



ERASMUS JOURNAL FOR PHILOSOPHY AND ECONOMICS
VOLUME 11, ISSUE 2, AUTUMN 2018

The Erasmus Journal for Philosophy and Economics (EJPE) is a peer-reviewed bi-annual academic journal supported by the Erasmus Institute for Philosophy and Economics, Faculty of Philosophy, Erasmus University Rotterdam. EJPE publishes research on methodology of economics, history of economic thought, ethics and economics, and the conceptual analysis of inter-disciplinary work relating economics to other fields. EJPE is an open-access journal. For additional information, see our website: <http://ejpe.org>.

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On the Very Idea of a Just Wage (editorial)

In the aftermath of the 2008 financial crisis, smoldering questions about what just wages are, and whether markets are providing them, have erupted again. Some charge that unprecedented inequalities in income and wealth threaten national comity and are injustices in themselves. For others, regulation and egalitarian transfer policies are the real culprits, hampering efficiency and treading on property rights. Still others would like a world where people get what they deserve, and income and wealth come not through inheritance or social connections but effort and skill.

These are debates in the public sphere, but, of course, philosophers have discussed the nature and the possibility of a just wage for millennia. Plato, Aristotle, Thomas Aquinas, and Adam Smith—among many others—all grappled with the issue. But despite this timelessness, it seems to have new relevance now. And so this special issue of the *Erasmus Journal for Philosophy and Economics* (EJPE) collects 10 papers reflecting on new aspects of an old question: What is a just wage?

The origin of this special issue is an autumn 2016 seminar at the Erasmus Institute for Philosophy and Economics, where Joseph Heath presented a paper on climate change and economic growth. During dinner after the seminar, Heath told us that the paper he had presented, as well as two other ones, had difficulties finding a home because they were too long for the ordinary journal format. Since EJPE had regularly been publishing special contributions that were not your typical article, we thought it would be interesting to collaborate with Heath to publish one of his pieces. The idea then emerged to not only publish one article, but to organize an EJPE special issue on one of the papers, viz. the one on just wages. And so it happened.

We, the editors of this special issue, invited economists and philosophers to write on three questions about just wages: (1) What is a just wage? (2) Do markets generate just wages? And, (3) how should we intervene in markets to ensure that they generate just wages? In the

EDITORS' NOTE: Huub Brouwer and Thomas Mulligan are the editors of this special issue. As Mulligan is also a contributor to the issue, Willem van der Deijl agreed to edit his paper to prevent conflicts of interest. We would like to thank him for his editorial work on it.

end, nine additional scholars contributed to this special issue. All their papers went through EJPE's normal process of blind peer review.

Joseph Heath kicks off this special issue by arguing that those who try to justify market outcomes read more into these outcomes than there is to find. The task of markets is to direct factors of production to their most efficient uses. It is not to reward productivity or talent, nor to divvy up the benefits of cooperation fairly. Andrew Lister raises some doubts about Heath's claim that markets do not reward talent, and argues egalitarians must discuss whether markets reward talent—on pain of making egalitarian theories less egalitarian. Thomas Christiano defends the claim that there is, *pace* Heath, room for thinking about fairness in markets, sketching an account of fair markets through an analogy with democracy. Peter Dietsch argues that there is less of a trade-off between equity and efficiency in markets than Heath suggests, because market outcomes are shaped by social norms. Lisa Herzog claims, against Heath, that people's moral intuitions about market outcomes should not be discarded, and proposes to rescue the notion of a just wage by reconstructing it along the lines of institutional desert that refers to the institutional design of markets.

Teun Dekker argues that, in a limited set of contexts, pay-as-you-want price mechanisms may reward people in accordance with their deserts. Thomas Mulligan homes in on a particular form on income, economic rent, identifies six settings in which rents arise, and argues that economic rents are undeserved. Peter Boettke, Rosolino Candela, and Kaitlyn Woltz point out that Heath seems to assume that markets are embedded in an institutional framework of private property and freedom of contract, and argue that different institutional structures may lead to different conclusions about the justice of market outcomes. Julia Maskivker takes up the question of whether a basic income may be a just wage, arguing that a graduated income grant is more distributively just than a basic income. Steven Sheffrin considers how tax policy can be used to make market outcomes align more closely with what people deserve. He defends the claim that there may be room for desert in tax policy at a broad, categorical level—but not at the level of individualized assessments.

There is one editorial observation we would like to share. We were struck by the number of contributors who not only discussed the concept of desert, but also made it central to their analyses. The only guidance given to our contributors was to write on one of the

aforementioned questions, (1)-(3) (none of which refers to desert). Now, as desert scholars ourselves, we concede there may be a selection effect here. Nevertheless, we believe there is evidence that the concept of desert, and its application to distributive questions, is of increasing economic and philosophical interest.

Finally, we would like to thank several people for making this special issue possible. First, we are grateful to Joseph Heath for contributing the paper at the heart of the issue. Second, we thank the nine other contributors for their papers, and for bearing with us through several rounds of revisions. Third, we are indebted to the 19 anonymous referees who supplied our authors and us with excellent reports on the papers of this issue. Fourth, we are grateful to James Grayot for his thorough copy-editing work. Fifth, we thank Måns Abrahamson for formatting all the contributions. Sixth, and finally, we are grateful to the Erasmus Institute for Philosophy and the Faculty of Philosophy at Erasmus University Rotterdam for their continued support of EJPE.

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On the Very Idea of a Just Wage

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Abstract: The way that wages are determined in a market economy produces results that strike most people as morally counterintuitive, if not positively unjust. I argue that there is an important and easily defensible principle underlying the system—it is designed to channel labour to its best employment, the way that it does any other resource. But many consider this defence too minimal, and so strive to find a thicker, more robust moral principle that can be used to defend the market, using concepts like ‘contribution’, ‘effort’, ‘laziness’, ‘skill’ or ‘talent’—all of which combine to provide a concept of ‘desert’, or ‘fairness’ in compensation. The objective of this paper is to caution against such overreach. I begin by articulating what I take to be the central principle underlying the determination of wages. I go on to discuss three different ways that both critics and defenders of the market have sought to go further than this, by introducing thicker moral concepts to the discussion, and why each of these initiatives fails. My central contention will be that markets are structurally unable to deliver ‘just’ wages, according to any everyday-moral understanding of what justice requires in cooperative interactions.

Keywords: wages, distributive justice, marginal productivity

JEL Classification: D630, E240, E250

I. INTRODUCTION

In 2013, Harvard economist N. Gregory Mankiw was widely excoriated for his attempt to defend the incomes of the top one per cent in America. Led by Robert Solow, who lamented the way that Mankiw's “cheerful blandness” drew attention away from the “occasional unstated premises, dubious assumptions, and omitted facts” in his argument, critics were quick to pick apart almost every aspect of the article (2014, 243). (“The 1 percent needs better defenders”, declared *The Economist* magazine.) And yet there is one, highly problematic presupposition that

not only went unquestioned, but was even accepted by many of Mankiw's critics. Mankiw at one point observes that, "[i]n the standard competitive labour market, a person's earnings equal the value of his or her marginal productivity" (2013, 30). He then goes on to treat this conception of marginal productivity as equivalent to that individual's "contribution to society" (30). On this basis, he assumes that if "the Left" has some concerns about the distribution of income, it must be because of the "various reasons that real life might deviate from this classical benchmark" (30).

It is no surprise that if one treats the market as a system of natural justice, whose essential tendency is to ensure that the principle 'to each according to his or her contribution' is respected, then this will generate an enormous presumption in favour of the pattern of wealth distribution that it generates. Indeed, one could see in the article Mankiw struggling even to understand what sort of concern could be animating 'the Left'—after all, why would you not want to reward people based on their contribution? And yet, the suggestion that 'marginal productivity' corresponds to some intuitive or morally compelling basis for the distribution of reward is one that was intensely debated in the early 20th century, and is widely regarded as having been refuted. More generally, the idea that marginal productivity is equivalent to contribution is just one example of an unfortunate tendency many people have of taking concepts that are drawn from everyday morality and the informal social sphere (or what Jürgen Habermas refers to as the 'lifeworld' [1987]), tailored to mediating face-to-face interactions among individuals, then 'reading them in' to patterns that arise in a market economy.

Over the course of his article, Mankiw actually articulates three rather different principles that he takes to govern the reward of labour in the market. In the introduction, he claims that "because people earn the value of their marginal product, everyone has the appropriate incentive to provide the efficient amount of effort" (21). This suggests a consequentialist perspective, according to which wages are largely about providing the correct incentives, with an eye toward the more general goal of promoting economic efficiency. Later on, however, prior to articulating the rather different view that reward reflects contribution, Mankiw suggests that higher reward is associated with superior "talent", and that the relative lack of intergenerational mobility in the United States is due to the heritability of major dimensions of talent, including

IQ (25). The issue of ‘talent’, along with its supposed rewards, has also played a major role in recent philosophical discussions of market inequality.¹ And yet this issue is a rather marginal one in modern labour economics, one that arises primarily in discussions of the ability of ‘superstars’ to command economic rents.² It is not central to any discussion of everyday wage differentials. Indeed, there is a large empirical literature on inter-industry wage differentials, all of which suggests that various aspects of ‘ability’, including IQ, play no role in explaining the prevailing patterns.³ So again, it is very far from obvious that a principle derived from small-scale cooperative interaction, like the idea that ‘talent’ should be related to greater reward, can be read into the operations of a market economy.

Indeed, even a cursory examination of the empirical literature on wages is sobering, since there remains so much that we do not know or understand. The one thing that can be said with certainty, however, is that the way wages are set in a market economy strikes most people as morally counterintuitive, if not positively unjust. This is why Friedrich Hayek was so strenuous in his insistence, not that markets are just, but rather that markets be treated as *exempt* from such forms of moral assessment. “The manner in which the benefits and burdens are apportioned by the market mechanism would in many instances have to be regarded as very unjust if it were the result of a deliberate allocation to particular people”, he wrote (1976, 64). The only adequate defence, in his view, is to insist upon the impersonality of the market mechanism, along with the unplanned and unforeseen character of its results.⁴

Although I think Hayek’s view is unduly pessimistic about the possibility of justifying overall market outcomes, the core observation is correct. People have a variety of everyday-moral concepts that arise in the context of managing cooperative labour in small-scale, face-to-face interactions. These include concepts like ‘contribution’, ‘effort’,

¹ Most importantly in G. A. Cohen’s *Rescuing Justice and Equality* (2008).

² See Rosen (1981), and, more generally, Frank and Cook (1996).

³ For a survey of this literature, see Thaler (1989). On IQ, see Blackburn and Neumark (1992).

⁴ In truth, Hayek takes several different positions on this question, not all of which are consistent. After the passage cited, for instance, he goes on to say that market institutions came to be accepted “because it was found that they improve for all or most the prospects of having their needs satisfied” (64). I am emphasizing the idea that market outcomes are exempt from normative assessment simply because Hayek spends so much time and energy developing the ‘spontaneous order’ concept that one assumes he also saw it as having significance for our thinking about markets. For more general discussion, see Lister (2013).

‘laziness’, ‘skill’, or ‘talent’—all of which combine to provide a concept of ‘desert’, or of ‘fairness’ in compensation.⁵ Yet when one looks at the broad patterns of compensation in a market economy—not the one per cent, but more prosaic examples, like how much the custodial staff earn, compared to the lawyers they clean up after; or how much teachers make, compared to public relations consultants; or how much garment workers make in Los Angeles, compared to their counterparts in Bangladesh—it is not difficult to show that the central organizing principles of the labour market are such that the outcomes will essentially be orthogonal to these moral concerns.

Unlike Hayek, I think that there is an important and easily defensible principle underlying the market determination of wages—the system is designed to channel labour to its best employment, the way that it does any other resource. The problem is that many people consider this defence too minimal, and so strive to find a thicker, more robust moral principle that they can use to defend the market. This leads them to the overreach that Hayek cautioned against. What Mankiw’s argument reveals is that there is still a great deal of confusion surrounding these normative questions. My objective in this paper is therefore something of a tidying-up operation. I will start by articulating, in the narrowest way possible, what I take to be the actual principle underlying the determination of wages in a market economy, and why that principle should be regarded as providing a general presumption in favour of those outcomes. I will then go on to discuss three different ways that both critics and defenders of the market have sought to go further than this, by introducing thicker moral concepts to the discussion, and why each of these initiatives fails. My central contention will be that markets are structurally unable to deliver ‘just’ wages, according to any everyday-moral understanding of what justice requires in cooperative interactions—and so we should stop trying to either defend or criticize them in those terms.

⁵ In an influential discussion, Joel Feinberg described this concept of “personal desert” as a “natural” moral notion, “one that is not logically tied to institutions, rules and practices”, and contrasted it with what a person might be “eligible” for, according to the institutional rules (1970, 56). Since I am skeptical about the existence of a pre-institutional morality, I am opting here to describe the relevant notions as ‘everyday-moral’ rather than ‘natural’.

II. ON PRICES

If we adopt the traditional definition of an economy as a system that allocates scarce resources among their competing uses, then it is easy to see that any complex economy that hopes to achieve this allocation non-arbitrarily will need to have a system of prices. A price, in this sense, can be understood as simply a quantitative ‘score’ assigned to a particular use of a resource.⁶ The need to assign such a score is driven by the need to compare one use against another, in order to determine which is best (according to whatever conception one may have of what counts as ‘best’).

When thinking about the role of prices, a useful comparison may be drawn to the way that a chess-playing computer program works. In order to decide what move to make, the program goes through and systematically examines each of its options. Every available move is the top node in a decision tree, composed of possible moves and more-or-less probable countermoves. The program investigates each tree to a certain depth, then assigns a score to each outcome along every branch of the solution tree. So, for example, the capture of a piece will be worth a certain number of points, depending on its rank; the loss of a piece will result in a commensurate loss of points. Then, based on its estimation of how likely each countermove is, the program will assign a net score to each available move. It will investigate millions of permutations, then look at its moves and choose the one with the highest net score.

The problem that must be solved, when it comes to the production and distribution of goods in the world, is not all that different (Berliner 1999, 159-164). Imagine that some miners strike a particularly rich vein, and so are able to extract an extra hundred tonnes of iron ore. The question for society then becomes: ‘What shall we do with it?’ There are thousands of different applications. Should it be used to make well pumps? Frying pans? Radiators? Or should it be refined into steel, then made into kitchen knives? Car doors? Roof tiles? The important point is that, no matter how one thinks such questions should be answered—or through which process—some quantitative basis of comparison between different uses will be required. Whatever general objective one thinks the economy should be aimed at satisfying, each different use will satisfy it to a greater or lesser degree.

⁶ For discussion, see Berliner (1999, 70-82).

In this respect, the comparison to chess is slightly inapt, in that human players typically manage to play without the need to engage in explicitly quantitative assessment. Similarly, in a very small-scale economy, it may be possible to allocate resources and goods to their best employment without quantification. Thus the stipulation above, that we are concerned with the situation in a 'complex' economy, is important. The key point lies in the recognition that the optimization problem involved in determining the best use of resources is subject to a combinatorial explosion, as new goods are introduced into the economy, because goods are used to produce other goods, and so each decision made about the level of production of one good has implications for the production of multiple other goods. As planners in the former communist nations found, producing a plan that is even *consistent* is an enormous challenge, without getting into the question of optimality (Nove 1991, 86). The more general point is that the entire process cannot even get started until some set of prices has been introduced.

Once we accept the need for prices, the question becomes what basis we should use to determine them. This comes down to the question of what objective we would like the economy to serve. There are a variety of possible answers to this question, but the one that has come to prevail in our society is that the economy should aim at maximizing 'the satisfaction of human wants'. Extrapolating from this generates the familiar idea that the price of goods should reflect their *relative scarcity*.⁷ Such prices are produced by balancing two considerations. First, how much people *want* a particular good, measured in terms of what they are willing to give up to obtain it, and, second, the opportunity cost of producing that good, measured in terms of what *other* wants could be satisfied through the production of some other good. These two constraints are better known as 'demand' and 'supply',

⁷ Kornai (1992, 149-153) provides an interesting account of the consequences of deviating from this principle in the centrally planned economies of the former Soviet bloc. The major problem with their system of administratively determined prices, he argues, was that planners were given more than one principle to apply, which in turn generated contradictions. "One function of price in market coordination is to convey information in a concise form on the relative scarcity of resources and products. No such information is conveyed by the prices here described. In fact, they impart almost no useful information at all, as it is almost all lost in the conflict between the disparate pricing principles" (152). This observation is highly relevant to the present discussion, since, as we shall see, the demand for 'just' wages in many cases amounts to a demand that the determination of prices, in the case of wages, be done in accordance with more than one principle.

respectively. This generates, again, the familiar idea that the satisfaction of wants is maximized when the amount of 'want' satisfied by a particular use of resources is identical to the amount of 'want-satisfaction' foregone with other potential uses of those resources (since that makes it impossible to increase want-satisfaction by shifting resources out of one employment into another). This is to say that want-satisfaction is maximized when prices are set to the point at which supply is equal to demand.

It is important to recognize that, while we do not have much choice but to use some system of prices, the decision to have specific prices be determined by relative scarcity is very much a choice, based on a normative judgement about what should constitute the overarching objective of the economy. Most obviously, the existing arrangement is one that defers to individuals when it comes to determining what is to count as a 'want'.⁸ The presence of a normative judgement here is sometimes obscured by the fact that the specific way this commitment is institutionalized in our society—namely, through a competitive market—operates in a decentralized fashion, without any central locus of planning or calculation. As a result, it may appear that 'scarcity prices' arise spontaneously, and therefore that they are part of the natural order. In this regard, the 'socialist calculation' debate of the early 20th century was quite illuminating, in that it showed how an entirely planned and obviously artificial order might still choose to use the principle of scarcity pricing as a basis for allocating resources and goods (see, for instance, Lange and Taylor 1938; Lerner 1944).

In any case, within an economy such as our own, in which all prices are scarcity prices, it is not difficult to explain why the wages earned by workers tend to be what they are. Wages are prices—in this case, the price of labour—and they are determined by more-or-less the same forces of supply and demand that determine every other price in the economy. Of course, they 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

⁸ The principal alternative would be an economy organized around some set of perfectionist commitments, where economic production was aimed at satisfying an 'objective' set of values.

equal to the demand for labour in a competitive market, and the price that this implies. The important point is that markets have no special way of rewarding labour. In principle, it gets treated like any other commodity.

If one were to ask what *justifies* any particular wage level, the answer would be straightforward. It would be the same as the answer given to anyone who inquires about the price of any other good in the economy. The scarcity price is the one that channels resources to their best employment, in terms of the satisfaction of human wants. Markets, of course, institutionalize this only imperfectly, but this is nevertheless the *principle* underlying the determination of wages. Deviation 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. This is a circuitous way of describing a situation in which some portion of their effort is *wasted*.

This answer is, as far as I am concerned, satisfactory, in the sense that it provides a plausible justification for the basic principle of wage-determination under capitalism, while at the same time explaining why deviation from that principle is likely to have undesirable consequences. It does, however, suffer from some deficiencies at the rhetorical level. The most important one is that it justifies a given wage rate by appealing to efficiency effects that are only manifest at the level of the economy as a whole. Furthermore, those effects are only felt in the medium term, in general and on the whole, and when most other prices in the economy are determined in the same way. Finally, because of the decentralized nature of production and price-determination under capitalism, it is often not possible to trace out explicitly the precise negative impacts caused by deviation from the market wage. Thus the justification of the wage appeals to very abstract properties of 'the system', and has practically nothing to say about the specific transaction that is being undertaken between employer and employee. And yet the transactional level is the one at which most people deploy whatever ideas they may have about fairness, morality, or justice in interpersonal relations.

Now of course there is a view that seeks to justify wages in purely transactional terms. This is the voluntaristic theory advanced by Robert Nozick (1974, 150-152), and defended in more ad hoc ways by many

other libertarians. According to this view, given a just initial allocation of goods, whatever transactions people subsequently agree to are just, simply because there is no more to justice than what people voluntarily agree to. The problem with this argument is not that it fails to justify the rate of wages under capitalism, but rather that it justifies too much, including too many different wage rates. Indeed, it comes close to saying that ‘whatever is, is good’. For example, it fails to provide any basis for preferring the wage rate determined in a competitive market over one in which some party has significant market power. Indeed, while Nozick had much to say about the importance of exchange, he had nothing to say about the importance of competition—which is arguably the more important institutional feature of capitalism. And yet, the inability to find anything wrong with monopoly pricing is a fairly major deficiency in any normative reconstruction of capitalism.

When we turn to the more conventional moral intuitions that people have about the market, what we find is that they often appeal to thicker, more robust principles, which they seek to apply at a transactional level. For example, many people believe that workers should be paid a ‘fair’ wage, or that compensation should be based on what individuals ‘deserve’. It is here that most of the problems begin. There is a strong temptation to take categories drawn from everyday morality, used to organize small-scale individual interactions, and try to map them onto the movement of wages in a market economy, in order to declare the system ‘just’ or ‘unjust’.⁹ This is, I will argue, a mistake. Because specific market prices are not normatively patterned—but are rather the outcome of a complex system of incentives—it is simply inappropriate to evaluate them by applying everyday moral categories, which are typically oriented toward the evaluation of cooperative interactions. This is the intuition that was expressed, in an unsatisfactory way, by Hayek with his notion of the economy as a ‘spontaneous order’. The point was put more perspicuously by Jürgen Habermas, using the distinction between ‘system’ and ‘lifeworld’. In certain domains of interaction, what he refers to as ‘lifeworld’ contexts, outcomes are directly patterned by a system of shared norms or values. In other domains, which he refers to as ‘systemic’, outcomes are achieved indirectly through coordination of

⁹ For some examples of this, one may consider the debate among business ethicists over sweatshop labour. As several commentators pointed out, many of the criticisms made of the wages paid to workers in underdeveloped countries are actually objections to the basic principle of wage determination in *all* markets. See Powell and Zwolinski (2012) and Maitland (1997).

action-incentives, and as a result, are not directly determined by the normative system (Habermas 1987, 154, 171).¹⁰ One of the pitfalls that a critical social theory must avoid, he claims, is to evaluate ‘systemic’ outcomes using everyday ‘lifeworld’ categories of analysis. This does not mean that these outcomes are exempt from normative evaluation (the system must still be, as Habermas puts it, “anchored” [1987, 173] in the lifeworld). It simply means that they 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.

III. THE PRODUCT OF LABOUR

Perhaps the oldest conception of justice in compensation is the idea that the *product* of labour constitutes its ‘natural reward’. ‘Whatsoever a man soweth, that shall he also reap’—workers should get what they have produced. It is easy to imagine this being something like a natural law, since an isolated individual (for instance, ‘alone on a desert island’), would naturally enjoy certain benefits precisely to the extent that she was willing to labour to produce them. Yet it is also an ancient observation that, once two or more individuals begin to work together cooperatively, it becomes increasingly difficult to determine how much each person has contributed, especially if the forms of labour involved are heterogeneous. The problem becomes even more difficult—potentially intractable—when other factors of production are introduced, whose owners make some claim on the product. As capital goods came to play an increasing role in production, particularly with the introduction of industrial machinery, this problem began to be felt more acutely. As a result, everyday notions of what each individual has ‘contributed’ to the production process begin to fail us.¹¹

This observation might easily have led to the conclusion that focusing on the ‘product’ of labour is simply not a good point of

¹⁰ For discussion, see Heath (2011).

¹¹ This was the conclusion famously arrived at by Thomas Hodgskin in 1825. “Between the commencement of any joint operation, such as that of making cloth, and the division of its product among the different persons whose combined exertions have produced it, the judgment of men must intervene several times, and the question is, how much of this joint product should go to each of the individuals whose united labours produce it? I know no way of deciding this but by leaving it to be settled by the unfettered judgments of the labourers themselves” ([1825] 1969, 86). He concludes that it should therefore be left up to the “higgling of the market” (86).

departure for thinking about what constitutes a just wage. This might indeed have occurred, had it not been for the rise of ‘marginalist’ thinking in the late 19th century, along with the claim that wages, in a competitive equilibrium, will be equal to the ‘marginal product’ of labour. The idea soon arose that the contribution made by each factor of production at the margin might provide a basis for disaggregating their respective contributions, and, thus, serve as a principled basis for determining the entitlements of those who contribute each factor. This was the thesis defended most famously by John Bates Clark, who began his 1899 book *The Distribution of Wealth* by declaring it “the purpose of this work to show that the distribution of the income of society is controlled by a natural law, and that this law, if it worked without friction, would give to every agent of production the amount of wealth which that agent creates” ([1899] 1931, v). The law in question is what he calls the ‘law of final productivity’ (where ‘final’ refers to the last, or marginal, unit of any factor added to a production process).

The marginal-productivity theory of wage determination is simple to state, but conceptually can become rather tricky. The central idea is that, holding other factors of production constant, hiring one more worker will increase production by a given amount, which will in turn increase the firm’s revenue. The gain is referred to as the marginal revenue product, and it will typically begin to decrease once the number of workers exceeds a certain threshold. Profit-maximizing firms will continue to hire workers so long as the marginal revenue product exceeds the marginal cost associated with hiring an additional worker. When the two are equal, the firm will stop hiring. It follows that, since the cost of hiring workers just is the wage, under equilibrium the wage will be equal to the marginal revenue product (which is to say, the value of the marginal product at prevailing prices) of the last worker hired.

The theory is fairly clear when stated in this way—even clearer when represented on a graph. Any attempt to translate these concepts into everyday terms, however, is fraught with difficulty. Clark, for instance, starts out his book claiming that this system “assigns to everyone what he has specifically produced” (v), which makes it sound as though, under such a system, each worker is to receive his or her *actual product*. This is an important ambiguity, since the phrase ‘labour is paid its marginal product’, *sounds* like saying, to any given worker, ‘when you get hired, the firm will pay you a wage that is equal to the amount that *you* contribute to the firm’s output’. It is easy to see, however, that this

is not correct. Indeed, as the term ‘final productivity’ suggests, this system gives to each worker a wage equivalent to the contribution made to revenue by the *last* worker hired. Not only is this not the same as the actual contribution made by any of the infra-marginal workers, it will in the normal run of cases also be less than the *average* contribution made to production by each worker.¹² Since the marginal worker, by hypothesis, makes the least contribution to production, one might reasonably wonder why *everyone* should be paid a sum equal to that individual’s contribution.¹³

The answer, roughly, is that everyone is paid that sum because everyone could become the last worker, simply by being fired. This is more intuitive if one thinks of the margin, not in terms of the firm adding workers, but rather in terms of subtracting them. The marginal product can then be defined as the amount that the firm would lose, by removing any one of its workers from the production process (assuming, of course, homogeneity of labour). Arthur Cecil Pigou, for example, offered a useful clarification of the concept in precisely these terms:

The marginal net product of a factor of production is the difference that would be made to the aggregate product by withdrawing *any* (small) unit of the factor. The marginal unit is thus not any particular unit. Still less is it the worst unit in existence—the most incompetent workman who is employed at all—as some writers have supposed! It is *any* (small) unit out of the aggregate of units, *all exactly alike*, into which we imagine the aggregate to be divided. Though, however, the marginal unit is thus *any* unit, it is not any unit *however placed*. On the contrary it is any unit *conceived as placed at the margin* (1952, 133, emphasis in original).

The result, however, is that the ‘marginal product’ of labour is a hypothetical construct, one that does not exactly correspond to any of our intuitive ideas about what an individual can be said to have

¹² In this context, it is worth observing that worker co-ops would typically hire up until the point at which marginal revenue *per worker* was equal to marginal cost. It is only when the capitalist-owner is introduced that one gets wages set equal to *individual* marginal revenue product. For discussion, see Ward (1958). There are of course efficiency arguments for the latter arrangement.

¹³ This argument does still come up in contemporary discussions. See, for instance, Schweickart (1980). Schweickart also makes the reverse argument, that capital is overpaid relative to its contribution, because each investor receives the high rate of return required to extract capital from the most reluctant (that is, marginal) investor. In later work he appears to abandon both arguments—see Schweickart (2002, 30).

contributed. Clark, it should be noted, acknowledges this in his more detailed discussion of wages, where he distinguishes the ‘actual productivity’ of labour from the ‘effective productivity’. If all workers are interchangeable, then if any one worker should desert his position, the employer will immediately rearrange the assignment of workers to positions, so that only the least important job remains undone. A worker’s effective productivity can then be defined as “the loss that his employer suffers when the man departs, and when the employer rearranges his force so that the more necessary kinds of work are still done” ([1899] 1931, 105). Because of this, “the effective productivity of any one of them is equal to the absolute productivity of the final or marginal one, whose work can best be dispensed with. We shall find that all wages are naturally gauged by the effective, rather than the absolute, productivity of the men who get them” (105).

This is all perfectly fine, as far as the economics of it are concerned. Yet many people may find that their moral convictions become somewhat attenuated in the passage from ‘absolute’ to ‘effective’ product, especially since the latter is defined in terms of a counterfactual.¹⁴ It amounts to saying to the worker: ‘you are not being paid an amount that reflects your actual contribution, but rather what you *would* have contributed, had a set of circumstances, which in fact do not obtain, actually obtained’. This does not seem like an explanation likely to stifle all objections, much less steamroll a committed union negotiator. Indeed, it helps to show how the connection between actual product and marginal product is, as Amartya Sen put it, essentially spurious. “It might, of course, be seen as a ‘convenient fiction’, but that fiction is a whole lot more convenient for some than for others” (1985, 16). Indeed, Alfred Marshall, in his much-admired *Preface* to Langford Price’s book, *Industrial Peace* (1887), was much more cautious than Clark, choosing to describe the determination of wages under capitalism as potentially “fair” (x), but as necessarily falling short of being “absolutely just” (xi). He offered various reasons for this, most of them variants on the idea that, in a market economy, wages are simply

¹⁴ It is notable that, in his discussion, Mankiw switches between discussing the ‘marginal product’ of labour, which evokes the neoclassical theory of wage-determination, and ‘productivity’ in the Mirrlees model (2013, 26), which is a quite different conception. In the Mirrlees model, more productive workers are modeled as though they were actually supplying a greater quantity of labour per unit of time worked, and are paid an amount that reflects this quantity (Mirrlees 1971, 176). Here workers are being paid in accordance with their *actual* productivity, but this is introduced as a modeling assumption, not as a conclusion of the analysis.

influenced by too many factors that are arbitrary from the moral point of view. The concept of a 'fair' wage was, in Marshall's usage, intended as faint praise.

There is, however, a much more significant problem with the way that the concept of marginal productivity has been understood among those hoping to make use of it in a normative argument. There is a temptation to think of the 'marginal product' as some sort of objective quantity, out there in the world, that *determines* the wage rate. This is, however, not correct—indeed, it is an instance of the fallacy of misplaced concreteness. It would be just as correct to think of the wage rate as determining the marginal product, although this is also potentially misleading. The correct thing to say would be simply that both the wage and the marginal productivity of labour are jointly determined under equilibrium. In other words, neither exists prior to the other, they are fixed simultaneously by the equilibrium, the point at which they are equal. As Daniel Hausman (1992) has observed, the *causal* relations could run either way—while one might increase wages by raising marginal productivity, one might also increase marginal productivity by raising wages.

This is a rather technical way of putting a point that can be given a more intuitive formulation. A key feature of wages is that, while they are just one more price, like any other in the economy, labour is also an input in the production of virtually all other goods. Thus a change in the price of labour has a significant impact on the price of almost everything else. A given firm's marginal revenue product curve is going to be affected by a number of these prices, and so the marginal productivity of labour is going to depend, in part, on the wage rate. More generally, this means that it will not be possible to draw the 'supply' and the 'demand' curves for labour, then look to see where they intersect to discover the market price, since changes in the price will tend to shift those very curves. As Hausman writes, "[i]n general one cannot sensibly consider what demand for labour would be, were the wage larger than it is, prices being what they are, because if the wage were larger, relative prices would not be what they are" (157).

All of this is a rather elaborate way of making the point that 'marginal productivity' does not mean what many people think it means, and certainly does not correspond to any plausible conception of 'how much a worker produces'. Once this is recognized, it goes a long way toward explaining a number of phenomena that casual observers of the

market often find quite puzzling. For example, there is the fact that workers in different countries doing more-or-less the same job are often paid vastly different wages. This is often described, correctly, as a consequence of 'higher productivity' in the more developed country. Many people go on, however, to misinterpret this as the claim that specific workers, working for a particular company, earn more than their foreign counterparts, because the former actually produce more than the latter. This is obviously absurd.¹⁵ Workers at an automobile factory in Mexico earn on average less than \$4 per hour, while workers in a comparable factory in Canada typically earn \$40 per hour (Valdenebro 2014, 25). And yet the Canadian workers are clearly not ten times more productive than the Mexicans, especially since the factories use approximately the same productive technology, not to mention the same work process. Workers in Canada earn more because the *average* productivity of Canadian workers in the economy as a whole is higher. The benefits of increased productivity are diffused across the entire labour force; they are not captured (for long) by any particular batch of workers.

Of course, if one thought that markets had some tendency to reward each worker based upon the amount that he or she actually produces, then one would be inclined to see the disparity in wages between Canadian and Mexican auto workers (or Italian and Korean shoemakers, or French and Chilean wine producers, and so on) as both flagrantly and self-evidently unjust. Not only that, but *maintaining* such an injustice, against the dominant tendency of the market, would seem to require massive global collusion, not to mention significant use of force. This is, in fact, how many left-wing critics of globalization see things, and is what fuels a number of popular conspiracy theories. The more prosaic explanation is simply that market wages do not reflect the 'contribution' that workers are making, in any concrete sense of the term, which is why workers in different countries, who are making what would appear to be exactly the same contribution, may nevertheless earn vastly different wages. If one thinks of wages as scarcity prices, this is entirely unmysterious. Because of the limited mobility of labour (and, for more complicated reasons, capital) across national borders, and because the

¹⁵ The suggestion, in other words, is that the *piece rate* being earned by workers in different countries is the same, which is not true. The suggestion that it must be is usually based upon a failure to understand comparative advantage, and thus the assumption that any manufacturing facility located in a high-wage country must enjoy some absolute advantage over one in a low-wage country.

relative scarcity of different kinds of labour—and indeed, of labour in general—differs from country to country, one can find vastly different wage rates for workers producing essentially the same output.

IV. TALENT, SKILLS, OR NATURAL ABILITY

Another popular theory of wage-determination, briefly mentioned by Mankiw (2013, 25), is based on the thought that wages are related to the ‘talent’ of the employee.¹⁶ This specific claim is part of a broader family of views, which identifies employee ability—skills, training, talent, and so on—as a major determinant of wages. The thought is that these employees produce more value, which gives employers both the ability and the incentive to pay them more, in order to motivate them to greater work effort, and thus, to maximize mutual benefit.

At first glance, this theory may seem to be the same as the previous one—that employees are paid based on their productivity, so the more they produce the more they will earn. A moment's reflection, however, is sufficient to establish that they cannot be exactly the same theory, since the central presupposition of neoclassical wage theory is the homogeneity of labour. Indeed, it is precisely because any worker can be replaced by any other that earlier theorists considered it ‘fair’ to pay them the marginal product, rather than the actual. As soon as one starts to talk about ‘talent’, however, it is clear that we have abandoned homogeneity as an assumption, and hence moved out of the neoclassical framework. This may not be such a bad thing, since it also represents a significant move in the direction of greater realism—the world we live in is one in which there are often vast differences in ability between ‘good’ and ‘bad’ employees (Frank 1985, 59-61). The problem is that the discussion of ‘talent’ in many cases seems to move, not just outside the framework of neoclassical economics, but outside the framework of competitive labour markets entirely. Thus the discussion gets sidetracked into a debate over the disposition of *economic rents*, while ignoring the more fundamental questions about the way that ordinary wages are determined in a market economy.

¹⁶ This argument seems to be a particularly tempting one for university professors, who may be inclined to regard the various comforts that they enjoy as a reward for being smart. (Without being *ad hominem*, I think it is worth noting that all of the major academic contributors to the argument over the incomes of the top one per cent are members of that group.) Thus Mankiw, for instance, puts considerable emphasis on IQ, despite that fact that, while IQ is a strong predictor of educational achievement, it is not a very strong predictor of future income (Strenze 2007, 415).

Much of the philosophical discussion of the relationship between wages and ‘talent’ seems to have its origin in some rather opaque remarks made by John Rawls, in *A Theory of Justice* (1999), in which he suggests that “the existing distribution of income and wealth” would be “the cumulative effect of prior distributions of natural assets—that is, natural talents and abilities—as these have been developed or left unrealized, and their use favored or disfavored over time by social circumstances and such chance contingencies as accident and good fortune” (72). Rawls goes on to argue that this distribution cannot provide the baseline for any compelling conception of “equality of opportunity”, because “it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view” (72).

Even casual inspection of the key sentence should be enough to persuade anyone that there is a lot going on in this argument. There has in fact been significant disagreement among Rawls’s commentators about exactly what he was claiming, and, more generally, how much of a role this argument played in motivating his more general position.¹⁷ The argument acquired prominence mainly because Nozick dedicated 18 pages of *Anarchy, State and Utopia* (1974, 213-231) to a discussion of it. As an alternative way of thinking, Nozick put forward a theory of property rights founded on a principle of self-ownership, or that individuals have a right to control and to exclude others from the use of their own bodies. This suggests that, even if ‘natural talents and abilities’ are arbitrary from the moral point of view, each individual nevertheless has a right of control over his or her own talents. When combined with a principle that licenses voluntary transactions between individuals, this is sufficient to show that individuals have a right to contract with others for the exercise of those talents, and that whatever terms they agree upon are just *eo ipso*. As a result, if the talented are able to gain more from the sale of their labour than the untalented, there is nothing to be impugned in this arrangement from the standpoint of justice.¹⁸

¹⁷ Some have claimed that it provides the key rationale for the difference principle. Others have claimed that it is a digression, which plays no role at all in motivating Rawls’s central claims. See Sandel (1998, 73-82), Gorr (1983), and Pogge (1989, 73-81).

¹⁸ This may explain why Mankiw makes the puzzling kidney-redistribution argument (2013, 32) against Rawls, who, being a contractualist, believes that principles of justice apply only to the fruits of cooperation, and thus excludes body parts. Mankiw may be thinking that anyone who is willing to countenance redistribution must be denying self-ownership, and so must also have no respect for personal or bodily integrity.

Although not fully explicit in his presentation, this is the normative framework that underlies Nozick's famous 'Wilt Chamberlain' argument (Nozick 1974, 160-164). He presents this argument in order to make a narrow point about how free contracting can disrupt 'patterns', and thus, how an 'end-state' theory of justice winds up being incompatible with liberty. Many of Nozick's readers, however, have seen in this argument a general defence of the type of economic inequality that arises in market economies, which they take to be a consequence of 'the talented' demanding higher wages, coupled with the threat that, unless they are paid more, they will work less. Critics have, therefore, spent a great deal of time and energy arguing that 'the talented' are not entitled to make such demands, simply because their natural abilities are supposedly undeserved, or 'arbitrary from the moral point of view'.¹⁹ Seana Shiffrin, for example, compares the demand made by a talented person for greater compensation to a white person asking to be paid more merely because she is white. Both are instances of individuals "gaining advantage because of a feature that is arbitrary from a moral point of view" (2010, 135). G. A. Cohen compares it to the demands of a kidnapper, who refuses to return one's child unless a ransom is paid (2008, 38-41). Economic inequality, according to this view, is a consequence of individuals with superior natural abilities leveraging those endowments, through something akin to blackmail or extortion, in order to secure additional economic advantages.

If this were an accurate representation of how labour markets function, then the position one took toward natural endowments would wind up being of pivotal significance. And yet the situation that Nozick describes in his Wilt Chamberlain argument is really not a typical one. The desire on the part of spectators in his example is not just to watch a basketball game, but to watch *Wilt Chamberlain* play basketball. This is not a competitive labour market. On the contrary, Wilt Chamberlain is a monopolist in the market for Wilt Chamberlain services. He exercises market power, which is to say: he is, through his supply decisions, able to raise the price of those services. To the extent that he exercises this power, then some fraction of what he earns constitutes an economic rent—a payment that goes beyond what is needed to maintain the factor of production in that employment.

Mankiw, of course, was offering a defence of the top one per cent income earners, among whom one might expect to find some singular

¹⁹ For discussion, see Lister (2017).

talents. Mankiw picks Steve Jobs, the former CEO of Apple Computer, as his preferred example. Yet this conversation, about whether it is acceptable for certain individuals to command a large economic rent, is quite distinct from the general debate over the way that markets determine wages, and whether the economic inequalities that result are acceptable. Here, the core principle that determines the level of compensation that employees receive—in the real world, in which labour markets are segmented, different individuals possess different skills, and employees vary in their level of productivity—is not talent, but rather the *scarcity* of the relevant skills.

The central problem with the ‘blackmail’ model of the wage-determination is that, in a moderately competitive market, the talented are in no position to dictate terms to employers in the way that Wilt Chamberlain is with his fans. There is, of course, the fact that without demand for a particular service, no amount of ‘talent’ in the world can give it economic value. More importantly, however, if too many people possess a certain talent, then its economic value will also be quite low. As Frank Knight memorably observed, “[t]he value of a productive service varies from zero to indefinite magnitude, according to its scarcity. The most vital ministrations become valueless if offered in superabundance, and the most trivial performance becomes exceedingly valuable if sufficiently unique and rare, as when a human monstrosity satisfies an economic demand by letting people look at him” (1923, 599). Thus the economist’s classic answer to the question why diamonds are expensive yet water is free applies with equal force to the determination of wages.

Theorists like Shiffrin and Cohen are of course aware that what counts as a ‘talent’ varies with demand, and thus over time. They do not appear to realize, however, that even given a certain level of demand, talent *as such* commands no particular economic return—it all depends on how many other people possess it. One kidnapper may be able to hold out for a ransom, but consider what happens if there are two kidnappers, who have a falling out after the crime is committed. They each have a key to the room where the child is being kept, and so each initiates independent negotiations with the parents over the amount of the ransom. Since neither has any use for the child as such, standard economic theory suggests that the parents should be able to negotiate the ransom down to nothing, or perhaps some small sum, sufficient to cover the cost of transporting the child back home.

Of course, to the extent that a particular talent is rare, that might serve as a source of scarcity, which will in turn tend to raise the wages of those who exercise it. But the higher wage is not a reward for superior talent; it is simply a consequence of the relative scarcity.²⁰ Indeed, thinking that talent results in higher wages is a clear example of mistaking correlation for causation, with scarcity being the confounding factor. To see this, consider the case of occupations that require a great deal of talent, skill or training, but where wages are quite low, because too many people possess the relevant qualifications. Symphony musicians, for instance, often regard their relatively low wages (frequently in the same range as police officers or firefighters) as a terrible injustice. They are, after all, supremely talented musicians, most of whom have spent their entire early lives competing in, and winning, talent competitions. The problem is that many parents have independent reasons for wanting their children to have the relevant training: the popularity of piano and violin lessons has very little to do with the market for piano players and violinists. As a result, too many people have the relevant training, which in turn drives down wages.

If one were looking for an intuitive way of thinking about the issue, it would be that wages are not determined by ‘what you bring to the table’, but rather by ‘how easily you can be replaced’. If what you bring to the table makes it such that you are very difficult to replace, then it may result in higher wages. But if, all of a sudden, the market is flooded with new arrivals, able to do what you do just as well, then your market wage will tend to decline, even if the job that you do has not changed at all. This is also why wages tend to decline across the entire economy during periods of high unemployment, and to rise when unemployment is low.

Thus ‘talent’, at least in the everyday sense of the term, is not doing any direct work in determining wage levels. This is something that Cohen eventually came to acknowledge, when he designated as ‘the talented’ all those who “*are so positioned that, happily for them, they do command a high salary and they can vary their productivity according to exactly how high it is*” (2008, 120, emphasis in original). Now this is probably not quite what he meant to say, since all workers can vary their productivity in the non-technical sense of ‘the amount that they

²⁰ As Robert Frank puts it, in the labour market “a person's fate will often depend much less on his ability in any absolute sense than on how his ability compares with the abilities of others” (1985, 175).

produce' simply by choosing to work more or less, depending on how high their wages are. What Cohen undoubtedly meant to pick out was someone like Chamberlain, who is able to increase his own rate of pay by threatening to work less. But this is just what it means to exercise market power. Thus when Cohen talks about 'the talented', what he really means is 'workers who have market power'. And yet the reason that we encourage competition in markets is to try to eliminate market power, so that prices will gravitate toward market-clearing levels. So whatever concerns there may be about the talented earning high salaries could be addressed simply by making the relevant labour markets more competitive.

As a result, when someone like Mankiw argues that the rich are merely being paid in accordance with their talents, it is overkill to respond, as Solow and others did, 'yes, but they have done nothing to *deserve* those talents!'. Many people regard their own talents and abilities as core features of their personal identity, and have spent considerable time—sometimes decades—cultivating them. In many cases the exercise of these talents constitutes their major life project. Being told that their talent, or perhaps the underlying aptitude, is arbitrary and unearned seems to undermine any basis of valuation. At very least, it is to make an extremely controversial claim. A much less controversial approach is simply to deny that wages are a reward for talent. For every story of how talent has been richly rewarded by the market, one can find a story of how markets have failed to reward some talent, or of how an untalented person has earned some rich reward. Thus the entire question of natural ability or talent is simply orthogonal to the debate over whether the particular wage rates determined by competitive markets are justifiable.

VI. FAIRNESS IN WAGES

The discussion so far has been focused largely on moral interpretations of labour market dynamics that seek to apply some concept of 'desert', or the common-sense idea that whoever works harder, or contributes more, should be entitled to a larger share of the product.²¹ There is, however, another influential approach, which focuses more on the transactional nature of the employment contract and asks whether the wages being paid are 'fair'. Naturally, if one defines fairness as simply 'each person getting what she deserves'—the position that Richard

²¹ For a careful critique of the relevant conceptions of desert, see Olsaretti (2004).

Arneson refers to, barbarously, as ‘desertitarianism’—then the two positions are not distinct. Yet the appeal to fairness is normally intended to frame the moral issue in a slightly different way. The exchange of labour for wages is an interaction that generates benefits for both parties—that is why it is undertaken. And yet, as with all such cooperative interactions, there is a question about how the benefits of cooperation are being divided up between the parties involved. The common-sense idea is that if one party derives disproportionately greater benefit from the transaction, then the terms of the transaction are ‘unfair’. Since the most important determinant of how the benefits of cooperation are allocated is the price, this way of thinking is what underlies much of the traditional thinking about ‘just prices’.

Both ancient and medieval discussions of just price regarded the transaction as something of a contest between buyer and seller, where the seller had an interest in obtaining the highest price possible, while the buyer would want the lowest price, and the question therefore became which price was justifiable from the moral point of view. In Book V of the *Nicomachean Ethics*, Aristotle suggested, and many were happy to follow him in thinking, that the price should be fixed at a level that generated some kind of equality, or at least a rough balance, in the benefits going to both sides. The kind of situation that struck them as a paradigmatic instance of *injustice* was when one side was, for some reason or another, much more in need of the transaction than the other, and, therefore, more likely to accept disadvantageous terms. For medieval theorists, writing at a time when an increase in the price of food would often provoke riots, this was not casual conjecture. The grain merchant does not encounter the hungry peasant on equal terms; the former is in a much better position to hold out for a better price than the latter.

It was this sort of asymmetry that concerned Thomas Aquinas, in his influential discussion of the ‘just price’. He wrote that “[i]f one man derive a great advantage by becoming possessed of the other man’s property, and the seller be not at a loss through being without that thing, the latter ought not to raise the price, because the advantage accruing to the buyer, is not due to the seller, but to a circumstance affecting the buyer” (1920, 1514). It is not too difficult to reconstruct Aquinas’s basic intuition within a modern framework—such a reconstruction will also help to show what is wrong with it. Consider the well-known example, introduced by Bruno Frey, of a merchant raising

the price of snow shovels in the aftermath of a winter storm. Frey found in his initial study that 83 per cent of respondents in Switzerland considered this price increase ‘unfair’ (Frey and Pommerehne 1993; Walsh and Lynch 2002). The intuition here is essentially the same as Aquinas’s—because of the snow, the buyer’s need for a shovel has increased, while the seller remains essentially unaffected. The value of the shovel has increased. Yet, by increasing the price, the seller essentially appropriates that increase in value, and thereby violates the prohibition on reaping where he has not sown.

The situation can be illustrated quite perspicuously using modern supply-demand diagrams. Figure 1 shows the benefit that both buyer and seller derive from a transaction at market-clearing prices. The triangle below the demand curve D and the price line p constitutes the buyer’s surplus, or the welfare gain accruing to the buyer.²² The triangle above the supply curve S and below the price line at p constitutes the seller’s surplus.²³ Together these two triangles represent the *gain from trade*, or the *cooperative surplus* that is achieved through the exchange. Since the actual quantity of goods in the world remains unchanged, only the distribution of goods is affected, the cooperative surplus naturally takes the form of an *increase in welfare*.

²² Intuitively, it is the difference between what an individual *would* have been willing to pay for the first, second, third (and so on) unit of the good, and what he *actually* has to pay, when the entire quantity q is purchased at price p .

²³ Again, it is the difference between what an individual *would* have been willing to sell the first, second, third (and so on) unit of the good for, and what she *actually* receives, when the entire quantity q is sold at price p .

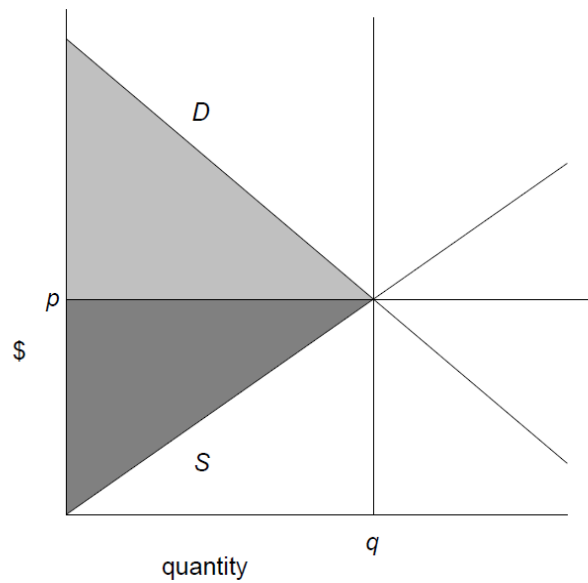


Figure 1. Buyer's and seller's surplus

Now, suppose that a snowstorm increases the buyer's need for a shovel. This will manifest itself in the form of a greater willingness to pay, which can be represented graphically as an upward shift in the demand curve, as in Figure 2 with the shift from D to D' .

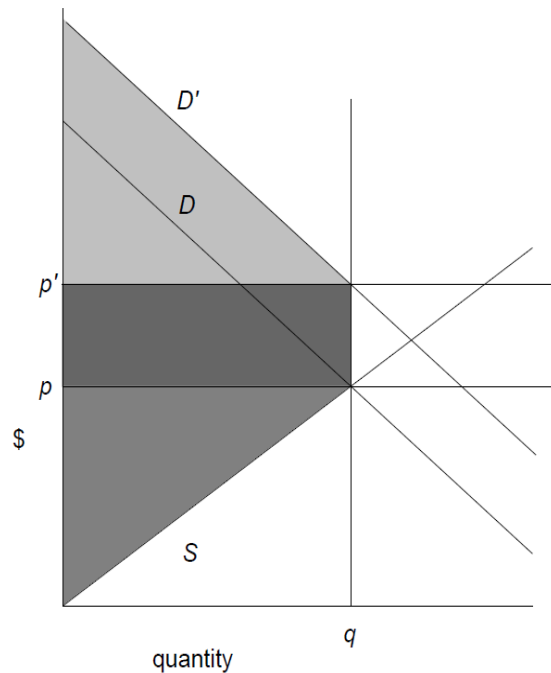


Figure 2. Welfare effects of price increase

Suppose now, sensing this increase in willingness to pay on the part of the buyer, the seller increases the sale price of the shovel to p' . What is noteworthy is that, although the size of the cooperative surplus has now increased, because the usefulness of the shovel has increased, the entire increase is appropriated by the seller.²⁴ This appears to be a clear-cut case of the seller benefiting from someone else's misfortune—now, not only does the buyer have to shovel the snow, but she has to pay more for a snow shovel as well!

There are certainly many objections that can be made to the suggestion that this is unfair. I do, however, think it is worth pausing for a moment to observe that the argument as it stands is not *unintelligible*, as some have pretended.²⁵ Whenever there is a cooperative interaction between two people, it seems like a perfectly reasonable question to ask how the benefits are being divided up between them. And whenever the benefits of changed circumstances are going entirely to one person, it also seems like a reasonable question to ask why. If the answer is 'because something bad happened to the other person', then it also seems reasonable to question whether that allocation of the surplus is *fair*, or whether it doesn't just represent one person taking advantage of his improved bargaining power in an unprincipled fashion. At the very least, the situation looks suspicious.

The most important objection to the Thomistic argument (at least under this reconstruction) is that it is myopic, since it ignores the effects that the price increase will have on the quantity of goods transacted. Indeed, it is undoubtedly the most normatively significant observation of early modern economists to have pointed out that, if the price increases, this will have the salutary effect of motivating individuals to bring more goods to market, at precisely the time that they are needed. So even if sellers do opportunistically increase their price to take advantage of the increase in demand, increased competition from new sellers bringing additional goods to market will tend to push the price down, until eventually it settles somewhere between the original price and the opportunistic one. This is illustrated in Figure 3, with the new price settling at p'' and an increase in the quantity transacted to q'' .

²⁴ The rectangle bordered by the two price lines, p and p' , the line at quantity q and the vertical axis, represents the increased cooperative surplus. At the higher price, p' , this entire utility gain goes to the seller, leaving the buyer's surplus unchanged.

²⁵ For discussion, see Moriarty (2012, 69).

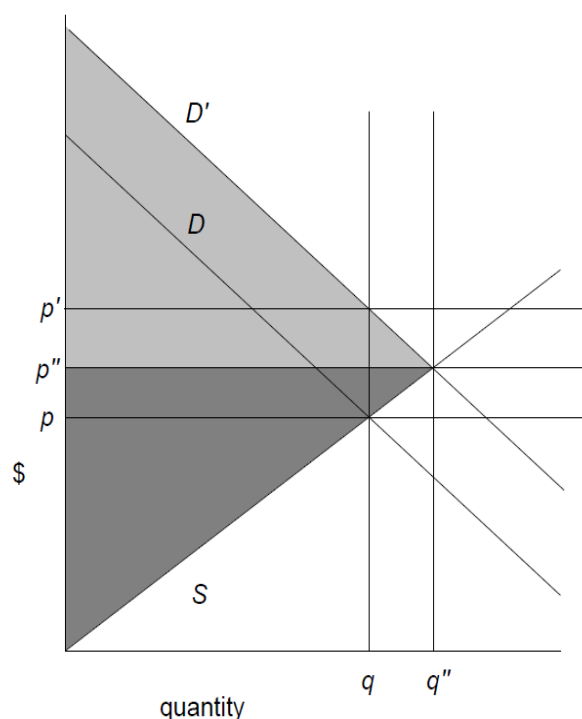


Figure 3. Incentive effects of price increase

The important point about this process is that, once it has run its course, it does result in both buyer and seller receiving some fraction of the cooperative surplus. Furthermore, both parties are making a clear contribution to the expansion of the cooperative surplus, since the sellers are not just raising their prices, they are also bringing new goods to market. At the same time, it is important to recognize that the eventual division that will be settled upon is not based upon any principle of distributive justice. It is, on the contrary, essentially arbitrary from the standpoint of distribution, since it will be determined entirely by the slope of the supply and the demand curves.

There was a time when it was popular among economists to claim that this argument showed that there was no such thing as a just price, or that determining the correct price level is simply not a moral question. Prices will be determined ‘naturally’, in accordance with the laws of supply and demand. This is, however, not the right way to think about it. What the argument shows is that, although the concept of a ‘just’ or ‘fair’ price is coherent, there is also an indissoluble tension between efficiency and equality in this domain. There is only one price

level that is consistent with maximizing efficiency in the allocations of resources, and that is the market-clearing price. Unfortunately, this price level will result in a division of the cooperative surplus that is pretty much arbitrary from the standpoint of distributive justice. Furthermore, if we choose a price level based upon considerations of distributive justice (for instance, we adopt a policy of cheap bread, to ensure that the poor can eat), then the consequence will be a reduction in efficiency (for instance, the loss of mutual benefit represented by 'Harberger's triangle'—the area right of q , between D' and S in Figure 2). The decision not to forego this potential increase in welfare amounts to assigning efficiency priority over equality. It might best be described as 'ignoring the distributive effects of prices, in order to derive maximum benefit from their incentive effects'. This clearly involves a moral (or at least normative) judgement.

The important point, for the purposes of the present discussion, is that this policy is one that recommends itself, not just for snow shovels, but for all goods and services, across the entire economy, including wages. The average worker is in a situation very similar to the person in need of a snow shovel, in that she finds herself in rather strenuous need of a job, and has much less ability to 'hold out' than the average employer.²⁶ So, for example, we might consider it unfair that workers are forced to accept lower wages during a recession, or because they happen to live in a poor country. Yet, structurally, this is just the same as the intuition that the price of snow shovels should not be raised after a storm, with supply and demand reversed. The question, then, is whether we want wages to adjust over time, so that labour is directed to its best employment; or whether we are willing to sacrifice these efficiency gains, in order to achieve an outcome that is more attractive from the standpoint of distributive justice.

Now there are very few countries in the world in which there is not *some* interference in labour markets motivated by concerns over distributive justice. Minimum wage legislation provides the least controversial example. The point is that these constitute *interferences* in the labour market. Left to its own devices, there is no reason to think that the labour market will tend to produce wages that are 'fair' or 'just'. And to the extent that we do allow market forces free reign in this

²⁶ As Alan Manning has observed, it is common in our society for workers to celebrate when they find a job—for instance, taking their family and friends out for dinner and drinks—while it is far less common for employers to react in the same way after filling a vacancy (2003, 4).

domain, it is not because we consider the outcomes to be satisfactory from the standpoint of distributive justice, it is that we regard them as desirable from the standpoint of efficiency.

VII. CONCLUSION

The preceding discussion has been conducted at a very simple level, both in terms of the moral intuitions being discussed, as well as the economic ideas about the way that supply and demand will affect wages. Obviously there are far more complex and nuanced models of the labour market available, not to mention more sophisticated and precise conceptions of 'justice' or 'desert'. There is no way to rule out the possibility that some exotic model of wage determination, combined with a more fully-developed conception of distributive justice, could wind up showing that the labour market operates as a system of natural justice. The discussion in this paper has been aimed merely at showing that the widespread habit of taking common-sense ideas (or 'lifeworld' norms), derived largely from the ethics of interpersonal interaction, and projecting them onto the operations of the market system, can easily be shown to be problematic. Ultimately, this is because the market is a system of decentralized decision-making, where individuals are given free play to follow incentives, subject only to rather loose legal and moral constraints. Thus it would be extremely surprising to discover that this system wound up conforming to principles that bear much similarity to the ones that govern face-to-face, deliberative decision-making.

Indeed, the best evidence that the two do not line up comes from the fact that, when individuals are given the power to decide wages collectively, in face-to-face deliberations, the outcomes that result tend to deviate from the market outcome in the direction of greater equality. For example, within large organizations—where there is more discretion about what wage will be paid because of the potential for cross-subsidization among employee groups—wages typically diverge from the market pattern. In particular, they have a pronounced egalitarian bias (see, for instance, Levine 1991; Lazear 1989). There is a large literature on the phenomenon of 'pay compression' in large firms. Collective bargaining is also a well-known source of wage compression (Freeman 1996). Thus whenever individuals are in a situation where the outcome they receive is directly 'patterned' by the prevailing set of

norms, compensation tends to diverge in a predictable way from the pattern favoured by the market.

