acts of self-defense are left undone. However bad the failure to perform a self-defense that is reasonable on its own merits, two such failures

are worse than one. But in this set of circumstances the wrongful killing in self-defense of an evil aggressor (wrongful because it prevents two exactly similar killings) is not a murder. A murder is a killing that is wrong and a wrong to the victim, the person killed. The same goes for exploitation, which cannot be use of another person that is morally wrong on any grounds. Rather exploitation is the use of a person that is wrong, and a wrong to the victim, the person who is so used.

The simplest way to fit this deontological notion into a consequentialist framework is by distinguishing the notions of exploitation as prima facie wrong and exploitation as wrong all things considered. In the former, narrow sense, one person exploits another when the two interact and the former profits unfairly from the interaction. The exploiter must be behaving in a way that is a wrong to the exploited person, or at least is presumptively wrong if the focus of assessment is restricted to the impact of the interaction on these two parties. Consequentialist considerations may figure in the determination of when terms of interaction between the two parties are unfair. In the broader, all-things-considered sense, one person exploits another (truly exploits another, one might say) if and only if (a) exploitation in the narrow sense occurs and (b) the transaction is not justified all things considered on consequentialist grounds.

Exploitation and international medical research. Consider medical research sponsored by agencies from wealthy industrialized nations that takes place in impoverished countries in Africa, Asia, and Latin America. The research may be designed to test products that will be sold to treat diseases in the West, but that are too expensive or otherwise unsuited for use in the country in which the research was conducted. The research is conducted on poor and illiterate people whose understanding

of medical science, medical research procedures, and the import of the enterprise in which they are recruited to participate may be less than rudimentary. In this setting possibilities for exploitation are rife.

One recalls remarks by intellectuals that might appear to be unabashed apologies for exploitation. When Lawrence Summers was head of the World Bank, he was deemed to be responsible for a remark to the effect that it would be desirable for more of the world's toxic waste to be deposited in poor developing nations than is presently the case. This is of a piece with economist Thomas Schelling's observation that there ought to be higher quality warning lights on airport runways that serve predominantly high-income communities than the warning lights on airport runways that serve predominantly low-income people.⁶

Here the economist's bark is worse than his bite. Neither Summers nor Schelling is asserting that the distribution of wealth and income between rich and poor nations and rich and poor people is just. It may or may not be. The remedy for that would be redistribution of wealth and income. The economists are saying that IF EITHER the distribution of wealth and income is just OR in any event it is not going to be altered, then even if rich and poor people have exactly the same underlying preferences, they will prefer to choose different levels of safety. Rather than have the levels of safety preferred by wealthy people imposed on her, the rational poor person would prefer lower safety plus some money that he could spend on higher-valued items other than safety. The remarks rightly interpreted sound unobjectionable to me.⁷

These comments have a bearing on the question, what would be the shape of morally reasonable policies to regulate medical research sponsored in rich nations and

carried out in developing nations. We need to distinguish the question, what global distribution of wealth and income would be just, from the quite different question, given a global distribution that—whether just or unjust—is for the present not significantly going to alter, what policies make sense within this context. If levels of wealth are different in the sponsoring country and the host country, it is ethically wrong to insist on the same level of safety for human subjects in the host country that would be appropriate if the research were conducted within the sponsoring country. To see this, compare the choices of two rational persons, one with more money than the other, each with the same underlying preferences and values. Whatever level of risk from participation as a subject in a medical experiment the wealthier individual would insist on before willingly participating, the less wealthy person would reasonably prefer a lesser level of safety coupled with a cash payment that she could spend on goods she values more than the extra increment of safety the cash could have purchased. (To make the point simply, suppose that people care for nothing except prolonging their expected lifespan, but that participation in a no-risk medical experiment would be less attractive to the less wealthy individual than participation in a similar medical experiment that imposes some risk on participants along with a cash payment that can be used to purchase extra bread that will do more to increase expected longevity than the foregone increment of medical safety.) In this example I am supposing that making the experiment risk-free instead of somewhat risky would be costly for the research sponsor, who would accordingly be willing to pay for participation in the riskier procedure.

One point that immediately follows from this example is that if prohibition of cash payment to induce participation in medical experiments (that have genuine social

benefits) is ever appropriate, which I doubt, it is not appropriate for medical research on impoverished subjects.⁸ The presumption should be that a fair and nonexploitive transaction may well include substantial payment to participants.

Another immediate implication of the rudimentary analysis to this point is that informed consent, though relevant, may have limited significance in determining what medical research studies in developing nations are morally acceptable. The general point to keep in mind is that for any of us, requiring that others' actions not impinge on us in potentially harmful ways without our consent is a variously adequate safeguard of our basic interests, because we have limited cognitive abilities and decision making disabilities that prevent us from making sensible and rational decisions. Being selfish, we may not accept impingements that risk harm to our own interests even when we should, all things considered. Being cognitively limited, we may fail to appreciate the likely causal consequences for other people and for ourselves of an impingement when we are deciding whether or not to consent to it.

In the context of a developing nation with widespread illiteracy and limited educational opportunities for many citizens, the general point concerning the limits of informed consent takes on greater salience. Even if information is conscientiously made available to potential research subjects, and strong efforts are made to overcome cultural barriers to understanding, the potential subjects may still have limited grasp of what is at stake and the decision regarding participation may be based on confusion. In these circumstances informed consent may not be attainable. Informed consent is anyway surely not sufficient for it to be the case that a particular medical study is morally fair to its research subjects. This claim is not controversial.⁹ More controversially, I would

submit that informed consent may also not be necessary for the medical study to be fair to its research subjects. For example, suppose that villagers are very likely to reject participation in a particular experiment for superstitious reasons, if all relevant facts are laid on the table, and suppose further that a responsible village political leader is a good steward and caretaker of her constituents, whose interests and values she knows well. In this case consent by the village political chief might be an adequate safeguard for the villagers' legitimate concerns and a good substitute for informed consent. In no case should obtaining informed consent of potential subjects (or the closest approximation to genuine informed consent that one can gain in the circumstances) obviate the researchers' independent assessment that what they are doing balances costs and benefits for all affected policies in a way that is morally acceptable.

