A LIBERAL THEORY OF THE EXPLOITATION OF LABOUR

By

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Declaration

I hereby declare that this dissertation contains no materials accepted for any other degrees, in any other institutions.

The dissertation contains no materials previously written and/or published by any other person, except where appropriate acknowledgement is made in the form of bibliographical reference.

Vienna, the 28th of September,

Stanislas Richard

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‘Camarades !

On vous exploite !

On vous crève à la tache !

Et … franchement … voilà’

Amonbofis

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Acknowledgements

I thought I was done with philosophy after high school, and after I got started with my Ba in political science – seems like aeons ago. The reason for that choice of studies is that I thought it would bring me a more lucrative future than reading Plato. If you are puzzled by how studying political science is more of a breadwinning endeavour than studying philosophy, know that it is the main way to prepare for the entrance exams to most French *Grande Ecoles*. If you do not know what *Grande Ecole* are, rejoice, and do not even get me started on this. Yet here I am, indeed, slapping 'Political Science' on a work that is basically political and economic philosophy.

After I graduated from my master's at the London School of Economics, the question most students dread hit me in the face – what now? I took a dull and menial job in a corporation in Poland, for reasons that are still unclear even to this day. The way I rationalise it, to myself as much as to others, is that I needed a quick buck. I shall spare my reader the details about what this company was and how working for it looked like, I will just note that it is nicknamed 'Capschwitz' by its former 'inmates'.

Something was troubling still, that I could not quite square with I what learned in previous Political Theory classes. It was precisely that Political Theory seemed to have nothing to say on what I was doing in that dreaded open space. This was not for the lack of these famous 'transferable skills', rather, it was that the authors I have read in the year past seemed to have nothing to say on what I was living through. Yet, my experience in the workplace was the daily experience of the great majority of mankind. Not literally of course, I am fully aware how privileged I was as a white collar compared to, say, a sweatshop seamstress or an *Uber Eats* delivery person. Nevertheless, there is a common experience shared by most breathing and living humans that could be called 'my experience in the workplace'. Sometimes it is rich and rewarding. Sometimes, and more often than not unfortunately, it is a dull, painful, and excruciating toil. Most productive work in the capitalist economy is simply boring and useless, and, I sincerely believe, a terrible waste of human talent and potential.

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Take however your favourite political philosopher. Chances are he has next to nothing to say on this matter. It does lurk slightly more distinctly in business ethics – with all the biases for which this field is well known – and in moral philosophy, but hardly more. Philosophical margins – feminists and Marxists especially – seem to have been the only ones to have given the topic some attention. Almost nothing in the 'canon' however – the Rawlses, the Dworkins, the Nozicks and the others. 'Work' does not even have an entry in the *Stanford Encyclopaedia of Philosophy* (if by some unlikely and statistically improbable miracle one of its editors is reading this – call me, I literally have a draft ready).

Was that enough for a PhD proposal? Back then it was not – I applied with a project dedicated to public goods, which was the topic of my master's dissertation. But the seed was planted. The first person I talked about this was Andres Moles. The way I introduced the topic was by casually dropping something utterly and obviously wrong in the middle of a conversation, something like – I do not remember the exact wording – 'well, what interest is there in the political philosophy of work anyway, liberals will say that whatever you consent to is ok'. Andres told me with his usual laconic tone – of this I definitely remember the wording – 'That's not true'. And what do we call a freely consented contractual relation that is nevertheless problematic? *Voila!* Andres was unfortunately not available to supervise me, so I turned to Janos Kis, who – in his own words – 'volunteered'.

And volunteer he did! Janos was the best supervisor I could hope for, leaving me complete freedom of working on whatever I felt like working and doing whatever I felt like doing, while also methodically slaughtering my delicate precious little papers on the altar of argumentative coherence and academic relevance. His encyclopaedic knowledge of everything that can be possibly known proved to be invaluable. Andres on the other hand helped me not only with my substantive philosophical work, he also guided me through contemporary academia with his etiquette and publishing advices, and repeatedly reassured me, even if I still have my doubts, that reviewers are good people too. We also organised the first POLEMO Symposium together – he was the one who told me this was actually not such a bad idea to begin with. I am just as well and forever grateful to Richard Arneson for the weekly meetings we had during my time at the University of California in San Diego where he became not only a mentor, but also, if I may say, a sort of philosophical therapist. I am equally grateful to Zoltan Miklosi, who accepted

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to read this and to go with me through the defence. My appreciation also extends to Benjamin Ferguson and Abraham Singer for the helpful comments.