Now one might well wonder, if large firms and collective bargaining units are able to achieve much greater equality in the distribution of reward, whether that does not offer a model for the economy as a whole. Why not opt out of the principle of scarcity pricing, not with respect to ordinary goods, but just with labour and wages? Gender pay equity legislation, for instance, in many cases does not allow for any consideration of market conditions. In Canada, only four criteria may be taken into consideration when determining the ‘value’ of an employee’s work: skill, effort, responsibility, and working conditions.²⁷ This means that, for example, an employer who is experiencing high turnover of employees in one occupational category, cannot increase the wage in just that one category, but must do so across all categories that have the same ‘score’. There is nothing to say that one cannot try to reduce pay inequities through this sort of legislation. At the same time, it is important to recognize that the efficiency-equality trade-off described in section VI cannot be legislated away. As long as firms are still operating in a market economy, the dominant effect of pay equity legislation is to increase the costs associated with forming a large organization. After all, instead of having one firm with two classes of workers, there is always the option of splitting the firm in two (or ‘outsourcing’ one class of work), at which point pay equity legislation no longer constrains how much employees in the two classes must be paid relative to one another. Thus the level of compensation favoured by labour markets it still going to serve as an outside constraint, limiting the extent to which firms can diverge.

Consider the following, very concrete example of the phenomenon. In 2014, Google was subject to some negative media commentary, when it was discovered that security guards working at the ‘Googleplex’ were being denied certain perks that were available to other employees. For instance, although they were allowed to help themselves to a free lunch at one of the 25 cafeterias that provide complimentary food to all Google employees, they were being denied access to the ‘takeout’ boxes, which other employees could use to bring meals home with them.²⁸ This immediately set off an uproar over the treatment of these ‘second-class citizens’ of Silicon Valley. Google was able to tamp down some of this

²⁷ See Government of Canada (2016).

²⁸ See Sydell (2013). See the spin in Tiku (2013).

criticism, however, by drawing attention to a fact that had been somewhat buried in the initial round of media criticism, which was that the security guards in question were not actually Google employees, but worked for firm named SIS, to which Google had contracted out its security services. Thus, in principle, they were not even entitled to the free on-the-job lunches that they had been receiving.

One can see in this little morality play a number of the tensions that are at work in the way that markets determine wages. First, one can see how, within firms, inequality can produce considerable conflict. If some employees are being provided with free food, there is pressure to provide the same to all employees. There is something about working together, shoulder-by-shoulder, sharing the same physical workspace, that triggers the relevant norm. After all, no one was complaining about the fact that security guards down the road, working for another company, were not being given free takeout. And yet, if the rule is going to be ‘all Google employees must receive the same benefits’, and if the benefits are sufficiently expensive, then that creates a powerful incentive to contract out services where the market wage is too low to justify the benefit package. Again, this is not an ironclad constraint. Google, for instance, after all the negative publicity, decided to ‘in-source’ its security services, and to hire 200 of its own guards—who will presumably receive compensation packages that vastly exceed market norms. What it shows is simply that the market pattern of compensation, far from mirroring our intuitive conceptions of justice in compensation, instead serves as a source of constraint, preventing many individuals and firms from paying wages that those directly involved would regard as ‘just’.

Again, none of this is to suggest that the market pattern of wage-determination is unjustifiable. In every society there is an enormous mismatch between ‘jobs that need to be done’ and ‘jobs that people would like to do’. Achieving alignment of the two requires convincing millions of people to give up their hopes and dreams, a task that will necessarily involve the application of some very tough incentives, deployed on a vast scale. Part of the attraction of the market as an institution is that it accomplishes this more ruthlessly than any other system, largely because of the ‘hard budget constraint’ that firms face, which serves as a check on sentimentality. To expect then that the market should be able to achieve this enormous task, while at the same time producing outcomes that we regard as ‘just’ with regard to specific

individuals, is to hold out hope for far too much. The market has one job to do, and it does that job very well. Producing ‘just’ wages, however, is not that job.

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Wages, Talents, and Egalitarianism

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Abstract: This paper compares Joseph Heath's critique of the just deserts rationale for markets with an earlier critique due to Frank Knight, Milton Friedman, and Friedrich Hayek. Heath shares their emphasis upon the role of luck in prices based on supply and demand. Yet he avoids their claim that the inheritance of human capital is on a moral par with the inheritance of ordinary capital, as a basis for unequal shares of the social product. Heath prefers to argue that markets do not tend to reward talent as such. The paper raises some doubts about this factual claim, and argues that sweeping the issue of talent under the rug threatens to make our theory of justice less egalitarian than it would otherwise be. The paper also addresses the objection that claims of unfairness based on the arbitrariness of the distribution of innate abilities will undermine self-respect.

Keywords: classical liberalism, desert, economic rights, high liberalism, luck, meritocracy, self-respect

JEL Classification: A13, B24, B25, J31, P14

I. INTRODUCTION

In a recent article in *The Guardian*, George Monbiot argues that neoliberalism encourages people to think that those who prosper in a competitive economic system do so on the basis of individual merit, while those who fall behind deserve their misfortune (2015). This desert-based justification of capitalism has had its defenders. In *The Foundations of Morality*, Henry Hazlitt argued that it was “both foolish and unjust” to insist that people who produce different amounts should be paid the same (1964, 263). Hazlitt drew on J. B. Clark's ethical interpretation of the marginal productivity theory of income distribution (1964, 315; citing Clark 1927, 3–4, 9). People may have a right to the fruits of their labour, but “free competition tends [...] to give to each producer the amount of wealth that he specifically brings into

existence” (1964, 315). This tendency of the competitive system to give “to each what he creates” demonstrates that capitalism is not exploitative but “essentially a just system” (1964, 316).

Greg Mankiw has recently resuscitated the desert-based justification of market society, locating the intellectual origins of the just deserts theory in classical liberalism.

A person who contributes more to society deserves a higher income that reflects those greater contributions. Society permits him that higher income not just to incentivize him, as it does according to utilitarian theory, but because that income is rightfully his. This perspective is, I believe, what Robert Nozick, Milton Friedman, and other classically liberal writers have in mind. We might call it the Just Deserts Theory (Mankiw 2010, 295).¹

In “On the Very Idea of a Just Wage”, Joe Heath takes issue with Mankiw’s claim that the empirical fact of reward by marginal product can be interpreted in ethical terms as reward for contribution (Heath 2018, 2; citing Mankiw 2013, 30). Wage rates in a competitive market system may not be unfair all consequences considered, but they are not (except locally and accidentally) intrinsically fair. Wages are set by supply and demand, which vary in ways that are hard to anticipate, and so incorporate a lot of luck. The function of the price system is not to reward meritorious behaviour, looking backward, but to provide incentives for adjustment to changes in tastes, technology, and social conditions that no one can accurately foresee, beyond the short term.

The founding fathers of what is today called neoliberalism recognized the importance of luck in the price mechanism. Frank Knight (1923), Friedrich Hayek (1960, 85-102), and Milton Friedman (1962, 161-76) all recognized the inevitable role luck plays in supply and demand, and so denied that reward according to marginal product was intrinsically fair, apart from the beneficial social consequences of this pattern of distribution.² They had a second reason for rejecting the desert-based justification of capitalism, however, which was that it is a matter of luck whether one is born with a lot of talent or little. Inheritance of productive capacity is not *in itself* a valid basis for

¹ See also Mankiw (2013, 32-33).

² For his part, Nozick rejected *all* patterned conceptions of distributive justice, including merit and desert, in favour of a natural rights approach that assessed the justice of holdings based on whether they originated in just acquisition and transfer, indefinitely iterated, with deviations appropriately rectified (Nozick 1973, 150-153).

superior economic reward, they pointed out, no more than is inheritance of ordinary property.

Heath avoids this second line of criticism, preferring to argue that labour markets do not in fact reward superior natural ability, to any great extent.

[W]hen someone like Mankiw argues that the rich are merely being paid in accordance with their talents, it is overkill to respond, as Solow and others did, ‘yes, but they have done nothing to *deserve* those talents!’ [...] A much less controversial approach is simply to deny that wages are a reward for talent. For every story of how talent has been richly rewarded by the market, one can find a story of how markets have failed to reward some talent, or of how an untalented person has earned some rich reward. Thus the entire question of natural ability or talent is simply orthogonal to the debate over whether the particular wage rates determined by competitive markets are justifiable (Heath 2018, 21, emphasis in original).

In short, it doesn't matter what philosophical position we take on whether talent is a basis of economic desert, because markets don't reward talent, to any significant extent. I would like to argue, to the contrary, that if we sweep the issue of talent under the rug, we are likely to end up with a theory of justice that is less egalitarian than it would otherwise be.

To make this case, the paper explores the connection between classical liberalism, of the kind championed by Knight, Hayek, and Friedman, and the egalitarian liberalism of Rawls. Knight, Hayek, and Friedman all recognized the moral arbitrariness of the distribution of natural talent, and so rejected the just deserts justification of the competitive economic system. That didn't make them egalitarians. They used the equivalence of natural and social inheritance to accuse egalitarians of inconsistency. How can you object to inheritance of wealth if you don't also object to inheritance of talent? Rawls agreed that both grounds for economic inequality are morally arbitrary, but claimed that neither is justified unless it benefits the worst off. His difference principle can thus be seen as arising out of accepting the equivalence of natural and social inheritance, but then claiming that such arbitrary inequalities must benefit everyone in order to be acceptable, instead of simply raising the average share. Denying that inequalities of talent are significant or that they correlate with wage

differences might lead us to conclude that inequalities don't need to raise the worst off, so long as they arise in a context of fair equality of opportunity.

Section 2 sets out the free-market critique of desert-based justifications of capitalism, focusing on the claim that natural and social inheritance are on a moral par, as far as the distribution of income is concerned. Section 3 explains the role this 'equivalence thesis' plays in the justification of the difference principle, and the risk Heath's avoidance strategy poses to egalitarianism. Section 4 defends the equivalence thesis against those who think that natural and social inheritance are *not* on a moral par. Section 5 addresses the worry that grounding egalitarianism on the arbitrariness of the distribution of natural ability will undermine self-respect.

II. CLASSICAL LIBERALS AGAINST THE JUST DESERTS JUSTIFICATION OF CAPITALISM

Heath suggests that the philosophical discussion of wages and talent has its origins in Rawls's comment that the distribution of income and wealth is determined by the distribution of natural assets, differentially developed by unequal familial and social conditions (Heath 2018, 17; citing Rawls 1999, 62–63). In fact, Rawls was drawing a long tradition of free-market criticism of the desert-based justification of capitalism.³

In his 1923 essay "The Ethics of Competition", Knight accepted that in a competitive economic system, income tends to be distributed according to marginal product, but denied that this pattern of reward constituted "a sound ethical social ideal" (Knight 1923, 588) or "an ethical measure of desert" (596). The capacity to produce things that happen to be in high demand does not establish "an ethical claim to a superior share of the social dividend", Knight argued, "except to the extent that the capacity is itself the product of conscientious effort" (599). Inequalities of reward due to variations of supply and demand are not intrinsically fair, even if permitting such inequalities has social benefits.

Heath notes that, in *The Mirage of Social Justice*, Hayek exempted market outcomes from moral assessment (Heath 2018, 3; citing Hayek 1976). However, in *The Constitution of Liberty*, Hayek argued that markets did poorly, when assessed by the standard of individual desert.

³ This section of the paper draws on Lister (2017, 50–54).

Market prices are not justified by the merit individuals show in trying to make a contribution, assessed by standards that would warrant praise or blame, but by the usefulness of what they end up producing, for the satisfaction of other people's wants (Hayek 1960, 85–102). No one can predict with any precision how tastes and technology will evolve; two people could work with equal diligence and prudence but end up producing things of greatly differing value to others. Given the limited information individuals have at their disposal, prices based on supply and demand will incorporate a lot of luck, and must do so if they are to send the right signals, that is, the signals that will shift resources to where they can be best used. Prices are justified by the consequences of the information they communicate, not by their fit with the praiseworthiness of people's past efforts.⁴

Although he abandoned many of Knight's qualms about capitalism (Burgin 2012, 188), Friedman agreed that a competitive economic system could not be justified on the basis that it rewarded the deserving. He began his chapter on income distribution in *Capitalism and Freedom* with what could easily be mistaken for an endorsement of the just deserts view: "The ethical principle that would directly justify the distribution of income in a free market society is 'to each according to what he and the instruments he owns produces'" (1962, 161–162). The conditional and the implicit distinction between direct and indirect justification are significant. Friedman concluded that distribution according to productive contribution "cannot in and of itself be regarded as an ethical principle [...] [but] must be regarded as instrumental" (165). The function of payment in accordance with product is to allocate resources efficiently without compulsion (167).

The role of luck in determining wages is made particularly clear if we heed Heath's insistence that a market economy involves reciprocal causation. Differences in individual productivity may seem to be the driving force behind differences in wages, but this unidirectional way of thinking ignores the fact that differences in the scarcity of workers in different locations affect what they're hired to do. Firms hire additional workers up until the point at which the revenue the last worker generates is equal to the cost of hiring that worker (and then pay all workers of that type the same wage). Other things equal, hiring

⁴ Nozick argued that Hayek's rejection of desert didn't go far enough. Distribution according to benefits to others is only one strand of the complex, evolving pattern of market rewards, and not a criterion of justice (Nozick 1974, 158–159).

additional workers of the same type brings declining marginal benefits, because, for example, additional workers are hired to fulfill lower value tasks. Therefore, if that type of worker is scarcer in one place than another, workers in the higher-scarcity location will end up being more productive on average, even if they are identically skilled and hard-working, in part because they will not be hired to fulfill low-value tasks. It is no more true that workers' marginal product determines their wage rate than it is that their wage rate determines their marginal product; as Heath explains, these properties are jointly determining (Heath 2018, 14).

It is true that in the absence of distortions such as borders, workers will move from the region in which their skills are abundant to regions in which they are scarce, and that firms will relocate from regions in which the skills they require are scarce, to regions in which they are abundant. In equilibrium, therefore, levels of reward will equalize for workers with the same skills. Given that the world is always changing, however, and that individuals inevitably have limited information, the costs of adjustment to disequilibrium are not guaranteed to be fair. Consider the impact of technological change, and how tastes evolve in response to new possibilities of consumption. People can't be blamed for not anticipating at age 16, when they are making decisions about school and career, what the demand for different skills will be when they are 36 or 56.

In *The Road to Serfdom*, Hayek argued that the human capacity for invention and innovation presents a fundamental limit on the possibility of comprehensive social planning, even on the part of scientific experts (Hayek 2007, 69–73). The same limits apply even more strongly to ordinary people. The magic of the market is to aggregate dispersed information, allocating resources efficiently (Hayek 1945). The result may not be unfair all things considered, but it is not fair in itself, considered apart from the social consequences of this mechanism of distribution. Heath is right that we are very far from the ordinary (“concrete”) idea that individual contribution determines one's level of reward (Heath 2018, 15). A change of mindset is required in shifting from everyday interactional thinking to a systems-level view. The price-differential for labour of the same type (when the market is in disequilibrium) cannot be justified as a reward for greater contribution, looking backward; it can only be justified as a signal, looking forward, as a means of generating prosperity.

The importance of luck in the fluctuations of supply and demand was not the only reason Knight, Hayek, and Friedman had for rejecting the ethical interpretation of the marginal productivity thesis, however. They also noted that wages are influenced by the inheritance of talent, and that the inheritance of scarce human capital is no more a basis of desert than is the inheritance of scarce financial capital. Knight pointed out that in a competitive economic system, income goes to owners of factors of production, and that “ownership of personal or material productive capacity is based upon a complex mixture of inheritance, luck, and effort, probably in that order of relative importance” (Knight 1923, 598). Of these, only effort could have ethical significance, in Knight’s view, since inheritance was itself a form of luck. If anything, superior innate ability “represents an obligation to the world rather than a claim upon it” (599). Knight concluded that there was no ethical significance to the distinction between income from labour and income from other sources. As he put it in a later essay on socialism that Hayek would cite, “[t]here is no visible reason why anyone is more or less entitled to the earnings of inherited personal capacities than to those of inherited property in any other form” (Knight 1940, 277; cf. Knight 1947, 151). In short, Knight argued for the moral equivalence of natural and social inheritance as the basis for claims to a share of what he called “the social dividend” (Knight 1923, 588, also 599).

We find the same recognition of the moral arbitrariness of the distribution of talent (innate ability) in Hayek, along with the same accusation of inconsistency directed against egalitarians.

[T]he value that the performance or capacity of a person has to his fellows has no necessary connection with its ascertainable merit in this sense [i.e. the attributes of conduct that make it deserving of praise]. The inborn as well as the acquired gifts of a person clearly have value to his fellows which does not depend on any credit due to him for possessing them. There is little a man can do to alter the fact that his special talents are very common or exceedingly rare. A good mind or a fine voice, a beautiful face or a skilful hand, and a ready wit or an attractive personality are in large measure as independent of a person’s efforts as the opportunities or experiences he has had. In all these instances the value which a person’s capacities or services have for us and for which he is recompensed has little relation to anything we can call moral merit or deserts (Hayek 1960, 94).

It is socially beneficial to let wages track scarcity of ability, but not intrinsically fair, given that people's talents are to a significant extent inherited.

In the passage above, Hayek uses 'merit' and 'deserts' as if these terms are interchangeable. He adds 'moral' to 'merit' to underscore the fact that he is talking about conduct worthy of praise, rather than what a person ought to get all things considered (which for efficiency's sake must ordinarily be whatever the market will bear). Hayek's usage is consistent with contemporary philosophical parlance, according to which desert refers to attitudes or modes of treatment towards a person called for by facts about that individual's attitudes or conduct (Miller 1999, 133; Scanlon 2013, 101). To be sure, we do say that those in need deserve to be helped, even though need is not a kind of conduct. For this reason, some writers speak of merit when individual performances are in question, reserving 'desert' for what an individual ought to get all things considered. On that usage, however, incentives based on social benefits give rise to individual desert (Mulligan 2018, 67-68). I prefer to restrict 'desert' to one component of what people ought to get all things considered, because I think of desert as primarily a non-instrumental and expressive relation of fit between a person's conduct and the responses of others (Feinberg 1970; cited by Miller 1999, 136 and Scanlon 2013, 101).

Like Knight, Hayek used the inheritance of talent to accuse egalitarians of inconsistency. He quoted Plamenatz's summary of Tawney's position on equality of opportunity: "all inequalities that rest on birth and inherited property ought to be abolished and none remain unless it is an effect of superior talent and industry" (Hayek 1960, 89; cf. Plamenatz 1956, 100). Hayek's response was that "no more credit belongs to him for having been born with desirable qualities than for having grown up under favorable circumstances" (Hayek 1960, 89). Neither good genetic luck nor good social luck has anything to do with moral merit, Hayek insisted, citing Knight's equivalence thesis (440). Some are born to wealthy parents, others to kind and intelligent parents; neither implies any superior merit on the child's part, nor can one be more unjust than the other.

Friedman frankly acknowledged that much economic inequality results from "initial differences in endowment, both of human capacities and of property" (1962, 163-164):

Most differences in status or position can be regarded as the product of chance at a far enough remove. The man who is hard working and thrifty is to be regarded as ‘deserving’; yet these qualities owe much to the genes he was fortunate (or unfortunate?) enough to inherit (165–166).

It is striking, given Rawls’s later controversial comments on the influence of family circumstance on willingness to make an effort,⁵ that in this passage Friedman is discussing inheritance of character, not simply inheritance of intelligence or strength or good health.⁶

Like Knight and Hayek, Friedman directed most of his critical fire against the view that there is an important moral difference between inequalities in inherited talents and inequalities in inherited wealth. He inquires, “[i]s there any greater ethical justification for the high return to the individual who inherits from his parents a peculiar voice for which there is high demand than for the high returns to the individual who inherits property?” (Friedman 1962, 164). In other words, if you object to inheritance of wealth, why don’t you object to inheritance of talent too?

At this point it is worth pausing to explain what we mean by ‘talent’, and to ask whether it makes sense to speak of inequalities of talent being innate. Let us say that ‘ability’ refers to the capacity to do something well, assuming agreement on standards of appraisal. ‘Talent’ can then refer to the potential to develop ability, given good environmental conditions. In principle we could average over different activities to create aggregate measures of potential ability. But which activities are relevant? It’s clear from the quotes above that Knight, Hayek, and Friedman were concerned with differences in talent *at producing things that others want to purchase*. Differences in potential abilities may be innate, but they only amount to inequalities given that

⁵ “That we deserve the superior character that enables us to make the effort to cultivate our abilities is also problematic; for such character depends in good part upon fortunate family and social circumstances in early life for which we can claim no credit. The notion of desert does not apply here” (Rawls 1999, 89, see also 64). People have taken this comment to mean that nothing can be deserved. According to Michael Sandel, Rawls accepted only the neighbouring but distinct notion of legitimate expectations, that is to say the entitlements that arise in virtue of people behaving in ways recognized by social institutions (Sandel 1982, 71–2).

⁶ For further evidence of Friedman’s attitudes towards desert, see the following clip: <https://www.youtube.com/watch?v=hsIpQ7YguGE>, at 2:35. When asked whether women who are currently paid less than men for the same work deserve to be paid less, Friedman answers “I don’t think desert has anything to do with it. First of all, I think desert is an impossible thing to decide. Who deserves what? Nobody deserves anything. Thank God we don’t get what we deserve!”

people prefer to purchase some things rather than others. As Milton Friedman pointed out, Frank Sinatra's voice might not have been so highly valued had he been born in India rather than the United States (Friedman and Friedman 1979, 22). Heath cites the case of symphony musicians who are very talented, but not highly paid (2018, 20). These examples show that while innate talents differ, they only command unequal reward as a result of the way they fit with aggregate consumer preferences.

Moreover, the design of social institutions can make it easier or harder for individuals with particular talents to be productive. For example, someone with a physical disability who could be productive at software design may not be able to contribute if schools and workplaces are not accessible. Thus a person's level of productive capacity depends to some extent on both cultural and institutional context. It is therefore misleading to describe inequalities of talent as natural or innate, even though differences in talents have a genetic basis. Differences of innate potential only become inequalities in a social context.

However, the cultural and institutional relativity of productive potential is only partial. There are presumably some general abilities that are useful to others across a wide range of social and cultural contexts, such as intelligence, strength, and a cheerful disposition. Whatever the true extent of cultural variability, it would be wishful thinking for us to assume that all people are born with equal potential to produce things others want, or that we could produce this state of affairs by reforming our preferences. The case of highly-talented but low-paid symphony musicians simply shows that talent is not the only factor influencing wages, not that it is nothing. Talent at an activity for which there is no demand yields no reward, but within a given occupation or activity, we would expect that superior ability would be associated with higher reward. It would be nice to think that for any two people, one person's greater potential in one dimension will always be offset by the other person's greater potential in another, but that need not be the case. (For all I know, Heath is cleverer than me *and* a better hockey player.) Finally, even if it is true today that innate differences of productive potential are small, they are not guaranteed to be so in the future, as control over the genes of our offspring becomes available to some but not to others.

In support of his scepticism that markets reward talent, Heath cites evidence that innate ability does not explain inter-industry wage

differentials (Heath 2018, 3). This result doesn't show that markets ignore talent, but simply that unobserved talent differentials are not the explanation for the "anomaly" (Thaler 1989, 181) that people in the same occupation in different industries often earn different wages. If prices are based on supply and demand there should be one price for workers with the same skill set. Yet secretaries, janitors, and managers in some industries consistently tend to be paid more than secretaries, janitors, and managers in other industries, despite the fact that within each category workers are performing the same functions (Thaler 1989, 182-183). One explanation would be that some industries systematically hire better workers than others, within the same occupations, but Thaler found little evidence in favour of this "unobserved quality" hypothesis (184). It is consistent with this result that people with more talent earn more within the same occupation and industry, or tend to go into more highly rewarded occupations. Thaler's conclusion was that "firms pay attention to equity in setting wages" (191). That's not evidence that marginal productivity diverges from talent, but that wage patterns diverge from the standard model of competitive markets.

To the extent that there is a problem of inequality of talent, Heath suggests that it can be dealt with by encouraging competition, in order to eliminate the market power that superstars such as Lionel Messi enjoy (Heath 2018, 3, also 18). Yet even if we imagine that highly skilled people are sufficiently numerous so that they are price-takers, and cannot command above-market returns by restricting the supply of their services, the scarcity of their abilities (and innate talents) will earn them a premium over others who work as much and equally conscientiously. Eliminating market power eliminates people's capacity to affect prices by restricting supply, but it doesn't eliminate inequalities of reward beyond what would be justified by differences of effort and difficulty.

I draw a number of conclusions from this discussion. First, it is clearly wrong for Mankiw to attribute a just deserts theory to classical liberals such as Friedman. Second, although productive ability depends on social context, it is doubtful that people are born with equal potential productive ability, or could have equal productive ability, if only we designed our institutions differently. Third, we should not be persuaded by Heath's claims that talent is orthogonal with respect to wages and that eliminating market power would make wage differences fair.

III. THE EQUIVALENCE THESIS AND THE DIFFERENCE PRINCIPLE

Knight, Hayek and Friedman were wrong to suggest that egalitarians in general were inconsistent in their attitudes toward social and natural inheritance. Many on the left did object to the fact that in a market system the product of collective labour tends to be distributed unequally according to innate ability. There was an active debate among socialists and left-liberals in the early twentieth century about the necessity and the legitimacy of incentives, and the so-called “rent of ability” (Jackson 2007, 72). On the one hand, it seemed unfair that superior ability should by itself command a greater share of the social product, holding constant variables such as conscientious effort and difficulty of the task. On the other hand, without a major transformation of human character, pay differentials would be necessary in order to induce those with scarce abilities to apply them where most needed, and with sufficient industry. Left-liberals and socialists agreed that such incentives were not strictly fair, but a compromise; where they tended to disagree was about the extent to which ethical motivations might one day replace self-interested ones (Jackson 2007, 74–76).

Rawls’s focus on the structure of basic social institutions may have deflected attention away from personal ethics towards public policy, and in so doing obscured the question of whether incentives are fully just, or merely justified in the circumstances, given people’s lack of concern for justice. Yet his answer to Knight’s equivalence thesis built upon the socialist/left-liberal tradition. Rawls explicitly agreed with Hayek that there was an inconsistency in objecting to social but not natural inheritance: “[U]nequal inheritance of wealth is no more inherently unjust than unequal inheritance of intelligence; as far as possible the inequalities founded on either should satisfy the difference principle” (Rawls 1967, 71; citing Hayek 1960, 90). Even with achievement-based selection to positions and with conditions of development in childhood equalized (the position Rawls called “Liberal Equality” [1999, 57]) the distribution of income and wealth would be influenced by the distribution of natural assets (Rawls 1999, 64). It was Rawls’s acceptance of the equivalence thesis that led to “Democratic Equality” (Rawls 1999, 64–5), his preferred interpretation of his second principle, which combined fair equality of opportunity with the demand that inequalities between positions should raise lower positions (the Difference Principle).

The equivalence thesis is that inherited talent has the same moral status as inherited financial or physical capital when it comes to the distribution of the social product. So stated, the thesis is consistent with two different claims: that differences of innate productive ability do not provide a positive reason for inequalities of income (other things being equal), and that there is a reason against letting distributions be sensitive to these differences (other things being equal).⁷ One way we might distinguish Rawls from the classical liberals is to say that Rawls sees something wrong with situations in which reward tracks innate talent (other things being equal), whereas Knight, Hayek, and Friedman simply don't see any reason in its favour (until we consider the consequences of this pattern of distribution). I don't think it's possible to know for sure whether they thought such inequalities unfair or simply not-fair, because they were not working at this fine-grained level of ethical analysis. What is clear is that in Rawls's view, inequalities of reward that track innate talent do require justification, and that maximizing aggregate or average income is not a sufficient justification. Inequalities of innate ability are not a basis of desert of superior economic reward. If for efficiency's sake we're going to let wages be determined by supply and demand, we will unintentionally, but predictably, allot those persons with scarce innate abilities greater reward. Such inequalities are not justified simply because they make us wealthier in the aggregate; they need to benefit the worst off.

To see the importance of the assumption that people are born with different levels of innate productive potential, suppose that there is little variation in innate capacities, or that wages do not vary with innate ability, as Heath suggests. These factual claims do not force us to conclude that the difference principle is wrong where such inequalities do exist, but they raise a question about whether the principle is needed where they don't. If wages don't vary (much) with innate ability, fair equality of opportunity would be sufficient for distributive justice (assuming protection of basic liberties).

It's important to insist that fair equality of opportunity is not in general sufficient for justice, however. Even if we had fully equal conditions of development during childhood and fully merit-based selection to positions, higher positions would tend to be filled not just by those who happen to have a taste for responsibility and achievement,

⁷ The distinction between there being no reason in favour of such sensitivity or a reason against it is from Cohen (2008, 166).

but by those with greater talents. If someone proposes to organize society strictly on the basis of private property, private childrearing, and free markets, we need to be able to object that the fruits of our collective labour will be divided up according to good or bad fortune in the parental lottery, in both its natural and social dimensions. Without the assumption that levels of innate ability vary, there would be no apparent reason to object to what Rawls called ‘Liberal Equality’. It would be sufficient for justice (assuming satisfaction of prior principles) to have roughly equal conditions of development through adolescence and achievement-based selection to positions thereafter. Heath’s avoidance strategy for dealing with questions of unequal natural ability therefore threatens to make our theory of justice less egalitarian than it would otherwise be.

I say only that this strategy ‘threatens’ rather than ‘implies’ less egalitarianism. The factual claim that levels of innate ability don’t correlate with wages can’t force us to repudiate the normative principle that if there were such a correlation, it wouldn’t be justified unless it benefited the worst off. It is important, however, not to mistake locally valid from generally valid principles. Where there is no significant variation in the innate bases of productive capacity, or where wages don’t correlate with talent, Liberal Equality yields the right conclusions about policy. If there are major differences in productive capacity, however, and if left to itself the market would reflect these differences, then even with fair equality of opportunity, inequalities of reward between positions would involve morally arbitrary inequality that does not benefit all. Those born with scarce talents would be able to attain positions yielding superior rewards even if their being able to do so did not benefit the worst off. It’s important that we do not lose sight of the fact that fair equality of opportunity is sufficient for distributive justice (assuming satisfaction of prior principles) only where there is no significant variation in the innate bases of productive ability. Denying the existence of such differences in ability risks camouflaging the fact that inequalities between positions need to satisfy this condition, and would still need to do so even if conditions of development in childhood and adolescence were more equal.

One might question whether the Difference Principle is really egalitarian, either in the strict sense of attributing intrinsic value to equality, or in the looser sense of favouring policies that would promote

greater equality than exists at present. Considered by itself,⁸ the principle could justify arbitrarily large inequalities, if the facts are such that it takes big gains for the better off to generate small gains for the worse off. Yet it's not sufficient for a given regime to pass muster, that it leaves the worst off better off than they would be under perfect equality, or for a change in regime to leave the worst off better off than they were under the status quo. To satisfy the difference principle, one needs to show that each increment of inequality benefits the worst off, such that there is no more equal alternative that would benefit the worst off more. Just how egalitarian the principle is depends on the details of its formulation. Are inequalities merely *permissible* or *mandatory* if they *raise* or *don't lower* the lowest position? (Cohen 2008, 29, note 6). Another important issue is whether we interpret the principle as requiring that we maximize long-run growth in the position of the worst-off (Brennan 2007; Tomasi 2012, 235), or that we maximize the position of the worst off today, subject to a just savings principle (Lister 2018). Of course, whether proper application of the principle would result in greater equality depends heavily on political and economic facts as well. Without hoping to resolve such issues, I simply wish to make the point that holding other aspects of one's theory constant, adding the requirement that inequalities must benefit the worst off (in whatever form) tends to make the theory more egalitarian, unless the requirement is replacing an even stricter constraint on inequalities.

IV. QUESTIONING THE EQUIVALENCE THESIS

Despite the fact that it receives support from classical liberals as well as egalitarians, many people find the equivalence thesis unacceptable. David Miller notes that meritocracy enjoys widespread support (Miller 1996, 278; citing evidence discussed in Miller 1991). By "meritocracy", Miller refers to "the ideal of a society in which each person's chance to acquire positions of advantage and the rewards that go with them depends entirely on his or her talent and effort" (Miller 1996, 277). I can still deserve to win the race even if I was born with long legs and you with short, at least so long as it wasn't impossible for you to win (Sher 1979, 371). Support for meritocracy normally goes along with some

⁸ The difference principle is limited by prior principles. People's opportunities to have a political say cannot be too unequal, and their conditions of development in childhood cannot be too unequal, so that people born in different social locations have roughly equal opportunities to develop their talents and attain higher positions (Rawls 1999, 70; Estlund 1998, 110; Williamson and O'Neill 2009, 5)

commitment to ensuring that everyone has a real chance to develop and exercise their talents. People need a fair opportunity to deserve (Olsaretti 2004, 31). Indeed, it can be argued that ensuring adequate or not-too-unequal conditions of development in childhood and adolescence is an essential part of meritocracy, and that if there is too much inequality in developmental conditions, some affirmative action is called for on grounds of merit, as a way of compensating for the fact that past disadvantage makes present achievement underestimate future potential (Miller 1992, 179).

When the prize is esteem based on admiration for exercise of abilities, and the context is a local, voluntary practice such as an athletic competition, desert claims are not objectionable, despite the fact of unequal innate abilities. Participation in the economic system is not voluntary, however, and the prize consists of economic goods whose production requires the labour and cooperation of others. Consider a job that leads to personal and intellectual development, that is highly paid, and that involves superior social status, such as being a university professor or a doctor. Even if conditions of development in childhood were identical, people would not have equal opportunity to occupy these positions, because access is awarded based on achievement that demands scarce capacities, such as intelligence. Rawlsian fair equality of opportunity demands that people with the same innate abilities have the same chances of attaining such positions; the probability of becoming a professor or doctor should not differ systematically across social classes. Those who have not been blessed with superior cleverness might want a chance to play these roles, however. Why are they denied an equal chance, if they are willing to work just as hard and as conscientiously as other candidates? Their interests matter just as much as do the interests of those blessed with greater abilities.

The answer must be that assignment based on achievement yields greater social benefits than would assignment based a simple lottery, or a lottery across all willing to put in equal effort. Given the rule of merit-based selection to positions (a rule justified by its social benefits), the most skilled person should get the job of brain surgeon. But the rule of merit-based selection to positions cannot be justified by appeal to desert. Greater scarcity of ability to produce what others want does not by itself generate a moral claim to a greater share of the social product, independent of social benefits.

We do want to provide opportunities for people to develop and exercise their talents, in the economic sphere as in art and sport. Those who seek to do so in ways that are personally costly but that provide benefits to others ought to be rewarded for their efforts. However, getting a greater share of the social product (beyond what is justified by greater costs of one's efforts) is not necessary in order to have the opportunity to develop one's talents. A lower salary for university professors would not have denied me the opportunity to be a professor. The justification for higher reward must be based on incentives, and benefits to the worst off.

Thomas Mulligan has recently argued that there is a crucial difference between natural and social inheritance, which is that one's genes constitute (in part) one's identity, whereas one's environment during childhood shapes one's opportunities to develop one's talents (2018, 167–168). Natural assets are “metaphysically necessary” in the sense that they “constitute the person” (173). It was not a matter of luck that *I* was born clever, because had I not been born that way I would not have been the same person; there is no stable ‘me’ on both sides of the counterfactual. In contrast, it is possible to imagine that I might have grown up in worse social conditions, and so had less opportunity to develop my abilities, and thus never become a university professor, but still otherwise have been me.

The objection to this use of identity against the equivalence thesis would be that it is as morally problematic for us to distribute economic goods on the basis of metaphysically necessary properties, such as innate ability or sex (without further justification), as it is to distribute economic goods on the basis of properties that are not metaphysically necessary, such as parental social status. Mulligan acknowledges this response (177), but says that it too relies on an untenable distinction between a person's identity and their genetic endowment (177). The reason a particular person is worse off than another can't be because that person had endowments X rather than endowments Y, because if they'd had different endowments they would be a different person; a version of the non-identity problem seems to block individualized complaints of inequality on the basis of essential characteristics. But we can say that one person is worse off than another because we have chosen to allocate goods on the basis of a morally arbitrary characteristic. It is morally bad, other things equal, to use sex as a criterion for allocating income, even if sex is constitutive of identity. I

may not be able to say ‘I would have less income were I a woman’ (because it wouldn’t be the same ‘I’), but I can say ‘it’s not right that we should give less to women than men simply because they are women’.

The arbitrariness of the distribution of innate talents undermines claims that market rewards are deserved, but it does not imply any general rejection of desert. In the most basic sense, desert refers to a non-instrumental relation of fittingness between a characteristic or activity that is substantially under an individual’s control (the “basis” of desert), and a response that is called for on the part of others (Feinberg 1970, 58). So, for example, if you sing a beautiful song, you deserve my praise and admiration, while if you give me a lift to work when my car battery has died, you deserve my gratitude. The basic things people deserve are “responsive attitudes” (Feinberg 1970, 70), with modes of treatment being deserved only derivatively as expressions of these attitudes. It is this expressive and relational aspect of desert that makes at least the core cases of desert non-instrumental (Feinberg 1970, 82). Egalitarians have no reason to reject desert in this sense; they need only deny that scarcity of ability is by itself a basis of desert of superior economic reward.

The core idea Rawls shared with Knight, Hayek, and Friedman is that the possession of scarce innate ability does not by itself ground any claim to a greater share of the products of our collective labour. As Thomas Scanlon puts it, “mere scarcity is not a desert basis at all” (2013, 114). However, it could be that willingness to make a contribution is. We can deny that reward should be in strict proportion to contribution without claiming that willingness to contribute is entirely irrelevant. Hence, for example, we might entertain a doubt about the proposal to institute a basic income that is “obligation free” (Van Parijs and Vanderborght 2017, 21).

V. TALENT, SELF-RESPECT, AND EGALITARIANISM

Unequal talent does not imply unequal moral worth, but in practice it is difficult to affirm the one without being seen to affirm the other. Part of what motivated the pro-market critique of the desert-justification for capitalism was a worry about the stability of the competitive economic system, when defended as a way of giving the deserving what they are due. Hayek cited Michael Young and Anthony Crosland’s fear that inequality would be more painful for the worse off if they thought they deserved their misfortune, and if the rich thought they deserved theirs

(Hayek 1960, 98, 441–442; citing Young 1958 and Crosland 1956, 235).⁹ In the same vein, Friedman pointed out that “we are generally much readier to accept inequalities arising from chance than those clearly attributable to merit” (Friedman 1962, 166). Superior luck in the genetic lottery is no merit. We do take pride in our abilities, however, whether inherited or not. Emphasizing the role of talent in determining levels of reward is therefore a double-edged sword, as far as self-respect is concerned. It may be true that inherited abilities are no more deserved than inherited wealth. Yet recognizing the influence of the genetic lottery on levels of economic reward risks exacerbating the problem of self-respect if it is invoked as the basis for equalizing redistribution.

Rawls thought that the difference principle expressed respect for others as ends, thereby supporting everyone’s self-respect (Rawls 1999, 154–157). He famously described the distribution of natural assets as a common asset, adding that “by abstaining from the exploitation of the contingencies of nature and social circumstance [...] persons express their respect for one another in the very constitution of their society” (156). Some statements of this abstention can seem disrespectful, however. “When racial and sexual injustice have been reduced”, Thomas Nagel once said, “we shall still be left with the great injustice of the smart and the dumb, who are so differently rewarded for comparable effort” (1973, 362). Nagel is right that superior innate intelligence does not by itself generate a claim to superior reward, but his way of stating the point causes discomfort. Does his statement not risk justifying privileges for ‘the smart’ while stigmatizing ‘the dumb’ as intrinsically lesser than others?

Jonathan Wolff argues that insisting on exact distributive fairness will come at an unacceptable cost in terms of mutual respect, if it requires that individuals reveal facts about themselves that are perceived as shameful (1998, 113–115). When times are good and jobs plentiful, gaining unemployment benefits might require demonstration that one is lacking in talent, to prove that one is not shirking, which would be demeaning. Wolff concludes that income support ought to be unconditional, even at the price of some distributive unfairness (Wolff 1998, 121).

Even if income support is unconditional, however, the public rationale for redistributive policies might pose a problem in terms of

⁹ Rawls argued that his principles would not lead to society that was meritocratic in Young’s sense (Rawls 1999, 91; citing Young 1958).

self-respect. Elizabeth Anderson argues that in the case of luck egalitarianism “general knowledge of the grounds upon which citizens laid claim to special aid would be stigmatizing” (Anderson 1999, 306). She imagines an insulting letter that might be written by a “State Equality Board” to “the stupid and the untalented: [...] Because of the misfortune that you were born so poorly endowed [...], we productive ones will [...] let you share in the bounty of what we have produced with our vastly superior [...] abilities” (305). Even if the letter is never written, common knowledge that this is how compensation is justified undermines self-respect, she claims. It is tempting to say that everyone is equally talented just differently so, or to deny that market rewards track innate ability. Strikingly, Anderson contrasts luck egalitarianism’s commitment to a principle with her own position’s commitment to a factual claim:

It is instructive to consider what democratic equality says to those with low talents. Equality of fortune would offer compensation to those with low talents, precisely because their innate inferiority makes their labor so relatively worthless to others, as judged by the market. Democratic equality calls into question the very idea that inferior native endowments have much to do with observed income inequalities in capitalist economies (325).

The factual claim that native ability does not correlate with income does not compete with the principle that it *ought* not (other things equal). Anderson seeks to avoid the question of whether, or under what conditions, inequalities of innate ability justify unequal economic reward. Yet her own view requires an answer to this question. Some people need more resources than others in order to achieve the requisite level of capacity to function as a citizen. Such inequalities do not arise only because of biases in the built environment, but also because people are born with different abilities. On both views, recognition of differences of innate ability play a role, whether what is relevant from the point of view of justice is these differences give rise to lesser capacity to function as a citizen, or lesser capacity to flourish generally. The potential for stigma based on lesser ability arises in both cases.

I don’t think it is a coincidence that Anderson’s conception of democratic equality ends up being less egalitarian than Rawls’s. Whereas the difference principle requires that inequalities between positions raise lower positions, Anderson’s conception of democratic equality involves what she calls a “less demanding form of reciprocity”: if all

citizens enjoy a set of real freedoms sufficient to function as a social equal, “income inequalities beyond that point do not seem so troubling in themselves” (326). Not as troubling, it is true, but still troubling, if they are correlated with possession of scarce innate ability, and if permitting these economic inequalities does not benefit the worst off.

There is a real tension here, between the requirements of distributive fairness and the expressive effects of incautious statements of fairness’s rationale. What can we do to lessen it? We can avoid stating the point about the moral arbitrariness of the distribution of talent in overly stark terms, as if there exists a comprehensive pre-social ranking of talent. We can insist that greater inherited ability does not imply greater worth or importance. We can point out that market rewards reflect what people (with money) want to purchase, thus neglecting public goods that individuals will not generally have an incentive to purchase on an individual basis. And we can remind people that a competitive economic system will tend to reward competitiveness rather than a scrupulous concern for truth, kindness, and reciprocity (Knight 1923, 611).

VI. CONCLUSION

In this paper I have described how prominent classical liberals rejected the desert-justification of capitalism, in part because of the moral equivalence of natural and social inheritance as bases for the division of the social product. Egalitarians insist that morally arbitrary inequalities must benefit the worst off, not just maximize aggregate prosperity. Without the premise that there is a distribution of inherited talent, inequalities would be acceptable so long as they were consistent with fair equality of opportunity. Heath’s and Anderson’s avoidance strategy threatens to make our theory of distributive justice less egalitarian, by obscuring the case for the difference principle.

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The Wage Setting Process: A Democratic Conception of Fair Market Exchange

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Abstract: I here defend a conception of fairness in labor markets. In particular, I argue that we should take a procedural approach to the evaluation of fairness in markets. The procedural approach defended here goes beyond the traditional procedural view that requires only the absence of force and fraud. It also avoids the pitfalls of other classical conceptions of fairness in the market, such as the idea of a just wage or just price. I contend that fairness in markets is analogous to fairness in the democratic process. I thus critique Joseph Heath's discussion of fairness in labor markets: although I agree in part with his assessment of the just wage tradition, I argue that there is room for the analysis of fairness in markets. I lay out a conception of fairness that is based on the analogy with democracy. The basic procedural idea is that of equal power, understood in markets as a robust form of equality of opportunity and equal cognitive conditions. As such, the procedural idea of equal power argued for here can be given an interpretation within perfectly competitive markets and, furthermore, can be applied to imperfectly competitive markets. I thus draw out a number of institutional implications of this account for how the background institutions of society ought to be organized and how firms should be regulated and organized.

Keywords: democracy, fair exchange, markets, procedural justice, equality of opportunity, equal power

JEL Classification: A13, J31, J58, P13

I. INTRODUCTION

In this paper I defend a conception of fairness in labor markets. I argue that we should take a procedural approach to the evaluation of fairness in markets. But the procedural approach I advocate diverges quite substantially from the traditional procedural view that requires only the absence of force and fraud. It goes beyond a merely rule based account

AUTHOR'S NOTE: The author would like to thank the editors and anonymous reviewers of EJPE for very helpful comments. He would also like to thank Marc Fleurbaey and Simone Sepe for helpful discussion of the idea.

of correct procedures and attends to the distribution of power that participants bring to the market. And it avoids the weaknesses of the other classical conception of fairness in the market: the idea of a just wage or just price. Fairness in markets, I contend, is analogous to fairness in the democratic process, in that it is concerned with the process by which decisions are made and in particular with the distribution of power among the parties who participate in the process. Hence, the view on offer is procedural but deeply egalitarian.

I start with a discussion and critique of Joseph Heath's stimulating discussion of fairness in labor markets. Though I agree in part with his assessment of the just wage tradition, I argue that there is room for thinking about fairness in markets. In part, his approach suffers because it displays undue confidence in unaided markets that is not warranted given research in contemporary economics. It also fails to make the case against fairness as an important standard for evaluating markets. I then lay out a conception of fairness that is based on an analogy with democracy. This analogy helps us overcome the pitfalls of the traditional theories and it enables us to understand the appropriate place of state institutions in the shaping of markets and the creation of background conditions of fairness. The procedural idea of equal power can be given an interpretation both in perfectly competitive markets and in imperfectly competitive markets. I show how this approach has implications for conceiving how firms ought to be organized and for defining a fair process of wage setting in the highly imperfect conditions of the labor market.

In section II, I critique Heath's discussion. In section III, I lay out the concerns I have with traditional conceptions of fairness and show the need for a new approach, for which I lay out the groundwork. In section IV, I lay out my principle of equal capacities and show how it is an analog of political equality. Section V discusses how the principle applies to the division of labor. Section VI then applies the principle to perfect and imperfect markets. Section VII illustrates how the principle can justify various kinds of regulation of the market.

II. JOSEPH HEATH'S CRITIQUE OF THE FAIRNESS IN MARKETS

I find Joseph Heath's (2018) critique to be stimulating but quite unclear. I discern three main theses in his paper and a further supplementary thesis: (I) markets will not deliver justice, desert, or other related moral goods. They can, at best, be expected to provide efficient outcomes (the

markets not fair thesis); (II) norms of fairness or desert ought not to be used to criticize or defend market transactions (the irrelevance of fairness thesis); (IIa) norms of fairness and desert as they apply to local exchanges are inalterably in tension with efficiency (the conflict between fairness and efficiency thesis); (III) markets tend to channel resources to their best uses, in terms of the satisfaction of wants (the market efficiency thesis).

The first main thesis is a negative and essentially empirical thesis: (I) markets will not deliver justice, desert, or other related moral goods. They can, at best, be expected to provide efficient outcomes (Heath 2018, 4). Efficiency is understood in terms of the maximum satisfaction of human wants. Here he gives an extended and insightful argument against the idea that desert has anything to do with the observation that labor earns an income equal to its marginal revenue product in a perfectly competitive market (10-15). He also argues against Aquinas' thesis that exchange in which one person benefits from another's hardship is unjust.

The second main thesis is also a negative thesis: (II) norms of fairness or desert ought not to be used to criticize or defend market transactions (4). Theses I and II are quite different. One could think that markets do not give people their fair shares or their deserts but still think that they should be modified to come closer to giving people their fair shares or what they deserve.

Heath argues in favor of II (the irrelevance of fairness) by appeal to a number of considerations. First, he argues that the underlying principle of markets is to channel resources to their best uses understood in terms of the satisfaction of human wants (8). To focus on desert or fairness in the process of market exchange would divert attention from, and interfere with, the pursuit of this main objective. Second, he argues that we ought to evaluate markets in a systemic way and not in terms of standards for evaluating individual exchanges taken one by one. From the systemic perspective we see how markets satisfy human wants, which is achieved by ignoring local concerns of fairness. A third argument is that considerations of desert and fairness apply to everyday, small-scale cooperative interactions and not to the impersonal and systemic forces of the market (9). Thesis II is supplemented by a further thesis (IIa) which claims that norms of fairness and desert as they apply to local exchanges are inalterably in tension with efficiency.

These arguments are not persuasive. Heath acknowledges that efficiency is one very important part of the evaluation of markets but that it may not be the only consideration. This leaves open the possibility that desert and fairness could or should play a role in the evaluation of markets. It raises the question whether the consideration of efficiency is overridden by considerations of desert or fairness in certain cases. The idea that the purpose of the market system is efficiency does not preclude one from investigating how the system operates in particular transactions. By analogy, the purpose of war making is to win wars, but this does not preclude an independent concern with how prisoners or civilians are treated. Likewise, the purpose of the criminal justice system is to punish the guilty and deter crime, but this does not preclude an independent concern with how we treat the accused.

The argument from the impersonality and systematicity of the market misses the fact that persons have daily interactions with others that play a large role in determining the qualities of their lives. They seem very much to be concerned with fairness in these interactions. There is no argument here for thinking that fairness considerations ought not to apply. Finally, Heath presupposes that fairness and efficiency are in opposition to one another. There is ample evidence that perceptions of fairness enhance the productivity of workers and perceptions of unfairness detract from that productivity (Cohn, Fehr, and Goette 2015). That is surely an efficiency concern. There is also theoretical reason to think that within incomplete and imperfect markets, efficiency suffers as a consequence of maldistribution (Stiglitz 1994).

The above remarks involve minor skirmishes about the character of the argument Heath gives. More important problems arise with thesis III. This thesis asserts that markets tend to channel resources to their best uses, in terms of the satisfaction of wants (Heath 2018, 8). This thesis, coupled with the earlier theses, suggests that one ought to leave the labor market “to its own devices” so that it can bring about want satisfaction (27-28). The trouble with this thesis is that it is not clear what Heath means by ‘markets’. There are at least three different interpretations throughout the paper. The first meaning of ‘market’ is a perfectly competitive market or some reasonable approximation of it. The second meaning is an arrangement closer to actual markets but

unaided by government. The third meaning is a setup of markets that are regulated by government.

To telescope a bit, thesis III (the market efficiency thesis) is true of perfectly competitive markets, but it is not clear that theses I (markets not fair) and II (irrelevance of fairness) are true of these markets. Thesis III (market efficiency) is not true as it applies to imperfectly competitive markets whereas thesis I (markets not fair) may indeed be true of them. This is the message of general equilibrium analysis of incomplete and imperfect markets. Since actual, unaided markets are never perfectly competitive and complete, they are not necessarily efficient, and often are inefficient. Furthermore, efforts to make imperfectly competitive markets more competitive in various respects often do not enhance their efficiency. Often, the best way to enhance the efficiency of an imperfectly competitive market is to add a further imperfection to the market. This is the message of the general theory of the second best and of general equilibrium models of incomplete markets.

These points can be explained further. There is a very tight connection between efficiency, understood as Pareto optimality, and perfectly competitive and complete markets. This is established by the proofs of the two fundamental theorems of welfare economics. The first says that for perfectly competitive and complete markets, every equilibrium is Pareto optimal. The second says that one can attain any Pareto optimal equilibrium depending on the initial distribution of endowments (Debreu 1959). But the conditions for these results to obtain are extremely stringent. They require large numbers of consumers and producers, no transaction costs, full information about the agents, endowments and technology, no externalities, and markets for every possible state of the world, present and future. The consequence of these conditions is that no one has market power, and that credit and insurance in the form of Arrow-Debreu securities are available to anyone so income can be smoothed over time.

I return to comment on the normative features of these conditions below, but for the moment it is essential to recognize that very few of these conditions are ever met in actual economic markets (Laffont 1989, 54). Actual markets, whether regulated or not, are highly incomplete and imperfectly competitive. Asymmetries of information, transaction costs, externalities and a serious incompleteness in markets are the normal state of affairs. To use one simple and obvious case, consider the case of firms. In the Arrow-Debreu model, firms are merely production sets

(Hart 1995, 15; Coase 1988; Williamson 1985). The existence of a firm, understood as a hierarchical organization, is ignored entirely. But such entities exist because of the high transaction costs involved in constantly renegotiating what are necessarily incomplete contracts. Firms exist to overcome problems of transaction costs and asymmetries of information. And they bring in their wake many further problems of efficiency.

The results of general equilibrium theory in the context of incomplete markets, moreover, should be very sobering for any champion of unaided markets. In general, the basic results for models that have even a small degree of complexity are that there are many equilibrium points and that none of them are Pareto optimal. Indeed, none of them are even constrained Pareto optimal. In other words, the equilibrium points that markets reach can generally be improved by external government action such as taxation or required contracting (Geanakoplos 1990; Laffont 1989; Stiglitz 1994).

So, thesis III is clearly supported in the case of complete and competitive markets, but it is challenged in the case of incomplete and imperfectly competitive markets, which are the kinds of markets that populate the real world. Additionally, it would seem that for markets to work reasonably well, it may be necessary for government to play a significant role.

One cannot assume in response to this that what is needed are more competitive markets. When there are serious market imperfections, one must take account of the general theory of the second best. Here is the classic statement of the theorem:

The general theorem for the second best optimum states that if there is introduced into a general equilibrium system a constraint which prevents the attainment of one of the Paretian conditions, the other Paretian conditions, although still attainable, are, in general, no longer desirable [...] Specifically, it is not true that a situation in which more, but not all, of the optimum conditions are fulfilled is necessarily, or is even likely to be, superior to a situation in which fewer are fulfilled (Lipsey and Lancaster 1956, 11-12).

Lipsey and Lancaster illustrate many different contexts in which the general theorem for the second best holds. But one context in which the existence of a market imperfection is best supplemented by another market imperfection is the context of patents. The production of information has long been thought to be a problem for the standard

Arrow-Debreu model, first recognized by Arrow himself (1962, 617). Yet innovation is one of the central features of the productivity of modern market economies. The central difficulty is that the production of information (say, about a new and more efficient way of producing some good) is a fixed cost and is highly risky. But once the information is produced, it is easy to replicate. The consequence of this is that there should be no innovation since the innovator cannot reap the benefits of the innovation. The only way to create an incentive for potential innovators is to create a market imperfection by granting the producer a monopoly over the use of the information in the form of a patent. Thus, we need to violate one of the conditions of market completeness (symmetric information) in order to overcome another problem (non-convexity in production) (Arrow 1962, 617; Stiglitz 1994, 141). Lipsey and Lancaster argue that this is a general feature of imperfect markets.

There is a significant debate about whether such imperfections may be useful in labor markets as well. There are three main issues that people have discussed in this context. One is the problem of monopsony and the subsequent weakness of bargaining power of workers. Two is that there are major information asymmetries in this context. Three is that there seems to be some evidence that workers are motivated in significant ways by considerations of fairness.

Analyses of the problem of monopsony go back to Adam Smith. Monopsony occurs in a market to the extent that the buyers are few while there may be many sellers. It can occur in degrees. Such conditions can give market power to the buyers. Smith argues that this is a general feature of certain kinds of labor markets. He says that when there are relatively few capitalists with wealth, while workers are many and poor, the tendency is for wages to be pushed down (Smith [1776] 1982, Book 1, Chapter VIII). Recent equilibrium analyses of wage determination suggest that under conditions of monopsony, wages can be pushed down below what might be secured in a competitive market, while the amount of labor employed could be lower than the equilibrium amount (Boeri and Van Ours 2013, Chapter 2). As such, the major part of the producer surplus (the gains from trade) ends up benefiting the employer.

Information asymmetries can fuel problems of efficiency as well. Adverse selection is the first part of this. If employers know things about how the firm is doing that the workers do not, distrust between workers and employers can grow so that workers do not believe

employers when the latter express the need to work harder in difficult times. Furthermore, if workers do not know how long they are to be in a job, as a result of employment at will, they may lack the kind of commitment necessary to develop firm specific skills (Freeman and Lazear 1995). Moral hazard can also arise to the extent that monitoring and enforcement of incomplete contracts are costly; hence, workers may not work as hard as they could. These negative effects on productivity can be amplified when workers do not think they are paid a fair wage for their work. The evidence suggests that workers slack off when they think that they are not being paid fairly (Cohn, Fehr, and Goette 2015).

The main efforts to rectify these problems in modern economies have been realized through unions and collective bargaining, as well as worker participation in the management of firms and minimum wage laws. These institutions give workers voice in the setting of wages and work conditions and thus enable workers to overcome problems of information, weak bargaining power, and unfair wages. The evidence suggests that unions can have a positive effect on the productivity of workers while diminishing inequality.¹ Evidence also suggests that the decline of unions plays a significant role in the increase in inequality of income and wealth in the United States (Rosenfeld 2014).

No doubt these modifications of the working environment involve changes that are conceived as distortions in the context of perfect competition (unions become monopolistic suppliers of labor) and that is perhaps one of the reasons why people have turned against unions. But once we see that the labor market is already distorted by market imperfections, it may not be surprising to find that further distortions may enhance the efficiency of markets.

Once we take account of the imperfections of markets and the theory of the second best, the usual strategy of insulation, which involves leaving markets to their own devices, seems to lose its luster. It is often the case that government interference and regulation can enhance the efficiency of markets. Since markets are generally incomplete and imperfect, there is no general presumption against interfering with markets, though sometimes, surely, it will be a bad idea. But if there is no general presumption against interference in markets for the sake of efficiency, it is no longer clear why there should be a

¹ See Freeman (2008) and Freeman and Medoff (1984) for a classic analysis of the contribution unions make to the productivity of the firm.

general presumption against interfering with markets for the sake of other values.

A final point to consider is this: it seems mistaken to think that efficiency is the sole criterion for evaluation of markets if we are evaluating perfectly competitive markets. Perfectly competitive markets realize a number of important goods of fairness. I will explain this in more detail once I have laid out my own conception of fairness in markets. But Heath's theses I (markets not fair), II (irrelevance of fairness), and III (market efficiency) cannot be jointly true of unaided markets. And, we must hope that they are not jointly true of all regulated markets, that is, we must hope that we can have fairness and efficiency in regulated markets. In what follows, I will develop my conception of how markets can be made fair while preserving efficiency.

III. FAIRNESS IN INDIVIDUAL TRANSACTIONS

Here I will sketch a conception of fairness in the context of individual exchange that demonstrates in what respects perfect competition can be fair and in what respects it fails to be fair. This sketch is then extended to imperfect competition. First, I argue that there is a need for a new conception of fairness in exchange. Second, I clarify some of the basic terms this conception employs. Third, I provide the basic motivation for looking for a democratic conception of exchange. Fourth, I lay out the democratic conception of exchange. Fifth, I show how this conception explains part of the appeal of, and remedies the difficulties with, perfect competition. Sixth, I apply the notion of fairness to imperfect competition. Seventh, I show how this conception of fairness could suggest remedies to unfairness in actual markets.

