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Just Wages in Which Markets? The Embeddedness of Markets and the Very Idea of an *Unjust* Wage

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Abstract: Joseph Heath argues that we should reject the idea of a 'just wage' because market prices are supposed to signal scarcities and thereby to promote overall efficiency, rather than reward contributions. This argument overlooks the degree to which markets are institutionally, socially, and culturally embedded. Their outcomes are hardly ever 'pure' market outcomes, but the result of complex interactions of economic and other factors, including various forms of power. Instead of rejecting moral intuitions about wage justice as misguided, we can often understand them as pointing towards questions about the embeddedness of markets, or lack thereof. At least in some cases, changes in the framework of markets can *both* increase efficiency (or at least not reduce it) *and* get us closer to conventional notions of fair wages, e.g. when gender discrimination is reduced. Thus, while an abstract notion of a 'just wage' remains problematic, we can and should recognize that some wages are *unjust*.

Keywords: markets, wages, desert, discrimination

JEL Classification: B12, D63, E24, E25, J71

I. INTRODUCTION

In his paper "On the Very Idea of a Just Wage" Joseph Heath recalls a fundamental Habermasian insight: the difference between 'lifeworld' and 'system' (2018, 2, also 9-10). Heath criticizes the "unfortunate tendency many people have of taking concepts that are drawn from everyday morality and the informal social sphere", and then "reading them in to patterns that arise in a market economy" (2). Markets, as part of the 'system', cannot and should not be judged by the standards of the 'lifeworld', he argues. Rather, they need to be justified indirectly, on the

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system level: they are justified because, on the whole, they create outcomes that efficiently satisfy human preferences (4, also 9). This is why criticisms of certain wages as unfairly high or low are misguided, Heath concludes.[1]

Heath's reminder not to naively apply notions from everyday morality to systemic processes is timely and important, given the preponderance of unhelpfully moralistic (and often also emotionally charged and toxic) debates that we see in public discourse today, which seldom lead to constructive proposals about how to actually change things. But he goes one step too far, classifying *all* criticisms of wages from a perspective of justice into this category, and overlooking another possibility: that those who criticize certain wages as unfairly high or low might very well know the difference between 'lifeworld' and 'system'. Some criticisms of market wages, such as the ones of orchestra musicians that Heath quotes (20), may fall into the category of naive moralism (as an aside: Are these even market wages, given that many orchestras are publicly funded or at least subsidized and integrated into public pay scales?). But other criticisms—especially those of extremely high incomes—seem directed not so much at specific individuals, but rather at the system *that makes it possible that some individuals earn so much money.* As such, they do not have to be expressions of naive moralism, but might well be targeted at systemic processes and aim at systemic change. This, it seems to me, is a more generous reading of such criticisms. Philosophers could make a valuable contribution to public discourse by making explicit how such criticisms can be understood and channeled into pressure towards reforming this system. By not admitting this possibility, Heath cuts off what could otherwise be a promising path towards a dialogue between different political camps.

This blind spot in Heath's account seems to stem from the fact that he takes labour markets to be, by and large, the kinds of creatures that are described in abstract textbook models. While he rightly rejects the idea of treating the market as "a system of natural justice" (2), he seems to keep the "natural" in place, overlooking the degree to which markets depend on legal, social, and cultural institutions. They can take on very different forms, more or less in line with our ideas of justice, depending on how they are embedded. This creates the possibility of criticizing markets—and also specific occurrences of prices or wages—from a

[1] In what follows, I use the terms 'justice' and 'fairness' and their cognates interchangeably.

normative perspective without falling back into a naive 'lifeworld' perspective. Heath writes that markets "should not be evaluated naively, using thick concepts drawn from everyday morality, but must instead be evaluated in terms of overall system performance, using more formal or abstract concepts. It is this constraint that various conceptions of 'just' or 'fair' wages typically violate" (10). I have no doubts that one *can* find conceptions of 'just' or 'fair' wages that are guilty of that error. But why think that this is all that can be said about wages from a perspective of justice?

In this commentary, I suggest an alternative path. Taking seriously the embeddedness of markets in legal, social, and cultural institutions—and hence the possibility that there are multiple efficient market equilibria—means that one can apply a notion of institutional desert to markets. In a recent chapter (Herzog 2017), I have done so with regard to financial markets. Here, I focus on a different example: that of differential wages for male and female employees. If the criticisms of certain wages as unfair have to do more with how markets are embedded than with their efficiency—a situation that is, arguably, quite often the case—then improvements of justice can be brought about without sacrificing efficiency. Therefore, I conclude by emphasizing that we should not throw the justice-baby out with the lifeworld-water.