My philosophical influences should be obvious to the reader, but still deserve explicit acknowledgement. Hillel Steiner's work has been my main source of inspiration in the last years, and not only in exploitation, to the point that the first thing I do when approaching a new philosophical field of study is checking what he has written on it. I thank him for the welcome he gave me in Manchester despite being busy with the re-writing of *An Essay on Rights* (I am a great fan!) and for inviting me for dinner. 'What would Steiner think?' is a question I am asking myself a lot now, when reading and writing, and also when sampling Italian food, which is more relevant than one would expect given his impeccable taste on the matter. Nicholas Vrousalis' work – that I discuss extensively – was the first I read on the topic with Steiner's and triggered most of the ideas presented here. His comments on several bits of the present collection of papers were greatly appreciated – especially given how comically bad and incoherent the pieces originally were – as well as his sense of humour every time we have met. Matt Zwolinski's writings on business ethics changed my mind on a lot of issues and made me consider libertarianism seriously (a no easy feat!). It was also great to meet him in San Diego. Special mention also goes to Bela Greskovits who introduced me to Albert Hirschman and who was the main inspiration for the second chapter of the present work.

I also would like to mention Richard Miller, Joseph Heath, Antoine Louette, Merten Reglitz, Richard Williams, Brian Berkey, Mark Reiff, Andras Gal, and Horacio Spector for going through my laborious prose and taking the time for offering me invaluable advice. I also benefited from discussions with Lisa Herzog, Myriam Ronzoni, Nicola Mulkeen and Justyna Miklaszewska. By the same token I would like to thank audiences at the LSE, POLEMO, the Polish Philosophical Society, the Universities of Copenhagen, San Diego, Manchester, Tilburg and UCSD for their questions and remarks, as well as the philosophy departments in Manchester and UCSD for their welcome. Credit is also due to the Working Class Movement Library in Manchester, which is the cosiest library I have ever visited in my life, as well as to the Jagiellonian Library in Krakow, the Goethe Institute in Yangon and the Institut für die Wissenschaften vom Menschen in Vienna where a significant part of this work was written.

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Those who know me know that I am a deeply social animal who greatly benefits from regular conversations and hanging out in enjoyable company. So, I could not fail to mention the various people who made my life at CEU and elsewhere worth living while on duty, and who will most likely recognise themselves if they read this. I wish you luck – I am grateful for the fond memories and the journey, and hope we are far yet from its destination.

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Abstract

This dissertation ties together two different debates. The first concerns the extent to which labour is exploited by capital under capitalism. The second concerns whether, if at all, liberalism can be anticapitalist. Specifically, I seek first to give a liberal answer to the former question, and on the basis of it address the latter. First, I criticise the view that sees exploitation as a form of price disequilibrium, a conception that has been strongly associated with Alan Wertheimer and that is dominating the literature on the topic. I then argue that the account is trapped into a conflict between fairness and efficiency, and the only solution is a redefinition of what bargaining power in capitalist market is. I then use this new conception to defend workplace democracy against its market critiques by showing that 'voice' leads to the same efficiency gains than 'exit', following Albert Hirschman's taxonomy of market strategies. Second, I show that the marginal theory of value as well as other assumptions that are consensual in todays' economics have rendered power-based accounts of exploitation – especially the ones that are dominant in Marxist and socialist philosophy – implausible. Liberalism can however salvage several insights from Marxism to show how the institutions of capitalism are *systematically, necessarily and specifically* exploitative. I conclude that given their other theoretical commitments, the only way liberals can do this is by abandoning moralised freedom. Liberals committed to moralised freedom will have to criticise capitalism on other grounds than exploitation.

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Foreword

‘It is also conceivable that bourgeois economics is doomed, scheduled by history to share the fate of the society that nurtured it.’