Ethical problems in the practice of medical clinical trials in developing nations. A stylized description of a clinical medical study sponsored in a developed country and carried out in a less developed country suggests problem areas that if not adequately addressed may render the study ethically troubling.

The problem to be investigated may promise significant benefits to inhabitants of wealthier nations but scant benefit to inhabitants of poorer countries such as the one in which the study is conducted. For example, a study might be investigating the efficacy of an expensive malaria remedy, which cannot even if the research outcome is favorable be incorporated into public health programs in poorer countries. In that case the experimental subjects cannot expect to benefit from the clinical trial, even if all goes well and the treatment being tested is proven to be safe and effective, by way of having access to that very remedy, should they or those near and dear to them have need of it.

The study itself may involve significant risk of harm to participants. The harms in question might range from discomfort experienced as research procedures are undergone, to deterioration in health caused by the experimental intervention, to relative deprivation when the experiment ends and temporary positive measures instituted as part of the experiment are withdrawn.

The study may fail to gain fully informed consent from all research subjects used in its course.

A clinical trial will involve a group of subjects who receive the treatment that is being tested and another group of subjects who are the experimental control group. In some clinical trials a randomized sequence of treatments is applied to all research subjects, so that each patient is both control and experimental treatment recipient. In this case the control group is not a separate group of research subjects. In some clinical trials, all subjects receive an established effective treatment, and some are chosen randomly to receive an additional experimental treatment in addition, others to receive a placebo as an add-on. In another type of trial, some subjects receive the treatment whose efficacy is being tested, others a placebo. In another type, the control subjects receive an established treatment, others the experimental treatment. The study might aim to compare the effectiveness of the experimental treatment with another type of treatment or with no treatment at all.

If what is being investigated is a new treatment or a medical condition that has an established effective treatment, the new treatment might be tested in a study that uses a placebo as a control or the already established treatment. If the former, the issue arises whether the clinical study is inherently unethical, by violating the norm of

nonmaleficence in medical care. The problem is that if one subjects a group of subjects to a placebo instead of giving them an already effective treatment, one is thereby giving them substandard care. To some degree the same issue arises if one gives some research subjects an experimental treatment, which might be ineffective or detrimental or medically efficacious, instead of giving them an already established effective treatment as normally would be done outside the research setting.

These problems may be exacerbated or complicated if the clinical research is conducted in a poor country, where the routine medical care most people get is below the standard of care that would be expected in the country that is sponsoring the research. Suppose that an established effective treatment for some medical condition exists, but it is expensive, and not standardly available to people in the less developed country, where it is proposed to investigate another mode of treatment for the same condition. If a randomized clinical trial is conducted in which some subjects receive the experimental treatment and some subjects receive a placebo and no treatment for the condition, would this be unethical, a violation of the norm that doctors must do no harm? Some might argue that the subjects receiving a placebo in the clinical trial are no worse off than they would have been if the study had not been conducted, since they would not have been able to get the already established reflective treatment for their medical condition in any event. But then one would be in the position of allowing research subjects in the less developed country to be treated in the course of the conduct of research in a way that would be forbidden to researchers conducting a comparable clinical trial in their own more developed country. This should give pause. One might distinguish in this context between suffering reversible harm as a placebo control and suffering death or irreversible

harm. At least the latter should be forbidden, some would hold. But there have been actual instances of clinical medical trials sponsored by agencies from developed countries and taking place in less developed countries that imposed just these sorts of risks on placebo controls.

Surfaxin. Consider the proposal to test the surfactant Surfaxin in Bolivia.¹⁰ Surfactant drugs already tested and approved and in use are known to be effective treatments for respiratory distress syndrome, a common cause of death in premature infants. These drugs have brought about significant reductions in neonatal mortality in the U.S. and Europe but are too expensive for common use in developing countries.

A new surfactant drug, Surfaxin, was developed by Discovery Labs, a private U.S. drug company. The Food and Drug Agency (FDA) would have approved a clinical trial to demonstrate the superior efficacy of the new drug to an existing surfactant, Exosurf, available on the market, but the company officials apparently were doubtful that such a trial would be successful and would lead to FDA approval. Another possibility was a non-inferiority trial, in which patients with respiratory distress syndrome would be randomly assigned to treatment with Surfaxin and with another currently available surfactant, the object being to see if Surfaxin was not inferior in efficacy to the control drug beyond a margin specified in advance. In this case the FDA ruled that this type of study would not generate a finding that would lead to approval of the new drug. A clinical trial pitting Surfaxin against a placebo control could not be conducted in the U.S. or Europe given existing ethical regulatory guidelines. Since an effective treatment for the potentially lethal condition of respiratory distress syndrome is already available and its use is standard medical practice in affluent countries, a study in which some premature

infants would be denied this standard effective treatment and instead given a placebo would violate accepted ethical guidelines for the conduct of medical research.

In this setting Discovery Labs proposed a placebo-controlled clinical trial or Surfaxin be conducted on 650 premature infants with respiratory distress syndrome in Bolivia. Although surfactant treatments are available in Bolivia, they are not standardly used in treatment, except for premature infants of wealthy parents, because surfactant treatment is expensive and Bolivia is a poor country (its GNP per capita in 2002 was reported to be \$690). All infants involved in the proposed study would receive standard treatments for respiratory distress syndrome except for surfactant treatment, which would be given in the form of Surfaxin only to one-half of the sick babies. From the point of view of Discovery Labs, the anticipated outcome of the proposed study would be that Surfaxin would receive FDA approval and would be marketed at a profit in the developed affluent countries, but not in poor countries such as Bolivia.