The view I develop here attempts to avoid the pitfalls of the two classical accounts of fairness in exchange. The first account includes the classical natural law approach of equal exchange in value, as well as other accounts that attempt to define the just or fair or non-exploitation price, which are the bases of the traditional theory of the just wage.² The idea here is that an exchange is fair when the price paid for some good or service is equal in value to the good or service, or that the price is the fair price for that good. The problem with this approach is that the

² The classical version of equality in exchange is Aristotle (*Nicomachean Ethics*) and Thomas Aquinas (*Summa Theologica II*). Karl Marx may also be committed to this ideal of equality in exchange (*Capital vol. I*). Alan Wertheimer is the contemporary defender of a version of a kind of non-exploitation price conception (Wertheimer 1996).

benefits of transactions can be quite heterogeneous and hard to compare outside the points of view of each of the participants (I am using the terms ‘exchange’ and ‘transaction’ equivalently here). It may be very unclear in many circumstances whether the goods exchanged are equal in value in a more objective sense. The one attempt to elaborate an account of a fair price when there are heterogeneous preferences, namely the price determined under perfectly competitive conditions, is also not capable of delivering an account of the fair price, or so I will argue below. The second more procedural type of account of fairness is the voluntariness account. It says that an exchange is fair when it is voluntary. Much will depend on what voluntariness means, but all of these accounts also fail to provide an account of fairness. If the notion of voluntariness implies only the absence of coercion and fraud, or rights violations, then there will be many intuitively clear cases of unfairness that are not captured by the account (as in cases in which rescuers extract very high rents from the rescued persons).³ If the notion of voluntariness is defined in terms of the presence of acceptable alternatives, then there will be a number of intuitively fair transactions that will be counted as unfair (as in cases in which a professional rescuer earns a reasonable fee for rescuing a person).⁴ I argue that a different way of understanding fairness in transactions is needed.⁵

First, I will draw a few distinctions. One, the account of fairness that is being developed here is a procedural account. Procedural here means to determine the rules and conditions under which exchange takes place. Hence, it is not a complete account of fairness; such an account would require a view of the proper distribution of goods that should result from all the exchanges that people engage in. I do not attempt an overarching account of distributive justice here—rather the procedural account imposes constraints on distribution. By a procedural account, I do not merely mean an account of the formal rules of exchange: I also include the distribution of power that people bring to the exchange. Two, the view I outline here is not an account of exploitation *per se*, though it should have significant implications for a proper conception of exploitation. The difference is that exploitation is a notion that applies primarily to individual actions, while the notion of fairness I am elaborating here is a structural notion that tells us what the proper

³ I have Nozick (1974) in mind.

⁴ The classic formulation of this kind of account is Wood (1995).

⁵ I develop these arguments in detail in Christiano (2015).

background conditions and rules of exchange ought to be. What is being developed here is a set of principles for the evaluation of the fairness of the background conditions, such as the distribution of opportunities and cognitive conditions, and the rules of exchange. To be sure, exploitation often takes place when there are unfair background conditions, but the idea of exploitation imports a distinct set of standards concerning how people are supposed to deal with each other under these conditions and the application of a conception of exploitation often presupposes an account of unfair market exchange.⁶

The distinctive approach I attempt here is grounded in the idea that there is a fundamental analogy between democracy in collective decision making and an egalitarian principle for evaluating the background conditions of exchange in decentralized decision making (see Christiano 2008). Ultimately, I adopt the view that the standards of fairness in collective decision making (that is, decision making in which everyone participates in each decision, e.g. in majority rule) and in decentralized decision making are grounded in one single more abstract principle. That single principle is a principle of equal distribution of power in the context of disagreement and conflict, as well as in the context of cooperation. Space constraints prohibit me from developing this hypothesis further: hence, I develop the structural similarities between the contexts of decentralized and centralized decision-making, all the while respecting the differences.

What supports the idea that there is such an analogy are the similarities between what people do when they engage in agreement making with others and when they participate in collective decision making. First, in both activities, persons attempt to shape the social world they live in. In decentralized decision making they attempt to shape that world in the many agreements they enter into by altering the rights and duties people have to each other and the distribution of benefits. The sum total of agreements a person enters into over a lifetime give shape to the social world the person lives in.

Second, though cooperation and mutual advantage are central to agreement making, so is conflict. Our aims often conflict with those we exchange with in that we strive to give less to obtain more (and so do the people we exchange with). The conflict between wage earner and employer fits this scheme clearly. The outcome of an agreement is then

⁶ For some classic discussions of exploitation, see Cohen (1979), Roemer (1985), Steiner (1984), Wood (1995), and Wertheimer (1996).

partly determined by a distribution of power among the parties, (which I will explain in greater detail on the next page). For now, the fact that the content of an agreement favors the person with market power over someone without it, is sufficient to illustrate the idea. I will argue that power differentials make a difference even under conditions of perfect competition.

Third, the justifications for granting powers to shape the social world are grounded in the same common liberal concerns. Persons have different interests that conflict and we give each person some power to pursue those interests. Persons disagree on how best to shape their social worlds and we give each person some power to act in accord with his or her own judgment. Furthermore, there is at least a basic part of these issues about how best to shape the social worlds that we do not think ought to be decided by expertise. We think that people ought to be able to make the basic decisions about how their society is organized, and how their lives with others are organized, on the basis of their own judgments. In my view, this is the common core of liberalism at the root of democracy and liberal rights (Christiano 2008, Chapters 3 and 4). In one case, they are meant to provide people with the power to participate in centralized decision making and in the other they are meant to give people power to engage in decentralized decision making.

Because the interests of persons are of equal importance and we think that each person is to be treated as an equal in this context of conflict and disagreement, I affirm that fairness requires that power ought to be distributed equally in centralized (or collective) decision making and in decentralized decision making. I cannot develop this argument further here.⁷ Here, my aim is to utilize the analogy with democracy, and the strong commitment most people have to democracy, to argue that the analogical variant of equal power should be applied to the context of exchange.

To be clear, I do not mean to imply that these decentralized settings ought to be centralized and democratized in the traditional way. My intention is to show that there is an analogy between participation in democratic collective decision making and the activities of persons in decentralized settings. The values involved in personal relationships and development and the distinctive values that arise from people cultivating their particular talents and ideas must be given some

⁷ I have developed it in some detail for democratic and basic liberal rights in Christiano (2008).

significant protection from collectivization. In following the tradition of economic theory of Adam Smith and John Maynard Keynes, I argue that some kind of open market system is important for putting resources to productive uses (though, it usually will not involve a free market system, as I argued above).

IV. THE PRINCIPLE OF EQUAL CAPACITIES

With these motivating ideas in the background, I sketch an account of fair exchange, which I then apply to perfect and imperfect markets. An intuitive and useful starting point is to think about fairness in agreements in the case where there is only one exchange between two people that will determine their whole lives. In this case, the appropriate background fairness conditions for such an exchange consist in the realization of equal capacities for that exchange. Let us call this the principle of equal capacities. This breaks down into two components: equal cognitive conditions and robust equal opportunity for exiting or refusing entry into the arrangement. Equal cognitive conditions involve equal access to information relevant to one's interests and concerns and abilities to negotiate desirable arrangements. The basic institutional supports for this are a system of education and systems of protections of consumers in the contexts of arrangements with great asymmetries of information. We achieve equal opportunity by making sure that people have the resources that enable them to exit or refuse transactions and enter others that advance their interests. The basic determinant of power in the context of agreement making is the value of the outside option for a person. A person with good alternatives to entering a particular agreement has bargaining power over the content of the agreement. Persons with equal opportunities for exit have a kind of equal power. In this sense, I am talking about real opportunities and not merely formal opportunities. Education, basic needs provision, and other goods give people opportunities to choose among transactions by enhancing their bargaining power.

These conditions give each person equal power to shape the agreement with another actor according to terms she judges best. And this gives each person equal power to shape the social world she lives in. Giving either person less than equal capacities, at least for normal adults, would amount to treating that person's interests as having less than equal importance.

In most cases, of course, persons engage in many exchanges with many different people. Here the principle of equal capacities directs us to say that the persons must have equal capacities globally, in the sense that they start from background conditions that ensure equal capacities for all. This equal capacity condition need not be fully maintained throughout different exchanges, because previous agreements a person enters into may curtail opportunities she will have in later encounters. If this is done knowingly, the later encounter in which there may be some local inequality of opportunity or inequality of cognitive conditions is not unfair. Furthermore, individuals may choose to focus on some agreements in which they think of themselves as having much at stake and reduce focus on other exchanges in which they think of themselves as having less at stake. So, the account does not assert that there need be equality between persons in every agreement making context. It requires only a kind of global equality of capacity for determining whole life prospects.

This is meant to realize a kind of democratic value in the context of decentralized decision making, because the two conditions in the one-shot case in effect specify circumstances in which persons have an equal say in the structuring of their relations with each other. And the global principle of equal capacity gives persons a kind of equal say in the formation of their social lives together with others when they engage in a series of agreements with many people. The two conditions specify a kind of condition of global equal bargaining power between parties such that each person has an equal say in the formation of the contents of the series of agreements they enter into (Christiano 2016).

V. EQUALITY OF OPPORTUNITY AND THE DIVISION OF LABOR

With this basic conception of the democratic approach to market exchange in mind, I will develop the idea of equality of opportunity in greater detail. When we think of equality of opportunity in modern societies, we think of the division of labor as fixed and equality of opportunity as a means of filling the various positions in the division of labor.⁸ So, there is equal opportunity to fill positions of authority and management, as well as wage labor and so on. This can make equality of opportunity appear non-attractive, since it seems to leave the structure of the division of labor, no matter how oppressive, in place. It merely gives each person a chance to occupy any of these positions. So, to use

⁸ For example, this is how Rawls approaches equality of opportunity in his (1971).

an extreme example, it would seem that if there were a society of masters and slaves, we could give each person an equal opportunity to occupy the positions of master or slave. This would remain a very unattractive society even if the equality of opportunity were as complete as could be.⁹

But, here, the democratic conception of exchange and of equality of opportunity, which gives people equal power over the terms of their association with others, presents a very different picture. Presumably, with their equal power, individuals would shape the division of labor in ways that are attractive to them. So, equality of opportunity ought to play a large role in determining the character of the division of labor in society. The division of labor would not be fixed, but subject to the choices of people as they determine, on an equal basis, what kind of relations they wish to enter into with others. As a consequence, we may not see the kinds of deep asymmetries that exist between wage laborers and managers, or between workers and owners, as we see in modern societies.

The relationships that we see in most modern societies are, in large part, the consequence of dramatically unequal opportunity and the subsequent unequal power that people have before they enter into the exchange relationships. Wage laborers are usually people who have had little access to education, relatively low-income parents, and in general, few opportunities to improve their lives.¹⁰ They are happy if they find a place in the society. Managers, entrepreneurs, professionals, and owners of capital tend to come from very different family and educational backgrounds than the wage laborers. To the extent that there is change in the division of labor, it tends to come from the upper middle class and the wealthy, while the rest must accept what they get. And those changes reflect the interests of the competing elites that struggle for a say over the structures of economic life. Hierarchy between them and the rest is simply taken as a given because the rest do not have the power to alter it. With genuinely equal opportunity, these kinds of hierarchical relationships would not disappear entirely, but they would be significantly less in evidence. People who have equal power to others will not tolerate being placed in an inferior position with regard to others.

⁹ See Fishkin (2014) for the introduction of this important and innovative idea.

¹⁰ See Davis and Mazumder (2017) for evidence of inequality of opportunity in the US.

There are a number of qualifications that need to be explained concerning this principle. First, it is important here to note the scope of the proper effects of decision making. The prime focus for these decisions is the constitution of the division of labor in society, the aims of production, the conditions of work, the local fairness of wages and the division of work, and the array of consumption goods. These are the conditions that are most appropriately determined by the efforts to shape the social world that are involved with agreement making. People may choose to focus on some of the aforementioned conditions more than others, depending on what they think most important. The accumulated effects of the many agreements made with equal capacities as background condition ought not to determine the structure of the distribution of income in the society as a whole (that is, whether the distribution is equal or unequal, and the degree of inequality). Decisions about the distribution of income in society as a whole are most appropriately made by the society as a whole in the traditional democratic way.

Second, since I am advancing a principle of equal opportunity, I need to say something about what kinds of things can produce inequality in the outcomes of the processes of agreement making. One, those who knowingly exert themselves and make use of their opportunities for the sake of a particular good are more likely to achieve that good, other things being equal, than those who knowingly do not exert themselves for the sake of that good. Such differences do seem to be defensible grounds for inequality of income and they are defensible grounds for one person having more authority or more interesting work than another.

Two, a more controversial and complex inequality-generating phenomenon is variation in natural talent. I cannot give a complete treatment of this issue here. Variation in natural talent (as opposed to acquired abilities) is not a defensible ground in itself of differences in income. The idea here is that differences in natural talent are essentially determined by the relation of one's natural abilities to those of others. It is a matter of luck that my natural abilities are higher or lower than those of others. That I have a natural ability is not in itself a matter of luck, but its relation with others is. In the simplest economic terms, my natural abilities are talents depending on the supply of, and demand for, such abilities. It is hard to see why I should receive extra benefits merely

because of my particular position within the larger distribution of abilities.

Things are more complicated in the case of the distribution of meaningful work and social power. Two people who are competing for a particular social position may end up in different positions with regard to the division of labor if their realized natural talents imply that they should occupy those positions. One person may have more power if she is better able to use it than another. Or she may have a more interesting job because of her greater abilities. The question is, what can justify this? What justifies it is that it is important to have a division of labor in which people are placed in the jobs in which they can do the most good. It can be justified by the principle that we ought to think that generally beneficial inequality can be justified over equality in which people are worse off, and by the idea that it is important that people be able to realize their talents. The realization of natural talent implies that persons are benefited when they exercise those talents. To require that people not be able to exercise their talents so that they have no more bargaining power than others would be to make others worse off, as well as the person who is deprived of the opportunity to exercise talent.¹¹

Finally, there will be some inequality in shaping the division of labor for reasons that are similar to the inequalities we see and accept in political democracy. Some will be more able to come up with desirable schemes for shaping the division of labor and more able to persuade others to accept them. As long as these differences occur against the background of equal cognitive conditions and equal opportunity and result from processes of persuasion, they are legitimate.

VI. ECONOMIC EXCHANGE IN THE MARKETS

Now that we have the principle of equal capacity laid out, I want to apply the principle to the evaluation of markets. Here I want to point to two different sources of power, understood as the ability to get what one wants from a system of social cooperation. The first source of power is derived from the initial endowment a person has when entering a market. We see this in both perfect and imperfect markets. The second

¹¹ This is not to say that persons having more interesting jobs because they are more talented than others is entirely just. Many think there is still some injustice here, but it may be more just than the leveling down alternative. See Christiano and Braynen (2008).

source of power emerges from imperfect markets with monopolistic or monopsonistic competition. It introduces an element of bargaining power in the determination of the wage.

VI.I. Perfect Competition

If we think about perfectly competitive and complete markets carefully, they partially realize an ideal of social cooperation.¹² The system is a (partial) ideal of cooperation because there are no impediments to cooperation and so cooperation is efficient. But it also realizes certain minimally egalitarian and libertarian qualities. Since there are no externalities and markets range over all possible states of the world (of which each person is aware), each person gets what he or she pursues against a minimally egalitarian background. The background is minimally egalitarian since there is no market power. And since credit is available on a costless basis and there is no cost in moving from one position to another, those with low external endowments have a robust opportunity to occupy any social position to which their talents are suited. Furthermore, each person has unlimited availability of insurance (since there is no moral hazard or adverse selection) and so can take care of themselves in every eventuality and can thus establish a kind of independence from others. These conditions go a long way in eliminating exploitation. Furthermore, each person earns an income that is equal to her marginal product. The objections that Heath and others have made to the marginal productivity principle do not hold when everyone is a part of the same perfectly competitive and complete set of markets and where people come in a few clearly distinguishable types. So, from the perspective of perfectly competitive markets, markets do deliver on a number of important fairness norms. The absence of market power, universal opportunity, and independence from others are all highly desirable features that can be understood in terms of the democratic conception of fairness. And this is part of their appeal. Hence Heath's theses I (markets not fair) and II (the irrelevance of fairness) are not true of perfectly competitive markets.

¹² This may sound funny since we are talking about competition. But in fact, the competition involved in perfectly competitive markets is not competition in the usual sense. There are no losers, strictly speaking, in perfectly competitive markets as there are in imperfectly competitive markets. Imperfect competition often takes the character of a contest or tournament. Perfect competition involves people costlessly finding the most productive position suited to them. See Stiglitz (1994, 110).

The ideal is incomplete because it does not rule out the possibility that the satisfaction of individual preferences depends to some degree on differences of endowment, both external and internal. For the same reason, while there is universal robust opportunity, it is not equal opportunity. This is why the equality is only minimal. And there is little room for solidarity in such a system above and beyond the respect for property and exchange rights.

We see two possible effects of differential initial endowment in competitive markets. Assume that labor is homogeneous, that there is only one wage set for everyone, and that there are very many firms and very many laborers. The first possible effect is that, if all potential laborers have a higher initial endowment, then the supply curve of labor will shift to the left so that the intersection with the demand curve for labor will determine a higher wage but lower employment. The greater size of the initial endowment makes less employment a more desirable option. The equilibrium wage will shift as a consequence of the change in the aggregate supply of labor. Here we see that though the individual laborer is a price taker, the aggregate of laborers together can shift the wage higher or lower depending on the size of the initial endowments that workers in general have. When workers have very little in the way of initial endowment, their wages will be significantly less than when they have a large endowment on average (see Figure 1).

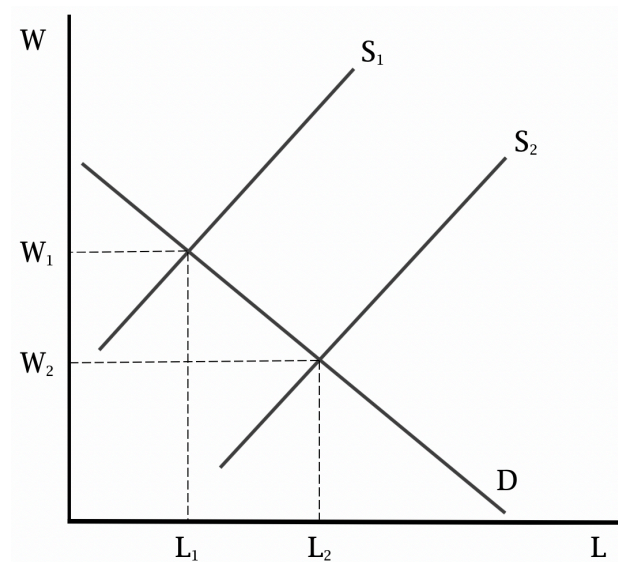


Figure 1. Effect of endowment on labor supply¹³

¹³ As workers acquire, in the aggregate, a greater endowment, the labor supply curve shifts to the left from S_2 to S_1 , increasing the wage (from W_2 to W_1) and decreasing the amount of labor (from L_2 to L_1). See Kaufman (2010, 436) for graph.

The second possible effect is that if an individual laborer has a higher endowment but others do not, this person will tend to work only for higher wages. If the equilibrium wage does not change, this person will work less hours (again, assuming labor is homogeneous). This is the effect of individuals being price takers. This person cannot produce a higher wage for himself but he can improve his situation.

We can see in these two situations, two different types of power concerning the ability of people to get what they want from a system of social cooperation. The individual worker in a competitive market is a price taker and so cannot determine the wage she will get. But if she has a greater endowment, she can choose to work more or less. She has greater capacity to get what she wants, though no power to get others to change their behavior, which in this simple model means no capacity to change the wage offered by the firm. In the instance where all workers are wealthier, each individual remains a price taker but there is a sense in which the collectivity of workers is a kind of price maker just as the collectivity of firms is. That is, they determine the aggregate labor supply curve; and the prices that are determined here will depend on the initial endowments of workers and firms. There is a competitive equilibrium wage, but that wage depends on the supply and demand for labor, which in turn depends on the endowments of those who are hiring labor and the endowments of those who sell their labor.

The standard economic conception of exploitation, which asserts that exploitation occurs to the extent that there is a difference between the competitive equilibrium wage and the actual wage, does not have a critical role to play in perfectly competitive markets.¹⁴ We may nevertheless think that there is something unfair or unjust about exchanges wherein workers come to competitive markets with very little endowments and the owners of firms come with great endowments.

The sense of unfairness can be explained by the democratic conception of exchange. We do not just have a prior distribution of goods among persons—that prior distribution makes a difference in what persons can do relative to others. The initial endowment has a power conferring role, and the distribution of endowments determines the distribution of power among the persons in the market. The workers

¹⁴ See Marshall ([1920] 2011, Book VI, Chapter 3). Also see Pigou (1938, 550) who, in addition, seeks to account for the cost to the worker of working in assessing the fairness of a wage. Wertheimer (1996) seems an expression of the basic neo-classical view of exploitation attributed to Marshall.

collectively exercise a kind of power that can alter the offered wage. And in the case of the individual price takers, a greater endowment enables them to shape aspects of their own lives more than a lesser endowment.

To be sure, the individual power in the perfectly competitive market is not bargaining power since it cannot affect the wage offer. But it is power nevertheless, which determines how people are able to live in the world and interact with others. Hence, the democratic conception illuminates the fairness of exchange in perfect markets and the limits of fairness in perfect markets.

VI.II. Imperfect Competition

I have shown how the democratic conception of fair exchange applies to perfect markets; I will now show how it applies to imperfect markets. In order to discuss imperfect competition, we need to refine the conception of equal capacity that led us to equal opportunity. The worry here can be expressed by means of the example above of a master and slave society. Suppose there is a society of masters and slaves in which each person has a real equal opportunity to become one or the other. Once you become one or the other, your prospects in life are set. The masters have a lot of power and the slaves have very little. We may think that there is something intuitively wrong about this kind of society because of the structure of the division of labor. This division of labor gives some a great deal of power while leaving very little for others. Even if everyone has an equal opportunity to become one or the other, the idea that this arrangement gives people equal power over their social lives is implausible.

It is important to note here that this is not a case in which inequality of power is merely the result of different people's choices. Given the structure of the division of labor described above, some people will have to become slaves regardless of their talents or their preferences. Even if everyone is equally talented and motivated, some will lose power. The inequality that arises in this case is unjust. To be sure, equality of opportunity can often be counted upon to break down this kind of inequality but there may be circumstances in which this inequality is fairly rigid, in the sense that the market may not provide a remedy for it. The democratic conception gives us strong reasons for remedying this injustice.

I contend that imperfect competition gives rise to this possibility. In some cases, even when everyone has an equal opportunity to enter into

any position in the hierarchy, some may acquire market power while others must accept it. I will illustrate the general reasoning with the example of monopsony. Persons who start out with the same endowments and opportunities may end up in a relation of monopsony in which some have market power and others must submit to that power. The case I have in mind involves two conditions not present in perfect markets: there is some degree of increasing returns to scale so that there is some tendency to concentration of productive activities in a small number of firms; and there are difficulties in the mobility of labor. From increasing returns to scale and low labor mobility, we get some degree of monopsony, which puts the buyer of labor in a position of market power relative to the laborer. For an extreme case, consider an area where only one firm employs all the labor. In this extreme case, the monopsonist is much like a monopolist with regard to buyers. The firm under monopsony competition sets wages. In this kind of circumstance, the wages offered by the firm to the workers are lower than the equilibrium wage under perfect competition and so lower than an efficient wage, and the level of employment is lower than the equilibrium level (Boeri and Van Ours 2013, Chapter 2). While the extreme case of monopsony is fairly rare, there are degrees of monopsony in which there is significant asymmetry between the workers' abilities to take other jobs and the firm's ability to take new workers.¹⁵ What is important here is that normally there is a clear asymmetry of power in determining the wage rate and working conditions.¹⁶ This division of labor can be rigid, perhaps because the managers see it as in their interests to retain a hard division between workers and managers—even in cases in which the overall product increases with more worker participation (Freeman and Lazear 1995, 29).

To the extent that there is some rigidity in this particular division of labor, the inequality of power that arises must be counted as a kind of illegitimate inequality. It ought to be remedied in accordance with the democratic conception.

¹⁵ For a fuller picture of monopsony and degrees of monopsony as well as the idea of dynamic monopsony, see Manning (2003).

¹⁶ This is probably the most commonly observed phenomenon about labor markets in both classical and neo-classical works. See Smith ([1776] 1982) and Marshall ([1920] 2011). This reference to unequal bargaining power in imperfect markets pervades contemporary discussions of imperfect labor markets. See also Kaufman (2010) for an in-depth discussion.

VII. INSTITUTIONS

I have articulated the democratic analogy between centralized decision making and decentralized decision making. I have articulated and defended the basic principle of fairness for decentralized decision making (by way of analogy with fairness in collective decision making). I have shown how the democratic conception illuminates the value of perfect competition and shows its limits. I have also shown how the democratic conception gives us insight into issues of fairness in imperfect markets. In this section, I will briefly lay out some institutional recommendations that are suggested by the democratic conception of markets. Each presents a way in which the society collectively shapes markets so as to establish equal power or to reestablish it when it is lost in the market. I should say that these recommendations are made primarily for purpose of illustration. They are not meant to be fully justified conclusions but demonstrations of how the democratic conception can be a fruitful source of institutional thinking.

There are three issues that need to be dealt with. One, the society must set the background conditions for fair interaction among persons in the market. Two, a society must set conditions in the workplace to remedy a problematic division of labor, such as when monopsony becomes prominent. Three, a society must set conditions in the workplace to remedy the failure to establish equality of opportunity in society.

I have three institutional devices in mind. First, there are institutional requirements of a society that provide *ex ante* equality of opportunity and equal cognitive conditions in a society that makes significant use of markets. Second, there are institutional mechanisms that regulate the relation of employer to employee. They are meant to equalize the distribution of power as a remedy for when the division of labor creates an illegitimately unequal distribution of power, or when there is inequality of opportunity in a society. Third, there are institutional mechanisms that are meant to enhance the voice of workers in the context of monopsonistic markets with rigidly hierarchical firms, or in the context of a market's failure to achieve equality of opportunity for a society.

The first set of recommendations involve the *ex ante* conditions for equal capacity. I include in this a system of public education that gives people an equal set of cognitive conditions for approaching the market

and for approaching their duties as citizens. I also have in mind a powerful welfare state that provides an unconditional basic income as well as universal health care insurance. In part, the welfare state institutions supply a kind of equality of initial endowments with which persons can face the market. In part, the welfare state institutions are a remedial response to imperfection in markets because imperfectly competitive markets are not capable of supplying insurance to worse off persons as a result of adverse selection and moral hazard. Notice here that the welfare state institutions are not merely conceived as satisfying needs, but also as enhancing the power of workers in perfect markets and the bargaining power of workers in imperfect markets, which are justified by the democratic conception. Thus, the democratic conception can provide guidance in determining what the shape of these institutions ought to be in a just society.

The second set of recommendations concern the regulation of the workplace. In the context of imperfect markets, some have greater bargaining power to determine the contents of the agreements they enter into with others as a result of different capacities for exit. In the context of monopsonistic labor markets, the remedies will involve rebalancing the distribution of power in the context of the workplace through workplace regulation. This diminishes the power of the employer, say, by regulation of workplace conditions, employment protection laws, and minimum wage. In each of these cases, the regulation diminishes the ability of the employer to bargain with the employee by limiting the options available to employers. Each of these can enhance the bargaining power of the workers in the workplace.¹⁷

The third set of recommendations involve giving voice to employees in the workplace. Collective bargaining and workplace democracy can be remedies for unequal power in the workplace, whether that unequal power derives from inequality of opportunity or from a rigid division of labor. This democratic conception of exchange suggests that a loss of power with respect to exit can be compensated for by means of a gain in power in voice. I will call this the *remedial principle*. The idea is that both the power of exit and the power of voice are powers that enable one to shape the social world one lives in. So, if a person has a very low and unjustly distributed power of exit and that power of exit cannot be improved for some reason, then one can enhance that person's ability to

¹⁷ See Beori and Van Ours (2013, 40-53) for minimum wage laws, and (291-303) for employment protection laws.

shape the social world they live in by giving them some kind of voice in the activities from which they have a diminished power to exit. If the two kinds of power are really of the same sort, then one should be able to remedy a deficit in one by increasing the amount of the other.

It is important to distinguish between global voice and local voice here. A person has a kind of global voice to the extent that they can participate in collective decision making with regard to the whole society they live in. This is the traditional avenue of democratic politics. A citizen in a democratic society has a voice in global decision making regarding the global properties of the society. Local voice is voice in some more particular cooperative activity in which one participates. Being on the governing board or being represented by someone on the board of a corporation gives one local voice over that small part of society that the board controls. Voice in a university department gives one local voice over elements of one's working environment and hiring. It is the enhancement of local voice, and not global voice, that is an appropriate initial remedy for the diminished power of exit in decentralized decision making. Local voice is what enhances a person's power to shape the local social world she lives in, which power is diminished by diminished power of exit.

So, to the extent that the employer-employee relation is one of monopsony and rigidly determined hierarchies in firms, or the distribution of exit power is an unjust one, the situation can be made more just by giving workers rights to participate in the running of the firm. This might be over working conditions, wages, and even investment decisions. By giving workers under these conditions a voice in the firm, their relative lack of power that derives from poor exit opportunities or market rigidity is remedied by an increase in the power of voice in the running of the firm. Another possible form of remedy along similar lines would be that the workers are organized as a union in which each worker has some kind of a say.¹⁸ This remedy combines the exit dimension with the voice dimension in an interesting and complicated way: it allows voice to substitute for exit when the latter is not available on an egalitarian basis.

This argument for workplace democracy, to the extent that there is one, is not a general argument. Workplace democracy is a remedy for a particular set of defects in markets and for a highly unequal distribution

¹⁸ See Freeman and Medoff (1984, Chapter 6), for the classic analysis of how unions improve voice.

of power. But there is continuity here. There are circumstances where employees have a great deal of bargaining power, even individually. They have a great deal of say by virtue of their bargaining power. Here workplace democracy is not a direct implication of the theory of fairness. And there are intermediate cases, conceivably, in which workers have a significant amount of bargaining power, but still a somewhat unjustly small amount of power. Fairness may require some lesser degree of participation in these contexts, though it may require some. Furthermore, there are other remedies available for realizing equal power, such as union organization, enhancement of the welfare state, and regulation of the employment relation. Sometimes these introduce greater equality of power than workplace democracy.

To conclude this discussion, the remedial recommendations that I have made are meant to promote democratic equality, but there may, in some cases, be losses of efficiency that must be traded-off against the gain in equality. I do not mean to claim that the democratic aspect of market exchange always has priority over other concerns. That said, it should be noted that there have been many studies arguing for the superior efficiency of some workplace participation and collective bargaining as well as employment regulations. These institutions can give much needed voice to workers in the context of imperfect competition with serious asymmetries of information.¹⁹ But these complex empirical issues are the subject of another paper.

VIII. CONCLUSION

I have argued that there is an important ideal of fairness in the process of market exchange in opposition to Heath's claim that fairness is not to be sought out in markets (2018, 4). This ideal is a procedural ideal that is analogous to the procedural ideal of political equality in democratic decision-making. I have argued that this ideal can be seen to be in play in the context of perfectly competitive and complete markets. And I have argued that it can be brought to bear on the more familiar incomplete markets. I concluded by showing how the principle of equal capacities can be brought to bear on the justification of institutions.

¹⁹ See Freeman and Medoff (1984) for the argument that unions generally improve the productivity of firms. And see Freeman and Lazear (1995) and Bowles and Gintis (1993) for discussions of the productivity of worker participation.

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On the Very Idea of an Efficient Wage

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Abstract: This paper argues that the standard characterisation of the equity-efficiency trade-off as set out in this symposium by Joe Heath overstates the tension between these two values. The reason lies in the fact that economists tend to take individual labour supply preferences as given, which leads to a superficial analysis of the concepts of reservation wage and of economic rent. The paper suggests that we should instead think of reservation wages as variable and as influenced by social norms. Social norms play a double role in this context. First, they represent a constitutive element of market competition; second, they can be a determinant of income inequalities. From this perspective, a certain share of high reservation wages sustained by contingent egalitarian social norms should count as economic rent. The last section of the paper strengthens this conclusion further by drawing a parallel between expensive tastes in consumption and a certain class of high reservation wages. To the extent that the latter are underpinned by social norms rather than efficiency considerations, not paying them is both just and efficient.

Keywords: efficiency, equity, equity-efficiency trade-off, reservation wage, economic rent, expensive taste

JEL Classification: D31, D61, D63, E24, H21, J22, J31

There are valuable human activities which require the motive of money-making and the environment of private wealth-ownership for their full fruition. [...] But it is not necessary for the stimulation of these activities [...] that the game should be played for such high stakes as at present. Much lower stakes will serve

AUTHOR'S NOTE: A previous version of this paper was presented at the workshop "From each according to their abilities, to each according to their needs", held at the Centre de recherche en éthique (CRE) in Montréal on June 7-8, 2018. Thank you to my commentator on this occasion, Katharina Nieswandt, as well as to Arash Abizadeh, François Claveau, Pablo Gilabert, Carol Gould, AJ Julius, Colin Macleod, Vida Panitch, Julie Rose, Lucas Stanczyk, Christine Strähle, Willem van der Deijl, Daniel Weinstock, and all other workshop participants for their helpful comments. David Piché ensured my Latin subheading was grammatically correct. In addition, I benefited from two very constructive referee reports and from feedback by the two editors of this special issue, Huub Brouwer and Tom Mulligan.

the purpose equally well, as soon as the players are accustomed to them.

— Keynes ([1936] 1953, 374)

When assessing the structure of wages paid to individuals in an economy, two considerations come to the fore. On the one hand, we want wages to be efficient in the sense that they contribute to an economy that maximises the satisfaction of preferences. On the other hand, we have the intuition that wages should be just, even though there is disagreement about the precise criterion of justice that should apply.

There is a widespread view, especially among economists, that there exists an important tension between these two desiderata. Joe Heath's paper—which is the focus of this symposium—presents a detailed and eloquent defense of this view. In short, it states that any attempts to render the wage structure more just will undermine the functioning of the price mechanism on the labour market. The role of this mechanism is “to channel labour to its best employment” (Heath 2018, 4). Faced with the trade-off between keeping the efficiency gains from wages set by the market *and* promoting a more just wage structure, economists tend to favour the former. Heath goes one step further and claims that it would be a misplaced form of “overreach” to ask the market for an outcome—“just” wages—that it is ill-equipped to produce (4).

This paper argues that this standard view of the equity-efficiency trade-off suffers from an important blind spot. At the source of this blind spot lies the fact that the standard view takes as given the labour supply preferences of economic agents. I shall argue that this is a mistake with two important consequences. First, it makes unjustified economic rents appear relatively small compared to a situation in which we take labour supply preferences to be a variable rather than a parameter of the analysis of wages. Second, this perspective leads us to overestimate the rigidity of the equity-efficiency trade-off. Put differently, recognising the variability of labour supply preferences entails the possibility of multiple labour market equilibria, some of which are more just than others.

The first section of the paper outlines the normative machinery required to evaluate market outcomes in general, and labour market outcomes in particular. With regard to the former task, the position defended here takes as given the consequentialist framework of the standard view (section 1.1). With regard to the latter, I argue for a distinction between economic rents and incentive payments as two

potential explanations of wage differentials (section 1.2). In section 2, I use this distinction to present an understanding of economic rents that is wider in scope than the standard economic account. Importantly, this requires including the labour supply preferences into our normative analysis of wages as a variable, rather than taking them as a parameter (section 2.1). Finally, I argue that the position defended in this paper is congruent with interpreting *some* labour supply preferences as instances of expensive tastes, thus undermining the legitimacy of the resulting wage inequalities (section 2.2). Section 3 concludes.

1. EVALUATING MARKET OUTCOMES

The market mechanism is one mode of social interaction among others. Contrary to its main alternative, where the state allocates resources to certain goods and services, and jobs to certain people, the market is based on the decentralised decisions of individuals.

How do we know whether the particular mode of social interaction we choose for a given context serves us well? We need to explicate the social objectives that it is meant to serve, analyse its effects on other social objectives, and then investigate whether it promotes the overall package of objectives better than other available modes of social interaction. As Amartya Sen puts it: “The moral standing of the market mechanism has to be related to its results and it is, thus, derivative and contingent” (1985, 17). Adopting this consequentialist framework, the section aims to set out an evaluative benchmark that can subsequently serve us to assess the performance of the market.

1.1. A Consequentialist Assessment of the Market

The list of justifications that have been presented in defense of the market mechanism is long (see Buchanan 1985). In the present context, we will focus on the efficiency-based justification of the market,¹ both because it represents the most prominent justification, and because it is directly relevant to the equity-efficiency trade-off (which is defended by Heath as the standard view).

Formulated in non-technical terms, a system is considered to be efficient if it “channel[s] labour to its best employment” (Heath 2018, 4), which is to say, if it allocates labour to the production of goods and

¹ Other prominent justifications of the market include approaches that appeal to its capacity to promote the liberty of individuals (for instance, Friedman 1962) or to its protection of fundamental individual rights (for instance, Nozick 1974).

services in a way that maximises the satisfaction of preferences. As this definition illustrates, the task of the concept of efficiency here is to establish a link between the allocation of productive resources on the one hand, and human well-being on the other.

It is important to note that efficiency thus understood is not a social objective in its own right, but rather a placeholder for the maximisation of the satisfaction of preferences (see LeGrand 1990, 561ff.). One might, of course, question why maximising the satisfaction of preferences should be regarded as a social objective worth pursuing; but, for the purposes of this paper, I shall take this as given. Note, also, that the *maximisation* of the satisfaction of preferences does not necessarily tell us anything about the distribution of well-being.² All that matters is aggregate well-being.

Now, even if we grant that the market serves efficiency in the sense of maximising the satisfaction of preferences well, for society this goal is only one among others. The other goal on this list that preoccupies us here is the promotion of social justice. While this paper does not endorse any particular theory of justice,³ I assume that any society will want to promote some notion of equity.⁴ Without asking of the market that it directly serve this notion of equity—that would indeed be a case of overreach—any impact the market might have on the promotion of this goal is clearly relevant to the overall assessment of our institutional arrangements, including the market. In this sense, and this is where I differ from Heath: the *distributive* outcomes of the market should be part and parcel of our consequentialist assessment of the market, even if our main reason for adopting the market is grounded in efficiency (see also Dietsch 2010).⁵ Formulated in Sen's terms, the *results* of the market by which we judge it should include several dimensions, including the two that preoccupy us here, namely efficiency and equity.

² If people's preferences include preferences about distribution, which is plausible, this statement does not hold. I thank Huub Brouwer for this clarification.

³ At least until the last section, where I endorse a responsibility-sensitive account of justice to make sense of the idea of high reservation wages as a form of expensive tastes.

⁴ Note that equity does not mean equality, but an account of what kinds and levels of inequality should be considered just *versus* unjust.

⁵ Think of the following analogy. When you go to the doctor about some ailment you have, you want them to take any side-effects of the drug they consider prescribing into consideration in the decision of whether to prescribe the drug or not. That is the case even if the motivation to consider the drug in the first place is concentrated on its capacity to address the ailment.

Before turning to a distinction more directly relevant to assessing the labour market, let me emphasise that everything said so far is compatible with another aspect of the standard view on the equity-efficiency trade-off. Heath cautions against any conception of a fair wage that applies at the transactional level (2018, 9ff.). The reason for his skepticism of transactional approaches is precisely that they would risk interference with the working of the price mechanism. However, Heath does recognise the possibility of a normative evaluation of wages “in terms of overall system performance” (10). In other words, we can compare institutional arrangements to one another in terms of how well they, taken as a whole, serve our social objectives such as efficiency and equity.⁶

1.2. Economic Rents Versus Incentive Payments

Turning to the more specific question of assessing the distributive effects of the labour market, it is important to distinguish two potential explanations for income differentials.

First, the talented often receive an income premium to incentivise them to put their talent to the use where it is most valued by society. An incentive payment can be defined as “that positive or negative amount, above or below its base rate, which puts a person into her particular job rather than into the job she would perform if all were paid the same” (Lamont 1997, 29). Whether incentive payments are justified or not lies at the heart of the debate between G.A. Cohen (2008) and John Rawls (1999). Cohen argues that incentive payments represent a violation of justice, especially under conditions where members of society are motivated by an egalitarian ethos. Even if this criticism holds, it is not clear whether it also applies to situations where the preferences of occupational choice of the talented do not match their socially efficient allocation (cf. Lamont 1997, 30). In short, even if the incentive payment to the talented person who wants to be a doctor anyway is unjustified, incentivising the talented person who would rather be a composer to become a doctor might still be justifiable.

However, the question of what constitutes an appropriate return to talent and thus might justify an incentive payment, while it has been one of the central issues in the literature on theories of distributive

⁶ For a critical discussion of such inter-systemic efficiency comparisons, see Buchanan (1985, 36ff.).

justice in recent decades, is *not* the one that will preoccupy us in this paper.⁷

Second, an “economic rent is earned by a factor input (e.g., capital, labour, etc.) when payment to that factor is in excess of the amount necessary to keep it in its current employment” (Lamont 1997, 28).⁸ If someone likes their job and would still do it even if their salary were lower, the difference between their actual wage and what is called their reservation wage—that is, the wage necessary to keep them in *this* job rather than switch to another—is called an economic rent.⁹ For economists, economic rents represent a good tax base, since removing them, by definition, will not have any distortionary effect on the labour supply of economic agents. From a normative perspective, it is also not clear why individuals should have a desert claim to an economic rent they earn.¹⁰

Before introducing a complication in our usual understanding of economic rents, a clarification is in order on the distinction between incentive payments and economic rents. Someone might point out that, in practice, it will often be difficult to disentangle the two phenomena: a particular wage might well contain elements of both economic rent and

⁷ Heath states that “[b]eing told that [one’s] talent, or perhaps the underlying aptitude, is arbitrary and unearned [...] [a]t the very least [...] is to make an extremely controversial claim” (2018, 21). This statement is ambiguous. While it seems uncontroversial that natural talents are morally arbitrary in the Rawlsian sense, it does not follow from this—as some post-Rawlsian liberal egalitarians have suggested—that the distribution of social advantages should be endowment-insensitive (see also Dietsch 2008b, 73-74). The latter claim is controversial. In addition, I disagree with Heath that his affirmation is sufficient to warrant the conclusion that “the entire question of natural ability or talent is simply orthogonal to the debate over whether the particular wage rate determined by competitive markets are justifiable” (2018, 21). The return to talent is one of the determinants of wage inequalities that a normative assessment of markets has to look at but, again, it is not the one I focus on in this paper.

⁸ This is not the only possible definition of economic rent. One broader conception of economic rent defines it relative to the benchmark of autarkic production (Dietsch 2008a; Van Parijs 1996, 170). Yet, this paper sticks to the standard definition, in part because it underpins the view of Heath that is under discussion.

⁹ Note that this definition of the reservation wage incorporates strategic considerations. As Van Parijs puts it in his helpful discussion of different conceptions of factor rent, “[t]he reservation pay (the pay required to attract the factor) can exceed the opportunity cost (and hence the pay required to compensate the factor owner for forgoing the next best option) because the factor owner can credibly threaten to withhold the factor” (1996, 171).

¹⁰ As Heath (2018, 18) rightly points out, Nozick’s famous Wilt Chamberlain example is misleading in that it suggests that Chamberlain’s income is a function of his talents rather than of the monopolistic structure of this particular labour market. See also Gauthier (1986, 274).

incentive payments.¹¹ This is certainly correct, but we are nonetheless in a position to clearly distinguish the two at a conceptual level. First, whereas removing an incentive payment will lead to a “drop in the social product”, because it makes the allocation of jobs less efficient, the “removal of economic rents usually causes no reduction in efficiency or the social product” (Lamont 1997, 29-30).¹² Second, economic rents can exist even when everyone’s talents are the same, whereas the notion of an incentive payment would be nonsensical in such circumstances because, as a society, we would have no preference about who occupies what social role.

The standard view on the equity-efficiency trade-off makes two points on the issue of economic rents. First, it holds that making the labour market more competitive is *sufficient* for eliminating, or at least significantly reducing, economic rents.¹³ Second, it tends to downplay economic rents as a secondary issue in the more general context of how wages are set.¹⁴

This paper argues that this treatment of economic rents is unsatisfactory, because it omits an important factor from the analysis. The source of this omission lies in too narrow an understanding of economic rent.

2. DE GUSTIBUS DISPUTANDUM *EST*

Economists tend to take the tastes and preferences of economic agents as given. While they themselves argue against this position in their classic article “De gustibus non est disputandum”, Stigler and Becker pithily summarise this widespread position when they state: “Tastes are the unchallengeable axioms of a man’s behaviour: he may properly

¹¹ On some understandings of economic rent, the two will be connected theoretically, too. See for instance Van Parijs (1996, 172ff.).

¹² Since Heath is concerned about the efficiency of labour allocation, he should therefore agree with removing economic rents.

¹³ See, for instance, Heath (2018, 21): “[W]hatever concerns there may be about the talented earning high salaries could be addressed simply by making the relevant labour markets more competitive”.

¹⁴ See Heath (2018, 18-19): “[T]his conversation, about whether it is acceptable for certain individuals to command large economic rent, is quite distinct from the general debate over the way that markets determine wages, and whether the economic inequalities that result are acceptable”. See also his remark about the discussion on wages getting “sidetracked” into a debate about economic rents (16).

(usefully) be criticized for inefficiency in satisfying his desires, but the desires themselves are *data*" (1977, 76).¹⁵

Preferences play a pivotal role not just in consumption theory, but also on the labour market. Among other things, the labour supply of individuals is shaped by a number of preferences including those on the work-leisure trade-off, the costliness of their consumption preferences and, importantly, individuals' motivation to participate in the labour market in the first place.

The central claim of this paper is that these preferences should *not* be taken as given, but should instead be brought into the purview of both our economic and our normative analysis of labour markets. Notably, I will inquire into the determinants or the origin of individual labour supply preferences. I shall argue that they are, at least in part, socially determined. If this is so, the next section suggests, this will require us to revise our understanding of the concept of economic rent. An important upshot of this argument will be that the trade-off between equity and efficiency is a lot less rigid than we assume when taking labour supply preferences as given. In other words, if labour supply preferences are somewhat malleable, a more equitable wage structure does not necessarily come at the cost of efficiency.

2.1. The Scope of the Notion of Economic Rent

What are the determinants of an individual's reservation wage and, thus, of what we consider the economic rent received by this individual? We can distinguish three such determinants—the first two of which have in common that they see economic rent as a return on scarcity (cf. Van Parijs 1996, 172).

First, both the wage and the reservation wage of an individual are determined by the (perceived) scarcity of her skills.¹⁶ The harder it is to replace the skills of a particular individual, the greater the bargaining power this individual commands, and thus the greater the economic rent or, at the extreme, the monopoly rent, she will receive. Note that what matters for determining wages is *perceived* rather than actual scarcity of skills.

Second, both the wage and the reservation wage of an individual are determined by the scarcity that arises due to structural features of the

¹⁵ Stigler and Becker themselves surmise that "tastes neither change capriciously nor differ importantly between people" (1977, 76).

¹⁶ One can conceive of skills as natural talents that have been trained into a marketable form.

labour market in which the individual works. As David Gauthier observes, we sometimes mistake scarcity due to market structure for scarcity of skills:

Wayne Gretzky's talents command factor rent because they are scarce, but their scarcity is not a characteristic inherent in his talents, but a function of the conditions of supply, and so of the relations between his talents and those of others, and a function also of the conditions of demand, and so of the relations between his talents and the interest of others in attending hockey games (Gauthier 1986, 274).

Consider some concrete examples for the “conditions of supply” and the “conditions of demand” that Gauthier refers to. On the supply side, barriers to entry to certain markets can create artificial constraints on supply. For instance, in many countries, access to the medical profession is regulated by medical associations, thus handing market power and economic rents to those inside the profession. On the demand side, so-called winner-take-all-markets create situations where small differences in skill among suppliers get amplified into big differences in revenue.¹⁷ Classic examples here are sports and music markets: for example, there are plenty of hockey players who are not that much worse than Wayne Gretzky, but whose salaries will be significantly lower.

All of the phenomena discussed in the previous paragraph are examples of market failures. It is hard to overestimate the pervasiveness of market failure in the labour market. Many labour market economists recognise this fact (e.g. Boeri and van Ours 2008), but its implications for the equity-efficiency trade-off are less regularly taken into account. In particular, contrary to Heath's claims (see footnotes 13 and 14), the inherent imperfections of the labour market suggest that economic rents are often not significantly reduced, let alone eliminated, by market forces alone. If this is true, then they should play more than just a peripheral role in the debate about income inequalities.

Third, and this is the determinant missing from Heath's account, wages and reservation wages are determined by social norms governing the remuneration of different roles in society (see e.g. Elster 1989;

¹⁷ Jobin (2018, chaps. 3 and 4) presents an insightful analysis of the normative implications of winner-take-all-markets.

Atkinson 1997, 310-311; Piketty and Saez 2003, 34).¹⁸ Social norms influence wage-setting in two ways.

First, note that even the first two determinants, that is, scarcity due to skills and market structure, are already infused with social norms. What makes a specific skill scarce and able to earn a high salary depends on the norms of the society in question. For example, it is a socially contingent fact of our society that we value the skill of throwing a ball through a hoop. It is easy to imagine a different human society in which that skill, though distributed in the same way as in our society, attracts a much lower wage. We can also imagine a third society with again the same distribution of skills that values basketball like ours does, but where members are not as preoccupied to see the *best* players in action; as a consequence, winner-take-all-markets do not take hold. If it is correct that any economic notion of scarcity is already infused with social norms, this will have important ramifications for the meaning of an *efficient* wage.¹⁹ It would mean that identifying an efficient wage independent of social norms is impossible. Any labour-market equilibrium we observe in practice will always be sustained by some set of social norms.²⁰

Second, social norms can perpetuate income inequalities that originate in scarcity due to skills or market-structure. Employers overestimate the skills premium certain individuals have over others; barriers to entry to an industry confer market power to insiders over outsiders; corporate executives exploit inadequate governance structures to get the board to grant them disproportionate pay packages; winner-take-all-markets concentrate market return among a few players; and so on. My claim is that, with time, these labour market imperfections acquire the status of social norms and entrench the inequalities in question. This claim looks like a version of the *ratchet effect*, that is, “an effect that occurs when a price or wage increases as a

¹⁸ Some readers will feel reminded of Cohen’s (2008) argument about the importance of a social ethos in sustaining a given distribution of income in society. There are indeed obvious parallels here. However, while Cohen’s argument is formulated in the context of a debate about incentives, the present paper focuses on economic rent (see the discussion in section 1.2).

¹⁹ I thank both an anonymous referee and François Claveau for pushing me to develop the argument along these lines.

²⁰ Thank you to the same anonymous referee for suggesting this formulation.

result of temporary pressure but fails to fall back when the pressure is removed” (Collins Dictionary, 2018).²¹

Importantly, instances of the ratchet effect are naturally concentrated at the top end of the wage distribution. Why? Because this is where, by definition, both bargaining power and market power are concentrated, and thus, are able to exploit the imperfections of the labour market in order to extract economic rent.

Presumably, Heath and perhaps some economists, too, will contest one central aspect of this analysis. They will claim that wage increases do not conform to the model of a ratchet effect because they *will* disappear due to increased competition.²²

In response, let me distinguish two versions of my claim. The first, strong version confronts the standard economic perspective head-on and argues that once social norms about wage inequalities are in place, more competition will not necessarily be sufficient to dismantle them. In other words, *pace* the economic perspective, this position claims that we are indeed faced with a ratchet effect where, even when the initial cause of the wage inequalities disappears, its effects persist. I believe there is something to this strong version of the claim, but I will not attempt to defend it in this paper.

Instead, I shall defend a more moderate version of the claim. As evident from the above definition, the ratchet effect is based on the idea that some cause triggers a wage increase for certain people, and that the wage increase persists even when the cause is no longer there. The moderate version of my claim diverges from the last part of this analysis: economists suggest that wage increases of the kind under scrutiny here are temporary and will disappear under competitive pressure. But what if this competitive pressure is insufficient? At the heart of the moderate claim is the idea that the weak competitive pressure of imperfectly competitive labour markets is insufficient to correct for the market failures of these very markets.²³ If it is a lack of competitive pressure on labour markets that gives rise to the wage

²¹ Economists have studied the ratchet effect extensively in the context of incentive contracts, see, for instance, Laffont and Tirole (1988).

²² See, for instance, the experimental findings of Charness, Kuhn, and Villeval (2011). It is worth establishing the link here to Heath’s discussion of the snow shovel example (2018, 22-27). Heath rightly points out that the higher price of snow shovels has a signalling effect and, by attracting more suppliers to the market and thus lowering the price again, will benefit both suppliers and customers. On the other hand, economists such as Boeri and van Ours (2008), who take seriously the imperfections of the labour market, are likely to be more sympathetic to my position.

²³ I should make it explicit that this claim is limited to *labour* markets.

inequality in the first place, whence the confidence in competition to solve the problem?²⁴

Of course, it would be absurd to suggest that there is no competitive pressure on labour markets or that it is never sufficient for undermining situations of inefficient rent-seeking. But these claims are not necessary to establish my argument. All that is needed is the claim that market failure in the labour market—under certain circumstances, but systematically—leads to long-lasting wage inequalities. Yet, further research is needed to understand what causes wage inequalities to persist, including the circumstances under which they occur. What this section offers is a rough-and-ready list of four considerations that likely form part of the explanation.

First, ever since John Maynard Keynes ([1936] 1953) drew our attention to the downward rigidity of wages, behavioural economics has added an analysis of elements of human psychology that are consistent with this downward rigidity; in particular the ‘endowment effect’ (Kahneman, Knetsch, and Thaler 1991), which is based on the observation that people attribute more negative value to losses of what they already possess than they attribute positive value to an equivalent gain. This phenomenon might explain why managers are reluctant to actually cut anyone’s wages for fear of a substantial negative impact on motivation. Second, even though Heath is right to point to the conceptual shortcomings of marginal productivity theory (2018, section III), the salary someone receives *de facto* is often perceived as an indicator of the contribution an individual makes to the organisation that pays them this salary. If this salary goes up, people will perceive them as harder to replace.²⁵ The circularity of this reasoning notwithstanding, it helps to translate the initial wage increase into a wage inequality sustained by social norms. Third, bargaining power breeds other forms of power. As an example, consider the weight of lobby groups from medical associations or groups of other high-earning professions in the political system. Initially, they use their bargaining power to acquire market power, for instance in the form of controlling access to the profession. This market power subsequently spills over into other forms of social power, which then contribute to reinforce the

²⁴ Moreover, it follows from what I have said about the first way in which social norms influence wage-setting that competition itself is governed by social norms. In that case, appealing to competition as a corrective force independent of social norms is not possible. I thank an anonymous referee for pointing this out.

²⁵ Note that the question of whether this perception is justified is a different issue.

social norm sustaining the wage inequality. Fourth, more generally, the vested interests of powerful groups in society tend to generate ideologies designed to legitimate and protect their interests. Such ideologies represent an important subcategory of social norms about wage inequalities and can contribute to explaining their robustness.²⁶

In sum, I have argued that social norms influence wage-setting in two ways. First, scarcity due to skills and market structure is already contingent on social norms; second, social norms sometimes represent an independent determinant of wage inequalities. If these claims are correct, what are their normative implications?

Let me focus on two points here. First, if the above analysis is sound, it introduces an ambiguity into the notion of the reservation wage and, by extension, into the measurement of what counts as economic rent. If my argument about the role of social norms is valid, then one's reservation wage is *contingent* on social norms. In other words, the wage necessary to keep me in my current employment is not fixed, but varies with the social norms governing the remuneration of economic activities in my society. Though my skills are the same, my reservation wage will likely be lower in a society in which people in comparable jobs earn less.²⁷

Against this background, imagine two societies—one with a more egalitarian set of social norms about remuneration, S_e , and one with a more inegalitarian set of norms, S_i . The reservation wages (RW_e) of the high earners in S_e will be lower than the reservation wages (RW_i) of their counterparts in S_i , without a loss of efficiency. The claim of this paper is that the difference between the reservation wages RW_i and RW_e should be considered an economic rent. After all, when looking at S_i , society *could* be arranged differently, building on a different set of social

²⁶ Thanks to Colin Macleod for alerting me to this point.

²⁷ Some parts of the economic discipline—decision theory is the obvious exception here—have been reluctant to make conceptual room for the influence of other people's behaviour on our own. Consumption theory is one illustration of this point. Consumption theory usually stipulates that the satisfaction we derive from a good or service is something that is determined by the relation between us and the good or service alone. Some attempts have been made in the history of economic thought to fill this lacuna, but they have fallen by the wayside, presumably in part because they are hard to formalise. Consider, for example, Irving Fisher's (1892) idea that the utility we derive from the consumption of a good is in part a function of what quantity of this good is consumed by others; an idea that also underpins Thorstein Veblen's (1899) notion of conspicuous consumption. A parallel point can be made here in the context of production theory. Our social reservation wage is partly determined by the labour supply preferences of others.

norms, without this arrangement being less efficient at allocating human resources to their best employment.

As a real-world example, think of the difference in wage dispersion between the Scandinavian countries, on the one hand, and the United States or the United Kingdom, on the other (e.g. Herr and Ruoff 2014). Or, think of the intertemporal differences in wage dispersion in the United States, contrasting the 1960s to now. Arguably, none of these different socio-economic arrangements are more or less efficient than the other, but they rest on different sets of social norms about remuneration.

The standard economic account does not have the analytical tools to allow for this variability in reservation wages. From the standard perspective, RW_i is regarded as a *parameter* of the analysis. Granted, the standard perspective is right to claim that high-earners in S_i are likely to reduce their labour-supply in the short-term if their wage falls below RW_i .

However, there is no reason why they could not *adapt* to a different set of social norms over time and adjust their labour supply preferences to coincide with RW_e . This is what I take to be the core claim of Keynes's quote cited in the introduction of the paper: the capitalist game "could be played" with "much lower stakes" than at present without compromising efficiency ([1936] 1953, 374). From this perspective, we may interpret the difference between RW_i and RW_e as contributing to economic rent, thus leaving us with a bigger economic rent.

In other words, it would be short-sighted to regard the reservation wage as fixed at RW_i and treat it as a *parameter* of our analysis, because this obscures from view the fact that there are *equally efficient* wage distributions available below this level. What stands in our way to attain any of these distributions are social norms rather than efficiency considerations. It would be preferable to treat the reservation wage as a *variable* instead. Doing so reduces the rigidity of the equity-efficiency trade-off, because it makes vivid the fact that, while lowering someone's wage below RW_i might change their labour supply in the short-term, it is in principle compatible with efficiency considerations based on scarcity, and thus, compatible with an unchanged labour supply in the long term.

This leads me to the second point. Heath indicates that when he refers to 'market wages', he means "the general tendency of markets to push wages toward the level at which supply of labour is equal to the demand of labour in a competitive market, and the price that this

implies” (2018, 8). My analysis calls for one contextualisation and one amendment to this statement. Concerning the context, I have already emphasised that real world labour markets suffer from considerable imperfections. Concerning the amendment, my account shows that, in such circumstances, RW_i and RW_e come apart and that the level of wages considered efficient by the standard economic perspective (RW_i) in fact is one that is sustained by social norms. *If this is correct, several things follow:*

First, imperfectly competitive labour markets do not converge on one efficient market equilibrium. Instead, there is a whole range of possible equilibrium wage levels.