Marshall Sahlins, *Stone Age Economics.*

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The concept of exploitation has been all the rage recently if of course 'rage' is a word that can be used to describe a debate that remains internal to political and economic philosophy. At the same time 'Capitalism' is another word which starts being back as an object of praise as much as of scorn, after having fallen into desuetude among critiques and advocates alike. The ongoing transformation of the labour market – the rise of the so called 'gig economy' (Hill 2015) and of the 'bullshit jobs' (Graeber 2018) – as well as the wreckage of the 2008 financial crisis are probably among the reasons of this trend. This dissertation has been born out of a dissatisfaction with significant parts of the literature concerning these two concepts. The main focus of my critique will be, for exploitation, the popular idea that it is a type of price disequilibrium; and for capitalism, the idea that its main injustice is in its distributive outcome. This dissatisfaction can be expressed in three distinct complaints that will be rendered more explicit and developed in latter course.

The first is that most of the literature on exploitation is what I would call 'business ethical'. Due to the lasting influence of Alan Wertheimer (1996), it holds exploitation to be an interpersonal contingent wrong that occurs in market failure. This is however not the way exploitation has been understood in most of the history of political and economic philosophy. Exploitation was historically an anticapitalistic concept that sought to show the unjust character of capitalism. A concept used in business ethics cannot fulfil such a role, since business ethics take the institutions of capitalism as a given in economic agents' ethical decision making.

The second concerns anti-capitalist arguments as they are found in analytic Marxism (Cohen 2009; Vrousalis 2018). Even if they do seek to use exploitation as a systematic critique of capitalism, they overlook capitalism's internal morality, and especially the ethical value of efficiency. A distribution that is Pareto optimal is not only the most mutually beneficial, it also,

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as I will show, does not allow the conceptual space Marxists need to place the various wrongs they hold capitalism to be responsible for.

The third complaint is about the current state of the internal debate concerning capitalism within liberalism itself. Most liberals are anti-capitalists because they are liberal egalitarians (Rawls 1971), and more specifically *luck-egalitarians* (Dworkin 1981a; 1981b; Knight 2013). This claim depends of what is to be understood by capitalism, of course, but to the extent that the conception I will use is correct, then liberal opposition to it is mainly grounded in its *distributive* injustice. This anticapitalistic consensus among liberals has been however slowly changing as liberal pro-capitalism has been growing (Tomasi 2012; Flanigan 2018b; Brennan 2014). This is happening both in ideal theory – capitalism fulfils better than any other system certain principles of liberal distributive justice – as much as in non-ideal theory – capitalism is the best system in the world as it exists and given certain constant such as individual economic rationality and resources scarcity. Against these assertions, a renewal of liberal anticapitalism might soon be needed and especially through a redefinition of what capitalism is and where its injustice lays.

The present work will be articulated around these three axes – a critique of the dominant concept of exploitation as price disequilibrium, an address of the analytic Marxist critique of capitalism, and finally a redefinition of liberal anticapitalism through the concept of exploitation.

Methodological considerations

How will I address these three problems? I need first to make clear where I am starting. The reader may have noticed an uncanny quote in the incipit of the present manuscript. If the reader is a political philosopher or an economist, there is little chance they heard of anthropologist

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Marshall Sahlins, who penned the book this quote comes from. *Stone Age Economics* (Sahlins 1972), arguably his magnum opus, is a work in substantivist economics and a staunch – although today likely outdated – critique of economic formalism. The former view considers that economics is the study of the way human beings fulfil their needs in relation to their environment, as opposed to the latter view, that sees economics as the science of effective allocation of scarce resources. Sahlins' main point is that formalist perspectives cannot understand the rationality of other forms of economic organisation that prevail in different cultural contexts. Taking the example of hunter-gatherer societies, he showed how the poverty of the so-called savage man, and the massive waste and inefficiency that characterise their economies, is just as rational an economic system of production and distribution as the sedentary private property that characterises the western world. It is however rational and efficient only if understood as a way to meet human biological needs.

Now, the present collection of essays is, at least in a weak sense, a formalist piece of work. I have written these pieces within the assumptions made by standard economics. I have assumed a subjective – economists say *marginal* – account of value. I have assumed that our world is characterised by widespread scarcity, to which private property is the most effective response. I have assumed rational agents with complete information that compete for these scarce resources. I have assumed perfectly competitive and efficient markets without externalities and failures. I have assumed away most of the non-ideal features of our world that rig that competition. And I have assumed that humans are not creatures with objective needs. I thus have assumed, just as standard labour economics, that '*work or starve!*' is a real, meaningful choice.