II. THE EMBEDDEDNESS OF MARKETS

It is a well-known fact that real-life markets often deviate from the markets that are described by the abstract models of economic textbooks. Nonetheless, the latter are surprisingly often used as reference points when markets are discussed by scholars in other disciplines. Heath's paper is a case in point, and it is instructive to quote the passage in which he mentions this point:

> Of course, they [markets] are also subject to various distortions and rigidities, including minimum wage legislation, cross-subsidization across employee groups within firms, as well as various forms of market power due to unionization or employer monopsony. Thus when I talk about 'market wages', what I am referring to is the general tendency of markets to push wages toward the level at which the supply of labour is equal to the demand for labour in a competitive market, and the price that this implies (7-8).

Thus, while somewhat half-heartedly acknowledging the multiple influences on real-life markets, Heath dismisses them by pointing to the "general tendency" of markets to lead towards an equilibrium between supply and demand (7). One is tempted to ask, paraphrasing Keynes, how long it might take to reach an equilibrium point, and if it is a long-run tendency, whether we might all be dead by then. How should one think about a situation in which someone is trapped, maybe for years, in a job with a wage that is too low, because the 'general tendency' of this particular market has not yet led to an equilibrium? This question may not bother Heath because he rejects the application of criteria of justice to markets wholesale. His approach is to only focus on the *efficiency* of the market as a *system*. But what if—by assumption—the efficiency-generating features of a market equilibrium are only reached in the long term?

But we can put these questions about temporal dynamics aside for now. What matters more—and what can confound the temporal dynamics, of course—are the ways in which markets are institutionally, socially, and culturally embedded. The *institutional* embeddedness concerns the 'rules of the game': the laws and regulations that make markets possible in the first place. These include property rights (or their absence), the enforceability of contracts (or their absence), and myriads of seemingly technical regulations, for example with regard to environmental standards, that determine what kinds of markets, with what kinds of outcomes, come about. For markets to be efficient,[2] these rules need to be set such that market failures, for example externalities on third parties, are avoided as best as possible.[3] Rights need to be enforceable for all parties, and obedience to legal regulations needs to be effectively controlled.

The *social* embeddedness concerns the social structures within which markets takes place; these are, of course, co-determined by other institutions. For example, are the market participants literate and numerate or not, and what does this mean for how they can access the information they need in order to optimally pursue their own interests in markets? If they are illiterate and thereby more vulnerable to fraud that leads them to act against their own interests, this is hardly an

[2] When comparing different concrete outcomes, it is often sufficient to focus on Pareto efficiency. When looking at the system as a whole, one might sometimes also want to draw on Kaldor-Hicks efficiency.

[3] Heath's own approach to business ethics (2006, 2014) is, after all, based on the very idea of avoiding market failures.

efficient outcome. Thus, whether 'efficiency' in a meaningful sense is reached depends a lot on how markets are embedded in these broader contexts, and how the institutional and the social structures that surround them interact. Finally, by *cultural* embeddedness I mean the many ways in which market behavior is influenced by cultural norms. Adam Smith uses the example of the price for black cloth spiking in a situation of public mourning ([1776] 1976, I.7.19), but of course it is a cultural contingency that it is black cloth, and not, say, a certain type of red flowers, that people turn to in order to express their grief (or their social conformism, if wearing black is what is considered 'appropriate').[4] Markets can efficiently cater to these preferences, hence their outcome depends in part on the factors that shape these preferences, which include cultural and social norms.

Depending on how various institutional, social, and cultural contexts interrelate, markets can look very different, and hence the resulting wages can also be very different. In badly regulated markets, one might earn the highest incomes by exploiting the weaknesses of others, for example their lack of information about what it is they are buying. Or wages might be lower than they would otherwise be because of the employees' inability to say no to job offers, because there is no social safety net that would prevent them from starving. If one considers such situations, Heath's argument that markets help bring about a match between "jobs that need to be done" and "jobs that people would like to do'" (Heath 2018, 30) sound rather cynical; many individuals have no choice at all about which job to take, and may not even have the energy to think about 'jobs they would like to do' because they already know that they will not have much of a choice anyway. Thus, Heath seems to be assuming, implicitly, that we are talking about relatively well-regulated labour markets, presumably in societies in which there is a basic safety net.