Second, the case can be made that the equilibrium of the real world labour market is sustained by inegalitarian norms about remuneration. It would be a mistake to interpret departures from it as necessarily undermining efficiency.

Third, the equity-efficiency trade-off emerges from the above analysis as less of a constraint. To be sure, it still functions as a constraint, i.e. there is some level of reservation wages, below which we cannot lower the wages of high earners without compromising efficiency (this paper does not claim to identify this level). However, there is room for manoeuvre between RW_i and that level. Thus, promoting what we consider to be just wage levels is more compatible with the demands of efficiency than the standard economic view suggests. This is the crucial difference between my paper and Heath’s position.

What is more, and this is the fourth and final point, it is not just that efficiency and equity are compatible but, where RW_i and RW_e come apart, they in fact lead to the same policy recommendation. The equilibrium of actual, imperfectly competitive labour markets is not only unjust, but it is also inefficient in an important sense. The social norms that sustain it allow some members of society to extract economic rent, something that economists rightly condemn.

2.2. Labour Supply Preferences as an Instance of Expensive Taste

My aim in this final section is to return to the argument that individuals’ reservation wages and their labour supply preferences are just that: preferences. I will make the case that if someone has a reservation wage above RW_e , it should be considered an expensive taste. This argument requires two steps. First, I shall draw a parallel between expensive tastes in consumption and expensive tastes in production. Second, I shall

argue that interpreting labour supply preferences with a high reservation wage as expensive tastes strengthens the case presented in the previous section, namely that justice requires pushing people's wages closer to RW_e .

One of the main objections against equality of welfare as a theory of distributive justice is the expensive taste argument (Dworkin 1981). If someone has very expensive preferences, say, they need rivers of champagne and tons of caviar to be happy, then it would be unjust towards other members of society with less expensive tastes to allocate more resources to this person. The underlying idea here is that tastes are a matter of choice, and that we should be held responsible for our choices. Put in economic terms, if I have an expensive taste, I should pay for the opportunity cost that satisfying this preference imposes on others. Champagne is expensive because there is lots of demand and limited supply. Consuming a bottle of this limited supply comes at a high price because it deprives others of the opportunity of consuming that bottle.

Note that we will hold the individual responsible for their taste for champagne even if their preference for champagne is socially conditioned. In other words, even if the reason that my happiness is contingent on champagne consumption lies in the fact that everyone in my social reference group drinks a lot of bubbly, we still in most cases consider that it is my choice to follow this trend and that I could have done otherwise.²⁸

Now, consider the parallel between consumption preferences and labour supply preferences. Just as we want to hold the consumer responsible for their expensive tastes, we want to hold the producer responsible for their high reservation wage. In fact, there plausibly exists a connexion between the two kinds of expensive preferences, in the sense that people with expensive consumption tastes will need a high income to satisfy them. In this sense, high reservation wages can be seen as at least partly derivative of expensive consumption tastes. So, what exactly does it entail to hold someone responsible for their high reservation wage?

It means that if someone requires a high wage to get them to perform a task in society, this is a mere preference and, as society, we

²⁸ Potential exceptions to this rule are what Dworkin calls "cravings" (1981, 302) that should plausibly be considered as falling on the other side of the choice-circumstance divide.

have no obligation of justice to satisfy this preference. We should not pay them this high a wage. If this strikes you as a strange way to think in a market context, I should hasten to add two potential caveats: to the extent that we consider wages as a return on scarce talent or skill, we may well consider it just to pay someone a higher wage. Similarly, to the extent that we consider incentive payments justified as a way to coax individuals into using their talents in certain socially useful ways, we may again consider it just to pay someone a higher wage. Recall from section 1.2 that I want to stay agnostic on this last issue in this paper.

However, we do not need to delve into these controversial issues to make the central point here. As the previous section has argued, there are wages on imperfectly competitive markets that exceed returns to scarcity due to skills or market structure—namely those that exceed RW_e . If we focus the application of the expensive taste logic to this class of wages, then holding people responsible for their expensive labour supply preference, that is, not paying them this high a wage, is entirely compatible with the demands of efficiency as understood as a return to scarcity.

Just as on the consumption side, it does not matter whether my reservation wage is socially conditioned or not. In other words, the above logic applies even if I have a high reservation wage just because my peers do.

In sum, the argument in this short section suggests that it is time to extend our application of the logic of the expensive taste argument from the consumption context to the production context. Just like my expensive taste for champagne is not a reason to make more resources available to me for consumption, so my high reservation wage above the level required by economic efficiency is not a reason to pay me a higher wage. This analysis corroborates the conclusion of section 2.1, that pushing wages down to RW_e , and challenging the social norms that support wages above this level, is not only a demand of justice compatible with efficiency but is actually required by efficiency, too.

3. CONCLUSION

Contra Joe Heath's paper at the heart of this symposium, I have argued for a less rigid version of the equity-efficiency trade-off. Up to a point, we *can* promote a more just distribution of wages without undermining the efficiency of the price mechanism.

The usual way of framing the equity-efficiency trade-off in economics is not sophisticated enough in its treatment of individual labour supply preferences. Taking these preferences as given, it fails to account for the potential variability of reservation wages. To make this point tangible, I have distinguished between two societies, S_i and S_e , which are characterized (respectively) by inequalitarian and egalitarian social norms about remuneration.

I have argued that the difference between them should be included in our notion of economic rent. Reducing the wages of those privileged members of society for whom this economic rent is substantial, either by compressing pre-tax incomes or by taxing them, is not only compatible with considerations of efficiency, it is even required by them.

The final section of the paper has added an additional reason to think that wage premia above egalitarian reservation wages RW_e are unjust. They are parallel in nature to expensive tastes in consumption. If we want to be consistent across the consumption and production sectors of our economy, then we should treat reservation wages in excess of RW_e as expensive tastes and refuse to pay them.

The position defended in this paper entails that equity and efficiency are more compatible than we tend to think. It agrees with economists about the importance of letting the price mechanism do its work in allocating resources in society efficiently. Where my analysis differs is in highlighting, as many labour market economists do, that real world labour markets are not only governed by efficiency but also by social norms. To the extent that income differentials that we consider unjust are underpinned by the latter, eliminating this injustice does not come at a cost in terms of efficiency. On the contrary, it is even required by it.

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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

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 CO₂ 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 market 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 as 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 *redistributing* 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

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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Is the Market Wage the Just Wage? A Reassessment of Factor Pricing and Distributive Justice

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Abstract: Do markets generate a ‘just’ wage? The answer to this question will depend upon the particular theory of the market that the political economist employs. By comparing actual labor markets with the neoclassical theory of competitive equilibrium as its normative benchmark, Joseph Heath (2018) argues that factor pricing is orthogonal to normative issues such as distributive justice. We argue that Heath’s conclusion, though not invalid, is misplaced since it is directed towards a *model* of the market rather than the market itself. Though, indeed, classical political economists and early neoclassical economists failed to deliver an *explicit* theory of distributive justice, what Heath overlooks is that implicit to their understanding of the market process was an *institutional theory of distributive justice*. On the basis of this theory, we evaluate distributive justice on the degree to which institutions generate the conditions necessary for individuals to realize and increase their marginal product of labor. By arguing in terms of an equilibrium, Heath fails to consider the more relevant question of a *comparative institutional nature*, which is to understand under which institutional conditions a just wage can be *discovered*. Therefore, Heath evaluates factor pricing without accounting for the institutional conditions from which factor prices emerge in the first place.

Keywords: income distribution, institutions, Joseph Heath, marginal productivity theory

JEL Classification: B1, D33, D41, P51

AUTHORS’ NOTE: The authors would like to thank the referees for their helpful comments and feedback on an earlier draft of this paper. Any remaining errors are entirely their own.

I. INTRODUCTION

What are the normative implications of positive economic science regarding the justice of factor pricing in labor markets? About this question, Joseph Heath (2018) asks: are markets able to deliver a just wage? For philosophers, economists, and social theorists in general, the analysis of social phenomena is never about a choice between utilizing theory and not utilizing theory as a tool to understanding the real world. Because all facts are theory-laden, the relevant question is whether or not the social theorist is utilizing an articulated and defended theory or an unarticulated and non-defended theory (Popper 1972). Therefore, the answer to any empirical question will depend upon the particular theory of the market that the political economist employs.

Heath argues that factor pricing in markets is orthogonal to normative issues such as distributive justice. “My central contention”, Heath states, “will be that markets are structurally unable to deliver ‘just’ wages, according to any everyday-moral understanding of what justice requires in cooperative interactions—and so we should stop trying to either defend or criticize them in those terms” (4). He continues: “Left to its own devices, there is no reason to think that the labour market will tend to produce wages that are ‘fair’ or ‘just’. And to the extent that we do allow market forces free reign in this domain, it is not because we consider the outcomes to be satisfactory from the standpoint of distributive justice, it is that we regard them as desirable from the standpoint of efficiency” (27-28). Implicit in Heath’s argument is a theory of markets defined in terms of equilibrium outcomes, not in terms of processes of adjustment towards equilibrium.

Based on this implicit theoretical paradigm, we argue that Heath’s conclusion, though not invalid, takes for granted the institutional prerequisites that allow factor pricing to emerge in the first place. It would indeed be fair to say that classical political economists and early neoclassical economists had failed to deliver an *explicit* theory of distributive justice. However, what Heath overlooks is that, implicit in the understanding of the market process by economists, from Adam Smith to Carl Menger to Alfred Marshall, was an *institutional theory of distributive justice*,¹ based upon private property and freedom of

¹ Our claim here is not that every single classical political economist or early neoclassical economist adhered to the institutional theory of justice that we explain in this paper. Among the classical economists, Menger writes that the “labor-friendly attitude appears least in Robert Malthus, the representative among the classical economists of agrarian interests” (Menger [1891] 2016, 477); a notable exception

contract under the rule of law. Their commitment to the institutional justice of the market economy stems from the belief that the market channels competitive behavior away from negative-sum games in the distribution of wealth into positive-sum games that generate an ever-growing pie of wealth for the market process to distribute. More importantly, they believed that the violation of these institutional arrangements, particularly of the rule of law, was an injustice precisely because violations of the rule of law *increased* income inequality at the expense of the poor and least advantaged in society. By granting special monopoly privileges to interest groups that protect them from market competition, it also places legal handicaps on the least advantaged in society by excluding them from participating in the gains from productive specialization and social cooperation under the division of labor. The outcome of such injustice is an increase in income inequality and a failure of laborers to realize, as well as increase, their marginal productivity through productive specialization under the division of labor. This argument, unfortunately, became overshadowed by an equilibrium-focused analysis of markets beginning in the first half of the 20th century. Therefore, Heath's argument is misplaced, since it compares real-world labor markets with a perfect model of the market. The more relevant comparison is one of a *comparative institutional nature*.

Our assessment of Heath's argument is not meant to be a particular indictment or critique of Heath *per se*. Rather, we utilize his argument as representative of a broader issue that emerged in the intellectual history of price theory in the 20th century—that is, the adoption and use of a perfectly competitive equilibrium as a normative benchmark to assess real-world markets. Heath's conclusion that markets are unable to deliver just wages does indeed follow from analyzing markets in

among early neoclassicals would be Oskar Lange and Abba Lerner, who used the tools of neoclassical marginal analysis to develop the model of market socialism. Though dissecting and analyzing the degree to which each would agree with our claim would indeed be a worthy pursuit, this is beyond the scope of our paper. Our point is merely to introduce the notion that among classical political economists and early neoclassicals, a concern for distributive justice was not completely absent. Moreover, our claim is meant to draw attention to the overlooked notion that classical economists, as well as early neoclassicals generally studied markets as processes under alternative institutional arrangements, not in terms of equilibrium states, the latter implied by Heath (see Machovec 1995). Thus, from their positive analysis of markets, it would not be unfair to claim that classical political economists and early neoclassical economists, including Hayek, were able to draw the normative implications of market processes under alternative institutional arrangements, particularly with regards to distributive justice.

terms of efficiency. Efficiency refers to a market outcome in which all the gains from trade and innovation have been exhausted, but in a market that is efficient, institutions—such as private property and freedom of contract under the rule of law—become irrelevant. As such, we use his argument as a foil with which to critically examine what happens to the analysis of markets when institutions are pushed out of focus. Heath's argument and ultimate conclusion that the market wage is not a just wage is emblematic of how analysis in terms of static equilibrium distracts us from the important elements of evaluating market performance, namely, the role of institutions.

Therefore, Heath's utilization of this static criterion of efficiency overlooks some more important questions: (1) What are the institutional conditions that generate a tendency towards an efficient outcome in the first place; and during this *process*, (2) how can such a tendency (which generates factor prices and shares of income) be consistent with delivering distributive justice? By conceiving public policy regarding income distribution, factor pricing, and just wages in terms of dynamic processes of adjustment, we can see that the relevant question of just wages is not about particular distributive outcomes, but about particular sets of comparative institutions that engender, or mitigate, just patterns of income distribution through factor pricing, including wages.

II. DISTRIBUTIVE JUSTICE AND THE MARKET PROCESS: FROM SMITH TO MARSHALL

Given that Heath takes modern neoclassical price theory as his theoretical standpoint to assess whether market wages are just wages, it is important to first understand how and why the particular theoretical paradigm of equilibrium analysis in economics first emerged. In his assessment of classical political economy, James Buchanan (1991) argues that the doctrines of Adam Smith and his followers had delivered an explicit theoretical system and a guide for public policy that both promised and delivered the simultaneous achievement of individual autonomy, generalized material prosperity, and peaceful social cooperation.

It is important to note here, however, that economists, such as Adam Smith, Carl Menger, and Alfred Marshall, were indeed defenders of the market economy, but were not advocating a public policy conclusion *per se*; rather, their public policy conclusions were a by-product of a particular understanding of economic science. That is, the classical

understanding of the market process was a dynamic process of adjustment, in which factor prices serve as guides to exchange and production. Guided by market prices, entrepreneurs *discover* the most valued uses of land, labor, and capital and in doing so, generate an equalizing *tendency* in factor pricing through arbitrage opportunities—known as the ‘Law of One Price,’ or Stanley Jevon’s ‘Law of Indifference’ (Jevons [1871] 1965). This allocative discovery process generates patterns of income distribution as an unintended result of the pursuit of profits and the avoidance of losses by entrepreneurs. Indeed, it is “the alert business man” that must deploy his judgment to push investments in an equilibrating direction (Marshall [1920] 2013, 298). The presence of entrepreneurial profits, in turn, engender market processes that also generate a *tendency* to attract entry by competing entrepreneurs, which not only erode monopoly power, but also erode profits down to zero, thus generating a *tendency* towards an equalization of returns between all factors of production, such as land, labor, capital, and entrepreneurship.²

“Uncertainty and entrepreneurship,” Machovec states, “were central to the classicals’ understanding of the market process—a centrality that is irreconcilable with the equilibrium vision that succeeded it” (1995, 158). Before the mid-20th century, the notion of market efficiency, which had come to imply the neoclassical notion of a static equilibrium of ‘given’ resources according to ‘given’ technology and consumer preferences, was irrelevant, since the theoretical emphasis was to demonstrate the very process by which these “givens” come to be ‘known’ by decentralized decision makers. Therefore, the neoclassical standpoint of efficiency really begs the important question. Moreover, Adam Smith’s theory of the invisible hand was an *institutionally-contingent theory*. The notion that individuals acting independently in the pursuit of their goals will generate unintended outcomes consistent with individual liberty, peace, and economic prosperity only occurred within a context of private property and freedom of contract under the rule of law. Although classical liberal political economists had demonstrated the effectiveness of a ‘system of natural liberty’ to generate peace and economic prosperity, it had failed to deliver a convincing argument regarding distributive justice to critics of the

² Boettke and Candela have argued that legal institutions are a ‘fifth factor of production’ (2014), which structures the payoffs of entrepreneurs in organizing land, labor, and capital towards productive or unproductive purposes, and therefore guides expectations about the organization of production.

market process (Buchanan 1991). “In their explanations of the workings of a competitive economy the most striking deficiency of the classical economists,” Stigler argues, “was their failure to work out the theory of the effects of competition on the distribution of income” (1957, 5).

However, this vulnerability in explicitly accounting for distributive justice was not due to any lack of concern for the poor or for income inequality. Indeed, Adam Smith critiqued the mercantilist policies of his time for *perpetuating* income inequality, since the use of political discretion in granting monopoly privileges would unintentionally generate invisible-hand processes that benefit politically-connected producers at the expense of the poorest and least advantaged in society. “The patrimony of a poor man lies in the strength and dexterity of his hands,” Smith states, “and to hinder him from employing this strength and dexterity in what manner he thinks proper without injury to his neighbour, is a plain violation of this most sacred property”, namely property in his own labor (Smith [1776] 1981, 138).

Understood this way, Smith, the classical economists, and the early neoclassical economists, had developed an implicit theory regarding the market’s ability to deliver distributive justice. However, this *institutional* theory later became overshadowed by critiques about the injustice of the market due to exploitation, monopoly power, external effects, public goods, and macroeconomic instability due to speculative behavior. But for our purposes, the critical question was not the inefficiency of the market *per se*, but the injustice of the market in terms of distributive justice. Workers lack bargaining power, and thus their wages would be bid down to subsistence levels, while the monopolist-capitalist would accrue profits and amass wealth. This is basically the argument of the critics of the ‘Gilded Age’, and it was not limited to Marxist critics of capitalism. It was an argument that was accepted across the intelligentsia in Europe and the United States, even among the most well-trained economic thinkers of the age. As James Buchanan highlighted, though classical political economists were able to demonstrate the complementarity of peace, prosperity, and individual liberty with a market economy, their demonstration implied nothing directly about the *distributive justice* of the market, or more specifically, whether market wages paid to laborers are indeed just wages.

However, to claim that the classical political economists and early neoclassical economists said nothing directly about distributive justice does not mean they had not *implicitly* made a case for economic justice

in terms of institutions and factor pricing. From the standpoint of efficiency, Heath argues that there exists an inequality-efficiency trade-off, but to attribute this same trade-off to Smith would misconstrue his understanding of markets and their normative implications. There can be no question for economists, from Smith to Marshall, whether less inequality was a desirable goal. As George Stigler has written elsewhere, economists since Adam Smith “have always been opposed to inequality of income” as a policy objective (1949, 1). And indeed, the tendency towards greater efficiency in the market process *complemented* the objective of greater income equality. Consider the following quote from Adam Smith:

The policy of Europe occasions a very important inequality in the whole of the advantages and disadvantages of the different employments of labour and stock, by restraining the competition in some employments to a smaller number than might otherwise be disposed to enter into them. The exclusive privileges of corporations are the principal means it makes use of for this purpose. The exclusive privilege of an incorporated trade necessarily restrains the competition, in the town where it is established, to those who are free of the trade. ([1776] 1981, 135)

Carl Menger reinforces this point by Adam Smith, and classical political economy in general, by arguing the following:

In every conflict of interest between the rich and the poor, the strong and the weak, Smith sides *without exception* with the latter. I use the term “without exception” with proper consideration, as one cannot find one single instance in the works of Smith in which he represents the interests of the rich and the powerful against the poor and the weak. Smith fights against the industrial policy of the mercantile system because it favors the industries of the rich while neglecting and oppressing those branches of industry which guarantee the sustenance of the poor and the weak. He demands free mobility because its limitation hurts labor much more than capital, as the rich merchant can obtain the right to settle down anywhere much easier than the poor craftsman. He is against the regulation of the so-called legal settlement laws, because they primarily hurt the poor and violate natural liberty and justice when expelling someone from a parish who has chosen the very place as his residence; he favors high wages, in which he sees both an imperative of humanity and of prudence. ([1891] 2016, 475-476, emphasis in original)

Likewise, Alfred Marshall states:

Any diminution of [the inequalities of wealth] which can be attained by means that would not sap the springs of free initiative and strength of character, and would not therefore materially check the growth of the national dividend, would seem to be a clear social gain. ([1920] 2013, 594)

The relevant question, then, is what are the most effective means to reduce income inequality *and* generate economic prosperity? For economists from Smith to Menger to Marshall, free markets, properly understood as an institutional framework of *private property and freedom of contract under the rule of law*, was the most effective means for eliminating income inequality and generating economic wealth. This entailed the elimination of legal barriers to entry and monopoly privileges which perpetuate income inequality and impede the discovery of profit opportunities that otherwise would generate productivity gains among the least advantaged in society.

III. PRICE THEORY, DISTRIBUTIVE JUSTICE, AND THE JUST WAGE

Can we then conclude from economic theory that markets are unable to deliver just wages? According to Heath, this is the case, but this answer follows from a particular understanding of the allocative functions of prices. As Heath argues, wages are synonymous with the price of labor, but it does not necessarily follow that prices “can be understood as simply a quantitative ‘score’ assigned to a particular use of a resource” (2018, 5). Such a definition can be highly misleading, and therefore requires unpacking.

Wages, like any price, are an exchange ratio, i.e. the terms in which two goods are exchanged. In a market economy, such prices are denominated in terms of money, such that individuals exchange labor services for monetary payment of such services. The institutional prerequisite for exchange, however, are well-enforced and well-defined property rights in the factors of production. Without the ability to exchange, factor prices will never emerge in the marketplace. Therefore, prices are a necessary, though not a sufficient, condition for a just pattern of income distribution.

Unfortunately, this understanding of markets in terms of processes of price formation became eclipsed by an emerging neoclassical paradigm in the early 20th century. As a result, the earlier understanding

of prices as guides to production within an institutional framework of private property and freedom of contract under the rule of law transformed into a neoclassical understanding of prices as *sufficient statistics*, one in which factor prices reflect equilibrium valuations. Specific to labor markets, what this implies is that wages reflect the full opportunity cost of individual's labor services, since under conditions of equilibrium, perfect information regarding the distribution of income is completely given. Heath's understanding of prices as a 'score' corresponds to the notion that prices are *sufficient statistics* for allocation problems, but this is a misrepresentation of market prices, one which can have misleading public policy implications regarding income distribution and central planning.

Let us take, for example, how the early neoclassicals confronted criticisms of unjust income distribution under capitalism. Under the assumption that factor prices under equilibrium reflect the full opportunity cost in their next-best alternative use, early neoclassical economists, such as John Bates Clark (1899) and Phillip Wicksteed (1894), defended the justice of income distribution through the market mechanism. Justice according to the early neoclassical economists was defined in terms of market outcomes that approximate the marginal valuation of the productive contribution of each factor of production, based upon the application of Euler's theorem to the distribution of income.

In terms of the economic distribution of wealth, Euler's theorem states that, under the assumption of constant returns to scale, the separate marginal value products of each factor of production will exhaust the total value of output. Therefore, incomes generated in the marketplace will approximate that which would prevail under conditions of equilibrium. The exhaustion of payments from total output to factors of production had both positive and normative implications. Positively speaking, Euler's theorem illustrated mathematically that the share of total output accrued to owners of capital is derived from its marginal contribution to output. Normatively speaking, this implies that the redistribution of income is unjustified, since the income paid to capitalists is not a result of exploitation or theft of labor income.

Indeed, Heath acknowledges several problems with neoclassical theory. As he argues, "'marginal productivity' does not mean what many people think it means, and certainly does not correspond to any plausible conception of 'how much a worker produces'" (2018, 14).

Therefore, we should conclude that “the ‘marginal product’ of labour is a hypothetical construct, one that does not exactly correspond to any of our intuitive ideas about what an individual can be said to have contributed” (12).

That each factor of production is paid according to its marginal product under equilibrium conditions is indeed a hypothetical construct. The purpose of such a hypothetical construct is to contrast such equilibrium conditions with the sequence of processes that are generated and the institutions necessary to *discover* what share of total product a laborer has contributed. The purpose of equilibrium logic is to provide the economist a disciplining device and act as a foil, which is “supposed to shed light upon the real world by method of contrast” (Cowen and Fink 1985, 866; see also Boettke 1997). For example, in a world in which all data is frozen, the induced variables of the market (prices, profit/loss, and resource ownership) would dovetail perfectly with the underlying variables of the market (tastes, technology, and resource availability). In such a case, institutions are irrelevant since uncertainty regarding factor pricing would not exist. Therefore, analyzing equilibrium as a method of contrast, or a foil, helps to shed light on the institutions and the equilibrating tendencies that emerge as a by-product of such institutional incentives. Economic theory is a science of tendencies and directions, not a science of exact point prediction.

However, Heath goes on to point out a problem with marginal productivity theory by stating that “once two or more individuals begin to work together cooperatively, it becomes increasingly difficult to determine how much each person has contributed, especially if the forms of labour involved are heterogeneous” (2018, 10). Therefore, “everyday notions of what each individual has ‘contributed’ to the production process begin to fail us” (10). However, this statement does not demonstrate why markets cannot deliver a just wage. It would be more precise to say that Heath has only demonstrated a failure of a particular model of the market, analyzed in terms of equilibrium, to explain the process by which just wages are discovered and paid to laborers. This is because the “problem of economic organization, the economical means of metering productivity and rewards, *is not confronted directly in the classical analysis of production and distribution*. Instead, that analysis tends to assume sufficiently economic

or zero cost means, as if productivity automatically created its reward” (Alchian and Demsetz 1972, 778, emphasis added).

However valid Heath’s statement regarding joint production may be, under conditions of disequilibrium, to employ marginal productivity theory as a hypothetical construct and then argue that real markets are suboptimal by comparison, since they fail to efficiently price the marginal contribution of each worker, is an example of a “Nirvana Fallacy” (Demsetz 1969). Under conditions of equilibrium, since all gains from trade are exhausted, the implication here is the existence of perfect information regarding the distribution of income, which is predetermined by fixed and given institutional, technological, and resource constraints. “But this way of perceiving the society’s economic problem as an allocation problem implies, in turn, that the problem of distribution is *a problem of sharing out a given pie*”, which by logical construction is also known to a ‘distributor’ who wishes to redistribute income (Kirzner 1988b, 177, emphasis in original). Heath concludes his paper by stating that the “market has one job to do, and it does that job very well. Producing ‘just’ wages, however, is not that job” (2018, 31). If by ‘market’ Heath is implying a perfectly competitive market, in which information is perfectly given, would not a distributor be able to adjust prices according to what is just?

IV. ECONOMIC CALCULATION AND JUST WAGES

Based on Heath’s remarks regarding the possibility of economic calculation under market socialism, the answer to the question above would have to be ‘yes’, revealing a contradiction in Heath’s argument. As he states, “the ‘socialist calculation’ debate of the early 20th century was quite illuminating, in that it showed how an entirely planned and obviously artificial order might still choose to use the principle of scarcity pricing as a basis for allocating resources and goods” (7). Consistent with Heath’s notion that prices assign quantitative scores in their valuation of labor, he further states that “we are concerned with the situation in a ‘complex’ economy” (6).

Such a fundamental misunderstanding of the informational role of prices in an economy implies that questions of efficiency, to say nothing about just wages, are simply a computational issue, one of gathering objective information of the relative scarcity of labor and their marginal contribution to total output. It implicitly assumes that the economic knowledge required to calculate the relative scarcity of labor in

alternative uses, and therefore to ‘assign’ a price, is knowledge that exists independent of an institutional context of private property in the means of production. This notion of prices as sufficient statistics to an allocation problem, not as guides to future decision-making, is implicit in the argument made by Oskar Lange and Abba Lerner in their model of market socialism, developed to counter Ludwig von Mises’s critique regarding the impossibility of economic calculation under socialism.

It was during the Socialist Calculation Debate of the 1920s-1940s that economic theory evolved from what was previously a shared understanding of the market among early neoclassical economists into two distinct paradigms of the market, perceived in terms of (1) a static model of general competitive equilibrium, and (2) a dynamic process of entrepreneurial discovery (Kirzner 1988a, 3; see also Boettke and Candela 2017). Each paradigm shaped the way not only how the market socialists and the Austrians, respectively, understood the solution to the problem of economic calculation, but also how they interpreted each other’s arguments with respect to the solution to the problem (see Lavoie 1985). Economic calculation is a procedure whereby economic actors, guided by market processes, are able to sort out from the array of technologically feasible projects those that are economically viable. It is a discovery procedure through which preferences are communicated through prices so that the pattern of resource use tends toward efficiency.

The standard account of the socialist calculation debate, which Heath is following, was one in which Lange and Lerner stressed the formal similarity of capitalism and socialism under static assumptions and believing this to have been the analytic framework of the whole controversy. In the belief that socialism, if it was to achieve its claimed outcomes of advanced material production, must satisfy the formal conditions of economic efficiency stipulated by marginalist principles, Frederick Taylor, Frank Knight, H. D. Dickinson, and Abba Lerner began developing an argument that used modern neoclassical economics to ensure the efficiency of socialist economic planning. Using the same line of neoclassical reasoning, Oskar Lange was able to formulate his critique of Mises ([1920] 1975).

In deploying the formal similarity argument, Lange provided the following blueprint. First, allow a market for consumer goods and labor allocation. Second, put the productive sector into state hands but provide strict production guidelines to firms. Namely, inform managers

that they must price their output equal to marginal costs, and produce that level of output that minimizes average costs. Adjustments can be made on a trial and error basis, using inventory as the signal. The production guidelines will ensure that the full opportunity cost of production will be taken into account and that all least-cost technologies will be employed. In short, these production guidelines will ensure that productive efficiency is achieved even in a setting of state ownership of the means of production.

Lange went even further in his argument for socialism. Not only is socialism, by mimicking the efficiency conditions of capitalism, able to theoretically achieve the same level of efficient production as the market. It would also outperform capitalism by purging society of monopoly power, business cycles, and income inequalities that plague real-world capitalism. Moreover, since the means of production would rest in the hands of authorities, market socialism would also be able to pursue egalitarian distributions in a manner unobtainable with private ownership. In the hands of Lange (and Lerner), neoclassical theory was to become a powerful tool of social control. Modern economic theory, which Mises and Hayek had thought so convincingly established their argument, was now used to show that they were wrong. But this entirely misses the point about the role that economic calculation plays in a market economy. As Hayek argues:

Professor Lange and particularly his editor now seem inclined to suggest that the demonstration that the formal principles of economic theory apply to a socialist economy provides an answer to these critics. The fact is that it has never been denied by anybody, except socialists, that these formal principles ought to apply to a socialist society, and the question raised by Mises and others was not whether they ought to apply but whether they could in practice be applied in the absence of a market. It is therefore entirely beside the point when Lange and others quote Pareto and Barone as having shown that values in a socialist society would depend on essentially the same factors as in a competitive society. (1940, 126-127)

Our point here is not to recount the socialist calculation debate for its own sake, but to make a broader point about what Heath implicitly takes for granted regarding the evolution of price theory and its normative implications. During the late 19th and early 20th century, the particular normative implications that Heath makes regarding the justice of factor pricing under capitalism can be traced to this period,

and remains among economists to this day. During this same period, however, the “truth is that there was, among most economists (Austrian, Marshallian, or Walrasian) in the early twentieth century, a superficial, shared understanding of markets that submerged important distinctions that would become apparent only much later. In this shared understanding, there coexisted elements of appreciation for dynamic market processes and elements of appreciation for the degree of balance—the degree of equilibrium held to be achieved by markets” (Kirzner 1988a, 2). By the 1940s, however, neoclassical economic theory, by its defenders and critics alike, became based upon an analysis of the formal conditions of competitive equilibrium.

The greatest casualty of the socialist calculation debate was the focus on the institutional framework of a market economy, the neglect of which assumes away not only problems of how a market can ever become efficient, but also whether or not factor pricing will ever be just. As Hayek wrote, the “assumption of a perfect market in this sense is just another way of saying that equilibrium exists but does not get us any nearer an explanation of when and how such a state will come about. It is clear that, if we want to make the assertion that, under certain conditions, people will approach that state, we must explain by what process they will acquire the necessary knowledge” (1937, 45).

Hayek’s central point was that, absent certain institutions and practices, the process that brings about the coordination of plans would not take place.³ Some alternative process would have to be relied upon

³ Given our discussion regarding the relationship between the market and distributive justice, it is interesting to note that Hayek wrote the following (1967, 233): “[R]emuneration, in accordance with the value of a man’s services, inevitably is often very different from what we think of his moral merit. This, I believe, is the chief source of the dissatisfaction with a free enterprise system and the clamour for ‘distributive justice’. It is neither honest nor effective to deny that there is such a discrepancy between the moral merit and esteem which a person may earn by his action and, on other hand, the value of the services for which we pay him. We place ourselves in an entirely false position if we try to gloss over this fact or to disguise it. Nor have we need to do so”. What would seem to be an indictment of the distributive justice of the market, and Hayek’s apparent refusal to address such a potential critique, ironically reinforces our central argument. This is because when we consider the fact that in order for individuals to possess the knowledge that would be required to assess whether or not a just distribution of income was generated, according to theory of marginal productivity, the market would already have to be in equilibrium. Under equilibrium, perfect information regarding the marginal product of each factor of production would be given. Moreover, since Hayek understood markets as always being in disequilibrium, and never achieving perfectly competitive equilibrium, the value of one’s services will not perfectly correspond to what they regard as just, or based on their moral merit. However, from a Hayekian perspective, this can be interpreted not as

for decision making concerning resources, and that process would by necessity be one that could not rely on the guides of private property incentives, relative price signals, and profit/loss accounting since the socialist project had explicitly abolished them. In other words, the *ipso facto* proposition of competitive equilibrium, that factor prices can be directly imputed from their derived demand in consumption goods, was irrelevant for the world outside of that state of equilibrium. The fact that leading neoclassical economists (like Knight and Schumpeter) had not recognized this elementary point demonstrated the havoc that a preoccupation with the state of equilibrium can have on economic science.

Unfortunately for Heath, it is not clear by his remarks that he is aware of this either. Because he is assessing the question of justice in factor pricing from a standpoint of static efficiency, he analyzes neither the dynamic processes of adjustment that generate factor pricing nor the institutional conditions under which factor pricing emerges. The failure to account for institutional conditions of entry and exit generates two implications for an account of distributive justice in terms of market equilibrium, as put forth by Heath. First, it generates the presumption of monopoly power in markets when firms specialize without taking account the scope of competition in that market. Second, it also generates the presumption that such increasing returns to monopolists are therefore a zero-sum game, whereby monopolistic capitalists accrue ‘unearned rents’ that are undeserved and come at the expense of wages paid to exploited laborers.

To illustrate this point, let us examine Heath’s analysis of the Wilt Chamberlain example famously provided by Nozick (1974, 160-164). As Heath states:

The problem with this argument is not that it fails to justify the rate of wages under capitalism, but rather that it justifies too much, including too many different wage rates. Indeed, it comes close to saying that ‘whatever is, is good’. For example, it fails to provide any basis for preferring the wage rate determined in a competitive market over one in which some party has significant market power. Indeed, while Nozick had much to say about the importance of exchange, he had nothing to say about the importance of competition—which is arguably the more important institutional feature of capitalism. And yet, the inability to find anything wrong

a moral critique of the free market itself, but as a critique of a particular understanding of free markets in terms of an equilibrium outcome.

with monopoly pricing is a fairly major deficiency in any normative reconstruction of capitalism (Heath 2018, 9).

“Thus,” Heath further states, “the discussion gets sidetracked into a debate over the disposition of economic rents, while ignoring the more fundamental questions about the way that ordinary wages are determined in a market economy” (16). We do not wish here to defend Nozick. Rather, our point here is to illustrate that the claims that Heath makes in this quote can only follow from analysis of the market from a standpoint of static efficiency. Though, it is true that discussions of wages may get sidetracked into a debate over economic rents, in the Wilt Chamberlain case, it is highly relevant for distributive justice and the payment of just wages.

There is an important distinction to be made here between ‘Ricardian rents’ and ‘monopoly rents’ (Alchian 2006). Generally speaking, a rent is a payment above opportunity cost due to the scarcity of a factor of production. Specifically, a Ricardian rent is a payment above opportunity cost due to a *natural* scarcity that is derived from a superior skill or talent, whereas a monopoly rent is a payment above opportunity costs due to an *artificial* scarcity derived from government restrictions of entry into a market, in the form of licenses, regulations, or import tariffs. In both cases, such rents are accrued due to competition. Given the scarcity of such rents, competition for the accrual of rents will be ubiquitous, but the *form* of such competition, and its consequences for monopoly pricing, are by-products of the institutional incentives within which competition takes place.

In an open market where the conditions of entry and exit are open, it may be the case that at a certain moment in time, Chamberlain will accrue Ricardian rents without any government privilege. To conclude, however, that Chamberlain will always accrue such rents implies a fixed supply of his skills and talent. Such a conclusion rules out, that over time, the existence of such rents will create incentives for existing players to mimic the abilities of Chamberlain by investing in similar skills, as well as attracting new players from other sports. Such competition will not only include productive specialization but also a concurrent expansion of the market for basketball, as new consumers—i.e. the spectators—will be attracted to their ‘product’, which is the production of a more interesting game. The unintended result of this process is a positive-sum game, whereby the wages of all the basketball players rise, but competition will also induce an erosion of the rents

accrued to Chamberlain *relative* to other basketball players until they are zero, at which point Chamberlain is paid his opportunity cost. The outcome is efficient, but a by-product of this dynamic process of competition is justice, whereby no one is excluded from the opportunity to discover their productive potential. The normative implications of this market process is that for just wages to emerge, not only must referees be constrained to enforcing general rules that apply equally to all of the players of the game, but that such rules must allow for contestability of rents that neither discriminate nor privilege any one particular player or group of players.

However, let us now suppose that an alternative situation, in which general rules (which in the previous case were not intended to benefit any particular group of individuals) do not exist. Competition, as before, will exist, but the form in which Chamberlain competes will be different. Chamberlain now *discovers* an opportunity to earn higher wages by capturing the discretion of particular referees to call penalties against other players and exempt himself from particular rules. Chamberlain now earns a monopoly rent. By changing the rules of the game, however, there are now increasing returns to specializing in lobbying referees off the court relative to specializing in learning new basketball skills on the court. Having captured this monopoly rent, however, Chamberlain will still face competition from other players, but such competition will take the form of contestability over the rules.

The unintended outcome of this process will be 'efficient' in the sense that the players will expend resources lobbying until all the gains from such activity are exhausted. However, compared to the previous case where the rule of law was intact, the outcome will be a negative-sum game, since players in this game only expend resources to capture transfers of existing wealth, not to create new wealth. From a dynamic standpoint, even Chamberlain's rents will be eroded, not only from expending resources to maintain the favor of the referees, but also as the market for basketball shrinks as consumers flock to more interesting substitutes, such as football, baseball, or soccer. More importantly, however, the outcome will be unjust. Since by privileging Chamberlain with exemptions from the rules, he will earn higher wages and exercise monopoly power to the expense of the other players. Moreover, the injustice of such factor pricing results from legal discrimination that excludes the possibility of disadvantaged players from realizing their full productive potential.

V. CONCLUSION

Heath reveals some important shortcomings of the neoclassical model of perfectly competitive equilibrium, particularly with regard to questions of distributive justice. As he has argued, from a standpoint of efficiency, markets will be structurally unable to deliver just wages. But, it is important to highlight that Heath has critiqued the failure of a particular *model* of the market to deliver just wages, not the market properly understood as a process of equilibration within an institutional framework of private property and freedom of contract under the rule of law.

We are not claiming that we should abandon modelling or that markets are perfect; both will never be perfect. Like maps, models rely on omission as they cannot represent every detail of what we are explaining. Models are to be understood as articulate artefacts—compressed accounts of things in the world expressed in an appropriately specialized form and language. As such, economic narratives “*are built into the identity of the model from the start*” (Morgan 2012, 362, emphasis in original). However, if we implicitly build perfection into the identity of a model as an assumption of analysis, then we squeeze out of our analysis the very imperfections we are trying to explain, as well as the mechanisms and institutions that emerge to correct such imperfections.

By assuming away the entire problem of how the tendency towards an efficient distribution of income is generated, Heath also assumes away an analysis of the institutional conditions under which factor prices, as well as just distributions of income, are generated. By arguing in terms of equilibrium, Heath avoids the more relevant question of a *comparative institutional nature*, which is to understand the institutional conditions under which a just wage can be *discovered*. The most important implication that economists and philosophers can learn from Heath’s argument is that making a case for the justice of the market process cannot be analyzed in an institutional vacuum.

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Just Wages, Desert, and Pay-What-You-Want Pricing

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Abstract: Some restaurants allow guests to decide how much they would like to pay for their meals, depending on how much they enjoyed the experience. It is not counterintuitive to think that such a mechanism would set a deserved wage. After all, one might think that how much one deserves depends on how much value one creates for others and that individuals can adequately judge how much value they derive from some good or service. Hence, letting consumers decide what they think certain goods or experiences are worth would result, in the aggregate, in a deserved and just wage. In this paper, I will explore and defend this argument.

Keywords: wages, distributive justice, desert

JEL Classification: D630, E240, J310

I. PAY-WHAT-YOU-WANT PRICING

Some restaurants allow guests to pay what they want for their meals. Rather than having fixed and pre-announced prices on the menu, at the end of the meal patrons decide how much they feel their experience was worth and pay accordingly. If guests enjoyed their dinner a lot, they can express this by paying a bit more, while dissatisfaction can be reflected in a lower payment. In this way, there seems to be a very direct connection between the quality of service the restaurant provides and the income of the restaurateur. Hence one might think that this income is, in some sense, deserved and for that reason justified; a very successful restaurateur who, using this model, is able to sustain a higher income than others, might argue that this is not morally

AUTHOR'S NOTE: I would like to express my sincere gratitude to two anonymous referees, who provided extensive feedback and very constructive suggestions, as well as to the editors of this volume for thinking along. I would also like to thank Huub Brouwer, for reminding me of how interesting desert is.

objectionable because it is a reward for providing guests with a satisfying experience.¹

These so-called ‘pay-what-you-want’ restaurants are exemplary of a larger class of economic transactions, which are characterized by what might be called pay-what-you-want pricing. It also includes street performers, who live off of contributions made by spectators. To make the example more vivid, one might imagine two street performers working on opposite sides of the same square. One is very good at what he does; people are delighted by the performance and make generous contributions. The other’s performance is not particularly accomplished, and audience members are not gripped by what they see. They move on quickly, and this performer does not receive a lot of money. The resulting inequality might seem to be deserved, as it reflects a difference in quality between the two performances, where that difference is determined by the audience.²

The practice of tipping is, in some ways, comparable: customers may vary the size of their gratuity depending on the quality of service received, allowing a direct connection between that quality and the income of those who provide the service in question.³ Similarly, tour guides sometimes operate on this principle, as do massage therapists, while some artists allow people to pay what they want for their art. The model seems to be popular for goods and services that are intended to provide some sort of personal pleasure or enjoyment, which can vary in quality, and which involve significant amounts of labor. Hence, while this is by no means the dominant model of economic transactions in a market society, it is sufficiently familiar to consider.

The pay-what-you-want mechanism is worth investigating because it might solve one of the major problems that plague desert based theories of justice. These theories, which are based on the idea that the burdens and benefits of social cooperation should be distributed according to desert—that is, in proportion to the extent members of

¹ Note that this justification is distinct from a freedom-based defense of such an income, which would hold that it is unobjectionable because it came about through voluntary transactions. This libertarian argument does not rely on the idea that creating value for people is admirable, thereby making one deserving, and that incomes should reflect value created.

² There is considerable empirical evidence for this assertion (see Miller 1992; Goya-Tocchetto, Echols, and Wright 2016).

³ Of course, in countries where servers depend on gratuities to make a living, patrons might also take considerations of need into account when deciding how much to tip. However, even in that context, there is a range of acceptable gratuities, and customers can vary the amount they tip based on the perceived quality of service.

society possess certain meritorious characteristics—need some way of determining how much individuals deserve. This is a difficult issue, as one must specify a certain desert base, and design a mechanism that measures the extent to which each member of society possesses that desert base, in such a way that one can assign a cardinal distributive share to that individual. A satisfactory way of doing so has proven elusive, limiting the appeal of desert based theories of justice. However, one might argue that pay-what-you-want pricing can provide such a mechanism. The argument relies on three premises. The first step is that desert is based on the creation of value for people. The second premise holds that the amount of value one creates for people is accurately measured by their willingness to pay and the third premise is that willingness to pay is adequately captured through pay-what-you-want pricing. Together, these premises lead to the conclusion that pay-what-you-want pricing yields deserved wages. Since this mechanism has, to my knowledge, never been considered as a way of fleshing out desert based theories of justice, it is interesting to examine this argument.

In this paper, I will explore whether the pay-what-you-want mechanism can be used to give individuals what they deserve. In doing so I will focus explicitly on the specific question of how the producers of goods and services should be rewarded for their contribution to the economy, particularly in the kinds of cases where pay-what-you-want pricing is commonly used: for goods and services that are sold directly to consumers, provide some personal benefit, which can vary in quality and which involve significant amounts of labor. This is a limited, but significant, class of transactions. Hence it is worth examining, especially in the context of this volume. I will also assume, without further argument, that justice requires that wages should be based on desert. Making such an argument would require a shift of focus that would detract from the contribution this paper seeks to make. The first section will introduce desert based theories of justice, and their need for a mechanism that specifies who deserves what. This section will also review one such mechanism that has been the subject of considerable academic debate, namely the market. It will identify an important problem with the market as an instrument of desert, noted by Joseph Heath (2018), in the lead article that inspires this volume. The problem Heath notes is that markets only reward according to marginal productivity, rather than actual productivity. However, it is actual, not marginal productivity that is relevant for desert. The great virtue of the

pay-what-you-want mechanism is that it does reward according to actual productivity, and hence it solves the problem Heath notes. The next three sections will each discuss one of the three premises of the argument that the pay-what-you want mechanism can yield deserved wages. Each of these sections will also consider objections to these premises. Some of these objections will prove significant, making widespread implementation difficult; clearly, the pay-what-you want mechanism does not solve all problems and cannot simply be implemented across the economy. Nevertheless, I do wish to make the argument that the mechanism solves Heath's problem, at least in theory, although it is true that there are problems of implementation, making widespread adoption impossible, and that it only works *prima facie*, so that the requirements of desert can be outweighed by other concerns and values.

II. JUSTICE, DESERT, AND THE MARKET

Human beings live together in societies, which may be characterized as cooperative ventures for mutual benefit. After all, living together requires one to submit to common institutions and rules to facilitate social cooperation. This cooperation produces burdens and benefits, making society better off than it would have been without social cooperation. These burdens and benefits must be shared among the members of society in some way, and the question of distributive justice concerns which principles should, as a matter of morality, govern this distribution.

Many theories of justice have been proposed to answer this question. Some philosophers support theories of justice based on equality (for example Dworkin 2002), the requirement that the worst off be made as well off as possible (for example Rawls 1999), or procedural requirements of justice in transfer and acquisition (for example Nozick 1974). However, one might also think that the burdens and benefits of social cooperation should be distributed according to how deserving various members of society are.⁴ The basic idea is that justice requires that individuals' distributive shares should correspond to the degree to which they are in some sense meritorious. Those who are more meritorious should get more of the benefits of social cooperation than those who are less meritorious. While this principle of justice may have some intuitive plausibility, desert based theories of justice are

⁴ Some examples are Mulligan (2018), Feldman (2016), and Kagan (1999).

notoriously difficult to elaborate in a philosophical fashion. One of the biggest challenges is that they require one to specify the sorts of action or behavior that make one deserving—the basis of this appraisal—as well as the relationship between those actions or characteristics and the deserved distributive share (cf. Feinberg 1999). For short, one needs a mechanism that specifies who deserves what. In the context of an inquiry into the nature of just wages, this means that one must find a way of valuing productive contributions to the economy.

Some desert theorists⁵ have argued that free markets are the best way of setting deserved wages, and that the incomes producers and employees receive in the market reflect what they deserve. After all, markets set prices, including those for labor, based on aggregate demand. Aggregate demand is, of course, nothing more than a summation of what individuals are willing to pay for some good or service; each point in the aggregate demand curves, which are familiar from economics, represents people being willing to pay a certain price for a unit of a good or service. If what one produces is in demand, because many people find it valuable, prices will be higher than they would be if what one has to offer is deemed less valuable. In this way, prices track value created and might be considered just.

However, this argument is vulnerable to a range of criticisms, including one that figures centrally in Joseph Heath's (2018, 12-13) critique of the market. He notes that in markets, prices are not merely a function of aggregate demand. Rather, prices are set at the point where supply and demand meet—where what is produced at a certain price is equal to what individuals are willing to buy at that price. Importantly, everyone pays this price. This leads quite naturally to marginal productivity theory, the conclusion that, in a market, wages reflect the value the worker at the margin produces, resulting in the conclusion that wages reflect value created. As Heath quite rightly points out, this confuses marginal productivity, the value of what a worker produces at the margin, with his or her actual productivity, which is what is relevant from the perspective of desert. After all, as will be argued below, the idea of desert is that one is rewarded for the actual value one creates, and this varies from individual to individual, resulting in differential deserts. Another way of seeing this is to consider that, in a market, individuals do not pay what they would be willing to pay, i.e. their reservation price, but rather what they need to pay given supply, and as

⁵ The most well-known example is Miller (1990).

such they will often pay less than their reservation price.⁶ The difference, called consumer surplus, is a measure of the benefit the consumer derives from the exchange. But this means that the market price does not accurately capture what consumers think some good or service is worth, which is what is relevant from the perspective of desert. Hence the market price for labor, or for any other good or service, is not an accurate reflection of the amount of value created, and cannot be considered a just wage. In the light of the market's inability to yield just wages, one might wonder whether the pay-what-you-want mechanism fares better. I will now consider the argument for why it does.

III. CREATING VALUE FOR PEOPLE MAKES ONE DESERVING

The first step in the argument that the pay-what-you-want mechanism results in deserved wages holds that one becomes deserving by creating value for other people—that is, by providing people with goods, services and experiences that provide satisfaction and utility, and that one deserves the equivalent of the value one creates.⁷ This is a particular conception of the desert base (Feinberg 1999, 72), which specifies what one must do in order to become deserving.⁸ However, it is not the only way of specifying the desert base; one might also think that one becomes deserving by behaving in ways that are intrinsically valuable or noble, quite apart from whether they add value to people's lives. For example, one might think that proving a mathematical theorem which was not doubted to be true makes one deserving even if one locks up the proof so nobody can see it. One might also imagine someone who, with the best of intentions, tries but fails to provide value, for example by laboring over a painting that nobody likes. Conversely, someone might provide enormous value without intending to, for example by accidentally discovering a new medication. One might not consider this

⁶ I have explored this issue in greater depth in Dekker (2010). See, also, Hsieh (2000).

⁷ For a further defence of this requirement, see Arnold (1987).

⁸ Please note that this desert base is not utilitarian in nature; the goal is not to maximise utility or even to incentivize the creation of value. Rather, it is to recognize and respond to praiseworthy action. One could imagine a utilitarian theory that would distribute according to value created in a bid to maximise utility, and that theory might be extensionally similar to a desert based theory, even though it would be different intentionally, as the focus would not be in rewarding admirable behaviour. Moreover, one might think that it would be unlikely that a desert based theory would maximise utility, as some highly productive individuals might still create a lot of utility even if they were not rewarded. Rewarding according to desert would then be a waste of resources.

person very deserving despite the fact that she has created enormous value. Hence the link between desert and producing value is hardly self-evident. Nevertheless, there are good reasons for making this connection, especially in the context of the problem of distributive justice in which this entire argument is supposed to function.

Recall that the problem of distributive justice arises because human beings live together in societies, which can be characterized as cooperative ventures for mutual benefit. In the context of such a cooperative venture, reciprocity seems to be an important value in order to ensure that the goal of the endeavor, mutual benefit, is achieved. Those who engage in any venture subject themselves to certain rules and institutions in return for the benefits of living together, but they also have a fair expectation that others who participate in the cooperation do the same.⁹ Reciprocity requires that there be a two-way exchange in a transaction, such that those who give, receive, and those who receive, also give. Individuals who get something from the community without contributing to that community leave less for others, making them worse off.¹⁰ This means that there is no reciprocity in the exchange, and that is not in the spirit of the cooperative venture.¹¹ Likewise, making a contribution but not receiving anything in return is also a violation of reciprocity, as those who do so, do not benefit from the social cooperation which they facilitate. Not only must there be some give and take in a cooperative venture, but what one gives must be in proportion to what one receives; those who make a large contribution but only receive a little may rightly complain that they are being shortchanged, while society may object to those who make only a small contribution to the cooperative venture but enjoy large social benefits.

Conceiving of desert as based on creating value for others meets the requirement of reciprocity. Using this desert base, those who create value, and thereby contribute to the total welfare of society, receive something in return, creating a reciprocal exchange. Moreover, by making the amount deserved depend on the amount of value created,

⁹ For discussion of this principle, see Arneson (1982).

¹⁰ A notable exception is the provision of public goods, which are, by definition non-rivalrous. However, in the context of this inquiry, I am interested in the sale of goods and services that are produced in the general economy. Hence this issue can be ignored.

¹¹ I am assuming here that no special circumstances obtain. A society might not consider those who are handicapped or otherwise unable to add to social cooperation to be exploiting society. Hence, there are exceptions to the norm of reciprocity. This, however, does not mean that such a norm does not exist.

the exchange is equal, meeting the proportionality requirement. However, if one uses a desert base that relies on intrinsic notions of noble actions which are independent of the creation of value for people, this reciprocity in the context of a cooperative venture is missing. Perhaps, if one imagined some divine entity distributing burdens and benefits according to desert from on high, it would make sense to do so based on the intrinsic nobility of people's actions, independent of the social value they create. However, the reality is that, in our societies, there are no divine distributors. Rather, the burdens and benefits arise out of social cooperation, and that has implications for the values that govern a just distribution. Hence, while there might be cosmic justice in basing desert on such notions, for purposes of distributive justice in the context of society seen as a cooperative venture, it seems more plausible to rely on value created as a desert base.

There is, of course, the issue that one's ability to create value is rarely within one's control, and one can hardly claim to be responsible for the value one creates in any deep sense. After all, there is a lot of luck involved in creating value, on multiple levels. There is the matter that the extent to which one is able to create value depends on one's talents and abilities, which are a matter of luck. Moreover, even one's inclination to make the most of one's talents and to make a conscientious effort are, to some mysterious degree, a matter of nature and nurture.

There is also the undeniable issue that whether something is valuable depends on the opinions, tastes and preferences of others. If many people like what one is good at producing, one can create a lot of value, while if what one can produce well is not very popular one can create much less value. Other similar contingencies play a role as well. Those who happen to work on days or in places when and where many people need or desire certain goods and services are able to create more value. For example, those who produce ice-cream can produce more value when the weather is warm than they do when it is cooler. One cannot control any of this, and so one might think that it is problematic to make what one deserves depend on it. This is the familiar determinist objection against desert. Some have argued that it sinks the entire concept of desert,¹² while others argue that, despite the undeniable

¹² A prominent example is Strawson (1994).

influence of luck, some individuals can still be more deserving than others.¹³

The dispute on desert and luck is a long-running one, and I will not be able to settle it on this occasion. Nor do I need to. Note that the objection is against desert *per se*; it applies to desert based on value created as much as it does to desert based on intrinsic nobility of one's actions, or any other specification of the desert base. For any conception of desert, one can argue that the characteristics in question are a matter of luck. It has also been assumed for present purposes that justice requires that people receive what they deserve. As such the argument is addressed to those who believe that desert is a morally significant notion, which has implications for distributive justice. They are not likely to be bothered by the problem of luck. Hence, I propose to set it aside for present purposes, and assume that individuals can be deserving. The question is what features make them so, and it is this question that the first premise seeks to address.

IV. VALUE CREATED IS MEASURED BY WILLINGNESS TO PAY

The second premise of the argument holds that the value one creates for people is accurately conceptualised as their willingness to pay for the goods and services provided. This means that individuals themselves decide how valuable they find what is on offer, and express this through the amount of money they are willing to pay for it. How valuable consumers find the goods and services under consideration is understood as their reservation price, which is the amount of money for which they would be indifferent between having a particular good and not having it but saving the money they would have spent on it. This reservation price is the true measure of the value it has for them. This is the familiar assumption of consumer sovereignty.¹⁴

One might object to this premise, arguing that value created should not be equated with reservation price, but rather with the benefit a consumer derives from a transaction, which is the difference between what she pays and what she would have been willing to pay. This is a challenging thought. However, benefit and value are simply different things. Imagine someone produces something that someone else would pay \$100 for. Also assume that this person could get it for \$70. It seems

¹³ For example, see Schmidtz (2002) or Feldman (2016).

¹⁴ For an extensive discussion of this concept and its importance in discussions of desert, see Miller (1990, 127-150).

weird to say that the value of the object created by the producer is \$30, even though this is the extent to which the consumer benefits. To see this, consider what would happen if the price dropped to \$60. While the benefit to the consumer increases, both the good itself and the opinion of the consumer do not change, and so it seems sensible to say that the value in the relevant sense does not change either. The value of something does not depend on the price one has to pay for it, and so using benefit rather than reservation price to quantify value created is not plausible.

The assumption that value created is measured by willingness to pay is open to a variety of further challenges. One might think that believing a good to be valuable is not the same as being willing to pay for it. For example, one might think that a certain painting is a great achievement and that its existence is very valuable, but at the same time not want to hang it in one's living room, and consequently not wish to spend much money on it. Alternatively, many interpersonal gestures provide individuals with great joy and value in their lives. However, one would not want to pay for these, because this would rob them of their value; a hug for which one pays is much less nice than one that is offered freely. In response to this objection, one might stipulate that, in the context of this inquiry, what we are interested in is the production of economic goods and services, such as those for which pay-what-you-want pricing is sometimes used. In that context, interpersonal gestures or products that one admires on an abstract level but is not interested in acquiring can be excluded as irrelevant for present purposes. This is a restriction of the scope of the argument, but not one that carries a great theoretical cost.

A second problem for pay-what-you-want pricing is that what one is willing to pay is also determined by how much money one has; a rich person might be willing to spend a large absolute sum on some good, not because she thinks it is particularly valuable, but rather because this amount represents a small fraction of her wealth. A poorer person might think something extremely valuable, and be willing to pay a large share of his resources for it, but this might still not amount to much in absolute terms.¹⁵

However, note that in many contemporary societies, the ones in which this argument is supposed to function, the majority of incomes are relatively close together, say within one or two standard deviations

¹⁵ For an excellent discussion of this problem, see Schmidtz (2001, 163-165).

from the average. There are of course some people who have much higher incomes than others, but their numbers are limited. As such, most goods and services are consumed by people with incomes that are not different in orders of magnitude. This makes this problem smaller, as the closer incomes are together, the less extreme the effect is. Furthermore, a society might decide to use redistribution of resources to compress the income distribution as a supplement to any system of determining just wages. This would make the problem of differential incomes even more limited. It is also important to note that this is a problem for any demand-based mechanism of desert, including the market; there too those who have a higher income are able to pay more for things than those with lower incomes, even though they value them to the same extent. This paper merely wishes to claim that the pay-what-you-want mechanism is superior to the market, in that it solves the particular problem that, in the market, prices reflect marginal contribution rather than actual contribution. As both mechanisms are vulnerable to the problem of differential incomes, this does not impact the choice between them.

A third problem concerning the link between value and willingness to pay is that individuals often are willing to pay large amounts of money for goods and services that might be regarded as much less valuable objectively. In our society, some individuals are willing to pay huge amounts for drugs, pornography or handbags, while they are not willing to spend much on their health, vegetables, or books, even though one might think that these are much more valuable to them (even if these people do not realize it themselves). In other words, the objection holds that true value for people is more objective than the doctrine of consumer sovereignty allows. Rather, central institutions, which operate independently of people's revealed preferences, might more accurately determine how valuable certain goods and services really are for people.