The Surfaxin proposed clinical trial in Bolivia, which encountered resistance and was not actually carried out, is a prime example of medical experimentation for profit carried out in poor countries in such a way as to appear to constitute wrongful exploitation of the research subjects. Let's stipulate that the study as planned would have met the standard of informed consent on the part of all research participants. The Bolivian parents who would be enrolling their sick babies in the study would know that their child would have a fifty percent chance of being assigned the possibly effective surfactant Surfaxin and that in the worse case, would be receiving treatments for respiratory distress syndrome better than the parents could afford to provide in the absence of the opportunity to enroll in the clinical trial.

Even though each Bolivian parent choosing to participate in the study would have known that her child would reasonably expect to be better off being enrolled than not being enrolled, the proposal is marred by troubling features. A for-profit company is conducting medical research in a poor country with the aim of gaining approval for marketing for a drug that would be too expensive to be available and affordable for the indefinite future in the country in which research is conducted. Some children enrolled in the study, suffering from a life-threatening ailment, would receive a medically inert “treatment” when an effective treatment for the condition is available and standardly prescribed in nonpoor countries, and when for this reason such a study would not be allowed to be carried out in a nonpoor country.

I should straightaway acknowledge that this essay does not reach a determinate answer to the question, would carrying out the proposed Surfaxin clinical trial in Bolivia on the terms described have been exploitive in the narrow sense according to the consequentialist? I suggest a framework for thinking through this issue. Whether an action or policy is rightly considered exploitive all things considered and so morally wrong is controlled by consequentialist considerations. Whatever would produce the best outcome in the circumstances is right, not wrong. But what according to consequentialism renders a type of action exploitive in the narrow sense, prima facie unfair use and a wrong to the person used? How finely should we individuate types? Consequentialist considerations should fix the answers to these questions as well. A type of interaction between persons should be considered unfair use and presumptively wrong (here we are to set aside wider effects on other persons) just in case the consequences of having a social practice of characterizing interaction in this way has better consequences

than alternative practices. We should then distinguish the practice of guiding conduct by something in the neighborhood of this moral category as it ideally should be and as it actually is in a given society. Both may be relevant in guiding agents' choices. So, is it exploitation in the narrow sense to recruit poor people in a poor country to participate in a clinical trial in which they receive a placebo treatment for an ailment when an established effective remedy is available in rich countries for that very ailment? I say, it depends on the answers to the questions posed. Insofar as we are in doubt as to the answers to these questions, we are in a state of perplexity and do not know whether the boundary marker of exploitation has been crossed. My claim is that the questions that the consequentialist poses are the questions to which we need answers if we want to know what morality requires and permits. My hunch is that involvement of people in clinical trials that employ a placebo arm does not mark an ethical bright line and can be permissible provided the overall balance of benefits and burdens between the interacting parties is reasonable. But a hunch is just a hunch.

The consequentialist response. According to consequentialism, correct policy concerning these problematic clinical trials in poor countries depends on a morally sensitive cost/benefit calculation. Consider the issue as it would appear to a social planner setting regulations to govern these proceedings. One ought to set the rules so that one's rule setting act produces best consequences. One will favor legal prohibition of a practice, however disreputable it appears, only if doing so would produce best consequences in the long term.

This response might seem inherently soft on exploitation. For the consequentialist, no act, even if it is inherently evil, is morally wrong all things

considered simply in virtue of its intrinsic nature. The all things considered assessment depends on the consequences. This feature of consequentialism attracts criticism from the deontologist, who holds that there are some moral rules that agents should obey even if the consequences of obedience are less than ideal.

The general consequentialist line of approach to deontological conceptions issues in one of two responses. Some deontological conceptions can reasonably be regarded as means useful for promoting consequentialist goals. The consequentialist embraces deontology to the extent it is instrumentally justified in this way. Faced with rival conceptions of a deontological norm, the consequentialist favors the one that is the best means to promoting consequentialist goals. The alternative consequentialist response to deontological conceptions is that to the extent that they stand alone and claim legitimate authority independently of whether they promote or hinder consequentialist goals, the consequentialist is committed to denying their claim to legitimate authority. We should not accept this position without first investigating thoroughly the nonconsequentialist rival views.

Kantian ethics on treating humanity as an end. Many people who are not disciples of Kant believe that he has articulated the core substantive principle that is the foundation of nonconsequentialist ethics. This is the humanity formulation of the categorical imperative.¹¹ It states that one should always treat humanity or rational agency capacity, whether in oneself or another, never merely as a means but always also as an end. This injunction against using people merely as means to one's ends might appear to be the logical starting point for a fruitful investigation of the ethical norms concerning exploitation. But this appearance is misleading.

The difficulty arises immediately when one asks, what is it to treat a person “as an end”? The answers that have been forthcoming fall without any remainder into two groups: either (1) they are unobjectionable, but also nonsubstantive, or (2) they are substantive, but so implausible as to be nonstarters.

Take the first category first. We can take our cue from Kant’s observation that the persons who are victimized by violations of the humanity principle cannot “contain the end” of the persons who are victimizing them.¹² The idea then is that one should always treat people only in ways that accord with principles that as rational persons they would accept. You may be stepping on my toe, and I don’t like what you are doing to me, but you are not wrongfully using me—the suggestion goes—if you are acting in fulfillment of principles which I would accept insofar as I am fully rational. Which principles are those? The best answer is: the principles that I would accept wholeheartedly if I were fully rational are the principles best supported by moral reasons. This all sounds fine to me, and unobjectionable. I merely note that the humanity formula of the categorical imperative on this construal is telling us to obey the injunction “Be moral!”. It does not provide guidance as to what constitutes being moral, what principles are in fact best supported by moral reasons.