Another factor that determines market outcomes is the equality or inequality of the society in which they take place. In more or less

[4] One might also add the way in which markets are embedded in the natural environment, which is notoriously neglected by mainstream economics. In one place, Heath (2018, 5) mentions "iron ore" and its extraction from a mine. Had he used the example of fossil fuels, this would immediately have raised questions about the concomitant CO_2 emissions, and hence about the very permissibility of extracting these materials from the ground. Given that the use of many raw materials is insufficiently regulated—in the sense that externalities are not countered by taxation or minimized by regulation—one wonders whether one can speak about 'competitive markets' in the textbook sense for any of them, or whether 'plunder' would be a more appropriate description.

egalitarian societies, with individuals having more or less the same purchasing power—and abstracting from special needs or differences in the capacity to use market goods to satisfy one's preferences—we can expect that markets serve the needs of all members of society evenly. In highly unequal societies, in which purchasing power is concentrated in the hand of the rich, it pays to cater to their needs (or whims). Again, very different patterns of profits and wages will result.[5] And last but not least, there is the role of chance. Often, being in the right place at the right time seems to be what matters most in determining one's wages. This is especially true in 'winner takes all' markets (e.g. Frank and Cook 2010), in which a tiny margin at the starting point can mean that one competitor ends up with almost the whole market, and another one with only a tiny fraction. The wages of employees in these two imaginary companies can, accordingly, be vastly different. But one does not have to go to such extreme examples. The annual, or otherwise periodical, fluctuations in labour markets offer another example: the number of job openings in a specific field can vary drastically from year to year (as academics are often painfully aware), setting some cohorts onto much more promising paths, with regard to life-long earnings, than others.

Why do all these facts matter? They matter because the notion of efficiency does not suffice to capture what happens in labour markets. Depending on how exactly one constructs one's model of a market—e.g., whether one thinks about environmental externalities or not—different verdicts about efficiency may result. And even if one agrees about certain parameters, there can still be several equilibria, all of which are efficient in the technical sense, but which have hugely different market outcomes. All depends on how the rules of the game—the formal, but also the informal ones—are set. And this also concerns the distribution of wealth. This is the lesson of the second theorem of welfare economics (with the qualification that this model, like most economic models, makes highly specific assumptions that may not always hold in practice): if one distributes wealth by lump-sum payments to the participants in a fully competitive market system, any Pareto-efficient

[5] Durkheim ([1893] 1933) turns this into an argument against massive inequality: in modern societies, in which many social relations are regulated by contracts, individuals need to accept prices (including wages) as fair, and they will only do so if they are not massively distorted compared to their perceived social value (which for Durkheim seems to be identical with, or close to, their market price in an egalitarian society). But high inequality does indeed distort prices, and hence undermines the perceived legitimacy of, and voluntary compliance with, the social order on which a modern society relies. For a discussion, see Herzog (2018).

outcome can be achieved by letting the market do its work. Beyond the world of perfect competition, in our messy reality with transaction costs, unequal power, asymmetric information, externalities, and whatever other deviations from the model we find, we can also see multiple equilibria that are Pareto-inefficient.

What I have said so far applies to *all* markets, not only labour markets. In addition, a lot could be said about the specificities of the latter. As the 'theory of the firm' (Coase 1937; Williamson 1973, 1975; Alchian and Demsetz 1972)[6] explains, there are good reasons why certain tasks do not get done in markets, with each transaction being negotiated afresh, but in hierarchies. Apart from the classic problem of transaction costs that Coase had already diagnosed in 1937, many forms of divided labour are such that it is extremely difficult to separate out the contributions of single individuals. In such cases, even the principle of bureaucratic hierarchies may be insufficient; instead, one may need what Ouchi has called "clans": groups that socialize all members "to accept the company's goals as their own" (1980, 132). For them, market pressure can be almost irrelevant with regard to compensation; instead, other criteria such as "length of service, number of dependents, and other nonperformance criteria" (132) are used. Heath might question whether such forms of production are efficient, and hold that markets are more efficient. But given that large amounts of employees, especially in so-called "coordinated market economies" such as Germany or Japan (Hall and Soskice 2001), work under such conditions and receive these types of wages, the burden of proof seems to lie with him.[7] Heath mentions collective bargaining as "a well-known source of wage compression" (2018, 28), but it is not at all clear what this means for the efficiency of labour markets or indeed for the fairness of wages; is it always an inefficiency, or could it be a counter-measure to the market power of employers?