However, one should understand that any system designed to generate just wages in anything that generally resembles contemporary societies must deal with the fact that these societies are deeply plural. Different people have different conceptions of the good, and there is little to no consensus on what conceptions are correct or even on how one could go about determining this. In the absence of such a consensus in a free society, any suggestion that some central agency knows better than individuals what they find valuable is a non-starter. Some might object that individuals' reservation price for some good or service

depends on a wide-variety of factors that do not seem relevant for desert. For example, individuals might lack the knowledge or experience to adequately assess the quality of an experience or good, and this would lead them to set a lower reservation price than they would have if they had been better informed. Or they might be tricked by advertising into valuing things that are bad for them, such as cigarettes. One might mitigate this concern by insisting that people must be well-informed when they set their reservation prices for the pay-what-you-want mechanism to function. While this is an elitist requirement, it could be satisfied by some sort of consumer education or consumer protection that would not be considered revolutionary in contemporary society. Note also that the pay-what-you-want model tends to be used for goods and services that are intended to provide personal pleasure or enjoyment, such as restaurant meals or guided tours. It seems somewhat safer to assert that individuals are in a good position to assess how much personal pleasure these provide to them. Hence, for better or for worse, consumer sovereignty seems to be the only viable basis for assessing the value goods and services provide to people, at least in the context of contemporary society. And, once again, the market also suffers from this problem; there too prices do not necessarily reflect objective valuation, but rather an aggregation of subjective valuations. Hence this objection will not settle the question whether the pay-what-you-want mechanism is superior to the market as an instrument of desert.

V. PAY-WHAT-YOU-WANT PRICING AND WILLINGNESS TO PAY

The third premise of the argument for pay-what-you-want pricing holds that it correctly measures aggregate willingness to pay, yielding the conclusion that pay-what-you-want pricing results in just wages. Pay-what-you-want pricing is a very simple concept. Rather than determining their prices, producers allow consumers to set their own prices, based on their estimation of what the good or service is worth. To see the basic point, imagine someone who provides a service that mainly consists of labor and does so alone, such as a massage therapist, and assume that consumers indeed pay their full reservation price. He offers massages at whatever price his clients think his services are worth. Perhaps there are three individuals who are interested in his services. The first would be willing to pay \$80 for the massage, the second \$50, and the third only \$30. According to the pay-what-you-want pricing

model, they all pay this amount, and the therapist receives \$160.¹⁶ This represents how much the clients collectively value the therapist's services, and is a measure of how much value the therapist creates for society, which makes that income deserved. By charging every individual their reservation price, the therapist appropriates all of the consumer surplus, and is rewarded for actual productivity.

This makes this mechanism superior to the market. Recall that Heath's problem with the market as an instrument of desert is that prices are set at the intersection of supply and demand, and that wages reflect marginal productivity rather than actual productivity. This means that a pricing mechanism which would set prices at reservation price, and which would thereby reflect actual productivity, overcomes this limitation. Pay-what-you-want pricing does just that, and thereby solves the problem Heath diagnoses.

Note that, if the therapist learns new massage techniques that improve the quality of the experience, his clients will think the massage more valuable, be willing to pay more, and his income will go up. If the therapist's skills get rusty, the quality of the massages goes down, and so does his income. In this way, the income he receives varies with the quality of his performance. And if there are two therapists, and one offers nicer massages than the other, the former will have a higher income, justifying differential incomes. This is appealing from the perspective of desert, which aims to align distributive shares with the value of one's productive activities.

It is interesting to note that in markets, firms often try to approximate something like this pricing mechanism by segmenting their prices, through price-differentiation. They seek to charge different prices to different consumers based on how much they are willing to pay. They do this through coupons and discounts, through making small variations of their products and charging different prices for them, or similar measures. The extreme case of this is known in economics as the perfectly price-discriminating monopolist, who charges every consumer exactly what they are willing to pay. Effectively, the pay-what-you-want pricing mechanism is a variation of this strategy. Such a firm's revenues would also reflect the value it creates for its consumers, and as such receives what it deserves. Of course, there are many reasons to be

¹⁶ For contrast's sake, one could imagine that the market would set the price for massages at \$45, in which case, the therapist would receive only \$90 from the first and second individual, as the third individual does not think the massage is worth that much.

against monopolies. For example, as will be explored below, monopolists appropriate as much money from their customers as is possible. This seems undesirable. However, these concerns do not undermine the *prima facie* claim that monopolists get what they deserve, but rather relate to the issue whether people getting what they deserve is always desirable, all things considered.

One could think of other mechanisms that would gauge willingness to pay. For example, one might think that an auction would provide an estimate of what people are willing to pay for certain goods and services. The appeal of this mechanism lies in the fact that the competitive nature of auctions better reveals individuals' true valuations. However, in an auction, the question is still what one needs to pay to get what one wants, not what one would be willing to pay. It is entirely conceivable that an auction, which sets a price slightly above the reservation price of the second highest bidder (or the highest bidder who cannot be accommodated because of limited supply), would set a price significantly below the reservation price of the winner. It is their good fortune that they do not have to pay all that they would have paid, but this does mean that the auction does not capture willingness to pay, which is relevant for a desert based theory of justice.

Now consider what happens if more massage therapists start offering services in town. In a market, this is likely to reduce the going rate for a massage, as therapists compete for customers. This is, in a way, good fortune for those in the market for these services, as they now have to pay less. However, it does not decrease their enjoyment of massages offered by particular therapists, and so their reservation price does not change. Under the pay-what-you-want principle individuals keep paying what they were paying before. Of course, what does happen, is that existing demand is spread over more suppliers, and any individual therapist may expect fewer customers and a lower total income as a result. This seems to me to better accord with the goal of capturing value created than what would happen in a competitive market, in which all prices would decrease as a result of an expansion of supply. This is because the fact that a service becomes more easily obtainable does not make it less enjoyable or valuable to the individuals concerned.

The case of the massage therapist is an artificially simple case, not representative of most economic transactions, in part because it does not involve cooperative production in which multiple workers produce

goods and services together, and because the main input in the production process is labor. In the case of the restaurant that uses this model, the proprietor needs to pay all the staff members, and needs some way of determining each individual's contribution to the value created in order to assign them just wages. She faces a similar problem in paying her suppliers. Perhaps there might be some way of applying the same concept to these decisions—that is, paying them what she thinks they are worth, but this is likely to get complicated, and one can no longer directly appeal to consumer sovereignty to justify the distribution. Indeed, one might think that if, assuming constant returns to scale, all factors of production are paid their actual contribution, there is nothing left for the restaurateur, apart from her own contribution. This is a difficult issue, and solving it would require more space than I can allocate to it in the present context. I cannot rule out that it is unsolvable.

The mechanism suffers from many other problems as well. One obvious one is the problem of fraud or free-riding. Consumers have an incentive to act as if their reservation price is lower than it actually is, thus not paying the full extent of the value they derive from the transaction. Indeed, rationally speaking, one should pay nothing at all in a pay-what-you-want establishment, as there is nothing stopping one from enjoying the service, but pretending to not enjoy it at all. However, empirical research on businesses that use this model suggests that consumers actually do pay significant amounts, which are often somewhat higher than market prices. For example, Gerhard Reiner and Christian Traxler (2012) studied the evolution of payments in a pay-what-you-want restaurant in Vienna over a period of two years. They found that almost nobody pays nothing at all, even though the restaurant would accept this. Practically everyone paid a significant amount, some paid much more than others or more than the market rate for comparable meals, and the average was relatively stable over time. Moreover, restaurant revenue actually increased, as customer numbers went up. Social norms of reciprocity and justice appear to prevent the most flagrant cheating. Of course, there is no way of knowing whether people actually paid all that they would be willing to pay. Reservation price is a counterfactual notion, and so one cannot deduce what people would be willing to pay from what they actually did pay in the pay-what-you-want mechanism. It is impossible to rule out that while people paid a price that they regarded as fair, they did not

pay all that they would be willing to pay. However, it is important to note that the problem of justice is not the problem of fraud. For theoretical purposes, what matters is determining what just wages are and how they may be set. My claim is that if individuals use the pay-what-you-want mechanism as intended, it results in just wages. If they do not, then the mechanism fails. But this does not reveal the defects of the mechanism as an instrument of desert on a theoretical level. The problem of cheating merely shows that it is difficult, or even impossible, to implement in practice, but not that the mechanism does not work in theory. These two questions need to be separated, and it is the latter that is at stake here.

Another issue to consider is that pay-what-you-want pricing does not allocate goods efficiently. Markets, for all their moral failures, are spectacularly good at matching supply and demand. They do so by raising or lowering the price of goods, so that it is above or below more people's reservation price, thereby reducing or increasing quantity demanded, ensuring an optimal allocation. A restaurant that uses the pay-what-you-want pricing mechanism may find itself overrun with customers, as nobody is driven away by the prices, and must find some other way of rationing its capacity, such as first-come-first-served or a lottery. This does not guarantee efficiency, as those who value the good or service in question most might not get it. In effect, this is another instance of the problem of luck. After all, the winners of the lottery or the first to arrive on a particular day may turn out to have only a casual interest in the good or service. If so, one will receive much less than if one were lucky enough to have customers who particularly value what one has to offer. Perhaps this is why pay-what-you-want pricing is, in fact, typically confined to niches in the economy which do not suffer a high degree of scarcity. However, on an analytical level, this is another instance of the fact how much value one is in a position to create depends on luck in all kinds of ways. Despite this, the value actually created is what it is under the circumstances that obtained, and this is what desert responds to. It is no use to say that if fate had worked out differently, one would have been able to create more value than one in fact did. It is like saying that if Cleopatra's nose had been a little shorter, history would have gone quite differently. The reality we have to live with is that it was not and it did not. Those who believe in desert argue that if one accepts this kind of reasoning, the entire notion of desert becomes void, and they are unwilling to give it up. Since this

paper is addressed to them, this is an inefficiency that must be accepted.

This is not a high price to pay on a theoretical level; questions of allocative efficiency should be kept separate from questions of just distribution. As Heath (2018) points out, there is no reason to expect that a system that allocates efficiently should also distribute justly. Hence it is no objection to a conception of just wages that it is inefficient. Of course, when questions of implementation are considered, one must take efficiency into account, and one must weigh it against requirements of justice as well as other requirements. One might accept departures from justice for the sake of efficiency, as justice is not the only thing that matters. However, for present purposes this hugely difficult issue may be ignored.

There are also concerns of fairness to deal with. One bit of potential unfairness lies in the fact that this mechanism charges different people different amounts for the same good or service. That seems to violate the requirement of fairness that like cases be treated alike. However, one should consider that this mechanism charges all consumers the same amount per unit of enjoyment. There is also something unfair about the fact that fixed prices result in some people getting a lot of enjoyment out of certain purchases, while others derive much less benefit from those same purchases, due to the fact that they value goods differently. In conclusion, one might argue that enjoyment is the real currency of transactions, rather than the nominal price, and hence fairness should be based on the former, supporting the pay-what-you-want mechanism. Another objection concerns the question whether it is fair to allow producers to appropriate the entire consumer surplus. After all, if everyone pays their reservation price, they derive only very little, or even no benefit from the transaction. This violates a norm of fairness, which holds that the benefit of a transaction should be shared equally between producers and consumers (Heath 2018, 16-21). This is a difficult issue. It appears that giving producers their due does not give consumers theirs. However, recall that the central concern of this paper has been to do justice to producers, not to consumers. The inquiry started from the question what just wages would be, and this is a different question from what just prices would be from the perspective of consumers. This is another instance of the great complexity of achieving justice; sometimes different requirements of justice conflict, and resolving those conflicts is one of the hardest but most important

unsolved problems of political philosophy. Nevertheless, the existence of such conflicts does not establish that any of those requirements are not requirements of justice.

VI. CONCLUSION

In this paper, it has been argued that deserved wages are based on value created, that value created is accurately measured in willingness to pay and that pay-what-you-want pricing captures aggregate willingness to pay. As a result, the pay-what-you-want mechanism seems to be better at determining who deserves what than the market, at least in terms of ensuring people receive the equivalent of the value they create, rather than the marginal value of their labor. Hence pay-what-you-want pricing solves the problem Heath notes with the market as an instrument of desert. Of course, it is worth repeating that this is a theoretical result. To make the argument plausible, it has been necessary to assume away many practical problems and acknowledge several competing requirements. Clearly, pay-what-you-want pricing cannot be implemented throughout the economy and, even in the small niches in which it is implemented, it will not give people what they deserve perfectly. Nevertheless, it does provide an idea of what just wages would be, by which actual wages can be judged. One may ask how actual wages differ from an estimate of what pay-what-you-want pricing would produce and use that as a guide to intervention. Moreover, the pure model of pay-what-you-want pricing that has been considered here is a boundary case, in which consumers have absolute discretion over how much they pay for goods and services. However, one could imagine alternative models in which consumers have some, but not unlimited, choice over how much they wish to pay. The more discretion consumers have, the more just wages will be. Hence the key to achieving just wages might be said to lie in trusting consumers to determine what these would be.

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Do People Deserve their Economic Rents?

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Abstract: Rather than answering the broad question, ‘What is a just income?’, in this essay I consider one component of income—economic rent—under one understanding of justice—as giving people what they deserve. As it turns out, the answer to this more focused question is ‘no’. People do not deserve their economic rents, and there is no bar of justice to their confiscation. After briefly covering the concept of desert and explaining what economic rents are, I analyze six types of rent and show that each is unjustified from the point of view of desert. I conclude by drawing some political and economic lessons from the preceding analysis, and by describing how these considerations can create a more just and efficient economy.

Keywords: desert, economic rent, economic contribution, public policy

JEL Classification: D24, D33, D63, J30

I. INTRODUCTION

The question ‘What is a just income?’ is a difficult one to answer, not least because it is ambiguous in two ways. First, it does not say what justice is. And of course there is no consensus about this. Second, ‘income’ refers to many different flows of money, and we may want to differentiate between these for the purpose of moral analysis. Wages, dividends and interest from an inheritance, government transfers, and other forms of income have unique moral features.

Rather than try to cover all that conceptual ground, I devote this essay to considering one component of income—*economic rent*—under one specification of justice—as *giving people what they deserve*. In this way, the problem is made a little more tractable. Therefore, we shall proceed under the assumption that the desert-based approach to justice,

AUTHOR’S NOTE: I thank Jim Albrecht, Huub Brouwer, Willem van der Deijl, Ryan Patrick Hanley, Rob Hughes, and David Levy for helpful conversations about the matters discussed herein, along with two anonymous referees, who provided helpful advice. I am also grateful to the audience at the Wharton School of Business’ 2018 Normative Business Ethics Workshop.

which I outline but do not defend in §2, is correct. (For this defense, see Mulligan 2018.)

I do not think that these limitations render the project unimportant. Quite the opposite: I expect desert to command increasing interest, among both philosophers and the public, in coming years. And a major part of what is amiss with many contemporary economies—in terms of their justness and their efficiency—is the prevalence of rent. This will be discussed in due course.

Because the moral problem I seek to illuminate is most acute in the United States, and because much of the relevant empirical research concerns the U.S. (and because, I concede, of my own nationalistic spirit), I shall focus on the American economy. But of course the moral argument applies without regard to nationality, and the problem exists to some degree in the Netherlands, in Germany, and everywhere else. If you ask me what explains the disproportionate presence of economic rent in the American economy, I do not know but conjecture three things.

First, equal opportunity in the U.S. badly lags (the U.S. may now have the worst intergenerational mobility in the developed world),¹ which has generated myriad opportunities for appropriating rents. Second, Americans today tend to be more libertarian and less civic-minded than their counterparts on the Continent; we are more tolerant of incomes that are legal but economically unproductive. Third, many European tax schedules do a better job of disincentivizing rent extraction than the U.S. tax schedule does—through, especially, higher top marginal income tax rates.

I have organized this essay as follows. In §2, I describe the concept of desert and outline the desert-based theory of distributive justice on which I rely. §3 is devoted to explaining what economic rents are. §4 is the heart of the essay: I analyze several real-world cases of rent extraction and show that this form of income is undeserved. I conclude in §5 by discussing the political and economic ramifications of the preceding analysis.

II. THE CONCEPT OF DESERT

John Hospers once mused, “justice is getting what one deserves; what could be simpler?” (1961, 433). But (as Hospers knew well), this is anything but true—desert is a rich but difficult concept which has

¹ See, e.g., Corak (2013) and Mazumder (2005).

resisted analysis for millennia. Nevertheless, we have learned some things; enough, at least, to make sense of arguments about what people do or do not deserve.²

The received wisdom is that desert is a three-place relation, consisting of (1) a *desert subject*, (2) a *desert object*, and (3) a *desert basis*. We say things like, 'Jane deserves the medal on the basis of her performance'. Here, Jane is the desert subject, the medal is the desert object, and her performance is the desert basis. Although sometimes we leave one or more of these elements implicit—'He deserves it!' does not specify a desert basis—they are always there. If it is claimed that Sandra deserves the job, and someone asks, 'On what grounds?', it would make no sense to respond, 'No reason; she just does'. Unless there is a reason *why* Sandra is deserving, 'Sandra deserves the job' is not a desert-claim at all but something like an expression of approval.

It is further accepted that there are important conceptual connections between (1) and (2), (2) and (3), and (1) and (3). We shall just consider the last: the relation between desert subject and desert basis. Its strength is debated. Some scholars believe that desert subjects must be *responsible* for their bases (e.g. Rachels 1978). Others, that they must *control* their bases (Sadurski 1985). We shall rely on the weakest, and least controversial, construal of the relation—what is sometimes known as the *aboutness principle* (Feinberg 1963). To wit, the desert basis must be *about* the desert subject. Fred cannot deserve jail on the basis of David's crimes. Lane cannot deserve the scholarship on the basis of her sister's transcript. And so on. This is obvious.

What is not obvious is how desertism diverges from other theories of distributive justice, and I think that is worth pointing out here. Let us consider an archetypical desert-claim: *Jones deserves the job on the basis of his merit*. Note, first, that this is a fully deontological notion: if one is in charge of this distributive decision, one should scrutinize the merits of the job applicants, figure out which applicant is the most meritorious among them, and then award that applicant the job.³ That is the moral rule, and one acts justly if one follows that rule.

² The seminal conceptual analyses of desert are Feinberg (1963), Kleinig (1971), and Sher (1987).

³ There are contexts in which desert is a comparative notion. Other contexts are wholly non-comparative. Some contexts (like this one) are both; the best-qualified applicant among several might fail to meet a non-comparative standard of merit, and thereby not be deserving. Issues of comparative v. non-comparative desert are covered in extreme detail in Kagan (2012). Olsaretti (2003) is also helpful.

Now consider: Does the utilitarian demand that we give the most meritorious applicant the job? No, because it is conceptually possible that the general welfare is promoted by deviating from merit-based hiring. Indeed, this appears true in practice: some citizens have a “taste for discrimination” (Becker 1957), preferring to patronize or work alongside members of a particular race. As a result, firm profits and the social surplus may increase when firms hire less meritorious applicants on account of their race. It is possible that race-based discrimination will lead to a maximally happy world.

Libertarians like Robert Nozick (1974) do not require that the most meritorious applicant be hired. Firm owners are putatively at liberty to contract as they see fit. If a firm owner is racist, there is no bar of justice, on this libertarian account, to his excluding members of that race from his firm—no matter their merits.

Theorists of an egalitarian bent are often happy to violate meritocratic hiring. This may be seen in, for example, academic hiring, where less meritorious women are preferred over more meritorious men in the name of creating a workforce with a certain gender make-up (*viz.* one with the same proportion of men to women as exists in the general population).⁴

John Rawls’ (1971) egalitarian approach may also condone hiring on the basis of features irrelevant from the point of view of merit, like race and gender. This is for reasons similar to the utilitarian’s: not output *per se*, but the portion of it claimed by the least advantaged, may be maximized by adhering to a hiring rule that is not perfectly meritocratic. In such a case, the Difference Principle will select that rule.⁵

For the desertist, none of these justifications holds water. It is categorically unjust to discriminate on the basis of race. It is categorically unjust to discriminate on the basis of gender. These features are irrelevant from the point of view of merit in virtually all hiring contexts. (An exception would be, e.g., a firm seeking to hire

⁴ See, e.g., Allen-Hermanson (2017), Dicey Jennings et al. (2015), and Williams and Ceci (2015). The data are incompatible with the notion that gender preference only nullifies bias against women. (If that were the case, then the ‘preference’ *would* be justified—see Mulligan 2018, 205.)

⁵ Matters are complicated by the fact that preferential hiring might implicate opportunity as well as income, and thereby fall, at least in part, under Rawls’ Fair Equality of Opportunity Principle (which takes lexical priority over the Difference Principle). It is very unclear what Rawls would say about the case of taste discrimination I consider here. His own views of race-based hiring were apparently nuanced—see Freeman (2007). I thank an anonymous referee for pointing this out to me.

someone to model women's clothes.) Because desert is deontological, no forward-looking justifications, like those given by the utilitarian or the Rawlsian, will work. And there is no foundational place for protecting the alleged liberty interest of firm owners.

The argument of this essay relies on *one* conception of the idea that justice is a matter of giving people what they deserve. This conception understands desert in *meritocratic* terms. Another conception might understand desert in terms of *need*. And under *that* conception, it is not the most meritorious candidate who deserves the job, but the candidate who needs the job the most (cf. Feldman 2016). Nevertheless, this is not much of a loss of generality, since the meritocratic conception of justice-as-desert is the most natural and, I think, the most popular. And it is the conception which the originator of desert-based justice—Aristotle—had in mind.

Two final preparatory remarks. First, desert is a *pre-institutional* concept. Although 'desert' and its cognates are sometimes used, sloppily, to mean 'proper under the rules', this is a mistake. People's deserts are determined *independent* of what the rules say. And the rules ought to be written so that people get what they deserve—not the other way around.

Imagine, for example, an executive who signs a contract to manage a company for a year in exchange for €50 million. Over the course of that year, the executive becomes a lazy drunkard, and his bad decision-making bankrupts the company. Nevertheless, he does what is required of him under his (poorly-written) contract. We would not say that he *deserves* the €50 million because that is what the contract says. No: the executive is *undeserving*. He does not deserve that €50 million—he is merely *entitled* to it. Those of us of a desertist bent would encourage firms to write better contracts, so that undeserving people do not become entitled to large sums of money, as is the case here.

Second, it is clear that the proper desert basis differs from context to context; what makes one deserving of the gold medal (*viz.* athletic performance) is different from what makes one deserving of jail (commission of a crime). And we want to know about the distribution of income here.

There is no consensus among desert scholars (such as we, the happy few, are) about this, but the most prominent view, and the one which I subscribe to, is that people deserve income on the basis of their economic contributions (see, e.g., Miller 1976, 1989, and 1999; Riley

1989). I argue for this elsewhere (Mulligan 2018), so I'll simply point out here three broad reasons why contribution should be preferred. First, it is the basis that comports with our pre-theoretical judgments about what people deserve. Second, the two other possible bases, cost (Ake 1975; Dick 1975; Lamont 1997) and effort (Milne 1986; Sadurski 1985), have conceptual problems.⁶ And third, contribution most nicely aligns with (ideal) market-based distribution, and is—quite apart from any considerations of justice—desirable on consequentialist grounds.⁷

Nevertheless, the analysis of economic rent in §4 suggests that economic contribution *simpliciter* cannot be the proper desert basis. Sometimes, even when people's rents *do* reflect a *bona fide* contribution, they are undeserved. In this way, analysis of rent sheds new light on the concept of desert.

III. WHAT ARE ECONOMIC RENTS?

When it is discussed at all, 'economic rent' is typically defined as unearned income.⁸ This is unhelpful. For one thing, 'unearned income' is itself ambiguous. And insofar as 'unearned income' does have a precise definition—namely, the one provided by law (in the U.S., at 26 USC §32(c)(2)(A))—it is not coextensive with economic rent. Star baseball player Clayton Kershaw's \$33 million salary is all *earned* income in the eyes of the Internal Revenue Service, but it is mostly economic rent.

For these reasons and others to be made plain in the next section, typical definitions of economic rent—'income that required no effort to obtain', 'income gained through luck', 'income unconnected to skill'—will not do.

Before settling on the precise, neoclassical definition of 'economic rent', we can get a sense of what rent is, and how it is obtained, by considering how classical economists thought about the phenomenon.

⁶ Lamont (1997) argues that rents are undeserved because they do not serve to compensate people for incurred costs. I shall not address his argument here.

⁷ For discussion of this matter—selection of the proper economic desert basis—see, *inter alia*, Hurka (2003), Lamont (1995), McLeod (1996), Miller (1989), Milne (1986), Mulligan (2018), Olsaretti (2004), and Sadurski (1985).

⁸ Because 'economic rent' is such an odd term, I conducted a limited investigation of its etymology. That investigation was unsuccessful. The term goes back to Smith, at least, but I do not know if he coined it. It is also unclear whether the concept has the name that it does because of its close connection to land ownership, or whether its originator recognized that all fixed factors of production would have a rental rate analogous to that of land. Consultations with economic historians failed to shed light on this matter.

For them, economic rent was income gained through ownership of land and other 'free gifts of nature'. For example, Adam Smith says that:

[...] as soon as the land of any country has all become private property, the landlords, like all other men, love to reap where they never sowed, and demand a rent even for its natural produce. The wood of the forest, the grass of the field, and all the natural fruits of the earth, which, when land was in common, cost the labourer only the trouble of gathering them, come, even to him, to have an additional price fixed upon them. He must then pay for the licence to gather them; and must give up to the landlord a portion of what his labour either collects or produces. This portion, or, what comes to the same thing, the price of this portion, constitutes the rent of land (Smith 1784, 74–75).

There are a few things to note about Smith's scenario. First, we have someone who is obtaining an income through ownership: a landlord charges for the use of his land. Second, the owned good is sought for the purpose of production: the laborer wants to produce lumber, e.g., and to do that he needs trees. Third, the passage suggests that the landlord does not deserve this income, but this is imprecise and too quickly put. After all, the landlord might have bought his land with money made through his own diligent labor. In that case, it is at least not obvious that he does not deserve to make money by leasing it. Fourth—and this is critical—whether the landlord gets paid or not, and how much he gets paid, has no effect on the existence of factors of production (i.e. the trees). The land produces its bounty independent of exchange between landlord and laborer. Needless to say, this is not always true when it comes to factors of production. If you do not pay a person her reservation wage—the minimum amount she would accept to do the job—she will not work.

David Ricardo gives a similar definition: "Rent is that portion of the produce of the earth, which is paid to the landlord for the use of the original and indestructible powers of the soil" (1817, 49).⁹ But he makes an important caveat: "[Rent] is often however confounded with the interest and profit of capital" (49).

For example, suppose that the landlord builds roads on his land to facilitate the production of lumber. As a result, his property is more productive, and he receives a commensurately larger income from the

⁹ See Blaug (1996) for an extensive analysis of the role of rent in classical economic thought.

laborer. Now the landlord's income is not entirely rent; part of it is compensation for his capital investment. It is not rent because if it is not paid, some lumber does not get produced (because the landlord does not build and maintain the roads).

There is, thus, a critical difference between rent and *bona fide* returns to capital. As a positive matter, the two can be difficult to tell apart, but the normative difference is significant; the former is undeserved income, and the latter, deserved. More on this, and the related idea of 'quasi-rent', in §4.

The neoclassical definition of economic rent is a generalization of the classical idea: it is *any payment to an owner of a factor of production above and beyond what is necessary to bring that factor into economic use*. Equivalently, rent is *any payment to an owner of a factor of production in excess of that factor's opportunity cost*. To show the equivalence, take the simple case of a person choosing between working at company *X* and leisure. If he values his leisure at €100/hour, then he will work if and only if the wage offered is $> €100/\text{hour}$. And he will accept any wage $> €100/\text{hour}$; he will bring his labor into economic use for €101 just as well as €1,000. Why? Because both €101 and €1,000 exceed the opportunity cost, which is an hour of leisure, or, equivalently, €100. This is why *any* income accruing to unimproved land is rent: its opportunity cost is €0, you do not have to give anything up to use it, the land is already there.¹⁰

Thinking about rent from the point of view of general economies, it is plain that whether a person's income is economic rent or not turns not only on his preferences, but on other people's preferences, as well. Make the example (slightly) more realistic by having our economic agent face a choice between (1) a job with company *X*, (2) an hour of leisure, which he values at €100, and (3) a job with company *Y*, which offers €120/hour. Now, if company *X* offers €121, our agent will accept, as he would have in the example above. But, unlike above, he will not be extracting €20/hour in rent. The existence of company *Y* has changed the opportunity cost; it is no longer an hour of leisure (or, equivalently, €100). It is an hour of work with company *Y* (or, equivalently, €120). Note that this change is exogenous to the agent: *Y* has offered him this

¹⁰ The attentive reader might point out that even unimproved land has alternate uses, and so its opportunity cost is not really €0. That is true, and was recognized by early neoclassical economists. What is important is not *whether* a factor commands a rent—since, in the real world, all factors plausibly do—but the *extent* to which a factor owner's income is rent.

job because of the tastes of its consumers and the profit-maximizing desire of its owners. (The moral implications of this exogeneity will be considered, briefly, in §4.)

In the real world, it is hard to say with precision how much of any given income is rent. Would Clayton Kershaw *actually* accept \$10 million (rather than \$33 million) to stay in the Major Leagues? Perhaps not, even though at \$10 million the lion's share of his income would remain rent. Perhaps Kershaw would be so offended by the, shall we say, low-ball offer that he would quit baseball in protest. (In fact, there is a straightforward way to model this scenario: for Kershaw, there is an enormous negative compensating differential associated with the job at \$10 million.)

Also, keep in mind that Kershaw requires a return on his investment in himself. He would not have devoted all those hours to practicing his curveball, year after year, if he didn't believe he was going to get paid for it in the future. Compensation for that investment is not rent.

But these are not challenges to the concept of rent; they are challenges to the real-world identification of rent. And while they are significant challenges, I hope that the next section makes clear that we have good empirical evidence that the problem of rent is severe and growing.

Now, a few conceptual observations about rent. First, payment of rent does not result in additional output; it just rearranges the current ownership of output. Nothing is called into productive use when a rent is paid. A corollary is that rents can be confiscated without introducing any inefficiency into the economy.¹¹ Indeed, if some new factor can be brought into use by redistributing the rent, then confiscation is efficiency-enhancing.

Second, any factor of production may obtain a rent. Land is the classical example, but all the same holds true for capital and—saliently in the 21st century—labor.

Third, although rent may look a lot like economic profit, the two concepts are different. Imagine a widget market that is perfectly competitive in the common sense: buyers and sellers have full information and are price-takers. In this market, in the long-run, no firm makes an economic profit (assume widget technology exhibits constant returns to scale).

¹¹ Henry George (1886) is the most famous proponent of rent confiscation.

One day, Jones, who has exceptional widget-making skill, enters the labor market. A firm hires Jones at his reservation price and thereby starts turning a profit. Other firms recognize this and compete for Jones, bidding up his wage until all profit disappears.

Now we have a market in which (1) there is zero profit but positive rent. (If firms own their own factors of production the net effect may be the same, but that's not the case here.) And, (2) there is perfect competition but there is still rent. Only if *factor* markets are perfectly competitive will rents not arise.

Fourth, there is a sense in which we ought to worry about rent for the same reason that we ought to worry about profit. If a firm is making a profit in the long-run, that implies that the market is not competitive, and that the economic surplus is less than it might be. And, of course, monopolies are archetypical examples of market failure which most of us would like to correct through government intervention.

Similarly, if the owner of a factor of production is obtaining a rent, that implies that the factor market is not competitive, and that the surplus is less than it might be. It would seem, therefore, that if we ought to worry about monopolies in output markets (which we often do), we ought to worry about rent in factor markets (yet this goes largely unaddressed).

Fifth and finally, we should define that libertarian bugbear, 'rent-seeking'. Jason Brennan says that "a firm engages in rent seeking when it seeks to gain an economic privilege or advantage from governmental manipulation of the market environment" (2012, 121).¹² For example, a firm might find it profitable to lobby the government to require occupational licensing in its market: that keeps out potential competitors. That's rent-seeking, and it is a particularly libertarian obsession because it is an example of government regulation doing more harm than good.

But the libertarian's focus on this source of rent is unprincipled. The exact same mechanism arises in the private sector all the time. For example, in nursing there are now 183 different certifications (or so nurse.org estimates), none of which has the first thing to do with government regulation. All impede free entry into the labor market (firms can, and many do, exclude from consideration applicants who

¹² A slightly better definition of 'rent-seeking' would be *attempts to keep factors of production in fixed supply*. These attempts may involve "governmental manipulation of the market environment", or they may not (e.g. the private sector nursing certifications I discuss).

lack one or more of them) and few serve a useful informational purpose ('Certified Transcultural Nurse'? Give me a break).

Moreover, rents often arise without anyone 'seeking' them at all. The 'beauty premium', to be discussed shortly, is an example: given two people of equal productivity, the beautiful person gets paid more. That premium is a rent, and it is as morally problematic, and as inefficient, as the rent extracted by the lobbying firm which the libertarian rightly finds objectionable. (The libertarian poses no objection to wage premia owing to beauty.)

What should concern us is not whether rent-seeking is good or bad, but whether rents are good or bad. As we shall see, rents are bad. And *that* is why rent-seeking is bad.

IV. ECONOMIC RENTS ARE UNDESERVED

Within the distributive justice literature, scant attention has been paid to the topic of economic rent.¹³ The two most important contemporary works—John Rawls' *A Theory of Justice* and Robert Nozick's *Anarchy, State, and Utopia*—ignore it completely. The implicit assumption in both these works is that most forms of income share the same moral status. (An exception would be, e.g., income gained through fraud or extortion.)

But we might think that the correct theory of distributive justice draws a moral line between rents, which are in some sense superfluous to economic life, and the factor income that makes our collective prosperity possible. At best, our leading theories can differentiate between the two only on instrumental grounds. (A Rawlsian argument might go like this: 'Rents are inefficient, and therefore their existence is not in the interest of the worst-off'. Whether that is true or not depends on myriad non-ideal facts.) Desert, on the other hand, can point to an *intrinsic* moral difference between the two.

We begin our analysis of rent by considering the aforementioned beauty premium, first investigated by Hamermesh and Biddle (1994). They found that 'plain' workers suffer a 9% wage penalty and 'beautiful' workers enjoy a 5% wage premium, holding all else (education, experience, etc.) equal. The effect is found across professions, and it is not explained by tortuous appeals to productivity (e.g. 'beautiful people

¹³ The exceptions—in which rent is discussed in any detail—include Fried (1995), Gauthier (1986), Lamont (1997) and (2014), Mack (1992), and Olsaretti (2004). Furthermore, there is extensive libertarian work on rent-seeking. I also refer the reader to Peter Dietsch's essay in this special issue of the *Erasmus Journal for Philosophy and Economics*, the main argument of which I am sympathetic to.

are more confident, and thus better workers'). Rather, we provide advantages to attractive people because we like looking at them and being around them. The advantage is purely interpersonal, unconnected to productivity, and so it is a rent.

But is it deserved? It is easy to see that, conceptually, it is not. The beauty premium does not reflect underlying economic contribution, and that, recall, is the (provisional) desert basis.

But really, nuanced analysis is unnecessary. Intuition gets things right. Does Gigi Hadid, 2016 Model of the Year, deserve to make more than the models in the Sears Catalog? Plausibly, yes. But given two surgeons of identical skill, does the pretty one deserve a higher wage than the homely one? Certainly not.

A second source of rent in our economy is nepotism—or what is known euphemistically these days as 'networking'. Nepotism is more pernicious than the beauty premium for two reasons. First, it is more widespread. Second, nepotism wastes resources. Unlike the beauty premium, which a person enjoys more-or-less automatically (set aside money spent on cosmetics, time devoted to grooming, etc.), nepotism is costly. Time is spent searching for contacts; people pay to attend conferences so that they can make connections; LinkedIn gets purchased for \$26 billion. These resources could be put toward productive enterprise, but they are not. They are used by some to gain an advantage against competitors in the labor market.

To be sure, there are arguments that some of these investments serve a productive function, easing labor market frictions. I am skeptical of those arguments, but in any case, they plainly do not apply to the most egregious examples of nepotism.

One such example is nepotism in executive pay-setting. Bebchuk and Fried (2004) show that executives frequently manipulate their directors into providing compensation far beyond what is justified by profit maximization. That excess is a rent. Further evidence for this phenomenon is provided by Chhaochharia and Grinstein (2009), who find that CEO pay decreases with regulatory oversight, also suggestive of rent extraction via nepotism. (See also Morse, Nanda, and Seru 2011.)

Similarly, there is a literature on the practice of 'options backdating': giving executives stock options which are already in-the-money, by 'granting' them at a past date, when the strike price was lower (see, e.g., Lie 2005; Heron and Lie 2007, 2009; Narayanan and Seyhun 2008). The idea is to make shareholders think that these are incentive

payments for performance when in fact they are a clever way to conceal double-dealing between executives and directors. These options are rents. And there is independent evidence of rent extraction among top earners from the optimal taxation literature. (See, e.g., Piketty, Saez, and Stantcheva 2014. Zidar forthcoming is also relevant.)

The evidence suggests that much of the income of top earners in the U.S. is rent. Although it is hard to know the extent of the problem, Dean Baker (2016) estimates that four classes of rent, including executive compensation but not exhaustive of all rent, comprise between 6.2% and 8.5% of GDP, and that these rents are the principal cause of the income redistribution to the top one percent which we have seen since 1980.

The moral analysis of nepotism is analogous to that of the beauty premium. These rents are unconnected to contribution or expected contribution, so they are undeserved, so they are not justly held. And we *feel* the moral difference between (1) an executive being handsomely rewarded for the sage management of her firm, and (2) an executive obtaining the very same income by manipulating her (perhaps witting) directors. The former income is plausibly deserved. The latter is not.

These cases also show why it is unsatisfactory to define economic rent in any of the hand-wavy ways described in §3. Nepotism can be hard work, and so ‘income obtained without effort’ is not right. Something similar may be said about ‘income unconnected to skill’. And luck has nothing to do with the extraction of rents in these cases. (Rent-seeking also provides a fine example of why these definitions are lacking; it takes industry and skill, not luck, to manipulate the regulatory environment in one’s favor.)

The next source of rent we consider does concern luck, and it introduces complications to the alleged basis for deserved income, viz. contribution. Bertrand and Mullainathan (2000, 2001) show that executives are rewarded equally for performance and for luck: for every 1% increase in accounting return, CEO pay increases by 2%. The source of the return is irrelevant; the CEO is treated the same no matter whether the return is a result of his performance or exogenous and unforeseeable factors like oil prices. If it is the latter, then the reward is a rent. (See also Garvey and Milbourn 2006.)

Here’s the rub: there are cases in which the rent both (1) is obtained through luck, and (2) reflects a genuine contribution on the part of the executive. At the same time, our intuition is that this rent, like the

others we have considered, is undeserved. This in turn implies that economic contribution *simpliciter* cannot be the right desert basis.

For example, suppose that we have two firms, *A* and *B*, which use crude oil as an input to production. At the beginning of each month, the CEOs of *A* and *B* decide how much oil to buy for that month.

In January, the CEO of *A*, an intelligent man, bought a certain quantity of oil after careful contemplation and consultation with industry experts. Let us assume, in fact, that this CEO reached a maximally justified belief about future oil prices and purchased the optimal amount of oil for his firm. By contrast, the CEO of *B*, who is stupid and foolhardy, spent all his firm's cash on oil. He had no reason to do this; it was a whim, and it put his firm on the path to bankruptcy.

However, at the beginning of February, a freak earthquake destroys oil infrastructure and sends prices skyrocketing. In these new conditions, *A* is unable to survive; it shuts down. *B* has all the oil it needs, and it prospers. Does the CEO of *B* deserve his salary? It is a rent, to be sure, because it is unconnected to productivity (really, his labor was anti-productive). But it *does* reflect a contribution; the CEO of *B*, and no one else, is responsible for his firm's profits and its ability to produce goods and services.

This conflicts with intuition. We have a contribution here, but it is a lucky one. It did not result from any laudable character or decision-making, and so it is an inappropriate ground for desert. If anything, the CEO of *B* seems deeply undeserving, while the CEO of *A* deserves his paycheck. After all, the latter's character is impeccable and his decision-making perfect. The fact that it did not, as a contingent matter, lead to an actual contribution does not seem to diminish his desert.¹⁴ And the fact that the CEO of *B* *did* produce an actual contribution does not seem enough to make him deserving.

An analogy may be found in the criminal context. Typically, we do not think that a person deserves punishment unless there is *mens rea*; unless he intended to commit the crime. (Though the person need not know that the thing that he intended to do was criminal.) If Anne killed Charlie by sprinkling cyanide in his cereal, intending to kill him, Anne

¹⁴ This suggests, perhaps, that contribution per se is not a necessary element of desert. The CEO of *A*, after all, appears to be deserving despite making no contribution at all. Although I do not want to explore this matter in detail here, it would seem to fit with the idea of desert, and the aboutness principle (§2) in particular. Nevertheless, as a practical matter it is hard, maybe impossible, to evaluate contribution-making character independent of actual contribution. In other words, one's actual contribution is the best proxy we have for one's ability to contribute.

deserves to be punished. If Beth killed Charlie by sprinkling cyanide in his cereal, thinking it was sugar, Beth does not deserve to be punished. Same action (same 'contribution'), different mental state—and so different judgments under desert.

Now, one might wonder about 'strict liability' offenses, in which *mens rea* is not necessary to complete the offense. Doesn't a statutory rapist, for example, deserve to be punished?

I think that ultimately the analogy works out, although it is a little more complicated. For one thing, sometimes these offenders do not deserve to be punished. One imagines a 17-year-old boy who is sent to prison, and forced to register as a sex offender, for mutually agreed-upon sex with his 16-year-old girlfriend. (In many U.S. states this is considered rape, on the grounds that the 16-year-old is incapable of providing consent.) Many people (myself included) regard that punishment as unjust. And I suspect that those who try to justify the punishment do so on consequentialist grounds, unrelated to desert and justice.

And for those cases in which we *do* judge the offender as deserving punishment, our judgment involves a negative assessment of the offender's character. We say things like, 'he should have known better', or 'he should not have taken her word that she was 17'. The person's character is essential to determining what he deserves.

The conceptual issue here involves the aboutness principle (§2). There must be a proper link between desert basis and desert subject if the desert-claim is to be *bona fide*. In the first case discussed, the basis is not about the subject in any substantive way; if anything, the contribution is about factors wholly exogenous to the subject (e.g., the earthquake). This point can be made salient with stronger precisifications of the aboutness principle: the CEO was not *responsible* for the economic contribution, nor did he *control* it. So he cannot deserve on the basis of it.

Let us consider one more important source of rent in our economy, the so-called 'superstar' phenomenon (Rosen 1981). In some markets, small differences in skill give rise to enormous differences in reward. This is for two reasons: first, there is inadequate competition, which allows the superstar to extract rent; and second, the superstar is able to reach many customers at low marginal cost.

Athletes, singers, actors, and celebrities generally provide the best examples of superstars. There are legions of singers who are only

slightly less talented than Katy Perry, but these singers don't make slightly less money than Perry—they make almost no money. Why? Because music-lovers, no matter where they live, can just as easily buy a Katy Perry song as they can patronize a local musician. And because Katy Perry's product is regarded as unique or close to it, most of Perry's \$33 million income is rent.¹⁵ While we do not know exactly how Perry reckons her opportunity costs, doubtless she would do what she does for much less than this. The same goes for superstar actors, athletes, and so on.

Similar to the previous examples, superstar earnings drive a wedge between contribution and desert. Superstars *do* make a large contribution to the economy; people consume their product, and that creates widespread value in the form of entertainment. And superstars are paid commensurate with that large contribution. Conversely, there are legions of local musicians, AAA baseball players, et al. who struggle to make a living wage. These non-superstars make small contributions.

This is objectionable from the desertist perspective. It is desert's *raison d'être* to balance (1) a mode of treatment—whether it's punishment for a crime or income for one's labor—with (2) relevant facts about one's character. And, in particular, it is about ensuring that (1) and (2) vary in proportion.¹⁶ The greater the wrongdoing, the worse the deserved punishment. Similarly, the greater the, let's say, *meritorious* economic contribution, the bigger the deserved income.

The phenomenon of superstars, and the above analysis of contribution-based-on-luck, suggest that to determine one's economic deserts we must scrutinize not just one's contribution but one's character as well. To be sure, it cannot be character in a vacuum that makes one deserving (the most skilled widget-maker in the world does not deserve a high income if he is not making widgets). But insofar as one *is* making an economic contribution, differences in character give rise to differences in deserts.

¹⁵ Forbes (2018).

¹⁶ This is, indeed, the notion of *proportional equality* which underlies Aristotle's desert-based approach in the *Nicomachean Ethics*. Just equality is, for Aristotle, equality between the *ratios* of desert objects to desert bases. Although most associated with Aristotle, proportional equality is also commended by Plato in the *Laws*: "By distributing more to what is greater and smaller amounts to what is lesser, it gives due measure to each according to their nature: this includes greater honors always to those who are greater as regards virtue, and what is fitting—in due proportion—to those who are just the opposite as regards virtue and education. Presumably this is just what constitutes for us political justice" (757c).

I stress that the desertist does not object to superstars being paid more than non-superstars. The superstar rent is based on an underlying difference in character; the superstar is genuinely more talented than the non-superstar. What the desertist objects to is that part of superstars' salaries arising from their market power.

If we have robust labor market competition, our superstars will be paid a premium over their non-superstar counterparts, proportional to the difference between their productive abilities. That premium will be deserved in full.

If we do not have robust competition, as is the case in the actual world, our superstars will be paid a premium over their non-superstar counterparts, but that premium will *not* be proportional to the difference between their productive abilities. And it will *not* be deserved in full (only in part). For some of that premium comes not through talent but through superstars' price-setting (which is possible owing to the imperfect competition). The superstar reduces economic output and social welfare in order to enjoy greater personal gains.¹⁷ He does not deserve reward for this.

Now I think that there is an interesting objection, alluded to in §3, to this whole way of thinking about character, contribution, and desert. To wit: there is a sense in which even one's own talent is exogenous. For *other people*—consumers—decide which of one's skills, character traits, etc. are economically relevant, via their consumption decisions. Clayton Kershaw has 'talent' only because people think that propelling a cowhide ball off a mound of dirt is a useful thing to do. If consumer tastes were to change, Kershaw's deserts would seem to disappear. But how can that be in light of the aboutness principle (§2)? If facts about other people should not affect one's own deserts?

Reply: for better or worse, in the neoclassical conception, value is determined by the subjective preferences of market actors.¹⁸ Within this

¹⁷ Theory only guarantees that this market power leads to a loss of welfare *as measured in monetary units* (dollar, euro, etc.). It is theoretically possible, although almost surely not the case in practice, that welfare *as measured in utility* could increase—if the superstar's marginal utility of consumption is sufficiently greater than that of those whose surplus gets reduced.

¹⁸ Let me give my basic take on value here (I discuss these matters in more detail in Chapter 6 of my 2018 book and hope to consider them at length in future work). Neoclassical economics says that things have value just in case they are desired by people. There are problems with this definition. For one thing, it entails that one creates value, and that one may be deserving, if one produces a popular product which caters to depraved tastes (imagine a song, which people love and consume, whose lyrics are a racist rant). Such a scenario serves, I believe, as a counterexample to the

conception, we can only talk about economic contribution with reference to consumer demand. When we say that Jones is making a contribution, we mean that when he provides his labor (or his capital, etc.) some consumers' preferences are satisfied that otherwise would not be.

Here is an analogy: we do not think that the best curling team at the Winter Olympics does not deserve the gold medal just because the sport of curling is highly arbitrary. The sport exists. Why it exists, and whether it should exist, are interesting questions, but they are not relevant for talking about what people deserve within it. Economic life is similar. It is one thing to inquire about the nature of value; it is another thing to scrutinize, given a fixed understanding of value, who has contributed to the creation of that value and in what measure. And it is through such considerations that one's just deserts are determined.

An issue which should be addressed is the moral status of the aforementioned quasi-rents. A quasi-rent is a payment to a factor of production which looks, on its face, like a rent, but which is in fact an inducement to productive enterprise. A typical example is a pharmaceutical company that is granted a patent on a new drug. The patent gives the company monopoly power, and so it appears to extract a rent on the basis of a scarce factor (*viz.* the patent).

But looking a little closer, we can see that this is not the case. Without the possibility of patent protection, the drug would not have been developed to begin with. It was the possibility of monopoly profit that enticed the firm to make the multi-billion-dollar research and development investment. This is different from most markets, in which no such protection is necessary for innovation, and monopoly profits are deadweight loss.¹⁹

Indeed, far from being unjustly held, these quasi-rents are essential to a well-functioning economy. Their existence, and the quest for them,

naïve account of subjective value. Better, I think, to hold that (1) value is ultimately *objective*, and (2) the best way to *identify* what things have value is through the market—i.e. by treating value as if it were subjective. In this way, we can maintain an objective understanding of value without abandoning the neoclassical economic framework.

¹⁹ An anonymous referee has pointed out to me that there is a case to be made that income gained through pharmaceutical patent protection *is* rent (and therefore unjustly gained on my account) because there are alternative mechanisms available for drug development. Dean Baker makes such a case, and his 2004 paper summarizes these alternative mechanisms. I myself am not sure what to think now. So I shall just say that income gained through this kind of patent protection is often thought to be quasi-rent. To the extent that it is, it does not disrupt a desert-based distributive system.

make possible the cycle of ‘creative destruction’ (Schumpeter 1934) on which so much prosperity relies. As Eric Mack says:

[...] in actual competitive economies [...] insightful entrepreneurs will not imitatively ape the production and marketing of others; they will search out new ways of producing for new or as-yet-unexploited markets. [...] seek[ing] not less but more in the way of imperfectly competitive returns. [...] The perfectly competitive market idealization draws our attention away from the way in which actual competition enhances value and knowledge in society through a process whose participants aim at, and sometimes achieve, higher (than normally imperfectly competitive) returns (Mack 1992, 178–179).

But observe how none of the forms of rent extraction discussed in this section comports with this description. The beauty premium is a pure interpersonal advantage; nepotism stifles innovation rather than encourages it (among other things, it disincentivizes human capital development); the superstar does not require his monopoly to work; and so on.

As I mentioned in §3, libertarians are quick to criticize rent-seeking. Why? Because it provides them ammunition in their anti-government cause. But libertarians fail to appreciate that other rents, no less pernicious, arise elsewhere in the economy and have nothing to do with government. *Pace* many libertarians, not all high incomes reflect “insight”, nor the exploration of “yet-unexploited markets”, nor the creation of “value and knowledge”. That is, not all high incomes are quasi-rents, even though the libertarian would like to believe that they are. The sources of income I have surveyed in this section are not trivial, and they cannot be justified on the grounds Mack gives.

Now let us assume that rents are undeserved, and that, therefore, people have no claim of justice on them. Let us further assume that the government can confiscate them effectively. What then? Whom should they be transferred to?

As a non-ideal matter, this is of course complicated. But some philosophers think that it is intractable even in the ideal case. In discussing Nozick’s (1974) ‘Wilt Chamberlain’ example, Mack (1992) wonders what could possibly be a principled way to redistribute Wilt’s ill-gotten gains.²⁰ Mack muses that “it seems odd [...] that the economic

²⁰ Although Nozick does not say so, Wilt (in the example and in real life) is a fine example of rent extraction via the superstar effect.

rent that accrues to Chamberlain should be distributed across all members of Chamberlain's society" (1992, 182). I agree. But there is no reason why the government must be so indiscriminate.

From the point-of-view of desert, we should like to both (1) confiscate rents (because they are undeserved), and (2) give transfer payments to those who have less than they deserve. And it would be most elegant if (1) and (2) were equal—so that the perfectly just balance (n. 16) may be achieved.

In fact, (1) and (2) will be equal! Think of a competitive economy with production operating under constant returns to scale. The owner of each factor of production receives an income equal to that factor's marginal product, which is (barely) sufficient to compensate for opportunity costs. National income equals the sum of marginal products.

One day, the owner of some factor is able to extract a rent. Because the rent payment does not create more output, it *must* come at the cost of another's income. But all shares were perfectly deserved beforehand. So someone now must be getting less than she deserves. Therefore, the right response is to confiscate the rent and give it to the owner of the factor earning less than she deserves.²¹

What about the case of decreasing returns-to-scale? (Increasing returns-to-scale being incompatible with the assumption of perfect competition.) Now there will be income left over after each factor is paid its marginal product. The natural solution for the desertist is to say that people deserve income *in proportion* to their marginal products. Then the same argument given for the constant returns-to-scale case goes through. I note that Roemer and Silvestre (1993) have proven that there exists such an equilibrium for general economies—factor shares paid *in proportion* to their marginal products—and that it is Pareto efficient.

Let me conclude this section by suggesting a taxonomy of rents. We have identified five types.

Type One rents derive from *natural* features that provide one with an interpersonal advantage in the labor market. The beauty premium is

²¹ At this stage of the argument, there is an implicit assumption that marginal product is a good measure of 'contribution'. This is not trivial, although it has been endorsed by others; most famously, Clark (1899), and more recently, Mankiw (2013). I give a fuller defense of the assumption in Chapter 6 of my 2018 book. *N.B.* while Mankiw and I agree normatively—we think that justice is about giving people what they deserve, that one's deserved income is based in one's contribution, and that marginal product is the right measure of 'contribution'—we disagree, positively. He believes that America's high labor incomes reflect contributions; I believe that they do not.

a Type One rent. Of course, that beauty provides one an extra income is not a natural fact but a social fact—and a lamentable one at that. (Also a correctable one.) But the rent-producing feature is natural, and so it belongs to the first type.

Type Two rents derive from *social* features that provide an interpersonal advantage. Nepotism is a Type Two rent. Again, these are more pernicious than Type One rents because resources must be spent to create or maintain the advantage. (Here we may also include rents derived from *non-natural* beauty. Some people undergo surgical procedures in order to look more beautiful, in order to, *inter alia*, improve their job prospects.)

Type Three rents occur when a person receives an economic reward which is unconnected to underlying productive capacity. Our incompetent but lucky CEO provides an example.

Type Four rents result from *natural* scarcity. Returns to unimproved land and some superstar salaries are examples.

Type Five rents result from *artificial* scarcity, which is usually (but not necessarily) cultivated by the factor enjoying the rent. That is, Type Five rents are the result of rent-seeking.

Let me suggest one more type: Type Six rents, defined as rents gained through ‘unproductive financial activity’. The hedge fund that exploits a technical inefficiency in the market, moving money from others’ pockets to its own without growing the economic pie, is an extractor of Type Six rent. Similar to Type Two rents, Type Six rents are undesirable because they squander resources which might be put to productive use. Because of the enormous (undeserved) incomes involved, hedge funds, private equity firms, and the like are among the most-desired employment destinations for graduates of top universities (see, e.g., Goldin and Katz 2008). This is significant human capital which could be put toward scientific research, or education, or widget-making—or whatever—but is not.

It can be difficult to distinguish Type Six rents from quasi-rents. There are cases to be made—unpersuasive ones, in my opinion—that these parts of the finance industry do serve *bona fide* productive purposes. Maybe they provide liquidity in markets or help firms work more efficiently. If so, then they are deserved and justly held. This is a positive matter, to be settled through empirical research.

V. WHAT DOES THIS MEAN FOR PUBLIC POLICY?

The argument to this point may seem *recherché*. In fact, I think that these considerations of rent and desert have important practical ramifications.

For one thing, they justify economic redistribution—away from undeserving extractors of rents to citizens who have less than they deserve. And the redistribution is morally plausible, in the sense that it accords with the widespread sentiment that there is too much economic inequality. If we confiscated and redistributed rents as described, we would significantly reduce inequality. (Rent extraction overwhelmingly happens at the top, not the bottom, of the income distribution. And it comes at the cost of low- and middle-income earners owing to differentials in bargaining power.)

Keep in mind that we desertists do not care a whit about economic equality or inequality (of outcome). What we care about is matching people's rewards to their contributions. These contributions are unequal, and so just rewards are unequal. It simply happens to be the case that actual contributions are not so unequal as actual wages would suggest. In other words, real-world inequality is a symptom of injustice rather than an injustice in itself.

In contrast, the libertarian would protect rents (maybe not Type Five rents), as they are a result of free exchanges in the market. But let's think about what this means in practice. First, because the marginal utility of rents is virtually nil (those who extract them are already rich), they have no positive effect on welfare. Second, they are an economic inefficiency, making the social surplus less than it could be. Third, as we have seen, rents are, at best, imperfectly connected to merit, effort, skill, contribution, and the like, and at worst utterly unconnected. Rather than a *modus ponens* from libertarian principles to protecting rents, we have a *modus tollens*: no correct theory of justice will hold that these rents should be protected.

It is important that people not regard 'contribution-based income' as reactionary, for it is anything but. As I have argued (Mulligan 2018), the distributive system I commend would produce a society more egalitarian than the most egalitarian c. 2018, even as the system is indifferent to inequality. And really: how reactionary could it be, given that Marx approved of it for his penultimate, socialist phase of history? ("Marx is more a meritocrat than Rawls, Nielsen, Dworkin, and most contemporary liberal political philosophers" [Pojman 1999, 93].)

Moreover, there are plausible forms of market failure in which people making *bona fide* contributions go unremunerated. One example is stay-at-home parents. They serve a vital economic function, sustaining the labor force of the next generation and improving its human capital—but they are not paid for it. (Most do, of course, enjoy psychic utility by doing their parental duty.) In principle, transfers to stay-at-home parents are not only compatible with the meritocratic approach but required by it.

There is also the matter of the Solow residual, or what is now known as ‘total factor productivity’ (TFP). This is the portion of output not explained by known inputs to production; typically labor and capital.²² TFP captures output resulting from technology, institutional change, and synergies among workers. Because TFP is a residual, it is best understood as a measure of our ignorance about inputs to production. After all, some people out there created the technology TFP measures; and so *they* made the relevant contributions, and so they deserve on the regular grounds. To be sure, it can be hard to say exactly who contributed to production and in exactly what measure. But this is an epistemic challenge of the sort that all distributive principles face. It is not a conceptual challenge.

Finally, a parochial political point: Americans should think hard about why the left has failed to improve the material condition of the lower and middle classes over the past 40 years. It failed to forestall the tax-and-transfer policies, deregulation, and weakening of worker bargaining power which have had the net effect of redistributing income and wealth to the rich. It is illustrative that the major ‘progressive’ policy achievement of recent years—the Patient Protection and Affordable Care Act—is anything but radical, and its survival unclear.

This failure is especially mystifying given the appetite for progressive redistribution. Americans across ideological lines regard their economy as unfair (Fingerhut 2016), and they are amenable to tax-and-transfer policies and new social programs in the name of fairness:

In order to provide both genuine opportunity and a measure of economic security—large majorities of Americans favor a number of specific government programs [...]. Support for these government

²² One may wonder why capital income is deserved. The reason is that a desert-based society must, by conceptual necessity, be built upon robust equal opportunity (Mulligan 2018). There can be no inheritance, e.g. When an individual living in a desert-based society earns capital income, that income can be traced to *his* contributions.

programs comes from all sectors of society: from Republicans, from self-described middle-class and upper-class people, from whites, and from those with high incomes, as well as from Democrats, working-class people, African Americans, and lower-income citizens (Page and Jacobs 2009, 22-23).

Why has the American left so struggled? The answer, I think, is that it has based its arguments in moral principles that are widely regarded as false, and used rhetoric that human beings find profoundly unattractive.