A second interpretation of the humanity formula ties it to consent. This might be construed as actual or possible consent. On the actual consent reading, one treats the person or the rational agency capacity in persons as an end when one interacts with them on a footing of consent at least where consent is possible. But this requirement is evidently too weak, as a rank exploitive offer is still an offer, which the recipient may

reasonably freely and voluntarily accept if she has no better offer. The offer may for all that be wrongfully exploitive.

Some have proposed that the humanity formula requires that one deal with people only in ways to which they could possibly consent.¹³ It is claimed that this requirement rules out coercion and deception, since what one is forced to do one cannot consent to do, and if one is deceived as to the character of a transaction, the transaction to which one gives consent cannot be what is actually taking place. I myself doubt that these supposed implications really do follow from the humanity formula on this interpretation. I can sometimes be glad that coercion occurs and would not will it away, as when I am coerced to refrain from eating the tempting diet-busting dessert. Also, I can consent to being deceived, as when I tell my doctor to keep me ignorant of my true condition if I should ever get cancer. I think one can even consent now to being deceived right now, as when I tell the used-car salesman to persuade me of the merits of the car I have just purchased, he complies, and I end up being persuaded by him despite my correct suspicion that much of what he is saying to me is probably flim-flam. More important, the could-possibly-consent test for moral permissibility fails because it cannot avoid a host of false positives. If I assault you wantonly, the fact that it is logically possible that you could consent to the assault does not in any way serve to show that the actual assault is permissible, especially since the logical possibility that you consent is fully compatible with your actually giving no consent whatsoever to being harmed.

A third possibility is that treating rational agency in persons as an end is treating rational agency capacity as having unconditional and incomparable worth.¹⁴ Something is unconditionally worthy if it is worthy come what may, in all circumstances, so that no

condition must obtain if the thing is to be worthy. Something is incomparably worthy if it is valuable above all else, and indeed so far in value above all else that no amount of lesser value can compensate for any loss of what is incomparably valuable. So it might be said that committing suicide for pain relief is immoral according to this interpretation of the humanity formula, because by committing suicide for this reason one treats one's rational agency capacity, which has incomparable value, as though it might appropriately be traded off for some merely conditional and lesser-value good such as pain relief.

Assisted suicide and euthanasia for pain relief would be wrong for just the same reason: the order of evaluative priorities is inverted and a lesser good is being treated as though it were greater.

In a full examination of this topic one should look hard and long at the argument that the Kantian offers to support the proposition that rational agency capacity has unconditional and incomparable worth. Here I simply note that the assertion that humanity has incomparable worth flies in the face of many perfectly reasonable evaluative judgments that carry conviction after full scrutiny. Consider drunkenness for conviviality at ritual social celebrations such as weddings. Rational agency capacity is an important good, but one that is appropriately traded off against other goods. There is some amount of fun, enjoyment, and symbolic assertion of the significance of an occasion, such that these goods outweigh the diminishing of rational agency capacity for a short time due to inebriation. For another example, note that there is some quantity of serious pain and drugged confusion, such that a life that promises no significant goods but only continued pain and confusion is a life that it is reasonable to cut short even

though one is still able to exercise one's rational agency capacity to some extent throughout this future of terminal illness.¹⁵

A variant on this third way of interpreting the humanity formula holds that one must act always in ways that express respect for the rational agency capacity of those with whom one interacts. Again, I am inclined to hear this prescription as unobjectionable but nonsubstantive. One expresses respect for rational agency by acting in ways that others as rational agents can accept. These ways are whatever ways are best supported by moral reasons.

Suppose one insists on interpreting the requirement of expressing respect as substantive and not merely as an injunction to be moral. This requirement might be construed as met when one's deliberations about what to do count rational agency at its true value, whatever that is. So viewed, the requirement is neutral between consequentialism and nonconsequentialism. Applied in a consequentialist framework, the requirement to express respect for rational agency insists that the impact of what one does on people's rational agency capacity should be properly included and assessed at its correct value in the calculation that fixes what act would bring about the best outcome in one's circumstances.

Sometimes expressing respect for rational agency is taken to have a quite different force. On this view, one expresses respect for rational agency when one acts on a nonrebuttable presumption that the individuals one's actions might affect have rational agency and are capable of using it reasonably on this occasion and for all that one knows may exercised it in just this way. So construed, the humanity formula imposes a substantive and not merely formal requirement and moreover one that is sharply at odds

with consequentialist morality. But so construed, the humanity formula also seems implausible.

The humanity formula in this guise is invoked in this argument concerning the moral permissibility of commercial surrogacy reported by Alan Wertheimer. He writes that “it may be argued that in trying to protect women from having to surrender a child against her strong maternal desires, we do not express the appropriate respect for women as autonomous and responsible persons.” He continues, “the thought is that even if many potential surrogates would benefit from a more protective public policy, such a policy would effectively ‘exclude women from full-fledged membership in human society.’”¹⁶ (Wertheimer presents this argument but refrains from endorsing it himself.)

The proposal is that since some women will fail adequately to register in advance how strong their desire to retain as their own a child they carry through pregnancy, a paternalistic regulation that protects them against the harm to their interests that such failure to foresee will induce may be in order. My concern here is not with the adequacy of this public policy proposal but with the character of the rejoinder that appeals to the requirement to respect humanity. Suppose men are more prone than women to engage in violence in a class of situations in which engaging in violence is seriously detrimental to their interests and a paternalistic regulation of men to cope with this predicted failure of prudent rationality is proposed. What I do not see is why it should be thought to express respect for an individual to credit him with the possession of any desirable or admirable trait he does not in fact possess or with possession to a degree beyond that to which his actual possession extends. One expresses proper respect for an individual by making correct estimations of the person’s actual qualities, good or bad, so far as one can, and by

acting sensibly on that basis. One does not express proper respect for me by treating me as though I possess capacities I do not possess or by treating me as though I am likely to exercise intelligently some capacity I do possess on occasions when I am not going to do so or am unlikely to do so.