Defenders of Heath might question whether I have read him in a sufficiently charitable way. They might say that his argument is based

[6] For a critical discussion see e.g., Ciepley (2004).

[7] In fact, in a 2009 paper Heath himself has argued that within business firms, principles that deviate from the single-minded pursuit of self-interest assumed in most economic theories and in agency theory are needed. One issue that he brings up there is the phenomenon of "efficiency wages" (Heath 2009, 512). Wages that are higher than the average market wage can spur employees' motivation: they might work so much harder that it is in fact efficient for companies to pay these higher wages. It is not at all clear how efficiency wages fit into the model of fully competitive labour markets that Heath employs in the 2018 paper.

on the assumption of competitive labour markets; to the extent to which labour markets are not competitive, it simply does not apply, because the wages in question would not be markets wages in Heath's sense. This would mean that his arguments would remain valid, but they would only be applicable to a subset of prices and wages. The 'theory of the firm' offers reasons for thinking that many wages lie outside of this subset.[8] Thus a crucial question for the real-life relevance of Heath's paper is what percentage of wages actually functions according to the rules of competitive labour markets (leading to one of the many equilibria to which these can lead), and what percentage is so much influenced by other factors that pointing towards markets as efficiency-enhancing systems seems simply beside the point.

This problem also appears in one case that Heath briefly mentions: the famous example of Wilt Chamberlain, the basketball player introduced by Robert Nozick as an example of a high income that comes about purely through voluntary transactions (18). Heath holds that "Wilt Chamberlain is a monopolist in the market for Wilt Chamberlain services" and claims that this case is "really not a typical one" (18). Admittedly, the majority of employees are not famous sports stars.[9] But they can have other skills or features that given them some monopolistic power over their own services. Just think about the way in which an IT expert can threaten the day-to-day-running of a company by accidentally cutting off some people's PCs. Or think about the importance of some team members for the psychological stability of the team as a whole. Or simply take the time it takes to look for and train another employee, to replace one that has become lazy; here are strong

[8] As an anonymous reviewer pointed out to me, Heath suggests in the conclusion that when firms are in competition with each other for workers, this re-introduces market pressures into intra-firm wage-setting mechanisms. I would like to thank him/her for raising this point, and I acknowledge that this can happen. But it depends on a number of assumptions that may not always hold in practice, such as the willingness of workers to move to different jobs (a question that has to do, not least, with the geographic distribution of jobs and people's rootedness in their home regions), the specificity of skills, or the social norms about loyalty to one's employer. All of these can vary considerably from country to country (and maybe also change over time).

[9] What is also atypical about the Wilt Chamberlain case, in fact, is that the *buyers*—the sports fans—are under no pressure to buy tickets. This differentiates this market from markets in housing, food, or indeed labour markets, where one often has parties that existentially depend on getting a deal. This may explain the fact that with regard to sports stars, pop singers or famous actors, there seems to be less resentment about high wages than with regard to other occupational groups (see also Herzog 2013, chap. 5).

incentives to first try to raise the existing employee's spirits a bit by giving him or her a raise.

In fact, Heath's argument seems to run into a bit of a paradox here. If labour markets were as smoothly competitive as he seems to assume, then wages should be far more equal, or should only reflect other factors such the intrinsic pleasantness or unpleasantness of jobs, or differences in initial endowments. After all, employees would flock to jobs with higher wages, quickly pushing them down, and would leave ones that are underpaid, forcing employers to pay more. This would be the picture that Adam Smith had drawn of wages and their dynamics in competitive markets, but it is based on explicit assumptions about the mobility of labour (for a discussion see Herzog 2013, chap. 5). In such a picture, one could easily explain why, say, a builder earns more than a wood cutter, namely by pointing to factors such as the higher risks or the greater physical demands of being a builder. It is not at all clear whether, in this picture, there would be prices or wages that would raise moral criticisms because they would appear unfair. In such a situation, some wages might still be rather low, for example those of musicians. But every musician could easily switch into a different job, presumably with better pay but less professional fulfillment, so those who remain employed as musicians could not really complain.