If there is a watchword of the American left, it is 'equality'. But we know that equality is rejected as a norm of justice: "Empirical studies provide almost no support for egalitarianism, understood as equality of outcomes, or for Rawls's difference principle" (Konow 2003, 1199).

In contrast, there is overwhelming support for the idea that justice is a matter of giving people what they deserve, and that, when it comes to income, just deserts are indexed to contribution. This is probably the best demonstrated result in the enormous empirical literature on justice, supported by research in social psychology, child development, experimental economics, evolutionary theory, neurology, and other fields.

The degree of support for justice-as-desert is so humongous that I cannot begin to describe it here (I devote Chapter 3 of my 2018 book to the task), but one easily gets a sense of things. As Gregory Mankiw points out:

[...] people are rarely outraged when high incomes go to those who obviously earned them. When we see Steven Spielberg make blockbuster movies, Steve Jobs introduce the iPod, David Letterman crack funny jokes, and J.K. Rowling excite countless young readers with her Harry Potter books, we don't object to the many millions of dollars they earn in the process. The high incomes that generate anger are those that come from manipulating the system. The CEO who pads the corporate board with his cronies and the banker whose firm survives only by virtue of a government bailout do not seem to deserve their multimillion dollar bonuses. The public perceives them (correctly or incorrectly) as getting more than they contributed to society (Mankiw 2010, 295).

The objectionable incomes which Mankiw identifies are all rents.

It is therefore worth asking if we might arrive at the society that we regard as pretheoretically just via a different, non-egalitarian, normative route. The argument of this paper is that the answer is 'yes'. If justice is

a matter of giving people what they deserve, then we ought to confiscate and redistribute rents. This is just, and it has the side-effects of reducing inequality, increasing economic efficiency, and political expediency.

It would be a mistake to stop there, though. At a time when we are revisiting everything that we have taken for granted about political and social culture, we should take a hard look at the normative frameworks that have so occupied us as philosophers. Perhaps their time has passed. I am convinced that before long, justice will be found in the venerable but neglected idea that we should give people what they deserve.

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Why a Uniform Basic Income Offends Justice

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Abstract: This article explains why the traditional defense of the basic income policy is flawed in its assumptions about uniform allocations. This paper argues that treating everybody identically by way of a uniform grant is ultimately in tension with the egalitarian rationale behind the basic income. Philippe Van Parijs, the champion defender of the policy proposal, has fervently argued that unconditional receipt of a universal grant will render society more just by way of the egalitarian distribution of ‘real freedom’ that the policy would elicit. Although Van Parijs is right in supposing that basic income will enhance real freedom, his theoretical apparatus is not prepared to address questions of differences in the level of opportunity already enjoyed by the beneficiaries of the policy. This failure poses a problem for normative reasoning, namely, that morally relevant differences among individuals are ignored. This paper concentrates on the implications of this oversight and provides an equality metric that is better equipped to recognize disparity and its moral implications.

Keywords: basic income, justice, moral agency, equality, real freedom

JEL Classification: D31, E64, H24

I. BASIC INCOME AND DIFFERENCE

The basic income proposal has gained much traction during the last five years as a possible mechanism to fight poverty in advanced economies which are plagued by recession. In a short period of time, it has become the object of serious consideration in several countries of Europe. In the United States—a country that has been traditionally averse to generous and universal welfare policy—the idea of basic income has received heightened attention in the media; many have discussed its potential to cope with a changing job market due to the job market’s increasing

AUTHOR’S NOTE: The author would like to thank Bob Goodin, Jon Elster, Karl Wiederquist, two anonymous referees, and the editors of this journal and volume, Huub Brouwer and Thomas Mulligan, for insightful comments on earlier drafts of the paper.

flexibility (Surowiecki 2016).¹ The appeal of a basic income has also reached parts of the Global South. For instance, in Latin America, the initiative is at the center of a social movement to combat poverty in countries such as Brazil and Argentina (Valente 2009). Such considerations suggest that basic income is more than academic conjecture: its growing presence in policy discussions around the globe indicates that it is a proposal with great opportunity.

Over the last three decades, much has been written in the justice literature about the merits of a basic income. Basic income is a guaranteed minimum income conceived of as the basis of a social security system, or as a complement to it (depending on how high its value is). Its proponents argue that the grant should be given to people unconditionally—that is, without an obligation to work—regardless of existing wealth and income. According to this perspective, every citizen is entitled to a basic income by right of birth (see Van Parijs 1995, as a paradigm case).

Basic income is not a single policy but a set of related policies based on the shared idea of a periodic (or one time) cash payment delivered to all on an unconditional basis (Van Parijs 1995; Atkinson 1996; Przeworski 1986).² The basic goal behind this family of proposals is to guarantee (at least) a minimum income floor for all citizens and, by implication, to enlarge their capacity to choose among different life and employment plans. However, not all proposals are designed in the same way or support the same level of income given to citizens. Some authors defend a basic income proposal that sets its value as high as is economically possible to sustain (Van Parijs 1995; Wright 2003).³ This approach is usually consistent with the argument that most other forms of social welfare would cease to be necessary if this level of funding

¹ Among other things, Surowiecki explains that a basic income would increase workers' bargaining power by providing an income cushion that can help them when deciding whether to reject lousy, precarious job offers.

² My arguments in this paper, thus, also apply to a Capital Grant. For elaboration of this policy, see Ackerman and Alstott (2004). The Capital Grant, or Capital Account, proposed by the authors consists of a one-time delivery of \$80,000 to each adult in society when they reach 18 years of age, funded by an annual wealth tax.

³ For this approach, see, classically, Van Parijs (1995). This 'maximalist' approach, however, is not taken by Van Parijs in his latest work with Yannick Vanderborght (Van Parijs and Vanderborght 2017). Here, the authors argue for a moderate level of funding in so far as it is not realistically possible to expect otherwise—this applies even in the most prosperous capitalist economies of the world. Further, the authors also argue that a moderate basic income is not supposed to replace all kinds of welfare assistance already in place. See also Wright (2010) for an alternative minimalist approach to basic income.

were attained; though, others defend a minimum floor (one that is sufficient to cover basic needs) that should be complemented with other welfare programs.

Before we proceed, a word of caution. A basic income should not be confused with a Negative Income Tax (NIT). Many interpret the merits of basic income to be equivalent with the NIT policy, though this is a false equivalence: a NIT policy is based on household income, viz. those who earn below a certain income amount.⁴ Basic income, by contrast, is individualistic and thus applies to all by birth or citizenship. Moreover, as argued by Van Parijs and Vanderborght (2017), the crucial difference between the NIT policy and basic income is that, at least in its preferred formulation by Friedman (1962), a NIT is funded via a linear tax rate for all income levels. This is to say, that all levels of income are taxed at the same rate (Van Parijs and Vanderborght 2017, 32–35). But, as I will explain later in this article, not all basic income proposals are funded by taxation.

Since it would take us too far afield to discuss the details of all the different formulations of the basic income policy, I will here concentrate on a general definition of basic income that should be sufficient to achieve consistency among different interpretations of basic income. The reader is asked to think of the main (shared) definitional aspects of the policy as including universality (everybody gets it) and unconditionality (the policy is non-means tested and without work-requirement). In this article, I will *not* argue whether basic income should replace other forms of welfare assistance in society—this is because I do not defend any particular view about what the value of the basic income provided to citizens should be (such a defense is not necessary for the purposes of my argument). However, it will become clear that the higher the value of a basic income proposal is, the greater the discrepancy and unfairness will be: a generous level of income given to all universally will exacerbate the existing differences between those who do and those who do not need such income. Hence, the issue of what is the appropriate value for a basic income deserves a much more

⁴ Initially popularized in the 20th century by Milton Friedman in his *Capitalism and Freedom* (1962). The NIT is, basically, a system by which people earning below a certain amount receive supplemental pay from the government instead of paying taxes to the government.

detailed economic analysis that can be provided here.⁵ Now, we are ready to explain my main claim in this article.

Contingent on the value of the grant, a basic income can give the individual freedom to withdraw from the sphere of economic production and gainful employment. The higher the value of basic income is, the less dependent the individual will be upon income which is derived from work. This is because the basic income granted will be provided irrespective of wealth and other indicators of socio-economic status. The higher the level of the grant, the freer from employment the individual will be. In other words, the generosity of the grant is inversely proportional to the individual's reliance on a wage or any other type of economic gain directly derived from her labor (such as gains derived from self-employment).

Opponents of unconditional and universal basic income oftentimes find the foregoing conclusion unpalatable because of its alleged unfairness. They point to the intuition that it is unjust that some people work to finance the freedom of others; call this the *free-rider objection*. The free-rider objection claims that living off other people's labor, labor which supports basic income via taxation, is objectionable because it entails taking unfair advantage of the industrious members of society (see Elster 1986; White 1997). On this view, those who do not prefer to work should not receive preferential treatment *at the expense* of those who do.

In this paper, I focus on a second, vastly underexplored objection against a basic income, which goes beyond the free-rider problem. The second objection to basic income is the idea that it is unjust that scarce resources be devoted to finance the (relative) freedom from work of unequally disadvantaged individuals in society. I call this the *relevant differences objection*. This objection points to the fact that in actual societies, not all individuals are subject to the same constraints, such as those imposed by the necessity to work for a living. Some people, for instance, are born and live in propitious circumstances that render the need to seek employment less demanding than for other individuals. From this fact, an important normative implication follows: society's provision of resources to reduce the constraints imposed by economic necessity should be sensitive to those differentials. This article explains why the traditional defense of the basic income is flawed in its

⁵ Additionally, it may not evoke the same solution in all countries for obvious reasons related to the affluence and health of the world's different economies.

assumptions about uniformity in the distribution of the grant money. The paper develops the argument that treating everybody identically is ultimately in tension with the egalitarian rationale behind the policy. Because of this tension, I propose to modify the rationale for and implementation of the policy. I argue that if we truly care about equality and real freedom, as Van Parijs does in his arguments for basic income throughout his oeuvre, we should prefer to establish a graduated income grant, not a uniform basic income that is identical for all regardless of individual circumstances.

According to the traditional defence of basic income, the unconditional grant should be available for absolutely everybody in society irrespective of any situational differences among individuals. Situational differences are disparities that stem from the individual's life-context, such as income, educational level, family environment, work opportunities offered by the community, and so forth. According to defenders of the basic income proposal, the income grant is founded on a citizenship right to economic support, and this right is blind to any disparities in the condition of recipients. It is based on the ideal of *unqualified* entitlement.⁶

This blindness to difference is justified by considerations of distributive equality. Philippe Van Parijs, the champion defender of basic income, has consistently argued that unconditional receipt of a uniform grant will render society more just by way of the egalitarian distribution of real freedom that the policy would elicit. Real freedom, according to Van Parijs, is the effective capacity to do "what one might want to do" (1995, 21). According to him, an unconditional grant provided to everybody equally will enhance people's power to engage in projects they like, or might like, to pursue in the future. It will enlarge their range of meaningful options in a manner that negative freedom—understood as mere absence of interference—is not capable of doing. The reason why real freedom is distinguished from freedom as absence of interference is that real freedom requires more than absence of

⁶ Participation income proposals are also universal in this sense. The participation income policy demands work in return for assistance but it applies to everybody regardless of social position. A participation income is a basic income that is universal (non-means-tested) but conditional. It differs from an unconditional basic income in that citizens must contribute something in return for the grant. This contribution typically consists of community work. Like basic income, however, the participation income is not variable. Everybody is entitled to it provided they commit themselves to 'giving back' to society in some discernible way. For a defence of participation income, see Atkinson (1996).

humanly and legally imposed obstacles to action. It requires material resources and opportunities that enable the individual to stick by her preferences allowing her to perform actions that naturally follow from those preferences. The notion of real freedom as initially proposed by Van Parijs in his seminal book (1995) is not analytically complicated. One could understand it as personal autonomy in that it signifies the *effective* capacity to choose plans of life that may otherwise be *formally* available to us but are too expensive or not feasible to carry out. The literature refers to this capacity as positive freedom. In discussions around distributive justice, it signifies the presence of material resources and opportunities that enable the individual to go through with her choices. For example, one could be formally free to go to university *because* there are no laws prohibiting it, but the cost of a college education may be so high that most people may not be able to afford it *in practice*, rendering them less autonomous and free than the wealthy few who can. In the sense described in the basic income literature, real freedom is, more than anything, freedom from economic hardship and freedom to possess a certain level of income that would permit the individual to escape circumstances that are predicated on a lack of opportunity. One important reason why basic income confers real freedom by enlarging opportunity is that it gives the recipient the power to say no (see Widerquist 2006). Its purpose is not just to assuage poverty and misery, but to change the balance of power relations in society. A basic income would give individuals the power to decline precarious but necessary-to-survive job offers that deepen the cycle of poverty and stigma for those who have to take them in the absence of a better option. Thus, basic income is a source of real freedom because it provides individuals the chance to stand up against exploitation, which mostly affects the economically disadvantaged.⁷ A life without exploitation is certainly more free in the sense that Van Parijs describes when he talks about real freedom. But Van Parijs does not only worry about the danger of exploitation that a basic income would help combat: real freedom necessarily opposes exploitation, but it also entails the positive presence of opportunities to do things in life without being

⁷ Additionally, and in a similar vein, the basic income avoids the so-called poverty trap that many welfare programs that require work to be dispensed create. Many times, recipients of assistance will refrain from taking precarious work because the pay will be so bad [insufficient?] that the assistance program is preferable; and if they take the job they will lose the latter. This dynamic traps them into a cycle of poverty because they cannot leave welfare easily on pain of much economic cost.

judged or restrained for wanting to do them. Having real freedom entails that the individual is the sole arbiter of what is a valuable pursuit for them; and that the government remains neutral on the value of different life plans. The idea of real freedom in Van Parijs' work consists of (i) non-exploitation, (ii) availability of resources necessary to carry out plans, and (iii) governmental neutrality on the issue of what constitutes a good life.

However, although Van Parijs is right in supposing that basic income will enhance real freedom as described above, his theoretical apparatus is not prepared to address the 'relevant differences objection' that I described before. In other words, his work fails to address questions of difference in social advantage already enjoyed by the beneficiaries of the policy. This failure poses a problem for normative reasoning, namely, that morally relevant differences among individuals are ignored. I concentrate on the implications of this oversight and suggest an approach that is better equipped to recognize disparity and its moral implications. What I call the 'agency approach' is better suited to taking notice of differences that warrant moral concern from a justice viewpoint. For this reason, reference to it is appropriate in the framework of a discussion about policy proposals that should be sensitive to people's situational differences.

There is scarce treatment of this issue in the basic income literature, although the general spirit of my objection against a uniform basic income evokes an existing objection against sufficientarianism as a criterion for distribution.⁸ Arguments in favor of basic income—viz. those which cite it as a source of real freedom and autonomy by

⁸ See, for example, Casal (2007). Broadly speaking, sufficientarianism as a criterion for distribution proposes that we should worry about bringing everyone over a minimum stipulated threshold of income but that differences in resources among people above that threshold do not matter morally or in terms of justice. The idea is that inequality of resources is not morally salient if everybody has sufficient resources to survive decently (what this means is subject to stipulation and I cannot go over the issue here). Casal presents a refutation of this claim and seeks to argue that inequality should matter to us. Her argument is complex and nuanced, but one could say that she proposes to highlight the appeal of prioritarianism, whereby the moral value of benefiting an individual decreases as she becomes better off (on an absolute or a relative scale depending on the stripe of prioritarianism in question). My arguments for a graduated basic income, in this paper, are consistent with Casal's normative assumptions against sufficientarianism and in favor of equality and prioritarianism. It would not be incorrect to say that a uniform basic income for all is oblivious to differences in income/welfare that already exist among citizen-recipients. Because of this, it is true that it would give the worse off an opportunity to surpass the threshold necessary for a decently good life but it would also leave those existing inequalities untouched or even accentuated.

solidifying a right to say no and rebalancing relations of power in society—do not address the problem that this paper focuses on, which is that the uniform basic income ignores important moral differences in effective opportunity that would-be-recipients *already* enjoy. Some analyses of basic income do touch on differing levels of cash dispensation among citizens depending on their age and their geographic location (Van Parijs and Vanderborght 2017, 9). However, these differences are not justified on disparities of pre-existing effective capacity to act, but on more mundane considerations. There is no argument to address why considerations of justice and desert justify these distinctions (other than the idea that children are generally taken care of by parents, and some areas of the country are terribly more expensive than others to live in). This absence of analysis is not trivial. As logically valid as the existing arguments for a basic income are, it remains true that the notion of identical dispensation (uniformity) would seem to entail the assumption that, in the absence of a basic income at all, everybody's real freedom is affected in a way that we should lament. But this is obviously not the case as people's effective capacity to do things in life (and pay for them) varies according to family situation, personal background, inherited advantage, and other variables beyond their control.

The article has the following structure: Part Two challenges Van Parijs's conceptualization of equality. In that section, I argue that Van Parijs's uniformist account of equality is deficient because it is oblivious to relevant differences in individual situations. Van Parijs relies on a conception of distributive equality that ignores the importance of giving all individuals' interests *equal* consideration. The principle of equal consideration of interests is a cornerstone of egalitarian thought and Van Parijs does not offer any valid justification for (implicitly) overlooking it. In part Three, I claim that when it comes to basic income, a focus on pre-existing economic advantage is more appropriate than uniformity because it provides a clearer indication of whether people are morally responsible for their own predicaments, and if so, how. The argument is that, under normal circumstances, the least advantaged members of society have a moral claim to differentiated attention in the face of society's failure to provide them with the resources necessary to exercise moral responsibility. I refer to the capacity to exercise moral responsibility for life choices as 'moral agency'. It presupposes the opportunity to choose freely uninhibited by social contingencies, as far

as that is humanly and reasonably possible (my view does not assume that unencumbered choice is ever plausible). Part Four deals with the policy implications of the approach to distributive equality that I propose. Part Five concludes.

II. UNIFORMITY AND JUSTICE

A uniform basic income is in tension with well-entrenched, common-sense moral views about justice. The assumption that uniformity is consonant with justice presupposes that situational differences do not matter for justice. But this assumption is at odds with some of our most basic egalitarian intuitions. Individuals living in conditions under which some of their fundamental interests are comparatively more difficult to fulfill due to disadvantage need greater help vis-à-vis those whose interests are already fulfilled, or whose backgrounds render fulfillment relatively cheap or easy. A fundamental interest in hydration, for example, is relatively cheaper to fulfill, *ceteris paribus*, for someone living by a non-polluted river than for someone living in a desert.⁹ A basic interest in decent housing, to take another example, is more likely to be fulfilled in the case of individuals born to relatively well-off families than it is for individuals born and raised in urban slums. A human interest in enjoying income security, lastly, would be easier to fulfill for the person living in an area of vibrant economic activity and innovation than it would be for a person stuck in a depressed, jobs-scarce region.

⁹ More attention is needed perhaps to the extent to which these factors are under the person's control. In many cases, a person does not have to live by a polluted river. Such cases raise two issues: Why should society have to pay you for choosing to live in a tougher environment? And does making such payments not pose problems of moral hazard? These observations, although valid, do not forcefully apply to the cases I have in mind and which motivate my focus on disparity in advantage. I assume that we will want to avoid on any rational grounds the disadvantages attached to places of residence. Thus, nobody in their right mind would choose to live by a polluted river if they could do otherwise. Usually, people residing in disadvantaged natural and social environments have been born there, or are stuck there for lack of social mobility or better employment prospects. Of course, not all cases are of this sort and many times people choose a low-quality residence environment in exchange for high pay or other benefits. These cases should be considered in a different light in that one could reasonably say that they involve much higher degrees of voluntariness. It is for these voluntary cases that one should fear moral hazard. But this is not a danger for my position since, as will be argued below, the indexes of advantage that I use will be income and wealth. This means that in trade-off cases such as the one of the high-earner who lives by a polluted river, her choice will not make her disadvantaged in the eyes of the policy-maker because she will be commanding a higher income than she otherwise would.

In his work, Van Parijs does not seem to be concerned with how a uniform basic income would deal with the foregoing disparities in capabilities and individual situations. On the contrary, he lays special stress on the idea that an adequate conception of distributive justice would not compensate agents for welfare deficits arising from having expensive tastes (nor tax them for welfare surpluses due to cheap preferences) (see Van Parijs, 1991). In this sense, it is clear that his approach to justice is non-welfarist. A non-welfarist approach to justice naturally rejects the idea that disparities in levels of welfare and preference satisfaction deserve the attention of justice (Dworkin 1981b). Rather, the non-welfarist approach focuses on more objective standards of equality such as resources or opportunities.¹⁰ On the resourcist account, resources, such as money, and opportunities, such as access to jobs and other competitive positions in society, constitute a more reliable metric for equality because they are not subject to whims and mere subjective desires. For example, giving room to welfare considerations when making decisions about the just way to distribute resources in society may mean that those with unnecessarily expensive tastes may end up receiving more resources than others due to their peculiar preferences. Nobody needs an Aston Martin to enjoy a decent standard of living but some individuals may sincerely feel that the possession of a luxurious automobile is strictly necessary to that end. Even though expensive tastes can derive from real, verifiable human needs—as is the case of the person who gets violently sick if he ingests tap water, and needs mineral water instead—it is generally safe to assume that objective metrics of equality like resources or opportunities protect us against the tyranny of expensive tastes. The non-welfarist position, despite differences among approaches, entails the fundamental rejection of the idea that people cannot be held responsible for their preferences or tastes. In this sense, Van Parijs' views are not unconventional or unwarranted. Van Parijs is not concerned with preference satisfaction because he holds individuals responsible for their preferences. However, Van Parijs would justifiably tell us that his conception of justice does not assign responsibility for preferences formed under certain conditions of limited freedom, such as coercion, force, and informational insufficiencies. But, when freedom of choice is taken as given, he assumes that the individual is able to control what

¹⁰ For a full-fledged and classical defense of the resourcist approach, but also an explanation of the welfarist account, see Dworkin (1981a, 1981b).

she prefers, and therefore, that the state has no business compensating her or actively facilitating the fulfillment of her expensive tastes. Furthermore, as mentioned before, a uniform basic income fulfills the goal of preserving state neutrality regarding the value of different plans of life because it does not treat any one choice as more or less worthy of support than another. In the face of these two assumptions, namely, that people are normally responsible for their tastes *and* that no way of life is better than another, a uniform distribution of resources is the most natural implication. The logic underwriting the uniform grant is that, if we wish to avoid falling prey to welfarism and to perfectionism, a uniform distribution of resources is the most appropriate alternative when it comes to choosing a metric for equality. Van Parijs suggests that, to avoid putting preference satisfaction at the center of a theory of justice, and to avoid making assumptions about which life-plans are morally preferable overall, we must ignore disparity and make basic income the same for all.

However, a fear of welfarism and of perfectionism ought not to overshadow a commitment to equality. There is a way out. The alternative is exemplified by an emphasis on moral agency understood as the freedom to make choices that are unencumbered by initial social disadvantage. The term ‘moral agency’ entails reference to moral responsibility. When we are relatively unburdened by oppressive social circumstances, we are relatively more free to act, and therefore better equipped to claim moral responsibility for what we do or do not choose to do. People are not all equally responsible for the results of their decisions because they experience different degrees of constraint when making those decisions. That constraining circumstances imperil moral responsibility for many of the choices we make in life is a common premise in philosophical discussions about justice. The less burdened by initial economic disadvantage a person is, the more truly responsible for her actions she can be said to be.¹¹ To be free in this respect implies the possession of resources and opportunities that make our formal choices possible. In other words, being free entails not only being free to make choices (freedom from intrusion), but also being free to carry out the plans that logically follow from those choices because we have the substantive resources necessary to do so. In the absence of effective opportunity to carry out our plans, the force of circumstance becomes

¹¹ For a good survey of the moral responsibility literature, see Fischer (1999, 2008), Levy and McKenna (2009), and Campbell (2008).

powerful because we are confined to choosing among a very limited number of options even if we are formally free to choose among a broader menu of alternatives.

For example, I am formally free to choose to attend an expensive private institution of higher learning; but even if I get admitted to it, I may not be truly free to carry out my plan to study there if I do not have the monetary resources or financial assistance that would enable me to take my preferred course of action. In line with this premise, I argue that if we care about justice and a fair distribution of real freedom, the allocation of resources necessary to implement a basic income must track existing differentials in initial (dis)advantage among would-be recipients of the income grant.

Neglecting to look at differences among individuals defeats the egalitarian purpose that animates the basic income policy. Recognizing difference does not necessarily imply enslaving society to the whims and expensive tastes of (some of) its members. People do not only differ in their preferences but they also differ in the conditions of advantage that they experience and are born into. This fact has important implications for justice. Personal circumstances play a role in determining how morally accountable a person is for the features that largely shape her life. The more control she has over those circumstances, the more morally responsible she can be thought to be for the shape that her fate takes.

To claim that a person is morally responsible for a certain action or situation is to claim that such an action or situation is attributable to her in the sense required for it to be a basis of moral appraisal. We appraise someone in this sense when we consider blaming them, or absolving them of blame, for a particular predicament they are immersed in (see Frankfurt 1969; Zimmerman 1987). Being capable of moral responsibility, in turn, implies freedom, for in the absence of freedom no evaluation of the person's blameworthiness can be made. In each case, facts about degrees of control, facts about the quality of options, and facts about the costs of alternatives affect the proper allocation of moral responsibility. The concept of agency gives us a standard to assess moral responsibility by looking at the individual's context of choice. It tells us that the capacity to claim moral responsibility for decisions and circumstances differs across people according to the nature of the options they face in life. All else being equal, the more advantageous her initial options, the more of a moral

agent the individual can act as. To be morally responsible for the shape of one's life is to be in command of one's life, that is, to be able to choose and to realize those choices, rather than to have those choices, and actions, determined by circumstance.¹² Thus, assessment of moral responsibility is possible, to a large extent, the more genuine choice there is. Moral agency and real freedom are opposite sides of the same coin.

At this juncture, however, we may wonder how exactly my moral agency approach differs from the real freedom standard and, if so, what it adds to the normative analysis of basic income. The concept of moral agency adds to the concept of real freedom (they are not mutually exclusive) by bringing into the picture a concern with the past and its effects on moral responsibility for things we have (had) to endure or have (had) to enjoy. In other words, talk of moral agency means taking account how the past affects the present and may affect the future in a way that we cannot be blamed or praised for. This can either be because we are the victims of unchosen disadvantage or because we are the beneficiaries of fortune and wealth that we have not created. The concept of real freedom takes a picture of the present and does not place it in the overall framework that our life is; it only takes a snapshot of our *current* life. The concept of moral agency does a better job of drawing conclusions about the place that such a picture should occupy in the album that is our whole personal trajectory. In other words, the concept of moral agency allows us to investigate how, if at all, our present situation was affected (adversely or positively) by circumstances that would be reasonable to assume were outside of our control.

Perfect uniformity in the dispensation of a basic income, I argue, will positively affect real freedom for those who lack it, but it does nothing to respond to the different levels of that freedom that people already

¹² Circumstances are always going to influence our actions, in the sense that they determine what counts as the stakes of our actions. A relevant circumstance for whether I take the bus to university in the morning is the number of other people on that bus, something that I do not control. However, when I refer to 'circumstances' in this paper I have in mind a less trivial set of situations that, we can all agree, have a significant impact on people's life prospects. Poverty, and socio-economic background more generally, are examples of these types of situations. When John Rawls referred to "morally arbitrary" (Rawls 1971, 17) factors that can influence a person's life trajectory significantly, he surely had in mind something similar in nature to my description of a non-trivial circumstance. My idea, then, is not original in any sense of the term and it is a standard assumption in the equality literature of the last 40 years. Of course, many circumstances affect decisions and what happens to us, but not all of them do so with the same degree of relevance and impact.

enjoy because it does not take into account differences in circumstance that are the source of, or an impediment to, real freedom.

Why are situational differences important when discussing how to implement the basic income *in particular*? They are important simply because many people's life options may be gravely truncated even after receipt of a basic income grant. If I live in an urban slum and my parents are poor and under-employed, there is reason to doubt that a grant will drastically modify my prospects. I will still be largely constrained by initial, adverse circumstances. In the presence of this constraint, the idea that I am morally responsible for the shape of my life is dubious. This is not to say that individual initiative is impossible. It is only to say that the person who is subject to constraints she did not choose, and which are relevantly burdensome, cannot be held responsible for her fate in the same way as someone who is largely free from undesirable, constraining social circumstances.¹³

On the other hand, the moral agency of many individuals may not be enhanced by the grant but for opposite reasons. If Bill Gates lives in a society where basic income is provided for all, the change in possibilities afforded by the grant is so minimal that it will not make a real difference in his life (unless he is taxed at such a high a rate that almost all his post-tax income evaporates). In this case, the uniform policy seems little more than a waste of valuable social resources. My contention is that when deciding how to allocate the resources associated with the basic income, implementation should be based on actual levels of socio-economic advantage. This focus, in turn, will allow us to evaluate how morally responsible for her overall situation a person is. In other words, it will allow us to see how much moral agency she can claim to have exercised with regard to circumstances that are beyond her control.

Questions of moral agency are crucial for determining the justness of people's claims to institutional attention. But Van Parijs' equality metric frustrates his intention to take individual responsibility into account in his political philosophy. With the intention of barring welfarism from the normative scene, Van Parijs is unwarrantedly kind towards people who have the means to live their lives without additional benefits; and he is too harsh with individuals who do not have access to

¹³ The idea that people are always fully responsible for their own outcomes implies the 'Just World Syndrome'. This is the belief that whatever happens to people is just; the victims always bring about their fates. See Lerner (1980).

a similar fortune through no fault of their own. The following example illustrates this point.¹⁴

Imagine you have two children. One of them, child A, is healthy and quite happy. The other, child B, is afflicted with a seriously painful disability that requires him to consume more food than the first child. Under the assumption that the family's resources are scarce, it would be an egalitarian decision to provide both children with the same amount of food. In this case, egalitarian intuitions compel us to not treat the two children identically. It is more urgent to benefit the handicapped child on account of his situation.¹⁵

The conception of moral equality at work in the above example can be contrasted with equality defined as identical treatment. If we accept that giving equal weight to people's moral claims is a crucial requirement for justice, it is clear that the disabled child's claim to a bearable life should be as important as the non-disabled child's claim. Insofar as Van Parijs fails to recognize relevant differences that separate individuals—such as differences in the enjoyment of basic social goods like income, security, health, and others—it makes sense to say that his concept of basic income is in tension with an ideal of equality that emphasizes equal consideration of interests. By supporting a uniform basic income, he seems to rely on a purely formal conception of equality whereby identical treatment is a sufficient and necessary condition of justice.¹⁶

However, there are reasons to argue that identical treatment is not always a reflection of justice. Van Parijs, it must be said, in no way argues that assistance to the disabled and the sick in society will be precluded by the basic income. His defense of the policy is compatible with a welfare state that will compensate the disabled, the sick, and the incapacitated (Van Parijs 1995, 77–85). Nevertheless, this precaution is insufficient to honor the ideal of equal consideration of interests. The reason why a welfare state tasked with helping the sick and the

¹⁴ I draw from Thomas Nagel's example, as given in his *Equality and Partiality* (1991, chap. 10).

¹⁵ It has been objected that a conception of equality based on this notion is really not egalitarian but prioritarian (see Parfit 1991). This objection seems to me ineffective, since it assumes that equality is only strict equality in distributive terms. However, equality could be understood broadly, as a doctrine that requires that all moral claims be properly attended to, which may require prioritarianism.

¹⁶ At least when it comes to implementing the basic income policy strictly. This does not mean that Van Parijs is opposed to complementing the basic income with other forms of welfare assistance.

incapacitated is insufficient in the eyes of justice is that morally relevant differences also exist among able-bodied and healthy individuals; this was demonstrated by the examples of the urban slum dweller and the residents of economically depressed areas. In other words, morally relevant disparities of condition in society also spring from initial social and economic disadvantage, poor access to primary goods necessary for a decent living standard, and reduced opportunity to advance in life despite reasonable effort and initiative; disability is not the only cause of morally relevant differences. Thus, Van Parijs' defense of welfare programs that coexist with the basic income, and whose purpose is to meet the needs of the incapacitated, is not satisfactory as a solution to the existence of morally relevant disparities among citizens in complex societies like ours.

The most obvious response to my objection that a uniform basic income offends justice will likely be that the funding method for the basic income renders that objection moot. In other words, if the basic income is to be financed mostly via income taxes, then that means the rich who also receive it will experience no positive gain as the effects will be cancelled out by the taxes that they will have to pay to support it in the first place. On the contrary, the wealthy will experience a net loss because the income paid to the state in the form of taxes will probably be higher than the basic income grant. My response to this line of argument is as follows.

First, it is not certain that the only way to fund a basic income is via income taxes.¹⁷ The literature has dealt with various other sources of funding for the policy, which, if put in practice, would not result in the better-off experiencing net losses (but net gains). For example, the basic income could be funded by using public ownership of natural resources. This idea comes in three versions (Van Parijs and Vanderborght 2017, 149). First, the state could rent out a valuable resource it owns and use the funds to sustain a basic income.¹⁸ A second way of funding a basic income out of publicly owned assets would be to use the revenues from selling a non-renewable natural resource such as oil or a precious metal, among many others. A third way of funding a basic income via a state-owned resource is to use the sale of that resource to create a permanent

¹⁷ This fact means, logically, that if the taxes paid by those who do not need a basic income end up offsetting the grant, it would not be an injustice for them to receive the grant. However, it may be a gross act of inefficiency on the part of government.

¹⁸ This was Thomas Paine's (1791) proposal for funding a basic endowment and a pension for the young and old, respectively.

sovereign fund—a financial instrument that would trade in the market for shares—and distribute dividends to citizens. The real-life example of this option is the famous Alaska Permanent Fund.¹⁹ Basic income could also be conceivably funded via carbon taxes on corporations, but this form of funding would not necessarily affect salaried wealthy individuals such as CEOs, and high-earning professionals such as plastic surgeons, corporate lawyers, or Wall Street traders. In sum, income taxation (which mostly affects labor income as opposed to capital income) is not conceptually wedded to the notion of a basic income. Furthermore, this fact allows us to see that, perhaps, a capital tax would be preferable as a source of funding for basic income compared to income taxes.

There is a second reason why a uniform basic income is still not consistent with certain ideas of justice even if it were to be funded via income taxes. The reason is symbolic, but symbols hold a lot of sway in affecting our conceptions of desert and, consequently, of justice. When we implement a uniform basic income that will give money to individuals who are wealthy enough not to need it, we are telling those individuals who *do* need it to be really free that the needs of the well-to-do are as pressing as theirs. But this is incorrect since people do vary in the degree that they need extra help to achieve real freedom. It will not do to say that those who are wealthy enough not to need it will be taxed more and be net losers. Why include them in the group of beneficiaries in the first place? The only feasible answer is that it would create more of a bureaucratic mess not to, and that it would stigmatize those receiving a basic income (as opposed to those who do not receive it).

To the first point, it is not clear that more bureaucracy will emerge. As I will argue below, we already have in place the basic categories that would enable differentiation in the dispensation of the basic income. In response to the second point, the stigmatization argument, it is also not clear that a differentiated basic income would create stigma on those receiving it, or on those receiving a larger income grant than others. For a start, many more people would receive a basic income than there are traditional welfare recipients today. When many more people are counting on some type of funding from the state, it is not far-fetched to

¹⁹ The Alaska Permanent Fund is a state-owned investment fund established using oil revenues. It pays out an annual dividend to every man, woman, and child living in Alaska. In 2015, the dividend totalled \$2,072 per person.

think that feelings of stigma stemming from receiving funds from the government will generally lessen among the population.

Additionally, the claim that receiving more of something that others do not need, or do not need as much, is *invariably* a source of stigma is not corroborated empirically. Defenders of a traditional basic income have argued that one virtue of the policy, compared to other forms of welfare assistance, is that it is not likely to cause high levels of stigma among recipients because everybody will get it regardless of economic need (see Van Parijs 1995, chap. 4). This is consistent with the argument that the more common a given program or policy is among the population at large, the less singled out those benefitting from it will feel. A graduated basic income still has this benefit. By and large, many people would get it, even if at different levels of funding. Differences in funding levels would not be immediately obvious to citizens, and the magnitude of those differences would not be easy to surmise in simple social interactions. But even if some of those differences became more apparent than others, that in itself is no reason to think that stigma would automatically ensue. Differences in government funding exist in many other spheres of society. If stigma was an automatic result of non-identical government funding for all, people would feel stigmatized for getting more funding assistance from the government to buy a house than others or from receiving more tuition aid to attend university than others based on need; but there is no evidence that this causes stigma. Although I agree that stigmatization is a serious problem when it comes to some of the assistance programs intended for the most poor in society, I doubt that it is an equally serious problem when it comes to *all types* of governmental funding programs.

There is a third general objection against a graduated basic income. Disparity in initial disadvantage that we do not choose to bear and do not bring about upon ourselves by choice is an indicator of how our capacity to exercise moral agency varies. But it could be said that focusing on moral agency is too impractical since we cannot go about assessing every individual's moral responsibility for her life choices in order to implement a policy. However, it is in no way clear that the implementation of public policy calls for a case-by-case assessment of moral agency. As it is common in public policy implementation in general, the establishment of categories in which similar cases are grouped should be the norm.

On which criteria should these categories be formed in the case at hand? Two natural indicators of moral agency—that is, the capacity to control one’s life vis-à-vis circumstance—seem to be income and wealth. Income and wealth are not completely illustrative of our capacity for moral agency, but in a society where money and assets are linked to access to such precious goods as education, health, political influence, security, job prospects, and many more, it is reasonable to assume that the wealthier and income-rich will be in a better position to escape constraining circumstances than the poorer. The former will be able to exert control over the shape of their lives to a greater extent than the less fortunate members of society. Thus, income level and wealth may reasonably be measured to establish categories of entitlement when disbursing basic income in society. State bureaucracies are already familiar with these categories, which they use to determine tax liabilities and credits for all citizens eligible to pay taxes.

III. AGENCY AND UNIVERSALITY OF THE GRANT

We know that the constraints imposed by economic necessity might be more stringent for some individuals than for others. Imagine a situation where there is no basic income in effect, and wealth is only composed of earned income through work. A high earner who decides to opt out of work, and does not have the chance to become a high earner quickly or easily, is not in the same situation as a low earner who wants to opt out of work, since the latter will have to return to the labor force much sooner in order to survive. The higher earner is in a better position to afford not working. She can keep herself out of work for longer. In this sense, we could say that the higher earner is in a better initial position to exercise moral agency than the lower earner *because* she has access to valuable options the lower earner does not have, namely, the financial stability that income can buy. In consequence, having more valuable options—and more real freedom—gives the higher earner the capacity to claim a larger degree of moral responsibility for decisions she makes involving her opportunities. Following this logic, the idea that individuals who can afford to opt out of work independently, without incurring unacceptable costs, should not receive help from society seems reasonable. Society does not need to help them achieve control over their lives. They already have the capacity to do so by themselves. Retired millionaires—to revisit the Bill Gates example—would fall in this category. But if this is the case, it also follows that the generosity of the

grant should track the recipient's capacity to live comfortably without relying heavily or solely on income derived from work. This capacity is not binary—society is not only composed of Bill Gates and regular folks who need a job and have no savings in the bank; there is a very broad spectrum in between. The reality is that people's circumstances vary according to their family background, place of residence, and personal luck, and it is fair to say that some individuals are in much better position than others to face the abundant obstacles that life throws their way. Some are fortunate enough to have their parents pay for college, while others need to obtain loans that will burden them for decades to come. Some may be able to obtain a promising first job due to good family connections, while others may have no such luck given the lack of social capital in their families. Some may be born in an area of great economic opportunity, while others may be born and raised in areas where unemployment is much higher than the national average. Circumstantial differences like these—which are just a few examples—extend throughout society. Even though we should not make the mistake of particularizing too much when thinking of justice, we should still be willing to make certain basic distinctions in the name of justice. Indicators of income and wealth, which already exist for taxing purposes, should be sufficient for this goal.²⁰

This point motivates an important question for those who see a basic income policy as justified on a universal right to decent sustenance: What kind of a universal right is a right that is *not* enjoyed by all in an equal manner? The traditional argument for a basic income is based on the notion of a universal citizenship-right. This means that everybody who is a citizen should benefit from it; no other distinctions matter. But in order to answer the question we need to recognize that there are two different ways to conceive of the idea of universality as it concerns individual rights.

I propose to think of universal rights as belonging to two general categories. On one account of what a universal right is, the individual is protected by it without the requirement of having to qualify for protection. Examples of this instance include the universal right to life (in the sense of the right not to be killed), the right to humane treatment, and the right to choose whom to marry. Rights that are

²⁰ It may be the case that the elimination of economic inequality will not necessarily eliminate differences in status among individuals, but for the purposes of this discussion, I will limit my arguments to the sphere of economic inequality strictly. There are good reasons to think that starting there is already a worthy goal.

automatically universal do not require from the individual any circumstantial status in the sense that all individuals are entitled to enjoy those rights irrespective of their particular situations. The only condition for their exercisability is mere existence as a human being.

On a second account of what a universal right is, the individual is passively protected by it *qua* human being, but the protection is activated only if some conditions are met. Examples of this instance include the right to be rescued, the right to political asylum, the right to vote, and the right to compensation for disability. The logic of the first account is that the bearer of the right does not have to be under any (special) circumstances to benefit from it. The logic of this second account makes this specialness a requirement. A right to be rescued requires that the individual be in a situation demanding rescuing (for instance, drowning). A right to political asylum requires that the individual be persecuted for her political or religious views. A right to vote requires that the person be over a certain age, and a citizen. A right to disability compensation demands that the beneficiary be disabled in some discernible way.

However platitudinous these observations may seem, they point to an important analytical concept, namely, automaticity in the exercise of rights. Some rights require a proof of need to be enjoyed however universal they are in their coverage. Other rights are more straightforward and apply automatically to all without requiring evidence that their protection needs to be activated. The concept of a universal right alludes to a prerogative that applies to everyone regardless of jurisdiction and other localizing factors, such as ethnicity, gender, race, age, nationality, and the like. In this sense, the second account of universality—non-automatic universality—fulfills this requirement. It still applies to everyone irrespective of morally arbitrary factors *provided* that their situation is of a certain special nature. Anybody, irrespective of race, ethnicity, gender, and so forth, can be disabled, in need of rescue, or in need of asylum.

I argue that the right to receive a basic income falls within the second account of universality, namely, non-automatic universality. Everybody is potentially a right-holder. But the right is not automatic because the individual must be in a certain situation to enjoy it. Existence as a person, or citizen, does not suffice as a criterion for being a beneficiary of the right. In this way, the argument defended in this paper deviates from traditional accounts of basic income, such as Van

Parijs', that interpret uniform grants to be automatically applied to all. The citizenship-based justification for the basic income policy rightfully ignores differences that are morally irrelevant to justice such as gender and race, but it also overlooks other differences that should be taken into consideration, such as income and wealth. As argued above, these considerations reflect the degree of moral agency that the individual can exercise when making important life choices. Our moral agency, in turn, reflects the magnitude of real freedom that we enjoy prior to receiving the grant. As such, moral agency indicates the degree of constraint by social circumstances; these are, presumably, constraints that an individual has not chosen.

The right to receive a basic income is based on the principle of universal citizenship, but activation of the right is not automatic upon being a citizen or resident *merely*. One needs to be a citizen or resident with no independent wealth or with wealth below a (socially) determined level. Basic income theorists' reluctance to interpret the value of grants according to social advantage rests on a view of human agency whereby the individual is rightly said to be able to control what she desires. Thus, because a person can control what she desires, we do not think that society has the duty to cater to her expensive tastes in the name of justice; it is believed that the individual could decide to dispense with an expensive taste or not act upon it. But this interpretation of agency disregards other aspects of human life besides preference that should also be subject to some responsibility-based analysis. If we should hold individuals responsible for something they can control—such as an expensive taste—by the same token, we should not hold them overtly responsible for what they cannot control, such as initial disadvantage in life. Expensive preferences do not deserve the attention of justice; but other variables that differentiate individuals from each other do have a strong claim to being taken seriously from the standpoint of justice. These are socio-economic disparities that spring from unchosen life circumstances that have the power to shape prospects and opportunities in significant ways. Unlike expensive tastes that are under an individual's control, non-chosen social disadvantage cannot be controlled or (easily) modified. Additionally, non-chosen disadvantage can have pervasive consequences in most spheres of life, not just in one particular area, as could be the case with an expensive taste such as the preference for a luxurious means of transportation.

IV. POLICY IMPLICATIONS

The policy upshot of my arguments in this article is a graduated basic income grant. The idea of differentiated rates in the provision of the grant is not unheard of in the economic literature dealing with basic income.²¹ Rather, it is this aspect of a basic income policy that reflects liberal-egalitarian intuitions better than an identical, uniform provision.²² The idea that unfortunate social circumstance should not be overtly determinant of the individual's fate is a cornerstone of liberal egalitarianism. As I explained in sections One and Two, our capacity to control our own life trajectory is strongly constrained by the force that social contingencies exert on us. Thus, differentiated basic income schemes are fit to address morally arbitrary factors which constrain people's real freedom to make choices in life.

One may then ask: is this interpretation of basic income informed by a luck-egalitarian logic? Luck egalitarianism is a view about social and distributive justice that emphasizes the principle that individuals should not be worse off due to circumstances that are beyond their control, that is, for circumstances for which they are not morally responsible (Zimmerman 1987). In the same vein, luck egalitarianism maintains that it would be unjust to pay attention to (and compensate for) differences that negatively affect the individual but for which he can claim responsibility and be properly blamed (see Dworkin 1981b).

The approach to moral agency defended above seems to be connected to the luck-egalitarian philosophy because it argues that people should be held responsible for the advantages they enjoy and not given unnecessary assistance. However, I make no attempt to argue that people should be denied help if they suddenly encounter trouble or distress due to their own fault. This issue goes beyond the scope of this

²¹ See Callan et al. (1999). Here, the author investigates the implications of introducing different types of basic income schemes. He considers the possibility of a basic income with a differentiated rate for adults, setting the latter at the already existing age-related rates for single people used in social assistance programs. Additions for lone parents and dependents are modeled too. For further treatment of graduated basic income, see Zelleke (2005). In that article, the author considers a number of variable basic income models that differ in their rates, according to age and family size.

²² The reader may be left wondering, why not a negative income tax? There are several reasons why a graduated basic income would be preferable. First, the individual would not have to wait until the end of the year to get the benefit (as she would with a NIT). Secondly, the graduated basic income would in principle apply to everyone regardless of job-holding status. The NIT, by contrast, benefits people earning below a stipulated income threshold. In other words, it applies to participants in the wage economy only.

paper.²³ My analysis is limited to claiming that, because some individuals already enjoy a relatively high level of real freedom before the basic income is implemented, it would be a waste of resources and morally unjustified to include them as natural beneficiaries of the policy. Hence, this is not an endorsement of luck egalitarianism; it is, rather, an attempt to alleviate the effect of morally arbitrary disadvantages such as initial low economic status. In this sense, the argument defended in this paper is more Rawlsian than it is luck-egalitarian.

Moreover, I should clarify that wealthier individuals should have the opportunity to demonstrate to the state that their real freedom situation may have changed, and that a basic income would now be needed and justified in their case. Having more real freedom to start with than others does not mean that we will always be in that situation. Thus, I am not a luck egalitarian in an important respect: I am not willing to defend the idea that the reasons for exiting the group of advantaged members of society must be assessed through the lens of moral responsibility. Everybody who currently lacks the freedom to justify a basic income should be entitled to get one.²⁴

One may wonder whether the traditional drawbacks of means-tested welfare policy will not persist with a graduated grant. Individuals would still have to provide sufficient information about their personal situations, some of which may be stigmatizing or embarrassing to reveal. This is an important consideration to keep in mind when implementing public policy. Equality and justice are not the only goods the latter may aim at achieving. Self-respect is another. One important argument in favor of a uniform basic income is that it will do away with stigmatizing social security. How then is this concern addressed by a graduated grant?

First of all, I do not believe that presenting proof of social disadvantage in order to assess which level of funding one is entitled to has the same stigmatizing effects as other social programs may have. Under an ideal scheme, a lot of people receive a grant (unless they are

²³ See Zimmerman (1987) for a glimpse of this debate.

²⁴ An obvious objection here is what Richard Arneson (1997) has called the undeserving poor objection. Suppose someone continuously wastes resources and becomes poor again. Should we really keep on providing this person with an income grant? This is a difficult question that necessitates more space than I can provide in this paper. However, it will suffice to say that it is not inconsistent with my position to argue that the graduated basic income does not have to be provided eternally to the undeserving in this respect, provided other forms of humanitarian welfare exist that will prevent death for the chronically irresponsible.

wealthy) no matter how differentiated. Today, not everybody is the beneficiary of welfare assistance. The graduated basic income will be means-tested indirectly insofar as it will apply differently to people in accordance with their levels of socio-economic advantage, and provided that such disadvantage is not the result of repeated acts of irresponsible (and avoidable) behavior. But it needs stronger justification to say that everybody thinks that it is humiliating to have a low income, or little wealth, in the way that some people think it is humiliating to receive means-tested assistance. The difference may be purely psychological, but it is psychology that explains feelings in reaction to stigmatization (see Goodin 1998). On the other hand, a sense of humiliation among recipients of welfare benefits is likely to be rooted in the widespread belief that the assistance is not a question of human rights but of charity. When a benefit is attributed to the charitable giving of a third party, the structural injustice that explains, in great part, why the individual is in a disadvantaged position and in need of the benefit is typically ignored and considerations of individual merit take priority. A graduated basic income would eliminate this problem because everyone, or a great majority, would receive a version of it. Critics are surely right to point to the bureaucratic difficulties of securing differentiated social provision. But my suggestion, even though more bureaucracy-prone than a uniform basic income, would still be simpler than means-tested social welfare, for which monitoring plays a big part. In any case, it is surely important to highlight that an overriding aim of social policy should be to avoid excessive intrusion into citizens' privacy.

A graduated basic income can realize many (if not all) of the benefits of a uniform basic income. One can easily see how the receipt of income regardless of employment status will constitute a great help for the most vulnerable at the expense of the not so vulnerable, who will pay progressively higher taxes to fund the policy. Van Parijs offers another reason why his basic income proposal is a desirable redistributive instrument. He argues that the basic income serves as means to achieve job-rent sharing in society (Van Parijs 1995, chap. 4). Job-rents are the surplus in wages that result from the labor market not clearing. In simple words, employers pay employees salaries above the market-clearing equilibrium because they want to retain workers and save themselves the cost of training and administration that would result from a quicker rotation of jobs (characteristic of a pure capitalistic equilibrium in the supply and demand of labor). Van Parijs (1995, chap.

4) explains that this surplus, or rent, prevents people outside the job market from entering it and keeps others in at the expense of those who cannot enter. The basic income makes employees share the rents that their jobs produce via taxation. The graduated basic income realizes this distributive benefit even more efficiently than the uniform grant. This is so because those individuals who earn more are going to receive less in comparison with those who earn less. Thus, under a graduated basic income, the sharing would be fairer in that it would burden more proportionally those individuals with higher earnings.²⁵ A scheme that is sensitive to differentials in advantage, primarily measured on the basis of income and wealth takes away more from the rents of the better employed (i.e., those with high-paying jobs).

The basic income policy also constitutes a positive externality for a market capitalist economy. The benefit of a basic income, it is claimed, is that it helps stabilize aggregate demand, which in turn fuels production and investment (Constantin 2002).²⁶ Albeit complex, the rudimentary idea is that by redistributing income in the form of a grant, the consuming market becomes larger, which in turn signifies higher rates of investment-return in the medium-to-long runs. Coupling the policy with an active pro-investment outlook on the part of the government may make the capitalistic scenario even more appealing to capitalists and investors. One could surmise that the cost of labor will be higher under a basic income scheme because employers will have to offer more attractive wages in order to attract workers who no longer fear starvation if they do not manage to get employed. But this is not necessarily an obstacle. For example, in no highly unionized society has the fact of relatively expensive labor gotten in the way of economic development, the Scandinavian model being a paradigmatic example (Madsen 2006; Pekkarinen, Pohjola, and Rowthorn, 1992). That said, however, a graduated basic income may also allow for more flexible labor market rules of hiring and firing in certain sectors because society can rely on the grant as a safety net that will make unemployment more bearable. Flexible labor markets would be good for investment,

²⁵ The wealthy who do not work do not participate in job-rent sharing. However, the fact that they do not work makes the distributive consequences of a graduated basic income even more welcome. One could say that it is problematic from the point of view of equality that some have to work for a living and others do not without this difference having any effect on who receives help from society.

²⁶ For a fuller discussion on the effects of basic income and other similar policy instruments, see Wright (2003), Przeworski (1986), and Bradbury, Ephraim, and McNair (2002).

obviously. The reason why is that potential employers would not have to worry about high labor costs since much of the individual's income would be given by the basic income.

By definition, a graduated basic income is better suited to addressing redistributive concerns than a uniform basic income. A graduated scheme would achieve redistribution in a much more efficient way than a uniform grant. If those who have less receive proportionally more than those who have more, the redistributive effects of the policy are enhanced.

A differentiated basic income would be better for achieving long-term growth as well. If the argument that aggregate demand being increased on account of a better distribution of income has any purchase, it is clear that a policy that deepens redistribution by helping those who need help more, will also create more opportune conditions for production and investment. Thus, both because it is a more effective and fairer redistributive tool, and because it does not hamper economic growth, a graduated basic income is no less preferable than a uniform basic income.

V. CONCLUSION

This article challenged the idea that a uniform basic income is consistent with (and required by) justice. I have argued that we should attend to disparities in access to socio-economic advantage and that attention to those differences does not detract from the universality of the proposal. This universality will still obtain, but it needs to be activated when certain conditions of need are met. A focus on moral agency, understood as the capacity of an individual to control their own fate, as opposed to being compelled by the force of social circumstance, constitutes the main philosophical building block in the rejection of distributive uniformity. This thinking goes together with the basic intuition that identical treatment is *not* always conducive to giving everyone's interests equal consideration.

For defenders of the traditional basic income, uniformity protects us against an emphasis on welfare considerations, which justice should ignore. According to the consensus view, if the grant is the same for all, then we avoid subsidizing expensive tastes that some individuals may need to lead a minimally good life. I argued that this position, however intuitive, overlooks other differences that need to be considered for the sake of justice. Such considerations include differences in access to

advantage and primary social goods. At one extreme, when demanding uniform treatment, those able to enjoy considerably high levels of real freedom without the help of society detract from the real freedom of others not so fortunate themselves.

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The Domain of Desert Principles for Taxation

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Abstract: Joseph Heath (2018) makes a strong case that the principles of fairness or desert that arise in social interactions have at best a loose connection to economic outcomes in decentralized markets. However, there is evidence that when people are given the opportunity—say, in collective bargaining situations—they will try to alter these market outcomes in favor of their own perceptions of justice, fairness, or desert. Taxation is an important domain in which the public can alter market outcomes. This paper explores to what extent desert can be used as a principle of tax policy. It analyzes tax policies that can be used to implement both individualized and categorical assessments of desert. I argue that there might be some room for tax policy at the broad, categorical level. Finally, using the Tax Cut and Jobs Act of 2017 as a case study, I explore whether merit or other bases for desert were embedded in the recent legislation. While there was evidence of attempts to implement ideas based on principles of deservingness in the legislation, they were not of the type necessary to sustain a merit-based society.

Keywords: desert, taxation, fairness, meritocracy, justice, Tax Cuts and Jobs Act of 2017

JEL Classification: H20, H24, H25

I. INTRODUCTION

In his essay in this volume, Joseph Heath (2018) makes a persuasive case that the principles of fairness and deservingness that arise in social interactions have at best a loose connection to economic outcomes in decentralized markets. This is not a new claim, but is made as a rebuttal to some recent discussion initiated by Gregory Mankiw (2010). In particular, Mankiw argues that market outcomes can be largely viewed as consistent with principles of desert and for that reason should be

AUTHOR'S NOTE: I would like to thank Kathleen Weaver for excellence research assistance on this project and for carefully reviewing the manuscript. Tom Mulligan and Huub Brouwer provided both encouragement and incisive comments on an initial draft of the paper. The anonymous referees also provided valuable comments.

generally considered as fair. In contrast, Heath makes the observation that when individuals in their collective capacity have the ability to reconfigure market outcomes, they often do so—for example, unions will narrow pay differentials compared to non-union employment, and municipal governments may initiate compensation schemes that tilt in the direction of recognition of acquired skills and away from pure market determination of wages. These desired deviations from market outcome are necessarily limited because of the need to recruit workers from the external labor market; but to the extent that they do occur, they reflect the presence of alternative views of fairness and desert that prevail in the relevant community, be it the union shop or local government. For Heath, this provides affirmation for his view that market outcomes do not map directly onto preferences that stem from interpersonal interactions or, using a term from Jürgen Habermas, the “lifeworld” (Heath 2018, 10).

In principle, the tax system can serve as a mechanism to alter market outcomes to incorporate principles of fairness or desert from the lifeworld. The nation can be seen as a community of the whole and use its taxation powers to reflect ideas of fairness and deservingness. Certainly, the prevalence of progressive taxation across the world can be understood in this light, reflecting values of equality of the citizenry. Equality norms are commonly understood, and discussions of taxation typically incorporate them in some fashion. For example, a standard application of optimal tax theory in economics attempts to maximize the sum of utility across individuals and seeks mechanisms to implement this goal subject to information and other constraints.¹ More recent work extends the optimal tax framework in a variety of directions.² But much less attention has been paid to ideas of desert. Can the tax system be used to implement a more refined notion of deservingness?

Several authors have suggested taxation can be used to implement a broad vision of desert. In their distinct ways, Gregory Mankiw (2010) and Thomas Mulligan (2018) each suggest a role for tax policy along these lines. For Mankiw, tax policy—with a few exceptions—should be based on principles that eschew redistribution from market outcomes

¹ See Kaplow (2008) for a comprehensive discussion.

² For example, Saez and Stantcheva (2016) have developed a more flexible approach to optimal taxation that can potentially include many different factors and viewpoints. A full discussion of their approach and other theories such as luck egalitarianism are beyond the scope of this paper.

and instead rely on taxes to cure externalities or provide public goods. While some redistribution can be a byproduct of such taxation, it is not its end goal (see Mankiw 2010). Since there is limited redistribution, Mankiw accepts the principle that market outcomes are largely deserved. By contrast, Mulligan would enlist taxation as a vehicle to promote his meritocratic vision. Pure rents would be taxed away, as would inheritances (Mulligan 2018). In earlier work, I explored from a traditional tax policy perspective a few prior attempts to justify taxation based on desert, including taxation of bequests or inheritances, consumption taxation, and taxation of “unearned income” from capital (2017, 154).

In this paper, I take a broader look at the potential scope and domain for using tax policy to implement a vision of desert. I consider both what I term ‘individual assessments’ and ‘categorical assessments’ as alternative tax policy strategies. Tax law is not made in a vacuum; there are important administrative and technical constraints that must be considered in implementing any policies. To further understand the role of desert as a component of tax policy and to serve as a case study, I draw on the evolution of selected provisions of the 2017 tax legislation as examples of the types of distinctions that legislatures actually wish to enact into tax bills. This case study illustrates the range of actions or behaviors that legislators may feel are ‘deserving’ or ‘undeserving’ and, importantly, highlight tradeoffs that must be made in any legislation between ultimate values and administrative feasibility.