These scrappy remarks are intended simply to remind the reader that Kantian ethical theory as so far developed has not articulated an ethics that perspicuously draws the line between morally acceptable and morally unacceptable uses of persons. Hence the investigation of conceptions of exploitation needs to proceed by exploration of a variety of theoretical frameworks. In that spirit I propose to explore the resources of consequentialism for clarifying how we should think about exploitation.

Consequences, well-being, and priority. Act consequentialism (one morally ought always to do an act that leads to an outcome no worse than the outcome that would have been brought about by any other act one might instead have chosen), though controversial, is thin in content. The doctrine becomes thicker, more substantive, with the addition of a standard for assessing outcomes, states of affairs. For the purposes of this essay I shall stipulate a broadly utilitarian and prioritarian standard of assessing.¹⁷ A broadly utilitarian standard holds that nothing matters except utility (well-being or the quality of life) of individual persons and the distribution of utility. Utility here is understood as objective: whether something one gets is valuable for its own sake, and how valuable it is, are not determined by one's subjective opinion or attitude on these questions. An individual's life goes better for her (her utility increases), to the extent that she gains goods that are genuinely worthwhile, including friendship, love, and family ties, systematic knowledge and understanding, scientific and cultural achievement,

athletic performance, meaningful work, and pleasure. A prioritarian utilitarian holds that the moral value of gaining a benefit (avoiding a loss) for a person, is greater, the greater the utility gain it brings, and greater, the lower the person's lifetime utility absent this benefit, and that one should act so as to maximize moral value so construed.¹⁸

According to consequentialism, what one morally ought to do is the right act; all other options are morally wrong. The right act is the act that is best supported by moral reasons, all things considered. So far concepts of punishing and blaming are not in the picture. To introduce them, say an act is obligatory just in case failure to do it calls for punishment (by law, by informal sanctions of peer pressure and public opinion, or by pangs of conscience).¹⁹ Obligation is a social practice. What is deemed obligatory depends on the laws and social norms operative in a particular society as well as its socialization and education practices. In a society ideally regulated by consequentialism, these practices would be set so that their operation is maximally productive of good consequences. For familiar reasons, including the human tendency to selfishness, human cognitive and decisionmaking limitations, and the fact that it is often difficult or unfeasible to learn all the facts that are material to choices one must make, it is unlikely that the acts that would be deemed obligatory under these ideal circumstances would coincide with the acts that are morally right according to act consequentialism.²⁰

Exploitation, again. Exploitation is interaction that is stained by wrong. If there is no interaction, there is no exploitation. If a stranded motorist is languishing with a flat tire on his car on a lonely stretch of highway, if I insist on striking a deal that gouges him before I will help fix his tire, I am arguably exploiting him. If I drive by seeing his plight but not bothering to stop to bargain or help, I am not interacting with him at all, not

profiting in any way from his plight, hence certainly not exploiting him. Evidently there are worse things than being exploited.

If we imagine ourselves charged with the task of framing social norms for such occasions, we note that the consequentialist must confront a difficult and uncertain trade-off. If people driving by the stranded motorist will stop, then it is better that they offer help without taking advantage of the situation. Perhaps it is better if they do the Good Samaritan deed without any personal profit. But social norms that chip away at profit taking by the person playing the Good Samaritan role raise the cost of stopping and helping and will induce some people not to play the Good Samaritan role at all. The more demanding the role as shaped by social norms, the fewer people will rise to fill it. This problem occurs even if we have the option of decreeing that it is obligatory to stop and provide charitable aid. Whatever the social norms stipulate to be obligatory, some people will not be obliged. In principle there will be an optimal trade-off between insisting that those who provide emergency aid to the desperate will not take excessive profit and inducing those who might provide emergency aid but only if there is something in it for them to provide it.

Priority and exploitation. It might seem that prioritarianism must take a ham-fisted approach to the issue of exploitation. According to the prioritarian, if Rich is gouging Poor, this is bad, other things being equal. But if everything in the situation is the same except that Poor is gouging Rich, this is good, other things being equal. So according to the prioritarian, exploitation is good or bad depending on whether the person doing the exploiting is badly off or well off. This is tantamount to saying that for the

prioritarian, exploitation in and of itself just does not matter, does not register as a significant moral category.

Another discontinuity between priority and ordinary thought is that according to priority the determination of what it is on balance right to do gives no special priority to the quality of interaction between the agent and the specific persons with whom she interacts. The interests of all who would be affected by anything one might do count the same. Thus if Rich, rather than rescue Poor for free, can instead gouge Poor and transfer the gains to Poorer, then that is what she should do, provided the gains do not shrink too much in the course of transfer. (For every proposal that might be made whereby elite private universities pay their unskilled clerical and janitorial workers a decent living wage, a proposal that is superior according to priority can be constructed: let Harvard, Yale, Princeton, et al. pay the competitive wage rate to their unskilled workers and transfer the difference between the competitive wage and the decent wage to the truly disadvantaged in developing countries.)

I am not shy about defending the Robin Hood quality of prioritarian morality. It is unquestionably better if Robin Hood steals from the rich and gives to the poor rather than the reverse. But of course this point does not settle the issue, what verdict Robin Hood practices should get in the court of prioritarian justice. For this we need a cost-benefit analysis. We need to look at the effects of Robin Hood banditry on the incentives of rich and poor to labor productively and to participate in schemes of cooperation that are mutually beneficial. The question is what are the real effects of social banditry on the priority-weighted total of human well-being in the long run. The fact, if it is a fact, that a forced transfer of wealth from Rich to Poor has the immediate effect of taking resources

from where they would be deployed to satisfy less important human needs to where they would be deployed to satisfy more urgent and probably greater human needs does not settle the issue.

The perception that others are trustworthy in the sense that they are likely to reciprocate benefits received is a significant influence on people's willingness to cooperate with others especially in ways that involve acceptance of costs that benefit others now in the hope that later those whom one has helped will be willing to accept costs when doing so efficiently secures pay-back to the initial helper.