The reality we observe is at a great distance from this picture. Many individuals are stuck in jobs they cannot afford to lose, because it would be very hard for them to find another job without having to completely unsettle their lives, while others have local monopolies, of the kind that Wilt Chamberlain had on a bigger scale. Both effects, as well as all the others I have touched upon, can have a strong impact on wages. Even if some markets function more or less exclusively according to the logic of supply and demand, the fact that other, related markets do not can distort the price setting mechanism there as well; after all, in a market economy, different markets are connected like communicating vessels.[10] And this is why it is not at all clear that we have to reject critical questions about the justice or fairness of certain wages as only explainable by a misguided application of concepts from the 'lifeworld' to the 'system'. They might, rather, express discontent *with the system* that might be both theoretically coherent and justified. In the next

[10] In communicating vessels, one cannot change the level of liquid in one vessel without also changing it in the others, because hydrostatic pressure leads to the liquid balancing out. Similarly, changes in one market lead to changes in other markets, until the system settles in a new equilibrium.

section, I explain how such complaints could be understood, based on a notion of 'institutional desert'.

III. INSTITUTIONAL DESERT

Why is it important to raise all these issues, and to point out the differences between the stylized models of markets used in economics textbooks, and the real-life markets, and especially labour markets, in which wages are set? Doing so opens up a third alternative, in addition to the two that Heath (2018) describes. His paper is based, first, on the dichotomy of 'lifeworld' and 'system'. He rightly rejects a simple transference of moral norms from one to the other as inappropriate. Second, it is based on what seems to be self-imposed theoretical constraint when it comes to normative questions about wages. But if one acknowledges that real-life markets are often much more complicated than textbook markets, a third strategy becomes visible. We can use notions of justice or fairness in order to answer the question *which* of the various efficient market equilibria that are possible we should aim for. The variety of ways in which markets can be embedded and wealth can be redistributed (along the lines of the second welfare theorem) gives us some options here.

But for undertaking this strategy, we need a normative yardstick for evaluating the different institutional frameworks with their different market equilibria. For that purpose, we can draw on a notion of 'institutional desert', i.e. desert understood not in a pre-institutional, moralized sense, but in the sense that institutions should treat individuals according to certain standards that are to be determined by looking both at the functionality of the institution *and* procedural notions of fairness that we want to see embodied in the institution.[11] Thus, the notion of institutional desert can integrate considerations that are often treated separately: theories of justice focus on procedures and/or outcomes, while economic theories focus on efficiency, which is a core element of the functionality of markets.[12]

The notion of institutional desert leaves much of the debate about desert in moral philosophy behind,[13] and takes a pragmatic stance. Its perspective is that of normatively informed institutional design. As

[11] The following paragraphs follow Herzog (2017). My approach combines goal-based considerations and procedural element of desert (see McLeod 2008).
[12] I here leave open whether or not they might also have other, additional functions, e.g., giving individuals the opportunity to realize certain non-economic values.
[13] For overviews, see McLeod (2008), and Feldman and Skow (2016).

such, it resembles Rawls's notion of "legitimate expectations", which he used instead of a notion of moral desert (1971, 73ff., 104, 273; cf. O'Neill 2014). It eschews all connections to "morally (or metaphysically) controversial, or unknowable, or impracticable, standards of individual virtue or worth" (O'Neill 2014, 430). Such a notion may not make sense for all kinds of institutions; for example, it would be misguided to try to apply it to institutions in which we cannot meaningfully speak of responsible agency on part of the individuals. But in markets, there often is—and in fact should be!—the possibility of responsible agency and free choice, hence this is no obstacle.

The notion of institutional desert requires an understanding of the *function* of an institution. In Cummiskey's words: "Desert is logically prior to institutions in the same way that the point of the institutions is prior to the institutions" (1987, 19; cf. Holmgren 1986, 265). Instead of taking an institution such as a labour market as given, it approaches it in a constructivist spirit, which is keenly aware of the many ways in which its institutional framework might be changed. For each institution, the notion of institutional desert asks what the *purpose* of the institution is—what outcomes it is supposed to produce—and also whether it lives up to the procedural standards one wants it to live up to.[14] Sometimes there may be cases in which these two desiderata pull in different directions, and in which one has to take a decision about which one should be given priority. For example, one might imagine that the institution of police interrogations—the point of which is to find out the truth about some illegal behavior—might achieve its aim in a better way if certain procedural standards were abolished, but the latter nonetheless remain in place because we value the integrity of personal rights that they protect more highly than the aim of always knowing the truth.