My overall conclusion is that it is unlikely that desert can become a comprehensive foundation for developing a tax system. However, in selected cases, principles of desert based on categorical assessments can help refine tax policy so that desert becomes an element of the overall picture. In particular, a shift towards one type of consumption taxation can effectively tax windfalls and help move in the direction of desert-based taxation.

Before turning to the discussion of taxation, I first need to illustrate some of the conceptual and difficult issues in defining desert as they have been developed in the literature. This is not meant to be a definitive treatment of desert, but is necessary to set the stage for my discussion and analyses of desert-based tax policies.

II. PRINCIPLES AND PRACTICALITIES IN DESERT THEORY

There is both a philosophical and psychological perspective on desert. From the philosophical point of view, desert claims have the following structure: person A deserves some reward because of an action she has taken that aligns with certain principles.³ These principles are known as the ‘desert basis’. For example, A may deserve the income she earned because she exerted skill and effort in producing a service. In this case, exerting skill and effort in the production of a service is the desert basis.

In principle, there can be many different desert bases, but equity theory in psychology suggests that individuals strongly believe that outputs should be commensurate with inputs (Adams and Rosenbaum 1962; Pritchard, Dunnette, and Jorgenson 1972; Sheffrin 2013, chap. 2). In other words, there are deeply held beliefs that individuals should be rewarded for what they produce. There is abundant experimental and other empirical evidence for this principle of psychology (Sheffrin 2013, chap. 2; Mulligan 2018). It also appears in our political culture in the United States in the form of work requirements for able-bodied individuals to receive public benefits or, more broadly, “workfare” (Sheffrin 2013, 135).

The strength of this psychological force is what largely drives the underlying idea that Heath challenges in his paper, namely that market outcomes are deserved because they reflect the activity and effort of individuals. Liam Murphy and Thomas Nagel call this “everyday libertarianism” or the idea that individuals are entitled in some way to their earnings before tax, presumably because they earned them in the market and thus deserve their rewards (2002, 34). If it were not for the psychological principle of equity, these everyday notions would have much less force.

But as Heath has noted, the link between market outcomes and deservingness is quite tenuous. Here I want to focus on what I consider two of the most important problems with linking market outcomes and deservingness. First, markets allocate commodities and labor to their highest and best use—maximizing the value of a given set of resources—given underlying demand for goods and services. Prices and wages are determined in the process as a function of supply and demand. The difficulty here is that market demands depend on the initial distribution of income or endowments and, furthermore,

³ See Miller (1999, 133) for a definition along these lines.

demands can shift for a host of reasons that are not clearly related to any notion of desert. To take one example, thirty years ago salaries for dermatologists were not much higher than those for doctors who specialize in internal medicine. Today, with changes in preferences for skin care and new technologies, the gap between the salaries of the two types of doctors has widened substantially.⁴ Dermatologists in their 50s now earn relative salaries that they realistically could not have expected to earn when they made their original decisions on specialties. In what sense do those dermatologists deserve their higher salaries? We certainly understand from the principles of supply and demand why they earn their higher salaries, but what moral principle corresponds to this shift in demand?

The second problem with connecting market outcomes and deservingness is the role of luck or fortune—being in the right place at the right time or having fortuitous events influence one's market worth. Do individuals deserve high rewards just because they happened to be lucky? Generally, our intuition suggests they do not, although philosophers Christopher Freiman and Shaun Nichols have run experiments suggesting that in some circumstances, public opinion may recognize higher earnings stemming from natural advantages as deserved (2013, 127-128). They used surveys to probe public attitudes. When posed in the abstract, people do not believe that luck should influence earnings. However, in one experimental scenario, two young jazz singers were named and contrasted. Both worked hard but one had a genetic advantage that enabled her to earn more from her concert performances in the market. Respondents believed that the genetically-advantaged singer deserved the higher earnings from her performances.⁵ Since genetic endowments are a form of luck, these experiments suggests that, in some cases, the public believes earnings that arise at least partly from luck are deserved.

This empirical finding is consistent with arguments offered by David Miller (1999, 143-147) on the role of luck and desert. Miller contrasts "integral" (143) luck versus "circumstantial" (144) luck. In the former, skill plays no role—the outcomes are purely random. In the latter case, individuals take actions that are influenced (but not dominated) by luck or opportunities. Miller argues that with circumstantial luck, our

⁴ See Singer (2008) about the changing market for dermatologists.

⁵ See also Goya-Tocchetto, Echols, and Wright (2016) who find that individuals do not care as much about natural luck as they do about socially generated luck.

intuitions often will credit the individual for the outcome, even if it has been influenced partly by chance.

However, even accepting these basic intuitions, it is still very difficult to analyze cases and make judgments where luck and efforts are mixed in various proportions. For a single individual, we may want to emphasize the effort they put into a project and downplay the effect of luck, particularly if the individual had persevered through difficult circumstances to achieve their goal. But at some point, as the proportion of chance increases, circumstantial luck will gravitate to integral luck.

It is also difficult to draw lines about what are fair versus unfair advantages. Consider the case of athletes competing in track and field. Here, natural or genetic advantages do not typically contravene our judgments of deservingness. Nor would adherence to a rigorous training program or a careful diet affect our judgments. But what about adding dietary supplements? How about other synthetic substances to facilitate training? Track and field organizations agonize about drawing the appropriate lines in this case.

For differences between groups, we may be less sympathetic to recognizing the role of luck. For earnings, would we want to claim that the entire salary differential between two occupations is justified only because fortuitous changes in demand raised the salaries of one group? In this case, our intuitions suggest that we would not.

III. USING TAXES TO IMPLEMENT DESERT NORMS

How could tax policy be used to implement a vision of desert? For the purposes of this discussion, we will measure desert by what I term qualified market outcomes. For market outcomes to be perceived as deserving, they must be directly related to effort and skill supplied by individuals, not dominated by luck or chance, and not economic rents. By economic rents, we mean any payments over and above what is necessary to secure the effort and skill required to produce the market outcome. This definition of desert attempts to reward people for the necessary effort and skill to produce a certain outcome, but does not justify all market returns. It excludes those returns due to pure luck and excess returns that would not be necessary to procure the required effort. It would preserve incentives for the full application of one's ability, but not provide any returns above that amount.

To refine this analysis, we can also add to the category of excluded rewards any income that is achieved through duplicitous means. This

could include outright dishonesty and false advertisements but also extend to rigged systems, such as when CEOs stack their compensation committees with their cronies. In none of these cases would we want to say that market outcomes are deserved.

Qualified market outcomes would be a necessary component in implementing a market-based meritocratic vision, but not a sufficient one. As Mulligan (2018) discusses in detail, social advantages would need to be neutralized—say through education and limiting inheritances—in order to translate qualified market outcomes to a full meritocracy. For the purposes of this paper, I will focus on tax policies that could implement desert for qualified market outcomes and put aside the extra steps necessary to generate a full meritocracy. I will use the term merit-based as a synonym for qualified market outcomes that do not necessarily generate a complete meritocracy.

There are two basic approaches that can be taken to design tax policies to make rewards more closely mirror desert. The first is based on individualized assessment (or, sometimes, group assessment) of actual market outcomes. This approach would focus on the particular incomes claimed by individuals or selected groups and use taxes to adjust them accordingly. For shorthand, we will call this individualized assessment. The second approach is more macro in nature. Here we would define different categories of income, and tax these categories of income differently. For shorthand, we will call this approach categorical assessment.

A. Individualized Assessment

Many of the examples used to illustrate desert theory are individual in nature. For example, does someone among a group of scientists who stumbles upon a new drug deserve the full rewards or should it be shared by the scientific community? Does a CEO deserve to earn all those stock options when his company prospers? These are examples of individualized assessments.

For any individualized assessment it is necessary to examine the market return and determine whether it is fair and consistent with desert principles. Practically, this will mean ascertaining what portion of any of the market return is pure economic rent—a payment above what is necessary to induce the observed amount of effort—or luck.

It is difficult to imagine a truly scientific way to accomplish this task. One could try to implement the following procedure. Take an

occupation—for example, doctors of internal medicine. Obtain large amounts of data on background characteristics—both personal characteristics and indicators of the nature of the workplace—measures of effort including hours of work, and total wage compensation. Then run typical wage regressions from the labor market literature, regressing the logarithm of wages on the full set of available characteristics.⁶ In other words, the regression would try to control for what have been termed compensating wage differentials. Once this regression has been specified and estimated, it could then be used to determine a predicted wage for each individual that can be compared to the actual wage. The question we ask is whether this predicted wage is what individuals should be said to deserve, with any excess being economic rent.

Even in this rather simple situation with a relatively homogenous sample, there are some problematic details that need to be addressed. First, any regression equation fits the mean of the sample so that there are individuals who will be paid less and more than predicted. How do we interpret the case where individuals are underpaid? What exactly is negative rent? More generally, how do we know that any differences between actual and predicted wages do not reflect unobserved factors—in particular, the efforts made by the physicians? Finally, consider the interpretation of the variables that help predict wages. For example, suppose the regression showed that on average being a female physician or working in a smaller clinic led to lower wages. Are these differences fair and legitimate? Should they be accepted or taxed away?

Each of these questions would provoke considerable discussion and further debate. This is precisely the debate among economists as to whether there is economic discrimination. Economists have largely eschewed this wage equation approach and instead used other methods to explore discrimination, such as mailing resumes to potential employers that differ only on race or sex and determining if the potential employers respond differently.⁷

Moreover, the physician example would be a relatively easy case. How would you analyze the earnings of CEOs of say, midsize companies, or the earnings of sales representatives for drug companies? There will be considerable differences in compensation in each category. What type of regression model could be used to isolate the component of compensation due to rent? What variables would have explanatory

⁶ For a survey of wage regressions, see Heckman, Lochner, and Todd (2003).

⁷ See Bertrand and Mullainathan (2004) for a classic resume study.

power? And, finally, how would one interpret the results for an individual who scored above the predicted level? Would this represent luck, favoritism, or effort? Since well-trained econometricians cannot realistically provide answers to these issues, a bureaucratic organization charged with making such judgments would not have legitimacy.

The current tax law, as reflected in the Tax Cuts and Job Act of 2017, does implicitly make a somewhat crude attempt to classify salaries.⁸ Compensation for certain corporate executives exceeding \$1 million are not deductible from a corporation's income tax, thereby effectively raising the price of paying someone above \$1 million to the company. Prior to the new tax legislation, there was an exception for incentive-based pay, but that was removed—indicating, in part, that the prior effort to fine-tune the tax penalties for high compensation was not perceived as working very well. In addition, the new legislation also enacted an excise tax on non-profits for salaries of executives over \$1 million. One natural interpretation of these provisions in the new law is that lawmakers view salaries exceeding \$1 million as somehow not as socially meritorious as salaries below \$1 million, and the tax code is attempting to try to limit the higher salary payments. It is not clear whether lawmakers felt that the higher salaries were not deserved, but they certainly wanted to put institutions on notice that there was a higher price to pay for salaries exceeding \$1 million. Note that while these tax provisions make paying salaries above \$1 million more expensive, they do not prohibit them. Thus, they are not being treated as pure economic rent which would be taxed away fully.

Taxing rents for executives would be a difficult task. It is especially difficult to determine whether their earnings reflected true skill and effort, close relationships with their compensation committee, and/or being in the right place at the right time for the industry. In addition, the executive may, through judicious lobbying, bring more government contracts to their company, which would be a private gain but not necessarily a social gain.⁹

The excise tax on non-profits and the implicit tax on corporations are in addition to the taxes that individuals pay on the receipt of their salaries. Athletes, entertainers, and others who earn more than \$1 million from prize money or royalties are only subject to the individual

⁸ See Internal Revenue Code Section 162(m) as revised by the Tax Cuts and Jobs Act. Both the prior and new law could be seen as categorical methods.

⁹ See Burak (2018) on attitudes towards executive compensation. She concludes that there is some support for pay for performance among the public.

income tax and not the additional tax on executives. Thus, whatever rationale there is for curbing executive compensation, it does not apply equally to all high earners.

There are dimensions other than pure compensation in which judgments would need to be made in a system based on desert. Consider again our top athletes and the restraints that are placed on them with respect to the drugs and supplements they are allowed to take. Some types of activity that athletes have engaged in to gain competitive advantages would clearly fail any fairness test. Replacing one's blood with freshly oxygenated blood—as some cyclists have done—would clearly run afoul of most norms.

However, as we noted above, athletes are expected to eat well and train extensively to take advantage of their natural genetic makeup. Many of the prohibited drugs allow athletes to train harder and do not magically confer advantages. Run-of-the-mill steroids that can be found in many weight rooms simply allow faster recovery periods from training. These have been banned for a long time and the consensus was that that these were dangerous and conferred an unfair advantage. But there are many subtler drugs whose effects are not as clear, making it more difficult to draw strict lines. And these lines evolve over time.

Take the case of Maria Sharapova, who had been taking a drug called meldonium for nearly a decade (The Guardian 2016). She claimed she was using the drug for a magnesium deficiency and a family history of diabetes. This drug, used primarily in the Baltic Countries and Russia, increases the flow of blood to parts of the body. Many competitors with Eastern European or Russian backgrounds had been regularly taking this drug. The World Anti-Doping Agency banned the drug on January 1, 2016 and Sharapova later was found to have tested positive for the drug. She claimed she had not been aware that the drug had entered the banned list. Originally, she was given a two-year suspension, but after an appeal the sentence was reduced. Sharapova clearly ran afoul of the rules in her profession, but, in a deeper sense, did her actions warrant sanctions if she had truly been taking the drug for medical reasons?

The International Tennis Federation was entitled to suspend her for a violation of their official rules, but the question is whether the suspension was arbitrary and unfair with respect to any potential advantage that she gained. The ever-changing drug regime puts the athletes at potential risk for often seemingly arbitrary and incidental actions that they may have taken.

While this example falls within a very specific context, it raises issues that transcend it. Suppose we develop a set of rules, say, for limits on CEO compensation, on the grounds that any payment above a certain threshold is presumably rent. In general, such a set of rules would be very complex, mirroring the complexities of compensation packages. Moreover, in response to the rules, firms would design new compensation packages to avoid the penalties from the rules—just as athletes do with regard to the drug regime, or taxpayers do with respect to the tax law. The result would be a system in constant flux. We would need a complex system of adjudication to separate legitimate compensation innovations from illegitimate ones designed just to evade the system. This almost certainly requires a formal legal structure—like the tax code—and a set of procedures to evaluate claims and allow appeals. The danger here is that we would introduce, into wide segments of the economy, the complexities we find now in the tax code and securities law, all in the name of trying to separate rent from deserved compensation. In practice, such a system would have to be more comprehensive and more complex than the tax law. Even if we had a strong epistemic foundation for separating out rent from other compensation, the complexity in drawing and enforcing lines could easily overwhelm the economic system. And it could cause easily cause economic inefficiencies and challenge the legitimacy of the state.

B. Categorical Assessment

An alternative to individualized assessments that would purport to separate out for each individual the rent component of their compensation would be to use the tax system to reach some broad-based categories of income flows and treat them differentially. We previewed one such categorization when we discussed above the \$1 million threshold for treating economic compensation differentially. But there are other traditional tax and income categorizations that we may be able to use to implement a tax system based on desert. In some cases, categorical measures can target individual rents, but in other cases they are best at trying to tax windfall gains that accrue to individuals.¹⁰

¹⁰ Windfall gains can be viewed as payouts that exceed the returns to risk-bearing. Measuring what precisely is a windfall and what is not, will depend on an accurate assessment of the returns to risk-taking activity.

The first and most obvious category of income that could be taxed at very high rates would be bequests and inheritance taxes. To the recipients of these intergenerational transfers, they are effectively pure rent. Increasing taxes on bequests or inheritances could be part of an overall reform to move the tax system closer to one based on merit and desert. But there are limits to what realistically can be accomplished in this domain both because of popular opinion and other structural factors that have been historically associated with the estate and gift tax.

First and foremost, the estate and gift tax is highly unpopular; indeed, many of those supporting abolition of the tax would never even actually have the size of an estate that would be subject to taxation (Graetz and Shapiro 2006). There are several reasons for this distaste for estate taxation. Generally, people apply the equity principle and believe they earned their wealth and should be able to dispose of it how they wish. Second, some believe that estate and gift taxation jeopardizes the American Dream by cutting off avenues of opportunity, even if they themselves would not be affected currently.¹¹

Shifting the discussion from an estate and gift perspective to an inheritance perspective may alleviate some of the concerns from equity theory and may have additional benefits in terms of tax policy. It is less likely that the recipients of a bequest can make the claim that they deserve the funds because of their effort, even if it was their family's efforts that were the source of the funds. Moreover, inheritance taxes could also be more easily tailored to the individual circumstances of the recipients and potentially made progressive (Batchelder 2009).¹²

Another factor that limits revenue from the estate tax is the step-up in basis that occurs at death. Upon death, assets are valued at their current market value, not the value at which the asset was acquired. This eliminates any taxes on the appreciation of the asset during the time the asset was held by the deceased. In the past, this provision was justified because of the difficulties it caused with respect to accurate

¹¹ Sheffrin (2013, Chap. 4), discusses how some individuals believe that estate taxation will prevent them from earning and then dispensing large fortunes which they associate with intrinsic American values.

¹² However, there are difficulties in designing inheritance taxes as well, particularly if there is transfer of businesses to the heirs.

record keeping. However, changes in technology have made information about tax bases more readily available, which reduces this concern.¹³

I believe an even more profound difficulty with estate and gift taxation is that these taxes were designed to prevent dynastic transfer and thus, at least in the United States, have an unlimited deduction for charitable gifts or gifts to foundations. That is why the very wealthy rarely pay any substantial estate and gift taxation. For very large estates, many of the wealthy create private foundations (think of Bill Gates, George Soros, and the Koch brothers) or family foundations. These foundations can carry out the wishes of the grantors and effectively execute the vision of the donors. Moreover, there is no general prohibition of family members taking an active role in these institutions. There are also other complicated strategies the very wealthy use to avoid the estate tax—which is why many years ago it was dubbed a ‘voluntary tax’ (Cooper 1979). For this reason, the estate and gift tax never raised much revenue even when the exemption limits were considerably less than they are today. For example, in 1995, the estate and gift tax raised only \$12.4 billion, or 0.88 percent of all federal tax revenue (Johnson and Mikow 1997, 82, Figure L). The expansion of the exemption thresholds that have transpired since 2001 and continued with the 2017 tax bill, effectively let the upper middle class enjoy the benefits that the very wealthy had always enjoyed.

What about windfall gains in general? Two of the most fundamental ways we can potentially structure our tax system—income versus consumption taxation—treat windfall gains differently. First, consider income taxation. Under a progressive individual income tax, windfalls will be partially taxed and the rate of taxation will increase with the size of the windfall. But the windfall will only be taxed if the income is actually realized for tax purposes. Wages are realized as they are received, but that is not true for capital income in general. If someone owns a stock that increases in value, the accrued gain is not taxed until the stock is sold.¹⁴ At that time, it is realized for tax purposes. However, individuals have the option not to sell the appreciated stock, which is why we typically have lower tax rates on capital gains than for regular income. Even more importantly, individuals can borrow against their

¹³ In 2010, taxpayers could elect a regime with a zero estate tax, but the step-up in basis would not apply. Thus, their heirs would pay taxes on the prior appreciation whenever they sold their assets.

¹⁴ I abstract from the case in which the appreciation is due to the effort of a manager of a company.

appreciated stocks and use the proceeds for consumption. Upon death, the gains are effectively eliminated through the step-up in basis rule that removes any appreciation and assures that any stock that is inherited is valued for tax purposes at its current price. Thus, if a stock is sold immediately after one inherits it, there will be no capital gains taxation regardless of the past appreciation of the stock. This has led one tax scholar to describe avoiding the income tax as “buy, borrow, and die” (McCaffery 2002, 32). Windfalls thus escape taxation under today’s income tax framework.¹⁵

Under a progressive consumption tax, individuals pay tax at a progressive rate on their income less their savings. If they borrow or dissave in order to consume, they will incur tax. One can think of this system as taking the current income tax and allowing a pretax deduction for net savings—just like we do for IRA’s or 401Ks now.¹⁶

One nice and generally unappreciated feature of this class of consumption taxes is that they would reach windfall gains. Suppose, for example, that a person saved by putting funds into a stock which later greatly appreciated in value. When the person, or his descendants, attempts to access the funds for consumption, those funds will be taxed at the full consumption rate. Any returns above the normal rate of interest on the savings initially invested will effectively be fully taxed at the normal consumption tax rate. Only returns at the rate of interest will avoid tax. Thus, the progressive consumption tax allows normal returns on investments to escape taxation but fully taxes any returns above that and therefore taxes windfalls. This is an extra benefit to this model of consumption taxation.

Note that this model applies to regular IRAs and 401Ks, but not to Roth IRAs. The latter are known as exemption plans because they do not provide an initial deduction but exempt the entire return (including any windfalls) from taxation. Thus, in designing a tax system to be consistent with desert, it is important to choose the correct schemata for consumption taxation.

¹⁵ This paragraph describes the U.S. tax treatment. Other countries manage the realization issue differently. The Netherlands taxes a hypothetical return on their assets that increases with invested capital. Another alternative that avoids the realization problem is retroactive taxation (see Auerbach 1991).

¹⁶ There are a number of different ways to formulate a progressive consumption tax. Under an X-tax, labor income would be removed from the business tax base and taxed at progressive rates. In principle, there could be charitable contributions that are allowed as deductions. They can be constructed to either allow or deny gifts to heirs. If gifts are allowed as deductions, the theory is that the heirs will pay taxes when they consume. This is the position of McCaffery (2002).

The traditional value-added tax, a tax on consumption employed in most countries throughout the world (although not in the United States), also taxes windfalls. Value-added taxes allow for the expensing of investment (deducting the full cost of investment goods in the initial year) and thus effectively allow for a deduction for savings. However, value-added taxes have a flat rate structure, so they are not progressive consumption taxes.¹⁷

There is one other additional benefit of progressive consumption taxation over income taxation. The act of consumption is once removed from the act of earning income. Thus, a high rate of tax on consumption may not be perceived as confiscatory, where an equivalent rate on current earnings may seem so. This has led some commentators to claim that the consumption tax was the “last best hope for progressivity” (McCaffery and Hines 2010, 1037). Since consumption taxes exempt savings, their nominal rate of taxation must exceed the rate of a revenue equivalent income tax. The psychological factor favoring consumption taxes might be offset by the higher rate. The ultimate effect on progressivity is thus an empirical matter.

The consumption tax would apply taxes to qualified market income that is not saved, thus it would tax earnings that were deserved. However, it is hard to think of taxes that would raise sufficient revenue to fund a government that would not tax some deserved earnings. The distinguishing factor of a progressive consumption tax is that it does manage to tax windfalls, whereas the current income tax in the United States does not.

Historically, the United States tax system also made a distinction between “earned income” from wages and “unearned income” from capital income (Sheffrin 2013, 209). In the 1950s, taxes were higher on unearned income than on earned income. While this distinction may sometimes resonate with the public today (where heirs of fortunes live lives of leisure), it has no basis in theoretical discussion of taxation or economic theory. Capital income arises from savings which are essentially deferred consumption. Modern discussions of tax policy recognize and incorporate this insight. There are some strong economic rationales for taxing capital income at lower rates based on the

¹⁷ Viard (2018) provides an accessible discussion of different forms of the value-added tax and how they tax above-normal or windfall returns.

inefficiency of taxing savings, although the case is not definitive.¹⁸ The intellectual debate today focuses on whether there are gains in efficiency or equity from taxing capital income—not whether it is “earned” or “unearned”.

Since capital gains are taxed at lower rates than earnings, the idle rich do seem to enjoy an advantage. However, if the public is concerned about the behavior of the idle rich, a progressive consumption tax would go a long way to rectifying the current situation. As the idle rich spent their funds, they would pay taxes at progressive consumption tax rates.

IV. FROM THEORY TO PRACTICE

While in theory, tax policy can aim to tilt towards a vision of desert, is that likely to be seen in practice? There are a number of reasons why actual tax policy may not reach or even aim for this goal.

The first basic reason is that a tax system’s primary function is to raise funds for the state. Any tax preferences (tax expenditures) will cost revenue, so exempting certain activities or taxing them at lower rates will be costly. Of course, this can be offset by raising other tax rates or incorporating new items into the tax base. But these changes typically will incur political resistance and may make the tax system less efficient. In short, there are revenue constraints that may throttle a vision of desert.

A second key reason is the possibility of tax arbitrage. Unless tax legislation is put together carefully, it may be possible for taxpayers to take advantage of the preferences in the system to simply make money and drain the system of revenue. For example, an individual could borrow funds and deduct interest payments and invest in tax-exempt securities. Since the issuers of tax-exempt securities do not pay taxes on the receipt of interest, the net result of the transaction is a transfer of funds to the investor at the expense of the government. Current law explicitly prohibits these transactions and also places restrictions on individual borrowing generally.

Closely related to the idea of tax arbitrage is the risk that taxpayers will change their behavior in superficial ways, just to save on taxes. If it is less costly to pursue activities in a slightly different form, differential tax rates can induce change. In the tax law, this falls under the general

¹⁸ See Bankman and Weisbach (2006) for the efficiency argument. Diamond and Saez (2011) make the point that capital income may be an indicator of ability, so it might be efficient to tax capital income.

category of form rather than substance. One classic example is to characterize financing as debt rather than equity so that interest payments can be deducted. If taxpayers change the real economic environment they face, then we generally view this as a legitimate response to differential taxes; however, if the mere form of an activity changes with no substantial changes in risk or the economic environment, then this behavior is characterized as merely a change in form and generally not permitted. The tax law must be fine-tuned to avoid promoting form over substance.

Finally, lawmakers may wish to use the tax system to pursue a vision of desert, but this vision may not conform to qualified market outcomes. Lawmakers may have other value schemes or alternative desert bases in mind.

The Tax Cut and Jobs Act of 2017 provides an interesting laboratory in which to explore these ideas. The bill was written by Republican legislators and staffers in the House and Senate. There were only a few public hearings and not much public exposure to early versions of the legislation. This allowed the preferences of the tax writers to have considerable leeway in designing the provision of the bill. Moreover, the House and the Senate each separately produced entire versions of their bill reflecting the preferences of their membership. The bills differed in interesting ways that allow us to see the preferences in the respective Chambers.

I used the official detailed summaries of the original House bill and the final conference bill that embodied the Senate's own positions to explore whether legislators took advantage of a major new tax bill to embed ideas of desert into the legislation and, if so, what types of desert.¹⁹ I asked a non-tax professional to read through both the detailed descriptions provided by the Joint Committee on Taxation of the original House bill and the final conference report and identify areas in which she believed there were considerable value judgments being applied in the legislation.²⁰ We then went over her lists and eliminated provisions that could have been justified on normal tax policy grounds, such as economic efficiency or preventing arbitrage. We also avoided hyper-technical areas—such as some aspects of international taxation—

¹⁹ United States Congress, Joint Committee on Taxation (2017a, 2017b). These are the detailed descriptions of the original House of Representatives' bill and the description of the conference bill.

²⁰ I thank Kathleen Weaver for her heroic efforts in carefully reviewing the near thousand pages of summaries of the bills.

whose provisions were based largely on other tax principles. As a result of this effort, we identified three broad areas for discussion, reflecting different aspects of the ways legislators embed values in tax bills. To preview our findings, none of these proposed legislative changes implied a vision for merit-based desert.²¹

In the first area we identified, the House aimed at incorporating social value judgments into legislation using family-based social norms as their desert bases. The House first proposed ending the current treatment of alimony payments, which are deductible to the payor and included in the income of the payee. That is, the person paying alimony can deduct the payments from their income before calculating their tax, but the recipient of the alimony payments treats them as income for tax purposes. The rationale the House gave for changing the law was that an old Supreme Court case from 1914 had invalidated this practice (*Gould v. Gould*, 245 U.S. 151, 1917). However, this rationale was specious, as Congress changed the tax law in 1942 to allow it.²² At one time there were concerns expressed in the tax policy community that the recipients of alimony payments sometimes omitted them from their tax returns, but this has been easily corrected by requiring the payor to include the Social Security number of the payee on payor's return. There was no real basis for this provision other than to punish higher earners in divorces and make divorce more costly. Although the Senate did not originally suggest this provision, the final legislation reflected the House proposal with a one-year delay in enactment.

The second provision we highlighted that has a particular social norm as its basis, was a House proposal relating to Coverdell education accounts. Under existing law, income-eligible taxpayers can deposit funds into accounts that grow tax free and can be removed from these accounts tax free for spending on educational purposes. What the House proposed, was to end new contributions to the Coverdell accounts, but to allow contributions for currently unborn children that were in gestation. This clearly reflected an anti-abortion orientation of the tax writers for this bill.²³ In the final legislation, no changes were actually made to Coverdell accounts.

²¹ The discussion around the bill focused primarily on investment incentives and not merit-based desert.

²² See Davis (forthcoming) for a discussion of the history of this issue.

²³ In the United States, groups that oppose abortion would prefer using the term pro-life to anti-abortion.

With the proposals for changes to alimony and Coverdell accounts, we do have what can be seen as desert-based tax proposals. In this vision of desert, married couples were more deserving than divorced couples and unborn children were to be placed on par with those already born.²⁴ Neither proposal enacts a merit-based desert tax policy.

The next set of proposals we analyzed can be loosely grouped under the category of political desert, or the situation that occurs when benefits conveyed to parties because they are politically favored for ideological reasons.²⁵ Three proposals we identified that do have a distinctive ideological content also originated in the House bill. None of these were proposed by the Senate and none made it into final legislation. The three proposals we identified were; 1) the termination of the new market tax credit, 2) the repeal of the work opportunity tax credit, and 3) the repeal of the credit for plug-in electric drive motor vehicles.

All of these provisions had an ideological tinge. The new market tax credit is an Obama-era program that provided individual and corporate tax credits against federal income taxes for making Qualified Equity Investments in qualified community development entities. These entities serve low-income communities. Eligible projects have included financing small businesses, improving community facilities such as daycare centers, and increasing home ownership opportunities. Eliminating the credit would have eliminated the incentive for these programs.

The work opportunity tax credit provides incentive to hire from ten targeted groups, including those who receive certain public benefits, as well as other categories including ex-felons and those experiencing long-term unemployment. While eliminating this provision could be seen as simply removing tax credits generally, it is evident that the House provisions take away work incentives for disadvantaged groups.

Finally, the repeal of credit for plug-in electric drive motor vehicles clearly expresses a value judgment that the Federal government should no longer incentivize energy efficient cars or those with reduced carbon emissions. Again, it could be rationalized as a general dislike of credits, but it does seem like a logical extension of the skepticism of the harm caused by global warming and humans' role in its trajectory that many

²⁴ The proposed policy could simply reflect religious conservatism, but I suggest here that this also reflects some notion of deservingness, particularly for married versus divorced couples.

²⁵ The benefits should not be conveyed simply because they are well-connected—my use of the term political desert implies some ideological affinities.

Republican members of the House, as well as President Donald Trump, have expressed.

The fact that none of these proposals emerged in the Senate bill or in the final legislation can potentially be seen as evidence that these proposals reflected the ideological and political preferences of certain members of the House. Again, these proposals represented a view as to what was deserved—but here the criteria were largely based on traditional political grounds.

The third area we examined was a more fundamental aspect of the new tax law. A complex and significant component of the final legislation was the taxation of pass-through entities—partnerships, sole proprietorships, and other entities that can choose to be taxed as individuals and not as corporations thereby avoiding the corporate layer of tax. The final legislation provided a 20% deduction for pass-through income (that is, making only 80% of pass through income subject to tax), but with certain limitations. The underlying rationale for the deduction was that the overall legislation reduced corporate tax rates sharply. The small business community wanted to maintain parity and pushed strongly for corresponding reductions in taxation for businesses conducted in non-corporate forms. Whether this was absolutely necessary was a subject of debate, as corporate owners pay taxes on dividends they receive and potentially capital gains when they dispose of their shares. Taking into account this additional individual taxation, it is a close call whether the additional deduction for pass-throughs was needed in order to insure parity with corporations. However, the fact that the relative position of corporate versus non-corporate businesses would change with the reduction in the corporate tax rate provided strong political impetus for the pass-through deduction.

The key idea behind the deduction was to provide a tax cut for business income regardless of organizational form. The principal difficulty in drafting the legislation and providing a tax reduction for pass-throughs was to avoid the situation where lawyers, accountants, and other service providers would be taxed at the lower business rate and not as regular wage earners, as they would if they had worked for a corporation. Or, put another way, the tax preference for pass-through businesses was for capital income, not labor income. A corporation would deduct its wages from its taxable income and the wage earners would pay taxes at individual rates. The corporation would then pay tax

on its capital income, with wages excluded. The issue facing lawmakers was how pass-through businesses could be treated in a parallel fashion.

Both the Senate and House initially developed their own strategies for achieving this tax policy goal. The final legislation ended up closest to the Senate version. It provided a 20% deduction for pass-through businesses, but placed some income and other limits on this deduction. These provisions are complex, but here I want to highlight the restrictions for “specified service industries”, which include firms in law, accounting, health, actuarial science, performing arts, consulting, athletics, and financial and brokerage services (Susswein 2018, 501). Individuals in these firms employed in these activities are entitled to the deduction, but only for incomes up to \$315,000 for joint filers and \$157,000 for single filers. These same restrictions apply to any other business for which “the principal asset of such trade or business is the reputation or skill of one of its employees or owners” (501). Other businesses were not subject to these particular limits, but there are also complex limitations based on payroll and assets that apply to all businesses.

By highlighting these types of businesses, lawmakers were following tax policy principles and trying to separate out wage income from capital income. They were not singling out certain types of businesses based on desert. The actual list of specified service businesses was largely taken from an obscure section of the tax code, Section 1202. That section refers to the partial exclusion of gain from income of the sales of stocks of certain small businesses.²⁶ The only difference is that Section 1202 also included engineering and architects. These two groups were not included in new tax law, as they successfully made the case that they typically had more capital investments in their businesses than the others on the list. The fact that the list was adopted from another section of the tax code dispels the notion that the particular definition of specified service businesses was motivated by partisan concerns.

To this point, it appears that tax policy reasons were primarily driving the pass-through provisions, including the choice of service industries subject to income restrictions. However, providing the full deduction for all businesses under the income limits can be seen as reflecting some notions of desert. The rhetoric surrounding the pass-through provisions in the tax bill highlighted the idea that it was important to provide a break for individuals operating small businesses.

²⁶ See Internal Revenue Code Section 1202 (e)3.

This was a clear value judgment. There is no obvious economic or merit-based reason to provide a tax break to a lawyer earning \$100,000 who operates as a sole practitioner as compared to a lawyer working for corporation who earns the equivalent salary. Did the lawmakers want to encourage the entrepreneurial spirit of the sole practitioner? If so, this is more of a moral and social basis for desert than a purely economic one.

Many critics of the pass-through provisions, such as Dan Shavero (2018), found them to be arbitrary, needlessly complex, and subject to gaming. In response to Shavero, our discussion highlights that there was a basis in prior law for specifying the identity of the service businesses that were subject to restrictions. Moreover, historically, lawmakers have enacted a variety of tax breaks for small business.

In summary, it was difficult to find any merit desert-based provisions in the recently enacted tax law. There were clearly other social and political preferences expressed in the legislative process. But the natural constraints on tax policy, including raising revenue and avoiding tax arbitrage and gaming the tax system, do limit the scope for narrowly directed merit-based provisions.

V. CONCLUSION

While market outcomes connect only loosely with norms of fairness and economic desert, it is possible to envision tax policy as a mechanism to implement a merit-based market vision of desert. This paper explored the different ways the tax system could be used for such a purpose and whether actual tax policy—as exemplified in the most recent tax legislation—embodied these norms.

I first distinguished between individualized and categorical approaches to implementing merit-based desert norms. Although many discussions of desert focus on individual acts or behaviors, the practical difficulties of implementing any systematic approach along these lines is overwhelming. There was a bit more hope for some categorical approaches. While taxing inheritances or bequests seems to be a natural mechanism to reach economic rents, the revenue raised from these taxes is very small, at least as the current provisions are constituted with the step-up in basis and unlimited charitable deduction provisions. More promising would be revamping our tax system along the lines of a progressive consumption tax which has the consequence of taxing pure economic windfalls. This type of consumption tax, however, has never been implemented in its entirety in any country. It also would require

higher nominal taxes and major re-orientation of the tax code. Our current tax system embodies certain consumption tax features with its retirement provisions, offering a possible model for a broader system.

Finally, our exploration of the social and political norms embodied in the Tax Cut and Jobs Act of 2017 suggested that politicians did try to insert their preferences into tax law. However, these preferences were not based on a merit-based market variety, but, instead, reflected other social and political priorities. Just as Joseph Heath (2018) noted that when opportunities arise, unions and other groups exert their own values, so it appears do tax legislators.

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Thinking by Drawing: An Interview With Shelly Kagan

SHELLY KAGAN (Chicago, 1954) is Clark Professor of Philosophy at Yale University, where he has taught since 1995. Before coming to Yale, he taught at the University of Pittsburgh and the University of Illinois at Chicago. Kagan received a BA in Philosophy and Religion from Wesleyan University in 1976 and a PhD from Princeton University in 1981. His PhD thesis, on the limits of what morality can demand, was supervised by Professor Thomas Nagel.

Kagan's research is in normative ethics. He is the author of *The Limits of Morality* (1989), *Normative Ethics* (1998a), *Death* (2012a), *The Geometry of Desert* (2012b), and *How to Count Animals, more or less* (forthcoming). His work has appeared in various journals, including *Ethics*, *Philosophy & Public Affairs*, and *Proceedings of the Aristotelian Society*. Videos of Kagan's course on death have been very popular online. Kagan is a fellow of the American Academy of Arts and Sciences and a member of the advisory board of the Philosophical Gourmet Report.

The Erasmus Journal for Philosophy and Economics (EJPE) interviewed Kagan about his formative years (section I); his work on death (section II), the moral status of animals (section III), and desert (section IV); his views on convergence in philosophy (section V); and his advice for graduate students in moral philosophy (section VI).

I. Formative years

EJPE: Professor Kagan, what first drew you to philosophy?

SHELLY KAGAN: I was interested in Jewish religious thought from an early age. In highschool, I was reading Martin Buber, a great 20th century Jewish thinker. One of the essays I read was Buber's reply to Kierkegaard's *Fear and Trembling* (1983), which discusses the binding of Isaac in Genesis. I had not read any Kierkegaard and did not know

EJPE's NOTE: This interview was conducted by Huub Brouwer. Brouwer is a PhD candidate at Tilburg University, specializing in desertist and luck egalitarian theories of distributive justice. At the time of the interview, he was on a research visit to the Yale philosophy department. Brouwer thanks Christiaan Broekman, Willem van der Deijl, and Julien Kloeg for discussions on Kagan's work in preparation of the interview.

anything about him, and there was a lot in the Buber text that I found difficult to understand. I realized that I needed to get exposed to philosophy.

My father had a very good book collection. So I went down into the basement, where his library was, and started reading some Plato. I must have known enough about philosophy to know that I had to start there. After the Socratic dialogues, I read some of Aristotle's *Nicomachean Ethics*. I then read some Bertrand Russell. At that point, I was hooked. I had no intention of becoming a philosopher yet, but I realized that philosophy was something that I cared about deeply.

There is a wonderful quote by Naomi Scheman that I sometimes bring up when talking about my early interest in philosophy: 'Taking my first class in philosophy was like hearing my native tongue spoken for the very first time'. That sums up very well how I felt.

Did you have people you could talk to about philosophy during your childhood?

No, not really. I was a philosophically inclined child, but I had nobody who knew enough about philosophy to be discussing it with me. I actually think that is a fairly common situation. Most kids are natural philosophers and are bothered by questions similar to those that were bothering me. They get these things driven out of them by their parents and teachers.

I'll tell you an example of a philosophical question I was worried about from when I was nine or ten. In my English class, the teacher was trying to explain the difference between nouns and adjectives. I did not get it. The teacher said: 'Look, a brown dog; 'dog' tells you what it is, and 'brown' tells you something about what it is like'. And I said: 'Brown dog? 'Brown' tells you that it is a brown thing, and 'dog' tells you what kind of brown thing it is'. My teacher had no idea why I could not see the distinction. It wasn't until I had read Quine that I realized what I was worried about.

In highschool, I started having what I thought were philosophical discussions with some of my friends. It wasn't really until I went off to college, though, that I began studying philosophy in a systematic way.

You did your BA at Wesleyan University. Why did you apply there?

I wanted a small liberal arts college for my undergraduate experience. I had the sense that you would get more face time with faculty members

at such a college than you might at a research university. Many people at research universities primarily care about doing their research; teaching is something they do to pay the bills. Many people at liberal arts colleges, on the other hand, are especially interested in teaching. So I looked for a small liberal arts college with a really good academic reputation. I wanted to have good teachers and smart fellow students who would want to sit around and discuss ideas with me.

You majored in philosophy and in religion. Why both?

I actually went off to college to be a religion major, and so I was. I also took a bunch of philosophy classes, but did not declare my philosophy major until the second semester of my senior year, when I was looking at my transcript and realized that I had taken enough philosophy courses to declare a philosophy major. My philosophy major technically was an afterthought.

What did you want to do with the religion major?

I went to college planning to become a rabbi and expected that to be my career path until almost the end of my senior year.

What changed?

I applied to a particular rabbinical school—and they rejected me! I got the rejection letter during the spring of my senior year. What this meant was that, for the first time, I had the kind of introspective examination of the soul that many people have throughout college, asking myself: ‘What do I want to do with my life?’

One option, of course, was to reapply. The seminary I applied to had a reputation of regularly turning people down—perhaps to see how committed they really were. There actually is a tradition in Judaism that when a non-Jew comes to a rabbi, and says ‘I want to convert to Judaism’, the rabbi is supposed to turn them away. It is not an easy lot in life, being a Jew. If the person comes back a second time, the rabbi is supposed to turn them away again. It is not until they come back the third time that the rabbi is supposed to take the person into his study and explain what would be involved in converting. The admissions policy of the seminary was probably based on a similar thought: the lot of a rabbi is not an easy one, we want to make sure that you are dedicated.

Other options I thought about were applying for a secular PhD in Judaica, or, and this is something I started thinking about for the very first time, doing a PhD in philosophy. I discussed the idea with my philosophy teachers, and they reassured me that I was good enough, that I could get into some of the good places with their letters. In the end, I got into Princeton.

With hindsight, there were some clear indications that this had been brewing. Even before I had gotten the rejection notice from the seminary, I remember asking one of my philosophy professors: 'How do you keep up with philosophy if you don't become a professional philosopher?' He looked at me and said: 'You don't'. I remember thinking that was sad; I would really miss doing philosophy.

You may remember the passage in Russell, I can't remember where he says it exactly, where he says that people come to philosophy in the main from two different directions. From religion or the sciences.¹ I didn't come from the sciences. I came to philosophy from thinking about the meaning of life and ethics. I think that is the explanation for why I went into moral philosophy. It may surprise you, though, that I actually enrolled at Princeton thinking that I was going to do metaphysics and epistemology. That's what I said in my personal statement. A real case of lack of self-knowledge, I suppose.

That sure is surprising! I'd like to talk about your undergrad period a bit more. Which people and writings were particularly important for the development of your interests during your BA?

In my freshman year, I took a class where we read *Utilitarianism*. I remember thinking: this is the truth. What I don't remember anymore is whether I already was, without realizing it, a utilitarian—or, whether Mill converted me. Somewhat later on, I read G. E. M. Anscombe's "Modern Moral Philosophy" (1958). In her diatribe against a century of philosophy, she introduces the word 'consequentialism' to condemn everyone to the left of absolutist deontology—saying something along the lines of: 'As if having good consequences could be enough to justify doing an action!' I remember thinking: 'Of course that is what justifies doing an action! What else would justify it?'

¹ Russell's exact words are: "Philosophy, historically, is the intermediate between science and religion" (1955, 34).

I also read some G. E. Moore, and liked Moore's style. I know people find him plodding, but I found his drive to state with precision what was at stake was very congenial. Long before I discovered that there was a thing called 'analytic philosophy', I was drawn to that kind of approach to philosophy. I remember reading Hegel during the fall of my sophomore year, and finding it completely opaque. I did not have the reaction: 'This is such great stuff, I have to master this language'. My reaction was much more: 'Why does this guy have to write so obscurely?' Temperamentally, I was driven to get clear about things.

Finding analytically trained philosophers, later on during my undergrad years, was finding my people. It is not that I bought all of the more dogmatic elements of analytic philosophy, though I went through phases. There was a period when I was arguing with my friends that when you have philosophical debates, all you are arguing about is the meaning of words. Now, I look back and think: 'What a dumb thing to say!'

And how about your graduate studies? Which people and writings were influential then?

Tom Nagel and Tim Scanlon were at Princeton when I arrived there as a grad student. Derek Parfit visited Princeton during my first or second year. I formed the opinion then, and nothing has led me to revise it since, that Nagel, Parfit, and Scanlon are just wonderful moral philosophers. They taught me not to be satisfied with a quick, dirty objection to a philosophical position; to really think about what makes a view promising and tempting—even if, at the end of the day, you want to reject it.

It easiest for me to identify the influence of Nagel and Parfit, because I went on to work closely with them. I got to know Nagel when I took a graduate seminar with him during my first semester at Princeton. He became my PhD supervisor later on. I think I sum up his influence well in the acknowledgements to my thesis, which was published a few years later as *The Limits of Morality* (1989). I wrote: "My debt to him will be obvious to all those who know his work, and even more obvious to those who know him personally. If I have any sense at all of philosophical debth, it is thanks to Tom; if I do not, it is not for lack of his trying to teach me" (1989, xiii).

Parfit was working on some early material for *Reasons and Persons* when he visited Princeton. I took a seminar with him in which we

discussed it. I found it fascinating, utterly fascinating. I had never read anything remotely like it. Parfit gave me the realization: 'Oh, you can think about things by drawing boxes!' A fair bit of my work has diagrams and formulas; not because I think that they get it all, but because sometimes they allow you to see more clearly what you are committing yourself to.

In Parfit's case, it seems that the influence was mutual. He writes in the acknowledgements to *Reasons and Persons* (1984, viii) that you are the person he learnt most from.

That was an amazingly generous thing for him to say! I have often joked, when people quoted that back to me, that it is a pity that I didn't die young. If I had died young, people remembering the Parfit quote would say, 'Shelly had such promise'. But if I die now, people will say 'Shelly had such promise, but he didn't really follow through'.

How did you get to comment on *Reasons and Persons*?

Parfit would draft material and distribute it among people whose opinion he respected. He would then try to come up with responses to the objections these people raised, and send a revised draft to them. Parfit would go through this cycle over and over—until he was satisfied, or some deadline had been reached.

When I got out of graduate school, Parfit was sending around whatever the latest version of the manuscript of *Reasons and Persons* was. I sent him some comments on Part I. My intention was to turn my attention to revising my thesis for publication after that.

One day, some time after I sent the comments, Parfit called me and said 'I love your comments, would you be willing to send me comments on the rest of the book?' I said: 'I'd very much like to, but I don't really have the time. I have to revise my dissertation'. Then he said: 'Well, I will make you a deal. If you send me comments on the rest of *Reasons and Persons*, I'll read your dissertation and send you comments on it'.

I knew a good deal when I heard one. Parfit had a reputation as one of the most deep, trenchant critics in the profession of moral philosophy. If he was willing to do this for me, absolutely! I loved the *Reasons and Persons* stuff, and this gave me an excuse to not just read it, but study it—think through it paragraph by paragraph. I devoted a summer to doing that. It was a wonderful experience.

How were Parfit's comments on your dissertation?

His comments were great! They came at a good moment as well. After finishing my PhD, I started as an assistant professor at Pittsburgh. I prioritized my teaching, as I always have since. One day, David Gauthier, the department chair at the time, called me into his office and showed me a graph on his blackboard. On the x-axis were the years that I had been at Pittsburgh, and on the y-axis was the number of publications. I had not published anything!

David said: 'Look Shelly, we really like you. We think you are smart. We want you to stay. But you've got to publish some stuff!' I told him that I was planning to revise my dissertation. In my memory, it was that very night that Parfit calls me a second time. This is too good a story to be true, so I suspect I just conflated the two events. But, at least in my mind, that very night, he calls me and says: 'I have read your dissertation. I really like it, and I want to publish it with Oxford'.

I could not believe it. I said, 'I just want to get clear on what you are saying, Derek. You think my dissertation is pretty good and you are going to help me by giving comments. When it is revised, you'll see whether Oxford is interested in publishing it'. He said, 'No, no, no! I am doing a new series for Oxford, I am the editor for it, and I want to publish it in my series'. When I hung up the phone, I remember thinking: 'Well that changes the graph now, doesn't it?'

You remained in Pittsburgh until 1986. You then went to the University of Illinois at Chicago, why did you move?

The Pittsburgh philosophy department was wonderful. It was as if I could continue my graduate education there. I would sit in on seminars from my colleagues and have regular one-on-one discussions with David Gauthier and Kurt Baier. David Gauthier was working on *Morals by Agreement* (1987) at that time. We would have weekly meetings to discuss the manuscript. Kurt Baier read my thesis, and met with me every week to talk about it. He would help me to see things that I would need to revise and fix.

My then girlfriend, and now wife, Gina eventually joined me in Pittsburgh. For professional reasons, Pittsburgh did not really work out for her. That is why we left. We moved to Chicago, which had a big plus for me, because I grew up in a suburb of Chicago, called Skokie. I am one of five children and the only one who ever really left Chicago. The others went to school either in Illinois or a nearby state, and all came

back. My parents were still alive, and I have an extended family of cousins, almost all of whom had stayed in the Chicago area. So there was this huge network of family that was just wonderful.

You became a full professor in Chicago in 1994. In 1995, you went to Yale. What made you decide to do so?

I was very happy in Chicago. But my wife's family was out East. So we would talk about moving East at some point. The list of options was short though: There only was a small number of departments that I would have considered a step up from Chicago. Although the department wasn't top 10, it was always in the top 20. I had great colleagues there: Michael Friedman and Anil Gupta, among many others.

I am not sure how widely known this history is anymore, but the Yale Philosophy department was in bad shape at the time. There was a lot of infighting. Yale had hired Robert Adams during the early 1990s to rebuild the department. I had known Bob since I was a graduate student. He and his wife Marilyn had spent a year visiting Princeton when I was a graduate student there. I really respect Bob as a philosopher, and his taste in philosophy. I thought that if Bob was behind this, then maybe the department was going to be turned around.

One day, I was looking at 'Jobs for Philosophers', which, in those days, was a newsletter published by the American Philosophical Association. There was an ad for Yale, looking to hire somebody in moral philosophy willing to be involved in an interdisciplinary program. I remember seeing that ad and saying to Gina: 'This has my name on it'.

I applied to the job. Bob wrote back quickly, saying that he was going to take my application very seriously. Eventually, he made me an offer and I started to have a series of discussions with him about his vision for the Yale department and the kind of resources that Yale was putting behind the effort to rebuild the department. It was all completely reassuring. There was something about the chance to be a founder of a great department that tickled my fancy; perhaps it would be more accurate to say *refounder*, actually, because Yale used to have a great department. Anyway, that's how I ended up here at Yale.

II. Death

Many people know you because of your class on Death—which was recorded in 2007 and put online as a Yale Open Course. How did you get interested in death?

The story of the class actually goes back to my time in Chicago. When I joined the Chicago department, Jerry Dworkin, the department chair, said to me, ‘We used to have a philosopher in the department who taught a class on death. It was reasonably popular. Any chance you might be interested in teaching it?’ I told him that I would think about it. Jerry didn’t say what they covered in the class. When I started thinking about ways of setting it up, I was just blown away by the possibilities. Death allows you to talk about so much: metaphysics, epistemology, personal identity, value theory, the nature of emotions. I agreed to teach the class in Chicago, and continued teaching it here at Yale.

In the first chapter of your book *Death*, which came out of the class, you write that there are roughly two ways to write a philosophy book (2012a, 3).² One way is to lay out various alternatives, the pros and cons, without taking a position yourself. The other is to state what your own position is and defend it as well as you can. In the course and in the book, you clearly take the latter approach. Why so?

On many topics in philosophy, people do not really have views. When you teach a class on these topics, you have to lay out the possible views for them. That is not the case with death. Death is a topic where lots of people think: ‘Such and such is certainly the case’. I happen to disagree with many of the standard views about death. Many people here in the United States think that we have a soul. I don’t. Many people believe immortality would be a good thing. I don’t. Many people believe that we should be afraid of death. I don’t. Many people believe that suicide is always irrational. I don’t.

Given my disagreement with so many of the standard views about death, it seemed to me that it might be valuable to lay out my cards right at the start, and say: ‘Here is a bunch of things that many of you believe about death. I think it is all wrong!’ I probably wouldn’t have chosen this set-up if I had not rejected the standard view about death so

² All references in this section are to Kagan’s *Death* (2012a), unless otherwise indicated.

completely. It was easier, cleaner, and more upfront to do it this way. And it seemed to work. Although particular topics and arguments covered in the class changed over time, I was happy with the basic approach from the get go.

You say at the start of your book that you will not try to argue the reader out of their religious beliefs (5). But don't some of your arguments go against religious beliefs? To give just one example: you argue extensively against the existence of immaterial souls (chaps. 4–7). If there are no immaterial souls, then this seems to be at odds with religions that postulate their existence.

It is true that, on certain religious beliefs, there are immaterial souls. Anyone who is claiming there are no such things would be threatening this religious belief. The arguments I am giving, however, speak to the conclusion that we would be justified in reaching, religious authority aside. I claim that there is no good reason to believe in the soul on a non-religious basis, but that is perfectly consistent with believing in the existence of a soul on religious authority. The believer and I are simply making distinct claims. I am not directly criticizing any religious views. Many people have taken me to be hostile to religion because of the lectures. But my aim was not at all to argue against religion!

Part of your book is devoted to the question what it means for us to survive. To answer that question, you delve into the problem of personal identity. You write that, for much of your philosophical career, you have found yourself torn between two views: the personality view, according to which someone survives if their personality remains intact (127–139), and the body view, according to which someone survives if their body remains intact (118–127). For some time now, however, you have been “inclined to think that the key to personal identity is having the same body, as long as there’s no branching, as long as there is no splitting” (162).³ Why is that?

³ Kagan imposes the no-branching requirement to prevent fission cases—in which a being splits into two continuants. To illustrate the need for a no-branching requirement, he gives the example of him having a horrible accident over the weekend, which leaves his torso destroyed, but his brain intact (152–153; see also Parfit 1984, 254–255). There are two other men, Smith and Jones, who have also had an accident of sorts over the weekend, which has liquidified their brains, but left their bodies intact.

Assume, against our best medical science, that it is possible to continue living while an entire hemisphere of your brain has been destroyed. Given this, and because

It sometimes happens in philosophy that one just finds different arguments and considerations more plausible over time. Perhaps this is not the most admirable aspect of the discipline. Early on in my career, I was drawn to the personality view. That probably was under the influence of Derek Parfit, who, as I mentioned, visited Princeton while I was a grad student there.

It is not that there really was an argument that pushed me over to the body view. I started thinking of the continuity between people and other physical objects. You follow the body when you are following a lion around. You follow the body when you are following a tree around. Such considerations slowly moved me towards the body view. I am aware of the objections that have been raised against it. The body view just strikes me as, on balance, the most plausible view.

It is important, though, to be precise on what it means to have the same body. Not every part of the body needs to stay the same in order to still have the same body. When you get sunburned, for instance, and your skin peels off as a result, you still have the same body. When you lose weight, you still have the same body. We do not say that someone has ceased to exist when they have had a sunburn or lost some weight.

Even more drastic changes to the body seem compatible with having the same body. As I mention in the book (123), one of my favorite examples here is from *Star Wars*. In *The Empire Strikes Back* (1980), Darth Vader cuts off the hand of Luke Skywalker, just after he says ‘I am your father’. In the very next scene, Luke has an artificial hand. Darth Vader doesn’t think that his son no longer exists. And rightly so!

The question we should ask when deciding what it is to have the same body, is what, if any, part of Luke’s body Darth Vader should have chopped off in order for us to think that Luke has ceased to exist. My

brain transplantations have a high failure rate, doctors decide to split Kagan’s brain and transplant one half of it into the body of Smith, and the other half into the body of Jones. Miraculously, both brain transplantations are successful. Lefty, the person with the left half of Kagan’s brain, wakes up thinking he is Shelly Kagan. Righty, the person with the right half of Kagan’s brain also wakes up thinking he is Shelly Kagan. Who, if anyone, is Shelly Kagan after the transplantation?

Kagan argues that it would not make sense to claim that either Lefty or Righty alone is now Shelly Kagan. After all, both of them received exactly half of his brain! It would also be unattractive to hold that both of them are Kagan—because that would mean that he can now be at two places at the same time. The most sensible response to this scenario, he argues, is to hold that neither of the two are him, which is achieved by imposing the no-branching requirement.

answer is: the brain—or, at least, a significant part of it, because there is some redundancy in the brain.

Your discussion on personal identity is premised on the idea that there are criteria of identity over time. What do you think of anti-criterialism, the view that there are no such criteria (see, for instance, Merricks 1998)?

I don't often believe in brute facts. Suppose you would ask: 'What makes the table I am slapping now, the same table I slapped last week?' My meta-philosophical view is that there are answers to that question other than: 'It's just a brute fact'. That is not because I am sympathetic to the principle of sufficient reason. Unlike my colleague Michael Della Rocca, I do not think that the principle of sufficient reason holds across the board. That doesn't mean, though, that one should say that something is a brute fact whenever the going gets tough. I don't have a master argument up my sleeve about how you know when something is a brute fact. It just seems to me likely that there is an answer to the question of personal identity. The thought that there couldn't be an answer is probably itself based on meta-philosophical views about what an adequate criterion of personal identity would look like. I might challenge the anticriterialist on that.

At the end of your chapter on the choice between the personality and the body view of personal identity, you point out that the focus on what it takes to survive as a person may actually be misguided. What seems to matter more than surviving, is psychological continuity (162–169). Why do you separate the question which view of personal identity is the right one, from the question what really matters in survival? Aren't we also guided, in thinking about personal identity, by our views on what really matters?

I certainly have sympathy for the thought that you can let normative considerations guide you in the development of your metaphysical views. If a certain metaphysical view has normative implications that are very implausible, I think it is perfectly legitimate to change your metaphysical views. So, I hear where you are coming from if you say that you want to track something like personality in terms of what matters, and use that as an argument for the personality view of personal identity. I am just not as wed to using that particular normative insight as a ground for choosing between views of personal identity. There are

cases, for example, where it just seems to me, intuitively, that I *have* survived, but I don't have what I wanted out of survival.

Throughout your book, you discuss a number of fantastical thought experiments, particularly in the part on personal identity. To think about whether the personality or the body view of personal identity is correct, for instance, you ask the reader to imagine a mad scientist who has kidnapped two people, Linda and Shelly (132–139). The scientist has developed a machine with which he can download people's memories, beliefs, and desires, scrub their brains completely 'clean', and transfer memories, beliefs, and desires to the brain of another person. He uses this machine to transfer the contents of Linda's brain to Shelly's body, and vice versa. This raises the question: Who is Linda and who is Shelly after the transfer?

The method of using fantastical thought experiments is controversial. There is an oft-quoted passage from Kathleen Wilkes that sums up the criticism:

we cannot extract philosophically interesting conclusions from fantastical thought experiments [...] because we have the following choice: either (a) we picture them against the world as we know it, or (b) we picture them against some quite different background. If we choose the first, then we picture them against a background that deems them impossible [...]. If we choose (b), then we have the realm of fantasy, and fantasy is fine to read; but it does not allow for philosophical conclusions to be drawn, because in a world indeterminately different we do not know what we would want to say about anything (1994, 46).