That this fragile web of social trust is important in the dealings between advantaged and disadvantaged persons is the theme of the fable Androcles and the Lion. According to the story Androcles the mouse chanced upon a lion writing in pain. The lion has a big thorn embedded in his paw. Androcles responds sympathetically. Upon receiving the assurance that he can approach the lion without being eaten, Androcles skillfully removes the thorn from the lion's paw. The lion, king of the forest, offers payment, and has ample resources to pay, but Androcles declines any compensation, perhaps believing that virtue should be its own reward. Months later, Androcles and his family find themselves sorely menaced by a predatory lynx, but the lion happens to be walking by and sizes up the situation. Recalling Androcles's act of friendship, the lion chases away the lynx and saves the lives of Androcles and his extended family. I believe the story ends with the lion eating dinner with Androcles and his family in their house and toasting their friendship.

The story makes several points that are relevant to the prioritarian analysis of exploitation and reciprocity. One is that in the end Androcles is better off being

sympathetic and acting sympathetically than he would have been had he worked to extract every drop of gain that could be secured when he had a temporary bargaining advantage over the lion. This result depends of course on the mouse's sympathy being bounded by common sense; an altruistic devotion to the welfare of others come what may would lead Androcles to sacrifice his life if need be to relieve the lion's slightly irritating itch. A second point is that the disposition to reciprocity at least in the world of the story is evidently triggered not just by the objective terms of trade faced in social transactions but by the perception that individual one is dealing with is sympathetically motivated and is willing to incur costs in order to benefit oneself.

The extent to which the Robin Hood character of prioritarian ethics is inhibited by considerations of incentives is difficult to determine. Reciprocity itself requires terms of trade. One might imagine social norms that condemn exploitive taking of advantage but that interpret unfair taking of advantage according to a sliding scale. This sliding scale specifies that more sacrifice is expected of those who are initially better off prior to the transaction under review and less sacrifice and more taking advantage is expected and tolerated on the part of those who go into the transaction with low lifetime expectation of well-being. At the limit, reciprocity norms might stretch so far that the norm to refrain from exploitation yields recommendation in particular cases that are for all practical purposes the same as the norm, do whatever maximizes priority-weighted well-being.

Priority versus the prohibition against extracting advantage for oneself from the needs of others. Further light on prioritarian consequentialism is shed by comparing this doctrine to two rival perspectives on exploitation. One holds it to be morally illegitimate to extract any advantage from the vulnerability of others; another identifies

exploitation with the taking of advantage that exceeds what one could gain if the transaction in question occurred in a perfectly competitive market. The first view is the subject of this section.

When a transaction is fully voluntary on both sides, what renders the terms of trade unfairly disproportionate, hence exploitive? A stringent partial response would have it that when one party to the transaction is vulnerable, no extraction of advantage from the vulnerability of another is morally acceptable. Allen Wood makes this proposal and ties it to a Kantian norm of respect for persons: “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.”²¹

This position is coherent, but unacceptable, I submit. It provides yet another example of Kantian formulas generating wrong answers. Call it No-Gain-from-Vulnerability.

Applied to the international medical research issue, No-Gain-from-Vulnerability yields the result that if research subjects in the less developed country are vulnerable, then if any clinical trials occur, no profit or advantage should be extracted. All profit should redound to the vulnerable. This result is close to the first-best prioritarian answer to the question, what is morally best to do. The shareholders of the pharmaceutical firm that proposes to do research in a less developed country should sell their shares and donate their wealth to the world’s truly disadvantaged.

But if we switch from the question, what is best to do, to the question, what rules and norms does it make sense to attempt to establish and enforce, given present actual

circumstances, the answer to this second-best question diverges from the austere utopian otherworldliness No-Gain-from-Vulnerability counsels.

Return to the broader issue: Should wrongful exploitation be identified with any taking of advantage from other people's vulnerability?

One reason to reject No-Gain-from-Vulnerability is that sometimes the vulnerable are better off, not worse off persons. In this situation, other things being equal, priority favors transfers from better off to worse off, so long as weighted utility is thereby increased. Even if one rejected maximal extraction of advantage from those who are in a weak bargaining position, insistence on no extraction at all is extreme. If a snowstorm renders Rich in need of a cleared driveway, in principle it is not wrong for Poor to charge some modest fee for the job. (However, in this connection one should recall the complicating lessons of the Androcles story.)

Another type of case to consider involves hard bargaining to extract maximum advantage from a vulnerable person when it is the case that the advantages extracted will be used for a good cause. Priority characterizes good causes as those that advance weighted utility to a greater degree than could otherwise be done. Other things being equal, it would be better to elicit the fully voluntary cooperation of those whom one involves as means to the advancement of one's worthy projects, but things are not always equal. Whether Smith wrongfully exploits Jones in a transaction in which Jones is vulnerable and Smith gouges Jones, using her bargaining advantage to extract maximal advantage, depends on the larger context. In particular, the question to be considered is who benefits and loses from the transaction. Wrongful exploitation all-things-considered for the prioritarian is a matter that is determined holistically. Gains and losses to one can

always in principle be counterbalanced and outweighed by gains and losses to others. Priority rejects No-Gain-from-Vulnerability when the immediate gainer from the transaction passes on the advantages wrested from the vulnerable transaction partner to others who are among the worse off or otherwise placed so that weighted utility is maximized thereby.

Vulnerability can be turned to modest advantage. Refraining from gouging the vulnerable person can be virtuous and is compatible with gaining from the situation. The utility company has me at its mercy, as I face a cold winter and the utility company is the monopoly supplier of power in the region. Suppose the company eschews gouging me by charging me a high price and instead charges a modest price for services rendered that nonetheless brings a profit to the company.

Insistence on No-Gain-from-Vulnerability would leave both parties to a potential transaction worse off in many situations when in fact each party is free to walk away from the negotiation and avoid dealing on any terms.