When it comes to markets, we also need to ask both about their functionality—the efficient provision of goods and services to satisfy human needs, under certain side constraints such as the protection of the natural environment—and the standards of procedural fairness we want to see embedded in them. The latter concerns, for example, questions about the permissibility of deception or bluffing in advertisement. These might, in some cases, be in tension with the

[14] Olsaretti (2003, 9-10) distinguishes between rule-based and goal-based institutional desert. The rules of an institution are supposed to be designed such that the goal of the institution can be reached, while other procedural considerations might also be encoded in them.

functionality of efficiently providing goods and services, but it is, in fact, more likely that they prevent outcomes that are inefficient because customers do not act in their own best interest when making decisions in the heat of the moment.[15] Setting the rules of the game according to these considerations also leads to certain distributive outcomes.[16]

The third strategy that I want to suggest, which offers a more benevolent reconstruction of many claims about wages that are perceived as unfairly high or low, is to see cases in which market wages seem grossly out of sync with our moral intuitions as opportunities for analyzing the framework of markets. In Habermasian terms: while starting from moral intuitions from within the 'lifeworld', it does not apply them directly to cases within the 'system', but instead shifts to a consideration of this system and the way in which it creates these outcomes. Sometimes, a consideration of the 'system'—or in the case at hand, the institutional, social, and cultural framework of markets—may lead us to revise our moral intuitions in the sense that we recognize that there are good reasons to have wages of a certain level, e.g., if there really is a strong need to attract individuals to a certain occupation for which there is great need. But in other cases, we may fail to find such an explanation. The question we then arrive at is: might the ways in which markets are institutionally, socially, and culturally embedded be such that there is potential for improvements with regard to justice and fairness that would not diminish, and maybe even improve, efficiency? One obvious example is actually mentioned by Heath himself. He holds that "the reason that we encourage competition in markets is to try to eliminate market power, so that prices will gravitate toward market-clearing levels" (Heath 2018, 21). Arguably, many cases of wages that we would perceive as unjustly high or low have to do with market power. Market power can be based on classic issues such as monopolistic power or cartels, or it can have to do with asymmetrical distributed information (e.g., because some features of the products are unobservable for certain market participants) or unequal exit options among market participants (e.g., because some of them have fewer alternative transaction partners than others). Reducing these causes of

[15] For a discussion of such cases see, e.g., Akerlof and Shiller (2015).

[16] This is why companies or industry associations often fight tooth and nail against such regulations, spending huge amounts of money on lobbying efforts; see, e.g., Reich (2015) on the distorting effects this can create.

market power can often lead to outcomes that are *both* more just *and* more efficient.[17]

As indicated earlier, the more competitive and fluid markets are (i.e. free from obstacles to a quick shift to new equilibria, such as transaction costs), the less we should expect the persistence of extremely high incomes. More people would flock to these jobs, and the wages would fall. The fact that we nonetheless see very high wages, e.g., in higher management, has been misinterpreted by some—e.g., Mankiw (2013), whom Heath rightly criticizes (2018, 1)—as indicating that somehow, these high incomes are deserved.[18] Heath himself would presumably refrain from any judgment, dismissing the public outrage about certain cases of high income as theoretically unsound, because it would be based on moral norms from the 'lifeworld'; at least this is all one can take away from this specific paper of his.[19] The perspective I here suggest would, instead, start to explore the mechanisms by which such wages are set. Are these markets open for everyone to enter? And if they are open, why don't those who are upset about these high wages try to enter themselves, or tell their kids to become top managers, to get a part of the pie, and thereby also to contribute to lowering the wages? What forms of stickiness might there be, which groups might form social networks or informal cartels? Do the decisions about who gets which job actually have *anything* to do with the contribution these individuals make to the overall functionality of markets, i.e. the efficient provision of goods and services?