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Why have I assumed all of this? The predominant way for the philosophical left to criticise right-wing libertarianism and other philosophical defences of capitalism is to attack this formalist point of view. This will also likely be one obvious objection to the present work. Such an objection could take many forms. It could take for example a substantivist perspective and argue that the problem with capitalism is precisely that it abuses objective biological needs. It could also take a 'non-ideal' perspective and accuse formalism of epistemic violence for simply enshrining and defending relations of power external to markets. Perhaps will it conflate exploitation with such existing initial injustice.

It might be true that substantivism is a more fertile ground to understand exploitation than formalism, given that it relies on assumptions that will be more readily accepted by critiques of capitalism. However, I believe such an objection would be deeply mistaken and would not lead anywhere. First, most right-wing libertarians and academic defenders of capitalism would agree with the non-ideal objection. Right-wing libertarians agree that markets and capitalism as they exist are rife with exploitation, abuses and violations of rights. They agree that capitalism as it exists is unjust. What they disagree on is what should be done about it. This misunderstanding is the main problem I have with the recently growing field of non-ideal theory – I quite often fail to understand to whom it is addressed. Second, an effective critique of right-wing libertarianism must meet it on its own term. The most effective way show that an argument is wrong is not by changing the premises, but by showing that the whole thing is a non-sequitur.

A contribution to exploitation theory that seeks to address the justice, or the injustice, of capitalism therefore requires embracing formalism – what Marshall Sahlins called 'bourgeois economics'. Doing otherwise, for the two reasons outlined previously, is condemning oneself to irrelevance. Consented suspension of disbelief is sometimes necessary to advance our

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understanding of certain questions, just as it is useful to follow the plot of a novel or the script of a picture that seems implausible at first. Bourgeois economics will die one day, as Sahlins put it, and that day, these essays will have become of archaeological or archival interest. But that day has not arrived yet and I doubt it will arrive anytime soon.

However, even if I accept several assumptions that are consensual in economic theory, that does not mean I will jettison certain contradicting judgements. Economists make these assumptions because they tend to improve the theory's predictability (Friedman 1953). My work however aims not at making verifiable macro- or micro-economic predictions, but rather at arriving to a coherent normative account of what exploitation is and why it is wrong. Such an account needs to include certain a priori views that I find overall and initially plausible and whose abandonment would come at a great theoretical cost. Imagine for example a mining town with only one employer – a mining corporation. Suppose the mining corporation reaps outrageous benefits out of its activity while paying its employees a measly wage. This seems like a plausible case of exploitation, and abandoning that judgement would be costly – if *that* is not exploitative, then what possible can be? If economic theory A agrees with that judgement, that is a point in its favour. If, however, economic theory B disagrees with that judgement, then that will be a point in its disfavour. The initial judgement can be obviously overruled, but the burden of proof lies with the theory that has contradicted that judgement – it will have to give convincing reasons *why* the latter is incorrect.

Take for example sweatshops as they currently exist in the global South. There is a general strong presumption – which is, for what it is worth, common in the western public opinion – that this type of labour is grossly exploitative. That judgement is however contradicted by economic theory; without getting ahead of myself, there is indeed a popular view stemming

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from neoclassical economics that a wage is fair if it is the result of a competitive market. Wages paid by sweatshops are competitive, in fact, they tend to be higher than the ones paid by local employers. Now, a significant share of the literature on sweatshops has been a debate on whether the judgement or the theory is correct – with Matt Zwolinski having done much to show that the latter might be (Powell and Zwolinski 2012).