Even in the ideal prioritarian society in which institutions and practices and social norms are perfectly regulated to achieve prioritarian goals., there will still be advantage taken from vulnerability that happens to arise. (Some vulnerabilities and weaknesses will be turned to profit.) If the person used in this transaction were to complain, the reply would be that given that society is perfectly regulated by prioritarian norms, any further attempt to alter practices and norms to advantage the weaker party to prevent advantage-taking at his expense would result in some other people losing, such that moral value overall would be lessened not increased.

Against this last point it might be urged that in the ideal world regulated by prioritarian principle, there would have been redistribution of power and resources such that no one is liable to be (seriously) vulnerable and as a result no advantage taking from vulnerability will occur.

But although the world in which no advantage taking is possible might be ideal from some ethical standpoints, it is decidedly not ideal according to the prioritarian outlook.

The world in which resources and power are equally distributed, or distributed to prevent all personal vulnerability, may well be undesirable because power is a scarce resource and like any other resource it should be carefully placed and used so that it yields a maximum of moral value in the form of good consequences. In many circumstances, including empirically likely circumstances, the ideal prioritarian distribution of power and resources would be unequal.²²

Exploitation as gaining profit above the baseline of competitive market pricing. Consider next a very different proposal, formulated by the economist A. C. Pigou early in the twentieth century.²³ On this view, exploitation is unfair dealing that is possible in the absence of a perfectly competitive market in which many buyers confront many sellers for each good and no one can influence the prices at which any goods are sold. When perfect competition obtains, prices are fair, not exploitative. When conditions of perfect competition do not obtain, the fair or nonexploitative price mimics the price that would obtain if the market for this and all other goods were competitive.

Here we should distinguish justice in background conditions and justice in transactions. It may be unfair or unjust that an individual commands very few resources

and faces a bleak array of options from which to choose in as competitive market. But we should distinguish background injustice from unfair taking of advantage.

Alan Wertheimer articulates this line of thought with exemplary clarity. He flirts with the proposal under review, though so far as I can see does not definitely commit himself to embracing it. He writes, “we may need to distinguish between the claim that the results of a bargain between A and B are unjust and the claim that A acted unjustly toward B. We need to distinguish between the claim that A takes unfair advantage of B and the claim that A takes advantage of an unfairness to B.” The suggestion is that only the former is properly speaking exploitation.

Why is perfect competition normatively attractive? A perfectly competitive market has the desirable property of inducing outcomes that are efficient in the economist’s sense—Pareto optimal. Efficiency in this sense is a component of fairness, but merely one component, not the entirety of fairness. To my mind one cannot find any deeper sense of fairness in the perfect competition ideal.

Wertheimer notes, quite correctly, that when a market is perfectly competitive, no one is able to take “special unfair advantage of particular defects in the other party’s decision-making capacity or special vulnerabilities in the other party’s situation.” Wertheimer adds that when a thin market situation prevails, so particular defects and vulnerabilities can be used to advantage by other parties, the hypothetical market outcome may still define the baseline that fixes what is unfair advantage taking.

The temptation to identify transactions under conditions of perfect competition with transactions that cannot be exploitative should be resisted. The temptation arises because when a market is perfectly competitive, by definition there are many buyers and

sellers and perfect information, and no agent can influence the price at which transactions occur. All buyers and sellers are price-takers. But since ought implies can, one might suppose that it follows that when a market is perfectly competitive we cannot say a given transaction ought to have occurred at some other price, so the charge that the transaction is unfair cannot stick.

But in fact this does not follow at all. On a standard model of perfect competition firms are assumed to aim to maximize profits and individuals aim to maximize their utility from their own consumption and leisure. Given this stipulation, all must take prices as given. But there need be nothing that constrains individuals to have the motives that make the market perfectly competitive. Individuals could choose to act from other motives, and perhaps fairness demands that they do so.

Suppose a perfectly competitive market for doctors' services obtains in some locale. This situation does not prevent Dr. Ann from deciding to work at a medical clinic that serves poor people and pays a below-market price for her services. Of course, if Dr. Ann does not seek to maximize her own utility from consumption and leisure, and the shareholders of the medical clinic serving poor people do not seek maximal profits from their investment, the market is then no longer perfectly competitive. But nothing forces people to have the motives that are stipulated to obtain in models of perfect competition. Moreover, maybe people ought to act from other motives and would be unfair if they did not do so.

The same holds for the thin market situation in which medical research agencies bargain with potential research subjects in developing nations to determine the terms on which a particular international clinical trial will be conducted. Nothing picks out the

terms that would obtain if this market were perfectly competitive as inherently fair and nonexploitive terms. Perhaps the managers of business firms conducting clinical trials abroad ought to accept pay cuts so that their firms can do business in impoverished nations on terms more favorable to their inhabitants than the terms perfect competition would induce. Perhaps the stockholders in such firms have similar responsibilities, and also the medical personnel working in such firms. Or perhaps laws or social norms should press people to give up benefits they would have if the transactions in which they engage had occurred under conditions of perfect competition. According to priority, this will very likely be so.

¹ . Allen Wood makes this claim in "Exploitation," reprinted in Kory Schaff, ed., *Philosophy and the Problems of Work: A Reader* (Lanham, MD: Rowman and Littlefield, 2001), pp. 141-165; see pp. 142-146.

² . An extremely useful overview of the concept of exploitation is in Alan Wertheimer, *Exploitation* (Princeton: Princeton University Press, 1996). For a helpful application of Wertheimer's analysis to issues concerning the ethics of international medical research, see the participants in the 2001 Conference on Ethical Aspects of Research in Developing Countries, "Moral Standards for Research in Developing Countries: From 'Reasonable Availability' to 'Fair Benefits'," *Hastings Center Report* (May-June 2004), pp. 17-27.