Ethnographic evidence about top earners (e.g. Erfurt Sandhu 2014; Luyendijk 2011-13) reveals some of the reasons for why their incomes are so high: closer personal networks seem to play an important role for promotion, and many powerful individuals seem to support junior people who are similar to them (which is one of the reasons why women and other minorities are so rare in these jobs). Wage setting is very much about relative positions: given that some industries pay very high wages, others apparently felt they had to join in as well, while shareholders seemed unable to exercise sufficient control. In other

[17] This strategy is thus in line with other proposals that want to open up the "black box" (Dietsch 2010, 214) of markets and directly analyse their distributive features, instead of letting them run their course and then *re*distributing income afterwards. On the notion of 'predistribution' see, e.g., Hacker (2011), and O'Neill and Williamson (2012).

[18] Mankiw draws on ideas about marginal productivity; I share Heath's criticism of it.

[19] What remains open to him is, of course, to argue for other normative principles to be applied to markets.

words, these wages are not normal prices but positional goods. Given the rat-race character of these wages, it seems likely that with different tax incentives, the same game could be played on a much lower level, with the same individuals ending up in the same jobs, but with their incomes being less out of line with our moral intuitions. It seems, first and foremost, a political failure not to better regulate these markets.[20]

Understood in this way, the notion of desert has a critical function (cf. Miller 1999, 123, 127, 140ff.).[21] Rather than abandoning it, as Heath suggests, it can help us diagnose problems with how the 'system' functions. Given the complexity of the embeddedness of markets, and given the fact that in a market economy, there are multiple interrelations between different markets, analyzing whether there are indeed forms of market failure or insufficient regulation might not always be straightforward. The outcomes of one set of markets are, after all, the inputs of other markets; for example, in a situation *with* a minimum wage, poor individuals have more purchasing power and that shifts the economy as a whole to a different equilibrium.[22] But this complexity should not deter us; at least not in the current situation in which many wages are so obviously and massively out of line with what would be justified as efficient and just. To repeat an important point: we are here not in the territory of 'justice versus efficiency', but in the territory of 'choosing the Pareto-efficient solution that is best in line with our understanding of justice.'

It is worth emphasizing, however, that this notion of institutional desert is *not* the kind of high-flying moral notion of desert that we use when saying, for example, that someone 'deserved their punishment' Such a moralized notion of desert is problematic in many ways, not least because it is based on epistemic requirements that are often hard to fulfill (unless one assumes a God's eyes point of view, a kind of 'last judgment' perspective). It is difficult enough to fulfill these in legal institutions, where doing so often takes a lot of time and effort. For institutions such as markets, it is utterly unsuitable. When F. A. von Hayek held that markets reward those who provide matches, not those who provide wisdom (1978, 76), he was absolutely right—markets are the kinds of institutions that we use to secure the efficient supply of

[20] For arguments about the need to politically regulate rat races for positional goods, see e.g. Frank (2008).
[21] Miller's notion of desert is pre-institutional, though.
[22] Heath (2018, 14) acknowledges this point by referring to Hausman's argument that the direction of causality in economic systems is often indeterminate.

matches, whereas wisdom, whatever it is, does not seem to be the kind of good that is best provided in markets. On the contrary: there might be reasons to shield certain institutions from market pressures in order to allow them to focus on providing wisdom (or whatever other goods are not best provided in markets, for various reasons).

Let me briefly illustrate my argument with one further example: gender discrimination in labour markets. Heath comments that "[d]eviation from the market wage will tend to generate misallocation of labour, so that workers will spend their time producing goods that, relatively speaking, people do not want so much, when they could have been spending their time producing goods that people want much more" (2018, 8). This flies in the face of the fact that there are many goods that people do not only *want,* such as a broad choice of savory food, but rather *need,* such as basic care for children, or old or sick human beings, and that so much of the labour that is done to satisfy these needs is done by women, who are either not paid at all, or paid at very low rates.[23]

Gender discrimination continues to mar many labour markets, with jobs coded as 'female' often receiving lower wages than those coded as 'male' This is neither just nor efficient. The injustice of gender discrimination is acknowledged across ideological and theoretical camps, hence this is a good test case for the issues at hand.