What do you think about this type of critique of using fantastical thought experiments?

As it will hardly surprise you to learn, I am not sympathetic to it. It seems implausible to me that we don't know what we would say in certain fantastical cases. Superman is a mythical being, who obviously doesn't exist. The laws of physics would probably have to be very different for a creature to have the kind of powers that Superman has.

Now, Lex Luthor comes along with some kryptonite to kill Superman. We all have the reaction: 'That's wrong! Lex Luthor is doing something

immoral'. I think it is perfectly ludicrous to say that we do not know what we would say if Superman actually existed—assuming that he is as portrayed: stopping crime, helping people, and promoting justice.

There are certain moral intuitions that are quite robust, even about utterly fantastic cases. I am prepared to be more piecemeal about it. I am prepared to have my confidence shaken about the robustness of certain intuitions. I disagree, however, with the bare remark that we don't know what we should say in fantastical cases.

You argue that immortality would not be all that attractive. The “problem with immortality seems to be one of inevitable boredom. The problem is tedium” (243). Your argument for this claim seems to rely on the premise that any pleasure is ultimately exhaustive: after we have experienced a pleasure a (large) number of times, we grow tired of it. As there is a limited number of possible pleasures in the world, eternal life would, at some point, get eternally boring. Might there not be certain pleasures—such as those of food, friendship, love, or music—that are indefinitely repeatable (see, for instance, Fischer 1994)?

Certainly, if one grew hungry for all eternity, one would be glad to eat some food and have the hunger disappear. But suppose that you had to eat a peanut butter and jelly sandwich for all eternity. That would make the hunger disappear, but I suspect that after a certain period of time, maybe not a very long one, you would grow tired of it.

This response relies on there being one particular type of food. I vary my lunch every once in a while not to grow bored of it. Why wouldn't that be an option?

I don't think there is enough food not to get bored for all eternity. Suppose you go to a restaurant where there are five choices of food. Is that enough not to get tired? I suspect that after a month, or two months, you will say: 'O my God, the same food again!' Now, of course, the world offers us far more choices of cuisine. Perhaps it would take a thousand years, perhaps it would take a hundred thousand years, maybe it would even take a million years. But at some point, I think you would grow tired.

But the number of different foods that we can choose from is not that strictly limited. We can invent new foods as well.

Let me give you an example that I learned from Larry Temkin.⁴ Temkin is a huge art fan. He has travelled to all of the leading art museums in the world. Sometimes he comes across a nice art museum that he has not been before and finds himself thinking: 'I haven't seen these particular paintings before, but this isn't really something new either'. It seems unlikely that you will find, for all of eternity, a new form of art, or a new form of food, thrilling.

There are, as you say, "billion, billion, billions" (221) of potential children who will never be born because they will never be conceived. You argue that we should not feel bad about these potential children never experiencing the goods of life, because "[s]omething can be bad for you only if you exist at some time or the other" (222, Kagan's emphasis). Does this existence requirement apply symmetrically? Is it also true that something can only be good for you if you exist at some point in time?

I ask this, because if the existence requirement does apply symmetrically, then it seems to allow for 'miserable child' cases. Suppose a prospective mother finds out through a genetic test that, if she would decide to procreate, she would almost certainly give birth to a child who would suffer excruciating pain and die at a young age. The prospective mother therefore decides not to procreate. Would it not be good for the baby to never come into existence, even though this baby does not exist?

I do think that any plausible version of the existence requirement would apply symmetrically. If something can't be bad for a being that never existed, then something can't be good for a being that never existed either. But, as you point out, that seems to have the implication that we do not have an explanation anymore as to why we shouldn't be having the miserable child.

Of course, one could dig one's heels in, as some people have, and say that the explanation for why you should refrain from having the miserable child has to do with the costs it would impose on the rest of society. I don't myself find that a particularly attractive answer. Although I do think it is relevant to bring in the costs to the rest of society, the central bit of the explanation would have to do with the child that would come into being. Strictly speaking, it is not true that it

⁴ Temkin provides this example in his "Is Living Longer Living Better?" (2008, 202-203).

is good *for* the merely potential person to not exist, nonetheless there are reasons, having to do with the welfare that that potential person would have had, that should be taken into account.

One might, of course, then push the asymmetry question and say: ‘Are there also reasons having to do with the welfare of a potential child for why it is *bad* that a potentially happy child not be born?’ My answer is: ‘Yes, there are’. I embrace a wide person-affecting principle and count the welfare of never actualized individuals. So although, strictly speaking, I endorse the existence requirement, I don’t endorse the implications that it would be natural to think follow from it.

III. Counting animals

In your book How to Count Animals, more or less (forthcoming)⁵ you argue that moral status is hierarchical. Human beings typically have a higher moral status than horses, who, in turn, typically have a higher moral status than mice. It seems that many people find the hierarchy view of moral status intuitively plausible. Why did you feel it needed defending, given its widespread intuitive appeal?

Although many people agree that people commonly have a higher moral status than other animals, they disagree about the relative moral status of the ‘lower’ animals. My aim was to sketch the outlines of a framework with which we can determine the moral status of *all* animals.

Also, there are actually surprisingly few defenders of the hierarchy view in the contemporary animal ethics literature. A very prominent position nowadays is that all animals count in exactly the same way. As Peter Singer puts it, “pain is pain”—it should not matter, in our moral calculus, whether the pain is suffered by a dog or by a person (Singer 2009, 20). I call this view unitarianism.⁶ Unitarians do, of course, recognize that people and other animals are beings with different interests, which can make it morally appropriate to treat them in

⁵ All references in this section are to Kagan (forthcoming), unless otherwise indicated. All citations are accompanied by the chapter and section numbers in which the citation occurs.

⁶ As Kagan points out in the first of his Uehiro lectures (“Consequentialism for Cows”), on which the book is based, the view has nothing to do with Unitarianism, a religious view that denies the Christian view of God being a trinity. He would have preferred to describe the view as ‘egalitarianism’, but wanted to avoid confusion with egalitarian theories of distributive justice.

different ways. The point of unitarianism is that similar interests should be given the same weight, regardless of what sort of being we are talking about.

I should say that I have considerable misgivings about defending a hierarchical view of moral status. I run the risk that people will take me to be developing a defense of the way we currently treat animals. Far from it! The way we treat animals is a moral monstrosity, in my view. I am going to disappoint those who think that my book contains an argument for that conclusion, however. The framework I sketch would need to be worked out in much greater detail to draw any practical implications from it.

On your hierarchical view, moral status is grounded in psychological capacities. The relevant capacities include those necessary to have “deep relationships”, “more sophisticated and advanced knowledge”, “more significant achievements”, and an “ability to act out of moral conviction” (chap. 5.2.). I wondered why you focus exclusively on the psychological capacities of individual animals when determining their moral status. Shouldn’t bees be assigned a higher moral status, for instance, if it turns out that they play an important role in the food chain by pollinating crops?

The importance of an animal for the food chain is instrumental. I think it should enter our moral calculus, but not with regard to how much weight we give to the interests of particular animals. Then again, I do hold the view that the intrinsic value of objects sometimes depends, in part, on their instrumental value.⁷ I am not convinced, though, that importance in the food chain is the type of instrumental consideration that could determine intrinsic value.

Let me try again. You hold that beauty is intrinsically valuable, right?

Yes, I do. I think that if we have two worlds, one with only beautiful things in it, and the other with only ugly things in it, then the beautiful world is better than the ugly world—even if there are no people around in either world to observe the beauty and the ugliness.

I wonder whether we could say that beauty is, in part, constituted by diversity. If so, then we could construct an argument that diversity is

⁷ Kagan defends this view of intrinsic value in his “Rethinking Intrinsic Value” (1998b).

one of the intrinsic factors that determines moral status. Animals who are rare, and hence add more to diversity, would then have a higher moral status.

I do think it possible that contributing to diversity might make a given creature more intrinsically valuable (though with billions of bees, it is unclear how much a given individual bee does that). But even if so, it remains to be investigated whether it also enhances the moral *status* of the given individual.

At various points in the book, you talk about animals deserving well-being. As you mention in a footnote (chap. 4.1.), there does not seem to be any sustained discussion of the topic of animals and desert. How could animals be deserving of well-being?

Many people are attracted to the view that people deserve a certain baseline of well-being simply because they are a person, and that their virtue and vice might raise or lower what they deserve against this baseline. Furthermore, on that view, the fact that you are a person might mean that no matter how vicious you are, there are certain punishments that you couldn't possibly deserve, because they would get you to levels of well-being that you couldn't deserve to be at.

If you accept that how generally deserving you are is a function of both the kind of being you are and of your moral track record, then it seems that the door gets opened for thinking about animals and desert. It could be that simply in virtue of being an animal with a particular moral status, you deserve to have a certain level of well-being. We might or might not think that some animals could be moved off that baseline because of their behavior. I am somewhat sympathetic to the thought that a few of the higher animals might be. But I need more time to figure out what I think exactly on this topic.

A significant part of your book (chap. 7-9) is addressed to the deontologist. Why so, given that you are a consequentialist yourself?

The fact of the matter is that most people are deontologists! I have been teaching a Normative Ethics seminar here at Yale for many years. Every year, I ask my students to raise their hand if they think it is impermissible to kill one person to save five others. Every year, a very large majority of them do.

Many students only start lowering their hand when I increase the number of people that will be saved. These students are *moderate*

deontologists: they think that the right to life has moral weight independent of the goodness of outcomes, but it may be outweighed if enough is at stake. Occasionally, some students in the class keep up their hand even when I reach the whole of humanity. These students are *absolutist deontologists*: they think it is impermissible to harm an innocent person no matter how much is at stake.⁸

So one of the reasons that I spend some time addressing the deontologist in the book is that it is a position that many people endorse intuitively. That is not the only reason, though. It was interesting to me to discover that there are some fairly powerful arguments even within deontology for preferring the hierarchical approach to the unitarian one. An example I give in the book is that of Tom, who has been shipwrecked and ends up on an uninhabited island (chap. 7.2.). He cannot survive by eating the sparse vegetation on the island. Would it be morally permissible for him to occasionally catch and eat some fish in order to survive?

The unitarian absolutist deontologist has to say no. If fish have moral standing,⁹ then the right to life of the fish is every bit as important as the right to life of Tom. He would have to starve himself to death. I think that is an implication even many absolutist deontologists would be unwilling to accept. So if they want to remain absolutist deontologists, they need to abandon unitarianism.

The unitarian moderate deontologist does not fare much better in the Tom case. Suppose that we were to say that it was permissible to kill one person in order to save a thousand others. If that is true, then Tom would not be permitted to kill the fish: killing it would have to save a thousand lives to be permissible! So, again, if they want to remain moderate deontologists, they need to abandon unitarianism.

A final reason for me to discuss deontology is that many consequentialists think that, in ordinary decision-making, you want to guide yourself by principles that have a deontological cast. So it is worth thinking about to what extent these deontological elements, which

⁸ Kagan discusses moderate and absolutist deontology in greater detail in (1998a, chap. 3.1.). He also surveys various other constraints, besides doing harm, that the moderate deontologist might be attracted to—such as constraints against lying, breaking promises, and not fulfilling special obligations in (1998a, chap. 4).

⁹ Kagan (chap. 7.2.) notes that those who deny that fish have moral standing could instead imagine that Tom could catch and eat a wild rabbit.

would be mere heuristics to the consequentialist, should take a hierarchical form.

Could you say a bit more about how abandoning unitarianism might help the absolutist deontologist to avoid the implication that Tom cannot kill a fish in order to survive? Wouldn't there still be an absolute prohibition against killing the fish, as long as it has moral standing?

You are right that abandoning unitarianism on its own will not do the trick for the absolutist deontologist. I think that absolutist deontology extended to all animals with moral standing is very implausible, precisely for that reason. Those who are drawn to absolutist deontology would be better served, in my view, by being an absolutist deontologist about people, and a moderate deontologist about animals. On such a hierarchical deontological view, there are no thresholds on people's right not to be harmed, whereas there are thresholds on other animals' rights not to be harmed.

Suppose that we are moderate deontologists and accept that moral status is hierarchical. How are we to determine when, if ever, it is permissible for Tom to kill a fish in order to survive?

Intuitively, for a moderate deontologist, the size of the threshold—the amount of good that needs to be done in order to justify harming some individual—will depend on the amount of harm being imposed. If we embrace a hierarchical approach to deontology it will also depend on the moral status of the individual being harmed. There are various ways to work all of this out (some more complicated than others), but the result will be one or another view where it is easier to justify harming an animal than it would be to justify harming a person, and easier to justify harming some animals than others. One such view is portrayed graphically in Figure 1. To actually work all of this out would be a complicated undertaking; but in principle, at least, an approach like this could justify Tom's catching and eating the fish he needs to stay alive.

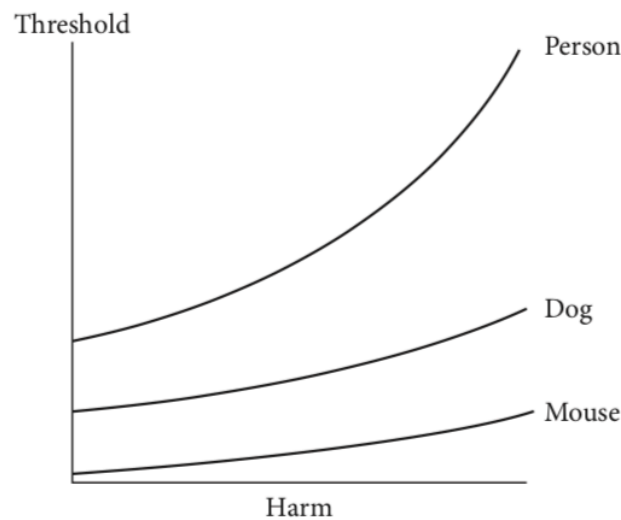


Figure 1: Thresholds with variable slope, exponential growth, and a positive Y intercept¹⁰

Would we be benefitting an animal by enhancing its psychological capacities—provided, of course, that it remains the same animal in the process?

If we could increase an animal's psychological capacities without changing its identity, then I think yes! Imagine that you can choose what type of animal you would like to be reincarnated as. The options are: a mouse, a dog, or a person. What would you choose? I assume most people would choose to be reincarnated as a person, or at least a dog rather than a mouse. That suggests it is better to *be* a person than a dog or mouse, and better to be a dog than a mouse. So if we can turn the dog into a person (or the mouse into something with the cognitive capacities of a dog), that might well be benefitting it. But, of course, it is questionable whether we could significantly enhance the psychological capacities of an animal without changing its brain so much that identity is lost.

An important objection to the hierarchy view of moral status is what you call the problem of 'marginal cases'—the possibility that severely impaired humans have a moral status closer to other animals than to humans (chap. 6.3.). Examples quickly get grotesque here, but might it be permissible, on your view, for an animal with high moral status,

¹⁰ Graph taken from (chap. 9.2.), in which Kagan discusses various other ways to determine thresholds.

such as a chimp, to eat a severely impaired human, if doing so were necessary for the chimp to survive?

That depends on the details of the case. I argue that, in determining moral status, we should not just look at a being's current psychological capacities. We should also look at its potential capacities. When determining the moral status of a human baby, for instance, it matters if the baby could become a person later. But not only that. I think that it also matters what capacities a being *could have had*, had the right conditions obtained. If a human has brain damage because of an accident she suffered when she was a baby, and, as a result, has never been and will never become a person—this human should still be assigned a higher moral status because she *could have been* a person.

So whether it is permissible for a chimp to eat a severely impaired human depends on whether the human still has the potential to develop higher psychological capacities and could have had higher capacities if the right conditions had obtained. If not, then I think it might be permissible for the chimp to eat the human in order to survive. But a lot of further details remain to be worked out to settle the case! (And, of course, this is all taking as given that it even makes sense to talk about moral permissibility when it comes to the actions of chimps.)

IV. Desert

You devoted 20 years to working on a book of 656 pages on moral desert (2012b).¹¹ Why desert?

A number of years after I published my dissertation, I started thinking more about what I wanted to include in my theory of the good. I wondered for a while about whether equality mattered, but I was pretty sure that it didn't. I also wondered whether desert mattered, and decided to explore the concept more fully.¹²

This was in some ways analogous to what I had done in the *Limits of Morality* (1989). What I had found most troubling about consequentialism is how demanding it was. I wanted to explore the common sense view that morality was less demanding and see whether

¹¹ All references in this section are to *The Geometry of Desert* (2012b), unless otherwise indicated.

¹² Kagan (1999) argues that equality's value is derivative of desert's. Olsaretti (2002) and Gordon-Solmon (2015) challenge his argument.

there were any arguments that persuaded me. As it happened, none of them did. What happened, in contrast, in the case of desert, is that I found the instrumentalist considerations for desert less and less persuasive. I spent some time thinking about the kinds of objections you might have against desert. None of these objections struck me as plausible.

Gradually, I found myself thinking: ‘I don’t really have any strong argument for desert being an intrinsically good-making characteristic, other than that it seems to me that it is’. Once I saw that this is just as good an argument as for other things that we are tempted to include in our theories of the good, I thought: ‘Alright, why should I be resisting it anymore?’ In this process of thinking more about the intrinsic value of desert, I realized that moral desert is a much more complex notion than I had previously thought and decided to explore these complexities.

Many philosophers are desert skeptics. Although, as you point out in the first chapter of the book (12), it is explicitly not the purpose of your book to convince the skeptic, I’d like to briefly talk with you about three common objections to desert: the free will objection, the distinctiveness objection, and the viciousness objection. Some of these have come up in responses to your book.¹³

Let’s start with the free will objection, according to which, as Derek Parfit puts it, we do not “have some kind of freedom that could make us responsible for our acts in some desert-implying way” (2011, 409–410). For Parfit this objection is so pressing, that he thinks it justifies leaving desert out of his project of reconciling normative ethics. You are a compatibilist. How do you think determinism and desert can be reconciled?

I am sympathetic to the family of views that sometimes get called reason-sensitivity accounts. To give a familiar analogy: you have freedom of thought if you are able to reason about what to believe—if your beliefs are not sticky, but will change in response to the evidence. I want to say the same thing, broadly speaking, about freedom of action and freedom of the will. If my volitions and my intentions respond, in familiar ways, to what there is reason to want or desire, then to that extent I am free. And if they do not, then to that extent I am not free.

¹³ For responses see, among others, Gordon-Solmon (2017), Hurka (2016), Lippert-Rasmussen (2016), Skow (2014), Smilansky (2013), and Tadros (2017). Kagan (2017) responds to Lippert-Rasmussen’s and Tadros’ critiques.

This kind of reason-sensitivity is, as far as I can see, perfectly compatible with determinism and desert.

Don't you think there is still trouble for reason-responsiveness accounts in the sense that what kind of reasons move you is determined by factors outside of your control?

I am not a fan of the control condition. And I am actually more convinced of the existence of desert than I am about any particular metaphysical thesis about free will and control. If you were to convince me that the most plausible account of free will requires control, and that we don't really have it, I would just say: 'Oh, in that case, desert does not require free will. You can deserve on the basis of things that you had no control over at all'. As it happens, I do think we have a fair amount of free will, but it won't trouble me if you isolate corners where we don't.

Would you also allow for people to differentially deserve things on the basis of factors they have no control over?

I myself think that we have some control over how virtuous and vicious we are, but if you were to convince me that we have no control over this and also convince me that, in virtue of that fact, nothing about our virtue and vice could alter how deserving we are, then there would be nothing left but the well-being baseline we talked about earlier.

You might think this would rob the theory of desert of any of its interest; we should just become egalitarians. But remember our discussion of animals and desert. The baseline component could help explain why it is not a problem that people are so much better off than animals. If you thought that desert can't differentiate any of us, you'd have to say: 'We have this tremendous egalitarian objection to the fact that people are so much better off than animals'. If, on the other hand, you have a more hierarchical desert theory that says: 'Dogs deserve something, but they don't deserve as much as people do', then you have an explanation for why our egalitarianism doesn't drive us to go into the world and focus all of our efforts on improving the lives of animals.

In the book you assume moral desert, but you do not defend it. Do you think moral desert is the only distinctive type of desert? Or do you think there are other distinctive types of desert as well?

We certainly talk about desert in a variety of contexts. We talk about the student who deserves an A because they turned in a really good paper. And even if the student is a horrible individual, morally speaking, they still deserve the A.

That is an example of an institutional desert claim.¹⁴ The student deserves to get an A because she is entitled to it on the basis of the institution of grading.

Indeed, and I think most of the desert claims we make are like this; they are institutional. But I think moral desert claims are actually non-institutional, or pre-institutional. Now, are there any other types of non-institutional desert besides moral desert? I am not clear whether the answer to that is yes or no. There is this example by Owen McLeod that the Grand Canyon deserves protection (2013). I see the force of saying that, and it certainly doesn't seem to be an institutional claim. So I am not at all wed to the thought that the only natural, non-institutional desert claims are moral ones. But, at the same time, it wouldn't trouble me either if that were the case.

This brings us to a second prominent objection to desert, which is that even moral desert is not distinctive. Some critics have raised an objection in this spirit against the factory accident case (23–24) you use to set-up your inquiry into desert (Lippert-Rasmussen 2016; Tadros 2017—Kagan 2017 responds). Could you describe the factory accident case and explain why you think desert does a good job of explaining our intuitions about it?

The case is this: there has been an explosion in a factory. Two workers, Amos and Boris, have been harmed. They have been harmed by the same amount and are now at the same, lower level of well-being. Unfortunately, you can only help one of them—for instance, because you only have a single dose of painkillers. Who should you help? Absent any additional information, it seems that the best response is that you should just flip a coin.

Suppose we learn that it was Boris' fault that the explosion took place. That changes things. If Boris is to blame for the accident and Amos is innocent, then it seems that they no longer have equal claims

¹⁴ Olsaretti (2003, chap. 1) discusses the distinction between institutional, pre-institutional, and pre-justicial desert claims—as well as various other features of desert.

on being helped. It is now better to aid innocent Amos than it is to aid culpable Boris: intuitively, fault forfeits first.¹⁵ I use this example to introduce and explore various elements in an overall theory of desert.

Now, some critics have pointed to other principles that they think are better able to adjudicate the distribution of who should be saved first. Typically, people who say that are not sympathetic to desert. They are taking the stuff that they like and say: 'Since I don't believe in desert, this can't be a desert principle'. I, as somebody sympathetic to desert, want to say: 'I don't know why I shouldn't classify this as part of my desert theory'.

Sure, if, at the end of the day, we have a unified theory of desert and the example of the explosion turns out not to be a case of desert after all, then I will say: 'Oh, it turns out this wasn't one of the best examples for making that point'. But it is worth bearing in mind that my example wasn't intended to convince somebody that desert was at work in that particular case. Its purpose was, rather, to illustrate the different moving parts of the concept.

You adopt a whole life approach to desert in the book, according to which “we look at lives as a whole, to see what one deserves (overall), and whether one has received it (overall)” (11). Doesn't it matter to you at all that you are getting what you deserve when you deserve it?

To modify an example of Fred Feldman's for a similar, but not identical purpose, think of the Make-a-Wish Foundation (Feldman 1995, 70). That foundation tries to realize wishes of children who are going to be very ill. Are you troubled by the fact that, when we take them to Disneyland right now, before they become too ill to appreciate the visit, they are getting more than they deserve now? Do you think it would somehow be better if we could take them out of their hospital beds and take them to Disneyland then? I don't think so! And suppose we know that a person is going to commit a crime tomorrow, but your very last opportunity to punish them is today. I am happy to say that if we really know for sure that the person is going to commit the crime tomorrow, then we should punish them now. Many people find this completely wrong. If so, adopt the local view, but know that it is very difficult to make it coherent. I remain committed to the whole lives view.

¹⁵ As Kagan notes (24), the Fault Forfeits First principle was elaborated by Joel Feinberg (1970).

A third common objection to desert, particularly to moral desert, is that it is too harsh. It seems to require that people suffer—even if such suffering is avoidable. You argue, in your book, that such harshness is not implied by desert (23–27). Why not?

A commitment to desert does not at all commit you to thinking that people can deserve to suffer. Sure, there are retributivists who think that people deserve to have lives that are not worth living. But that is, by no means, the only possible position. It is perfectly consistent to be a moderate, as I call the position in the book (26), and think that everyone always deserves to have a life worth living.

Your book is full of graphs: 203 of them, to be precise. I would like to ask you about them, but to be able to do that, we need to get the reader up to speed with the basics of your graphs, which will make this the longest question ever asked during an EJPE interview. Let's try, in three steps.

The first step is to understand what the axes of your desert graphs represent. The X-axis represents well-being, where negative values indicate lives not worth living, and positive values indicate lives worth living. The Y-axis shows goodness from the point of view of desert, where negative values indicate that a level of well-being is bad from the standpoint of desert and positive values indicate that a level of well-being is good from the point of view of desert. That results in the following basic picture:

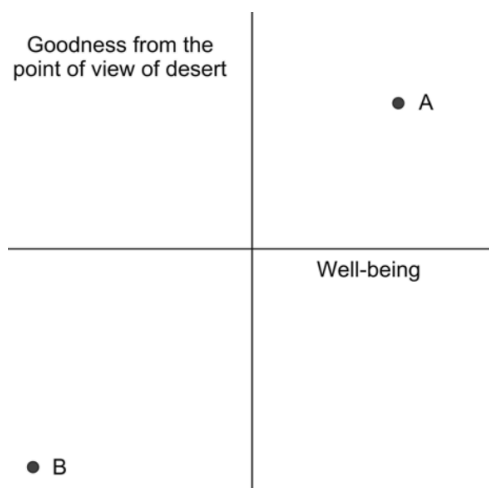


Figure 2: The basic graph¹⁶

¹⁶ Graph taken from (48).

The second step is to actually draw a desert graph. Now suppose we are retributivists and want to draw a graph for a vicious person, who deserves to have life not worth living. This is his desert graph:

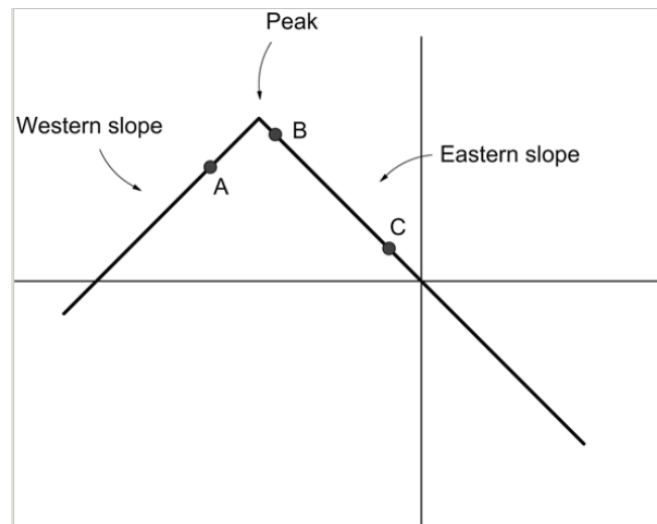


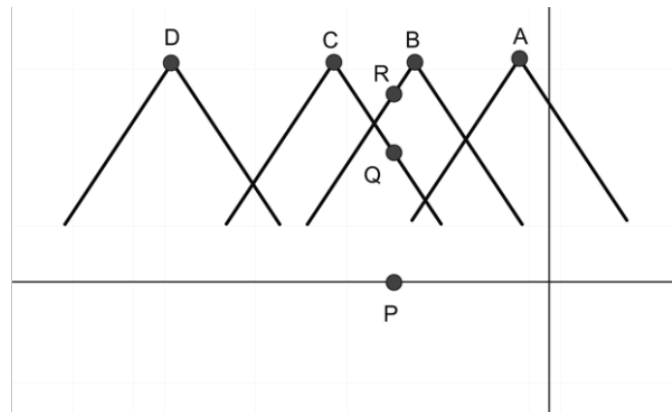
Figure 3: The basic desert graph¹⁷

There are two important underlying assumptions here. First, for every person, there is a particular level of well-being that has the most intrinsic value from the point of view of desert: that is the person's desert peak. Second, it is bad, from the point of view of desert, both if a person's well-being is below her desert peak (indicated by the western slope), and if her well-being is above it (indicated by the eastern slope).

The third step is to add some other persons into the picture. Let's suppose that these other people are all vicious, but differentially so. This means that they all have desert peaks in the upper-left quadrant of the graph, but at different points along the X-axis.

If we add the graphs of three of these differentially vicious people, we get the following:

¹⁷ Graph taken from (75).

Figure 4: Multiple peaks¹⁸

Here, D deserves to be worse off than A, which is clear from the fact that her desert peak is more to the west than that of A.

Now, we can move on to questions about graphs. You argue in favor of something called ‘bell motion’. What is that?

I think that it is worse if a sinner gets too much well-being than if a saint gets too much. And I also think it is worse if a saint gets too little, than if a sinner gets too little. To capture this thought in the desert graphs, I vary the slopes. The more vicious a person is, the more the western and eastern slope of her desert line will rotate clockwise. Adding this type of slope rotation to Figure 7 above generates what I call bell motion.

Figure 5: Bell motion¹⁹

What do you think about the position that bell motion should go the other way—that it is worse, from the point of view of desert, if the sinner gets too little, than if the saint gets too little?²⁰

¹⁸ Graph taken from (79).

¹⁹ Graph taken from (105).

²⁰ See (98–107) for Kagan’s full defense of bell motion.

That's a crazy view! Remember the factory accident case we talked about earlier. If it is Boris' fault that the accident occurred, then virtually everyone agrees that he loses a claim to being helped first: fault forfeits first. That is exactly the idea that bell motion captures. Reverse bell motion would mean that it would be better if Amos were not helped first, even though it is Boris' fault that the accident occurred. We can reasonably disagree, I think, about the degree of bell motion—but not about the direction of bell motion.

You note that a complete theory of desert should contain comparative elements as well. Why is that?

It does not only matter, from the point of view of desert, whether you are getting what you absolutely deserve. It also matters how you are doing compared to me, in light of how absolutely deserving we are. Suppose that we are equally deserving, but I am getting more well-being than I deserve—I am beyond my desert peak—whereas you are getting exactly the well-being you deserve—you are exactly at your desert peak. Now, if we cannot change my well-being, but we can change yours, should we do it? Non-comparative desert says that we shouldn't. Moving you beyond your desert peak would make things worse from the point of view of non-comparative desert. So if we feel—as many of us do feel—that there is something to be said in favour of moving you beyond your peak, it is a *comparative* value. The theory of comparative desert explores that comparative value.

Your notion of comparative desert piggy-backs on non-comparative desert. There are philosophers who are skeptical about the possibility of non-comparative desert. What, if anything, do you have to offer to the non-comparative desert skeptic?

For me the guiding thought is that comparative desert is satisfied when the offence against non-comparative desert is equal for all individuals—or, in the limit case, when there is no offence against non-comparative desert at all. As you say, on that view, comparative desert piggy-backs on a theory of non-comparative desert. One could reject my own theory of non-comparative desert and still use the guiding thought. If you do give up on the notion of non-comparative desert altogether, however, then much of what I say in the part of the book devoted to comparative desert (part III)—which has many, many pages—would be of reduced interest to you. But not all of it! One of the famous, if not the most

famous, theories of comparative desert is the ratio view, which does not rely on a theory of non-comparative desert. I offer a variety of objections to that view. Those objections still need to be responded to by anybody who uses it. There might be other solely comparative theories that I didn't consider, and then I must see what to think of them.

You spend a whole chapter arguing against the ratio view (chap. 7). What do you think is the most important objection against it?

An important type of case in which the ratio view has problematic implications occurs when one person deserves to suffer and the other person deserves to be well off. According to the ratio view, comparative desert is satisfied when my level of well-being stands to your level of well-being as my level of virtue stands to your level of virtue.

Now, imagine that Amos deserves to suffer. His peak is at -10. Boris, on the other hand, deserves to be well-off. His peak is at +20. The relevant ratio here is -10 to +20. For every negative unit of well-being Amos has, Boris should have two positive units of positive well-being. Suppose that Amos is actually at -5 units of well-being and there is nothing that can be done about that. We can, however, change Boris' level of well-being. How much well-being should he have according to the ratio view? The answer of the ratio view is +10. After all, -5 to +10 is the same ratio as -10 to +20. But that is absurd! It would mean that even though Amos is above his desert peak, we should move Boris below his desert peak.

There are various responses that defenders of the ratio view might offer to this case, but I think that none of them are satisfactory.²¹ And there are a number of other types of cases in which the ratio view has problematic implications.

You end up defending what you call the Y gap view, according to which "comparative desert is satisfied only when the situation of each person is such as to involve a drop along the Y axis of exactly the same size" (395). What do you think of the criticism that the Y gap view has implausible implications when it is combined with bell

²¹ Kagan discusses this case, and various responses the defender of the ratio view might offer to it, in (357-358).

*motion?*²² Imagine that Amos is currently beyond his desert peak of 10 units of well-being, at a level of 20 units of well-being (A's actual location, in Figure 6). We cannot do anything to alter his level of well-being. Boris, who is near saintly, is absolutely deserving of 100 units of well-being, 10 times as much as Amos. The Y gap view, combined with bell motion, could require that we give him as much as 250 units of well-being (B_1)! Don't you think that's unfair?

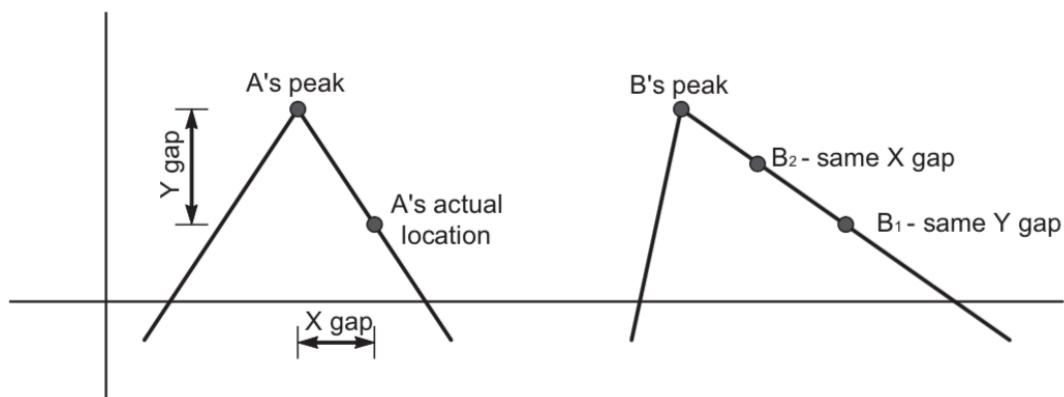


Figure 6: Y gap and bell motion²³

No, I don't! People who are bothered by this type of case are thinking about welfare differences. They have the intuition that it would be fair if Boris would get double the amount of well-being he deserves (B_2), just like Amos. What we should be concerned with, however, is whether Amos's and Boris's levels of well-being are equally offensive from the perspective of noncomparative desert. Well-being differences—that is, differences measured along the x-axis—*do not* capture this. Value from the standpoint of noncomparative desert—differences measured along the y-axis—does. I should stress, though, that I do not settle on a precise account of bell motion in the book. So it may be that the numbers you provide in the example are too extreme; the slopes of Amos's and Boris's desert lines may vary less than you assume.

²² Gordon-Solmon (2017) and Hurka (2016) raise criticisms along these lines.

²³ Graph taken from (407).

V. Convergence in philosophy

We already discussed that, over the course of your career, you changed your mind about which view of personal identity is correct. Another topic on which you changed your mind is kantianism. What happened?

It was clear to me early on that I am a consequentialist. Ever since I realized that, I thought I needed to get a better grip on the opposite view, on deontology. I needed to study Kant and kantianism. Like many people, I found Kant very obscure when I first read him. The opportunity to study his work more closely presented itself when I decided to teach a seminar on Kant's ethics, in particular the *Groundwork for the Metaphysics of Morals*. I set myself the goal of studying it paragraph by paragraph.

I had always assumed, and I think this was the standard view at the time, that if you rejected deontology, then you also have to reject Kant's view on the foundations of ethics. Much to my surprise, however, Kant's view on the foundations of ethics, or at least my reconstruction of it, not only struck me as interesting, it struck me as right. That raised the question: Is it possible to agree with Kant about the foundations of ethics, and still reject deontology?

I came to think that it is. I agree with Kant that his views on the foundations of ethics lead to the categorical imperative, but I disagree with him that the categorical imperative leads to deontology. That is where I get off the bus. I ended up becoming a kantian consequentialist.²⁴

My change of views on this point was surprising to some people at the time. I remember a lunch with Tom Nagel and Derek Parfit, when Parfit was visiting NYU. They asked me what I was working on, and I said: 'I am teaching a seminar on Kant's ethics, and I think that there really is something to it'. Derek turned to Tom and asked: 'Is this our Shelly?'

I should stress that I was not the only one thinking about the compatibility of kantianism and consequentialism then. Richard Hare had written an interesting paper titled "Could Kant Have Been a

²⁴ A lower case 'k' is used here, because Kagan is primarily interested in the kantian approach to ethics, rather than in Kant exegesis. For a more elaborate discussion of Kagan's views on the compatibility between kantianism and consequentialism, see his "Kantianism for Consequentialists" (2002).

Utilitarian?” (1993)—although I think that his reading of Kant was somewhat superficial. David Gauthier had written quite a nice book, titled *Kantian Consequentialism* (1996). But kantian consequentialism was really a small minority view at the time. Nowadays, in no small part because of Derek Parfit’s *On What Matters* (2011), it has become a view that people at least have some passing familiarity with.

Do you think there is a possibility of convergence on moral views, as Parfit argues in On What Matters (2011, 2017), or are you more pessimistic about this than he was?

I am agnostic on the question of convergence. I think we don’t have the slightest idea right now whether, at the end of research time, there will be convergence about philosophical views. As we have discussed, I certainly have changed my mind a number of times—even about philosophical views that I had for decades.

One important question we need to think more about is how much moral disagreement there actually is. It seems to me that a lot of moral disagreement is derivative. We have a number of fundamental moral beliefs, we have some empirical beliefs, and those combine into divergent derivative moral beliefs. Although it may seem that there is a lot of moral disagreement if we focus on the derivative level, I think this disagreement may be due, to a significant degree, to our disagreement about empirical beliefs.

Now, when it comes to fundamental moral claims, there clearly are two possibilities: we converge or we don’t converge. If we won’t converge, then why not? Could it be that we are just too stupid? I think that certainly is a possibility. It often takes a much lower level of intelligence to formulate a question and understand it, then it takes to formulate and understand the answer. Any four-year-old can ask: ‘Why do objects fall when you let go of them?’ It takes a Newton to answer that question. It is not just that the four-year-old hasn’t thought of Newtonian physics; a four-year-old cannot even grasp it.

Maybe we are the equivalent of four-year-olds when it comes to certain philosophical questions. We are smart enough to ask questions about, for instance, free will and determinism—but not to formulate plausible answers to them. Even if Martians landed and explained the answers to us, maybe we would just not be able to understand them.

Are there also reasons to think that we are converging?

Well, we do deepen our understanding of views. I think that is a form of progress and, possibly, convergence. A view gets stated, somebody raises an objection, there is a period of time in which this objection seem really damaging, and then, 10 or 20 years later, a clever philosopher raises a good response, after which the view has a revival. This happens all the time. I am also sympathetic to Bertrand Russell's view on progress in philosophy.²⁵ He points out that if you start with the beginnings of philosophy, then almost all disciplines were part of it. We didn't know how to pursue questions in them. When we did discover how to make progress, these things got spun off and became disciplines in their own right. That's what happened with physics. That's what happened with chemistry. That's what happened with psychology. That's what's still happening with cognitive science and linguistics. So, Russell's answer is: Philosophy is just our name for the set of questions that we have not yet learned how to make progress on. If we ever make progress, we simply stop calling it philosophy.

Parfit apparently couldn't believe that you were not converging with him when it came to desert. Amia Srinivasan describes, in a blog commemorating Parfit (2017), that she visited Oxford while she was an undergraduate at Yale. When she met Parfit during the visit, he asked her: 'Does Shelly Kagan still believe in moral retribution?'

There is a passage in Sidgwick where he says, in trying to decide which of your intuitions you should trust, you've got to look for intuitions for which there is a kind of consensus (1874, 338). Because if not, if the other person is just as smart as you are, and has reflected on the same arguments as you have, then why would you think that there is something magical about your ability to think things through? Sidgwick was a kind of conciliationist in terms of the modern discussion of the epistemology of disagreement. Derek was the only philosopher whom I have ever known who actually internalized and practiced this. That's why he would do all of these revisions of his work. That's why it would bother him when people that he respected didn't share his views and he couldn't persuade them. There are very moving passages in *On What Matters* about Bernard Williams, in which Parfit describes how much he

²⁵ Kagan is discussing Russell's *The Problems of Philosophy* (1912) here.

regrets that Williams died before he had the chance to get him to change his views.

VI. Advice for graduate students in moral philosophy

If you had to name three philosophical works that any grad student in moral philosophy should read, which would those be?

I would always recommend Mill's *Utilitarianism*. Although it does not tell the whole story about consequentialism, it is still the easiest, most accessible version of a consequentialist theory. I would also recommend Kant's *Groundwork*. I am, as we just discussed, sympathetic to a view that takes kantian foundations, but squeezes consequentialism out of them. I think the truth lies in a mixture—some, no doubt, would say an incoherent mixture—of kantianism and consequentialism. Going on to more recent work, I am a big fan of Nagel's *The Possibility of Altruism* (1970). Even though I think some of the details of the argument don't go right, the fundamental insight that the immoralist is making a metaphysical mistake in the practical realm strikes me as exactly on target.

That already gets us to three recommendations, but let me just mention two more. I think, as will not surprise you, that Parfit's *Reasons and Persons* (1984) is just a wonderful work of moral philosophy. It is incredibly ingenious and stimulating—raising all sorts of questions that hadn't been asked before and making new moves in questions that had already been asked. I'd also like to put Nozick's *Anarchy, State, and Utopia* (1974) on my list of recommendations. He is wrong, but brilliantly so. A lot of moral philosophy is stodgily written. Nozick's work is just filled with these challenging, exciting, fun examples. Trying to figure out how you are going to get off the bus is a great exercise; not just for a moral philosopher, but really anybody who wants better training in philosophy—especially if you don't agree with him.

What further advice would you give to graduate students aiming to pursue an academic career in moral philosophy?

I would congratulate them on choosing the right area of philosophy! It is not only the most important area of philosophy, it is also the area where there are the most jobs. Teaching in moral philosophy is more fun as well. Nobody comes into a class on philosophy of language already

having a view about whether natural kind terms are rigid designators. In ethics, everybody comes into the class having intuitions about, for instance, whether life in the experience machine is worth living,²⁶ and whether we should chop up one innocent person to save five others.²⁷ People also have a much easier time seeing why ethics matters—so you are going to have an easier time getting students.

You are also known for your writing advice.²⁸

Yes, the way many students start thinking about a philosophical problem is by reading much of what there is to read on a subject. I think that is a bad way to start! What I learned from my advisor, Tom Nagel, is to start by thinking about the the problem on your own, and see what aspects of it really gets a grip on you. Try to find out what the promising views are and what their difficulties are. Only go off and see what other people have said on the subject *after* you have done that. If you read other people first, you will get sucked into thinking in terms of the categories, the distinctions, the claims, and the favorite positions that the literature has already produced. The sad fact of the matter is that most published philosophy is not great. So you might get sucked into thinking about your subject with ideas that do not provide the most illuminating ways for thinking about it.

What are you most grateful for in your career as a philosopher?

That I have this career! Most humans, for most of human history, did not have the luxury to think about philosophical questions in a systematic and sustained way. Even most humans alive today do not have that luxury. I have a job that allows me to sit around and think about philosophical questions. Not only that—I teach at Yale, where I work with some of the smartest people on the planet: undergraduates, graduate students, and colleagues. My job gives me the gift of being able to think about philosophical questions with these people. I am forever grateful that I have been given this chance.

²⁶ Nozick (1974, 42–45) puts forth the experience machine example as a challenge to mental state theories of well-being.

²⁷ Kagan discusses the organ transplant case as a challenge to consequentialism in his *Normative Ethics* (1998a, 70–74).

²⁸ For more advice from Kagan on academic writing, see his “How To Write a Philosophy Paper” (2007).

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Shelly Kagan’s website:

<<http://campuspress.yale.edu/shellykagan/>>

Kagan’s Open Yale course on death:

<<https://oyc.yale.edu/death/phil-176>>

Kagan’s Uehiro lectures on counting animals:

<<https://www.practicaethics.ox.ac.uk/uehiro-lectures-2016>>

Review of John Mizzoni's *Evolution and the Foundations of Ethics*. Lanham: Lexington Books, 2017, 272 pp.

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Among the more noticeable new developments in economics is the flourishing stream of studies that consider the interplay of cultural, biological and ethical factors in the explanation of human behavior (e.g. Hodgson, 2013). Work in evolutionary biology informs economics and points to the need to investigate the exciting philosophical issues that surround collaboration between disciplines. Key features of research methods, concepts and strategies employed by evolution-minded economists can spark novel debates and more fine-grained work in philosophy of economics.

One of the most compelling tasks is to summarize extensive multifaceted knowledge in a form that would allow researchers to understand and evaluate the contribution of evolutionary thinking in modern ethics and meta-ethics. Although philosophers of economics have contributed to debates concerning both the philosophy of biology (e.g. Vromen 2017) and the foundations of ethics (e.g. Broome, 1999), none has set out the challenging but important task to survey the application of evolutionary reasoning to all the major theories that have been developed by contemporary moral philosophers.

The book *Evolution and the Foundation of Ethics* by philosopher John Mizzoni is an ambitious attempt to provide a broad-based discussion of the interface between moral philosophy and evolutionary theory. The book grew out of Mizzoni's earlier philosophical work on ethics and meta-ethics (e.g. Mizzoni, 2005; 2010) and conveys the complexity of issues involved in the attempt to naturalize ethics via evolutionary biology.

After a short introduction in which Mizzoni summarizes the evolutionary models of Darwin, Dawkins, Gould, and Haught, the eleven main chapters examine the implications of these models for normative and meta-ethical theories. Mizzoni attempts to answer four interrelated

questions: a) if we understand human psychology and behaviour as the outcome of biological evolution, how do standard ethical and meta-ethical theories fit in? b) do ethical concepts and principles make sense when placed in an evolutionary framework? c) in light of biological evolution, do we need to abandon traditional ethics? d) do we need to create new evolutionary ethics?

The book is organized into two parts. The first part (Chapters 2-5) presents four meta-ethical theories that explain the general nature, status, and origins of ethics. After presenting their main elements, Mizzoni analyzes the implications of evolutionary models for error-theory (Chapter 2), expressivism (Chapter 3), moral relativism (Chapter 4) and moral realism (Chapter 5).

The first part of the book provides to the field of philosophy of economics a systematic review and synthesis of research being done in metaethics. Mizzoni makes a strong case for the importance of evolutionary theory in the explanation of the general nature and origins of ethics. For example, a naturalistic evolutionary perspective might help explain why commonsense morality is an error (e.g. Ruse, 1998). It also provides support to the expressivists' view of moral progress and their emphasis on the importance of emotion in moral statements and judgements (e.g. Blackburn, 1996). However, Haught's model of theistic evolution is clearly anti-expressivist and ethical objectivity is not seen as an error. In the case of metaethical relativism, Wong's moderate approach that acknowledges universal constraints on morality can find potential support from both naturalistic and theistic models of evolution (Wong, 2006). The final chapter of the first part of the book outlines the main elements of moral realism (e.g. Shafer-Landau, 2003; Railton, 2003) and Mizzoni argues that it is possible to integrate moral realism with naturalistic and theistic evolutionary approaches.

Philosophers of economics interested in normative ethics will find the second part of Mizzoni's book (Chapters 6-11) worthy of their attention. Although normative economics has traditionally taken a consequentialist approach, the study of normative ethics is a very broad enterprise and philosophers of economics inevitably come across virtue ethics (e.g. Wells and Graafland, 2012; Bruno and Sugden, 2013), social contract theory (e.g. Binmore 1994; 1998) and deontological ethics (White, 2011). Each chapter presents a normative ethical theory and investigates whether it can be conjoined with an evolutionary perspective on human origins. Mizzoni examines virtue ethics (Chapter

6), natural law ethics (Chapter 7), social contract ethics (Chapter 8), deontological ethics (Chapter 9), utilitarianism (Chapter 10) and care ethics (Chapter 11).

After a short presentation of Aristotelian and neo-Aristotelian virtue ethics (Nussbaum, 1988), Mizzoni draws on recent theorists like Churchland (1996, 1998) to argue that neo-Aristotelian virtue ethics does not depend on Aristotle's cosmology. From a close examination of virtue ethics from the perspective of naturalistic and theistic theories of evolution, it is clear that that virtue ethics fits well into evolutionary frameworks. Another normative ethical theory whose roots go back to Ancient Greece is natural law ethics. Mizzoni examines Aquinas version of natural law ethics and reviews how contemporary researchers like Craig Boyd (2007) and Larry Arnhart (1998) defend the view that natural law ethics are in accord with Darwin's account and Dawkins' model of evolution.

The chapter on social contract ethics lays out the main points of Thomas Hobbes' view of human nature before examining how evolutionary game theory can deflect some common objections to social contract theory. Mizzoni rightly observes that Skyrms (1996), Axelrod (1984) and de Waal (1996) use concepts and reasoning that are part and parcel of contractarian ethical theory. A less popular theory among evolutionary theorists is deontological ethics. For example, Dawkins and Gould have explicitly argued against Kantian ethics. According to Mizzoni the key question is whether evolutionary theory undermines deontological ethics. After examining alternative naturalistic models of evolution he argues that key elements of deontological ethics like autonomy make sense when placed in an evolutionary context.

Less controversial from an evolutionary perspective are utilitarian ethics. After presenting the main utilitarian principles and concepts, Mizzoni examines what contemporary thinkers like Ruse (1998) and Singer (1981, 1999) have argued about the relation between evolution and utilitarian ethics. From the perspective of naturalistic evolutionary theories, Darwin's views do not contradict utilitarianism while Dawkins gene-centered approach, Gould's model of evolution and Haught's theistic evolution are consistent with utilitarian ethics. The second part of the book concludes with care ethics, a more recent normative theory that puts emphasis on human needs and the quality of personal relationships (e.g. Held, 2006; Noddings, 2010). Care ethics looks at normative ethics from the perspective of female experience and

suggests that the maternal disposition to care about an infant's survival is one of the sources of human morality. Care ethicists do not dwell deep into evolutionary theory and Mizzoni's analysis of particular evolutionary models reveals that they support key elements of this normative theory.

Mizzoni concludes that the main normative and metaethical theories are compatible with evolution and the fundamental notions of these theories fit into an evolutionary perspective. In light of the four evolutionary models, there is no need to abandon traditional ethical approaches while none of the normative and metaethical theories suggest that there is a need to build a new evolutionary ethic.

One criticism is that the comprehensiveness of the book often prevents the discussion from going into sufficient depth. This is a standard limitation of any book that attempts to address a broad range of theories and topics. To give an example, the analysis of error theory is thorough and Mizzoni offers a wealth of challenging and thought-provoking ideas that immensely enhance the quality of the book. In contrast, contemporary debates in meta-ethics revolve around the so called "evolutionary debunking arguments" against moral realism: evolutionary explanations of moral beliefs (or faculties) appear to undermine the realist claim of the possibility of moral knowledge. In response, Mizzoni develops possible replies on behalf of Shafer-Landau and Railton. However, he does not examine the evolutionary foundations and the related empirical issues on which evolutionary debunking arguments rely.

While Mizzoni's book is refined enough when it deals with the presentation of some the main metaethical and normative theories, philosophers of economics with an interest in evolutionary biology might find problematic that Mizzoni is taking a very narrow approach to evolution in the introduction of the book. There are numerous ways to apply evolutionary theory to investigate ethics and meta-ethics, each of which might provide valuable and novel insights. Revisiting Haught's theistic model of evolution is an interesting addition in terms of completeness and engagement with the arguments discussed in the meta-ethics and normative ethics parts of the book. However, Mizzoni's outline of the four evolutionary models is brief and ignores contemporary evolutionary perspectives on human behaviour. The reader is at a loss to understand why Mizzoni employed sociobiology models originally devised to study animal behaviour while

contemporary theories that pay specific attention to human evolution are left out.

In the last decades, models that come together under the terms human behavioral ecology (e.g. Nettle et al, 2013), evolutionary psychology (e.g. Cosmides & Tooby, 2013) and gene-culture co-evolution (e.g. Laland et al, 2015; Henrich, 2015) resulted in exciting breakthroughs in evolutionary thought. Evolutionary psychology focuses on human universals, evolved cognitive mechanisms and the idea of evolutionary mismatch. Gene-culture co-evolution takes up the challenge of analyzing cultural and genetic evolution simultaneously and describes a number of social learning biases that underpin cultural change while human behavioral ecology examines differences in human behaviour as adaptive responses to the environment in which we live. All of them have undoubtedly contributed to the understanding of human behaviour and they could provide the reader with contemporary alternative evolutionary perspectives in the discussion of ethical and meta-ethical issues.

On a more general note, pursuing the ties between economics and metaethics is relatively neglected by philosophers of economics. Mizzoni discusses main issues in metaethics with philosophical sophistication and a wealth of acute insights. His familiarity with the relevant debates and academic literatures is truly impressive. The topics that Mizzoni addresses in the first part of the book and the way in which he frames key problems will appeal to philosophers of economics with a minimal background in evolutionary biology who are looking for a concise introduction to the intricacies of metaethics. In this respect, the book is an excellent introduction to an entire novel cluster of arguments and topics of research.

To conclude, Mizzoni's book is geared to students and early career researchers who might be enticed to consider ethics and meta-ethics as a subject for analysis. The main themes in this book are likely to be relevant to scholars working at the intersection between ethics and evolutionary biology or those who interested in new ways of thinking about the foundations of ethics. For philosophers of economics it may provide useful background knowledge required to follow the recent debates on the complex interplay between evolutionary biology, ethics and economics. Despite its shortcomings, the book is very much worth reading and may satisfy those that are new to the field of ethics and those with a minimal background in evolutionary biology.

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PHD THESIS SUMMARY: Moral Uncertainty Over Policy Evaluation

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Doctorate in philosophy, May 2018

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When performing intertemporal cost-benefit analyses of policies, such as those involving climate change mitigation, the discounting problem becomes critical. The question is how intertemporal costs and benefits should be weighted in order to generate present value equivalents. Long-term policies sensitive to the discounting problem include climate change, but also governmental actions such as afforestation or infrastructure construction projects, both of which produce streams of benefits over long time spans. In the case of climate change, since the benefits of mitigation may take decades or longer to appear, how to compare those benefits to present costs is more consequential than for projects with shorter time horizons. The discounting problem is one of several key challenges in pricing the social cost of climate change (Fleurbaey et al. forthcoming) and the one which has received the most attention from philosophers (Broome 1994; Caney 2009; Dasgupta 2008; Parfit 1984).

This thesis defends the claim that those best placed to answer the discounting problem are domain experts, not moral philosophers or the public at large. It does this by arguing that the discounting problem is a special case of an interesting class of problems, those which are both, as I call them, *morally complex* and *quantitative*.

The discounting problem concerns the assignment of values to the moral parameters in the Ramsey Rule, a constraint on optimal savings and investment (Chapter 1, adapted in Mintz-Woo forthcoming). The Ramsey Rule can be expressed in a very compact form equating the *social discount rate* (r) to an expression sometimes called the *social rate of time preference*. The social rate of time preference is the sum of the *pure rate of time preference* (δ) and a term which is the product of the *growth rate of consumption* (g) and the *elasticity of marginal utility of consumption* (η):

$$r = \delta + g \times \eta$$

The moral parameters in the Ramsey Rule are δ and η (Ramsey 1928). The primary argument of the thesis is that there is a lack of philosophical theory or argumentation supporting particular parameter value assignments for problems satisfying the two criteria—that is, the problems are quantitative and morally complex (Chapter 2).

First, *quantitative* problems are ones where the range of potential values includes many which are not justifiable with appeal to theoretical axioms (such as from moral theory). So, for instance, a perfectly equal distribution of any given distributable good is justifiable from theoretical axioms without any recourse to empirical information. However, in quantitative ranges, there are relatively few such theoretically justifiable values since the theoretical axioms are coarse-grained with respect to the range of potential answers. I argue that this should lead us to worry about the law of the instrument—‘when you have a hammer, everything looks like a nail’—when confronted with quantitative problems. In short, the fact that moral philosophers are trained in theoretically grounded values might lead to dismissal of the large space of values that are not justifiable in this manner, artificially simplifying the potential solution space (Chapter 3).

Second, *morally complex* problems are ones that presume particular moral theories (they come from what I call *ethically explicit domains*), but those moral theories alone are insufficient to determine particular value assignments. Since morally complex problems presume particular moral theories, they obviate the need for application of *alternative* moral theories. As the presumed theories are insufficient to determine particular value assignments in morally complex problems, the role for moral theory is minimised or eliminated. The discounting problem is a morally complex problem because it already *presupposes* a particular (consequentialist and usually utilitarian) moral theory and, I argue, that theory is insufficient to generate particular values for the moral parameters in the Ramsey Rule. This is because the Ramsey Rule is a conclusion (or a constraint) following from optimal utilitarian distributions for simple economies; it is not an a priori moral judgment. It is derived from several moral assumptions, including strong ones, such as welfarism and separability over persons and times, meaning that it is inconsistent with alternative moral frameworks that deny these assumptions.

The thesis next distinguishes between strong and weak moral expertise, where strong moral experts can be thought of as those who can morally reason in a sound manner, whereas weak moral experts can be thought of as those who can morally reason in a valid manner (Chapter 3). In other words, the difference between the two is that strong moral experts know the *true* moral premises. I argue that weak moral expertise is more appropriate in a pluralistic society where strong moral experts cannot reliably be identified. Since the discounting problem with respect to the Ramsey Rule is morally complex, I claim that moral philosophers *qua* moral philosophers are not going to be the appropriate weak moral experts. Furthermore, if we take assignments to the moral parameters to be a moral problem, an appeal to observed preferences of non-experts is difficult to motivate, as most market behaviour does not reveal moral motivations.

The thesis holds, on the basis of these claims, that the best alternative candidate for weak moral expert is the domain expert, the individual who knows the most about the theoretical and practical implications of adopting particular answers to the moral problem in question (Chapter 3). The ideal domain expert is informed about descriptive data that can reveal some intertemporal social preferences, but she can also, for instance, adjust these value assignments depending on things such as her beliefs about biases or heuristics. The suggested method of application is via expert elicitation exercises.

The thesis examines appeals to such domain experts in the context of democratic theory (Chapter 4). It holds that this type of expert appeal is not problematic from the democratic point of view, since both problems under consideration are a circumscribed subset of political problems and there is no claim that the domain experts are final decision-makers.

Finally, the thesis critically discusses expert elicitation exercises from the literature and enumerates psychological heuristics and biases that could affect the application of such elicitation exercises (Chapter 5). These psychological considerations range from challenges regarding choosing and identifying such experts to worries about disciplinary effects within the community of domain experts. However, there are also strains of psychological literature that tell in favour of this approach. In particular, there is empirical evidence that the domain experts may have more convergent preferences than society at large, due to their familiarity with, and consideration of, political or social

mechanisms (Fernbach et al. 2013). This suggests that expert elicitation can help narrow some of the historical division over the discounting problem.

The thesis concludes with extensions of the primary argument (Chapter 6). It introduces other problems that satisfy the conditions by being both quantitative and morally complex, showing other places where domain experts may best play the role of moral expert.

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