³ . National Bioethics Advisory Commission, *Ethical Issues in International Research*, p. 36. The quoted statement is focused specifically on the issue of informed consent to participation in clinical trials.

⁴ . See Amartya Sen, "Rights and Agency," in Samuel Scheffler, ed., *Consequentialism and Its Critics* (Oxford: Oxford University Press, 1988), pp. 187-223. For a discussion that accepts consequentialism but rejects the idea that best consequences or outcomes should be identified with most fulfillment of human rights, see Richard Arneson, "Against Rights," *Philosophical Issues* (2001).

⁵ . The statement in the text is fully compatible with claiming that using the rational standard for assessing consequences, paternalism almost always will turn out to be unjustifiable on consequentialist grounds. For a nonconsequentialist account that is strongly averse to paternalism as a matter of first principle, see Seana Shiffrin, "Paternalism, Unconscionability Doctrine, and Accommodation," *Philosophy and Public Affairs*, vol. 29, no. 3 (Summer, 2000), pp. 205-250.

⁶ . See Thomas C. Schelling, "Economic Reasoning and the Ethics of Policy," in Schelling, *Choice and Consequence* (Cambridge: Harvard University Press, 1984), pp. 1-26; see p. 11.

⁷ . The remarks in the text oversimplify to an extent. The economist is appealing to the norm of Pareto efficiency, construed as a requirement of fairness. The idea is that a state of affairs is unacceptable if it can be altered by making someone better off without making anyone else worse off. This idea is variously interpretable, depending on the meaning that is assigned to the idea of making someone better or worse off. One interpretation would have it that an agent's being better off in one situation than another just amounts to the agent's

preferring to be in the one situation rather than the other. This last thought is disputable; in my judgment it is false. Rejecting it is compatible with embracing the Pareto norm along with an alternative construal of what it is to be better off or worse off.

⁸ . For a clear statement of ethical hostility to inducing by an offer of cash an individual's involvement in a medical procedure that is (a) intended to benefit other people and (b) imposes some risk of harm on the individual, see John B. Dosseter's comments in "Kidney Vending: "Yes!" or "No!", *American Journal of Kidney Diseases*, vol. 35, no. 5 (May, 2000), pp. 1002-1018. See Robert W. Steiner and Bernard Gert, "Ethical Selection of Living Kidney Donors," *American Journal of Kidney Diseases*, vol. 36, no. 4 (October, 2000), pp. 677-686.

⁹ . However, it would be disputed by the libertarian at least to this extent: If one does not violate any Lockean rights, and offers any sort of deal to another that does not involve violation or threat of violation of anyone's Lockean rights, free and voluntary acceptance of the deal, whatever its terms, suffices to transfer rights and establish obligations to comply with the terms agreed upon.

¹⁰ . The account that follows is drawn from a forthcoming casebook on international research ethics, ed. by Emanuel Ezekiel and Jennifer Hawkins.

¹¹ . Immanuel Kant, *Groundwork of the Metaphysics of Morals*, tr. and ed. Mary Gregor (Cambridge: Cambridge University Press, 1997), Section II. Originally published 1785. This edition contains a helpful "Introduction" by Christine Korsgaard.

¹² . Kant, *Groundwork*, Section II, p. 38.

¹³ . See for example Christine Korsgaard, *Creating the Kingdom of Ends* (Cambridge: Cambridge University Press, 1996), chapter 5, pp. 133-158.

¹⁴ . See Thomas E. Hill, Jr., “Humanity as an End in Itself,” in Hill, *Dignity and Practical Reason in Kant’s Moral Theory* (Ithaca: Cornell University Press, 1992), pp. 38-57; also Allen W. Wood, *Kant’s Ethical Thought* (Cambridge: Cambridge University Press, 1999), chapter.4, pp. 111-155.

¹⁵ . On the permissibility of suicide for pain relief, contrast F. M. Kamm, “Physician-Assisted Suicide, the Doctrine of Double Effect, and the Ground of Value,” *Ethics* vol. 109, no. 3 (April, 1999), pp. 586-605; also David Velleman, “A Right of Self-Termination?,” *Ethics* vol. 109, no. 3 (April, 1999), pp. 606-628.

¹⁶ . Alan Wertheimer, *Exploitation*, p. 118.

¹⁷ . On prioritarianism, see Derek Parfit, *Equality or Priority?* (Department of Philosophy, University of Kansas, the Lindley Lecture, 1995).

¹⁸ . Prioritarianism as characterized in the text specifies a family of principles. One gets a specific principle only by fixing the relative weight of gaining **more** well-being versus obtaining gains for the **more worse off**. At one extreme, prioritarianism yields recommendations for policy barely distinguishable from utilitarianism, and at the other extreme, prioritarianism barely disagrees with leximin, the position that the tiniest gain to a worse off person always outweighs benefits of any size to any number of better off persons. By priority I mean to favor a “Goldilocks” version that assigns weights in the middle of the range between these extremes, but I have no precise specification in mind.

¹⁹ . On this account, an act may violate an obligation, so punishment is appropriate, but still be excused, so in fact the agent is not blameworthy. An agent's performance of an obligatory act may be nonmeritorious and failure to perform an obligatory act may be excusable. There are then three independent judgments: an act may be morally right or wrong, obligatory or not, and praiseworthy or blameworthy.

²⁰ . See R. M. Hare, *Moral Thinking: Its Levels, Method, and Point* (Oxford: Oxford University Press, 1981), chapters 1-3.

²¹ . Wood, "Exploitation," p. 153. Wood also suggests that the key to ending exploitation is to equalize power. See pp. 155-156.

²² . On the efficient allocation of bargaining power, see Oliver Hart, *Firms, Contracts, and Financial Structure* (Oxford: Oxford University Press, 1995), chapters 2-3. . Of course, prioritarianism embraces the advancement of values in addition to the Pareto norm.

²³ . A. C. Pigou, *The Economics of Welfare* (London: Macmillan, 1920).