Take a highly stylized example: a society in which there are such strong social norms against women taking up certain jobs that none of them do so, despite the fact that both genders are equally capable of fulfilling the tasks required in these jobs. If only men enter the relevant labour market, their wages will be higher (*ceteris paribus*), because there is less competition for jobs. But this is inefficient, because many male applicants could be replaced by female applicants that are, by assumption, at least as capable. Heath (29) treats gender legislation as being in tension with efficiency. But what if what is going on is actually persistent prejudice among male decisions makers who think women are no good for the job? Then gender legislation—even in its strongest and most controversial form of mandatory quotas—is actually *in line* with efficiency, because it allows replacing mediocre men by better female candidates.[24]

[23] Or would Heath want to have labour 'markets' *only* for things that people 'want', and other institutions for things they need? Then he should say so explicitly!

[24] Heath might reply that if hiring more women were more efficient, companies would have an incentive to do it. But if all companies are run by men, and they all refused to

A critic might reply that this scenario has, fortunately, been thrown into the dustbin of history, at least in Western countries (with two world wars, and the ensuing scarcity of male labour, contributing to the act of throwing). But unfortunately, this is not true, not even for 'Western' countries. One famous example is the percentage of women in professional orchestras, which seems appropriate to use given that Heath himself also uses musicians as one of his examples (20). In 1970, the percentage of female players in the five most important orchestras in the United States was 5%, today it is 35%. The change was brought about, in part, by introducing blind auditions, behind a veil, and hence neutralizing whatever sexist prejudices the jury members in the preliminary rounds of the hiring process might have had (see Goldin & Rouse 2000, quoted in Bohnet 2016).

Much more could be said about the many and complex institutional, social, and cultural reasons that stand in the way of genuine equality of opportunity for individuals of different gender, let alone of different ethnic backgrounds, in markets. I do not want to imply that Heath is not aware of them, or would not consider them unjust. But I do want to suggest that one way in which the perception of such injustices, and the resulting moral outcry, can be productively channeled into questions about the frameworks of markets is to read them in the way I have suggested. True, there may be some remaining cases in which markets are efficient (and there are no other possible market outcomes that would also be efficient) that some people would consider unjust or unfair. But if these were the only cases a society had to deal with, it could call itself lucky. At the moment, it seems hard to deny that there is much that could be done in order to reduce or abolish the manifold distortions in various markets that reduce efficiency *and* that lead to wages that many find intuitively unjust.

IV. CONCLUSION: HOW NOT TO THROW THE JUSTICE-BABY OUT WITH THE LIFEWORLD-BATHWATER

The notion that wages can be considered just or unjust, fair or unfair, continues to be widespread (cf. Miller 1999, 64ff.). Heath dismisses it as an erroneous application of terms from the 'lifeworld' to the 'system'. I have suggested rescuing it by reconstructing it along the lines of

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hire women, none would suffer a competitive disadvantage (you might want to call it a cartel, in that case—but this only shows that there are often different possibilities of how to describe a given situation).

'institutional desert' and the focus on the institutional design of markets. Thus, I fully agree that we do not have an abstract, absolute notion of some wage as just or unjust, fair or unfair (we wouldn't even know in what currency to describe them—currencies are, after all, also part of existing economic systems!). But we *can* make judgements in concrete contexts, usually comparative judgments, in which we situate certain wages within an economic system. To do so, we need to ask whether the 'rules of the game', in the broadest sense, are such that we can endorse these outcomes or not (for a similarly 'holistic' approach to distribution, see Scheffler 2000). Often, the most obvious things to notice are *unjust* wages; and instead of dismissing our moral intuitions about them, we should take them as an opportunity for exploring whether and how the markets in question could be changed.

Of course, the design of markets is a complex affair. Even if we abstract, for the time being, from all questions about political power and the political will to design markets in a certain way, we might encounter difficult questions. Heath's general intuition that we cannot always have our cake and eat it, too, is certainly correct: we might have to make painful tradeoffs between different values. Sometimes, we might be willing to give up on wage justice—or on the reduction of wage injustice—for the sake of other social goods. But I see no reason to think that wage justice could never be part of the set of considerations we apply to questions of market design. We can—within certain limits—ask how much we, as a society, value certain contributions, and then adjust the system accordingly. And while changing social and cultural contexts is often difficult and takes a lot of time, the legal system offers much more directly applicable tools: tax incentives (which can be used in various ways to raise or lower wages), or licenses (which would reduce supply and hence raise wages), or free education in a certain area (which would attract more people and hence, as a tendency, lower wages). In other words: the 'system' is, up to a point, created by us. By naturalizing it, we run the risk of playing into the hands of those who want to defend an unjust status quo.

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