Most of the present work, and this is the case of most of exploitation theory, will be therefore devoted to achieving a state that John Rawls called a *Reflective Equilibrium* between economic theory and considered judgements on what exploitation is (1971, para. 5). I will be going back and forth between both with the aim of either rejecting the former or amending the latter until a satisfactory, plausible and coherent account is produced. Seeking such an equilibrium is, as I hope to show, a more constructive approach than rejecting the assumptions of economic theory *en bloc* or ignoring pre-existing judgements we have on what exploitation is. The irony of such an endeavour should also not be lost to the reader, one of my main point – especially in the first part – will be to criticise the *disequilibrium* account of exploitation

The main place where reflective equilibrium will be sought are the myriad of micro-economic examples that are scattered through the whole text. They involve two top hat – wearing and cigar – smoking bourgeois, Carol the capitalist and Iris the industrialist. Two blue collared proletarians, Will the worker and Harry the hardworking, represent the other side of the class struggle. Four shady corporations and their mercantile interests are involved as well – *Competition Factory, Corporate Factory, Rescuer Widgets Inc.*, and *Saver Steel Ltd.* – with the latter two being represented by their respective hiring managers. Achilles and the Tortoise, as well as their friends, Ant and Grasshopper, will also come from their fables to make a cameo.

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The plan

This is a paper-based dissertation, and each of its parts can be read independently from the others. Unfortunately, this means that some of their content will overlap to some extent, and especially their respective literature reviews. It also means that the transitions from one bit to the other is not the smoothest.

The argument proceeds in two parts of two chapters each. The first part argues against the view that exploitation as a form of price disequilibrium, a view that has been strongly associated with the works of Alan Wertheimer. The first chapter *Exploitation as Price Disequilibrium* applies Alan Wertheimer's account of exploitation to the relation between capital and labour in the capitalist economy. It does so by reconstructing it through several economic price theories, the neoclassical, the new institutional and the Austrian. I first read Wertheimer's argument as implying a 'neoclassical' price theory. Such a reformulation highlights the account's strength. Applied to the capitalist workplace, however, and confronted with the realities of transaction costs highlighted by new institutional economics, it creates an unsolvable conflict between efficiency and fairness. I finally argue that an Austrian reading of Wertheimer might be more convincing, even if it leads to unsatisfactory results regarding several cases of putative exploitation. I conclude by suggesting a way out through a redefinition of what bargaining power is. The second chapter *Democratic Disequilibria* clarifies the usage of Albert Hirschman's categories of market behaviour as of exit and voice in debates about markets by taking seriously his critique of the neoclassical analysis of competition. Pro-market liberals are generally hostile to the idea of workplace democracy and tend to favour top-down hierarchies as a way of organising labour. This hostility is generally inspired by the neoclassical analysis of exploitation and efficiency, which leads them to defend distributions achieved through exit-

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based competitive equilibria. Following Hirschman, I propose to consider a hypothetical alternative: a democratic equilibrium reached through the use of voice. I show that it would present the same appealing characteristics than its competitive counterpart while also accounting for the non-ideal conditions in which markets operate. Support for free markets should entail support for workplace democracy minimally understood as a strengthening of voice.

The second part develops a liberal account of the exploitation of labour in capitalism. The third chapter *Exploitation and anti-capitalism* criticizes approaches to exploitation that identify its wrongness with a form of discretionary power the exploiter has on the exploited. Some such accounts may be used to criticise the economic systems in which they occur, for example in capitalism the capitalist class may be said to have such a power on workers. I show however that these approaches are unable to deliver the anticapitalistic critique they promise. This lack of political bite is due to a confused understanding of the duties of market agents towards each other. The fourth and last chapter, *Liberal Anticapitalism* starts with the reminder that exploitation has historically been used as an anticapitalistic concept. Salvaging several insights from Marxism, I argue that an account based on such a concept must also show how the institutions of capitalism are *systematically, necessarily and specifically* exploitative in that sense. I conclude that given their other held theoretical commitments, the only way liberals can develop such an account is through a controversial understanding of freedom as negative, non-moralised, and conceived as a scarce good. Liberals committed to moralised freedom – or any other conception of freedom – will have to criticise capitalism on other grounds than exploitation.

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Part I
The Economics of Exploitation

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I. Exploitation as Price Disequilibrium

Exploitation has attracted increasing attention from many fields of philosophy in recent years.[1] The debate is nevertheless structured around various core theories of exploitation that are then used in applied moral theory or business ethics. One of these theories is Alan Wertheimer's, as developed in his book *Exploitation.* Wertheimer considers that exploitation is a form of unfair price. The basic idea is that a transaction is wrongfully exploitative whenever it occurs at a price that is different than the one that would obtain in a counterfactual hypothetical market where supply and demand are perfectly equilibrated. Since such a price equilibrium is necessarily fair, any disequilibrium is therefore exploitative.

This account has already been criticised on many fronts. Price disequilibrium cannot be a sufficient condition for exploitation. The rich tourist that is price-gouged by the local entrepreneurial artisan cannot be said to be exploited. Given the disparity of wealth between the two, it seems unlikely that the higher than usual price is the only morally salient variable in assessing the fairness of that transaction (Sample 2003). Price disequilibrium is not a necessary condition for exploitation either. Paying my employees above the market rate might all things considered be the right thing to do while paying the market rate might be callous and wrong (Arneson 2001).

This paper will offer a novel criticism of Wertheimer's account by applying it to labour markets as they exist in capitalism. Wertheimer has indeed cast a long shadow on certain debates on

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[1] For an overview of the literature on the topic, and a defence of his own account, see (Vrousalis 2018). See also (Ferguson 2018) and also (Zwolinski and Wertheimer 2016).

labour markets. For example, Matt Zwolinski has argued that sweatshops are not exploitative precisely because they pay their employees the competitive price of their labour (Zwolinski 2007). Likewise, Jason Brennan has argued that employers owe their employees nothing more than the competitive market price of their labour, even if that rate does not correspond to a pre-established definition of a living wage (Brennan 2017). However, despite being an account of fair pricing, Wertheimer's account of exploitation has seldomly been discussed in the light of economic price theory. This is what this paper will clarify by focusing on the role competition in labour markets plays as a condition for fairness.

The first part lays out Wertheimer's account. I will show that its greatest strength, and perhaps the reason for its enduring popularity, is that he has managed to do two things. First, he has identified exploitation with unfairness in economic interactions, with the fair price necessarily being non-exploitative. Second, he has reconciled to contradictory imperatives: efficiency with fairness. The second part applies his account to the capitalist labour market with the assumption that it is based on a neoclassical understanding of price as a static equilibrium between supply and demand. If such reconstruction does give a plausible idea of what is the fair price of labour, I nevertheless argue that no one in a capitalist economy is paid such a price. There are very good, efficiency-based reasons for that, which are related to the transaction costs as they have been analysed by new institutional economics. However, this makes Wertheimer runs into the contradiction he thought he had solved, for the price of labour in capitalism cannot be efficient and fair at the same time. The third part offers a way out through a second reconstruction based on alternative price theory, namely the dynamic equilibrium as conceptualised by Austrian economics. Such a reformulation comes with strings attached – the account becomes unable to

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criticise a prime example of the exploitation of labour, that is monopsonistic pricing. The last part sketches an alternative way out based on equal bargaining power.

1. Exploitation and market equilibrium

Before moving on to the argument, I need to reconstruct Wertheimer's account. The type of exploitation that concerns him is a transaction that is wrong but still beneficial to the exploited party. This positive payoff is the incentive to engage in the interaction for both parties. For the exploited party, non-interaction is an option that is inferior to the new putatively exploitative option. For the exploiting party, the higher payoff that exploitation provides is the main motivation for making the exploitative offer in the sense that without it she would not enter the interaction. Exploitation therefore obviously requires a hypothetical 'third option', a *non-exploitative price* which, for some reason, is not offered. For example, suppose I buy a beer at the pub for 5 denarii. I exploited the bartender only if I could have paid 10, should have paid 10, but for some morally relevant reason, I did not. I have therefore gained 5 denarii of excess utility that should not be mine – Liberals would call it a *rent*, Marxists *surplus value*. For Wertheimer, exploitation is *taking of unfair advantage* of the other party (Wertheimer 1996, 232). Imagine for instance that I bought the beer for 5 denarii instead of 10 because, for instance, I was the only customer around and the bartender was desperate to sell at least one bottle that day. That is an unfair situation of which I have taken advantage, thus, I have exploited the bartender.

Exploitation in that sense is impossible in competitive and open markets with many buyers and many suppliers of the same product (Elegido 2015; Wertheimer 1996, chap. 7). Why? Suppose that one person sells an hour of labour to her boss friend. She offers her the price for that hour

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that is quoted by a specialist as the current rate for an hour of that type of labour in a fully competitive market wherein many people sell their labour time and many people are willing to buy it. If the boss buys the hour of labour at that rate, then she has not been exploited, and whatever she has paid was fair (Wertheimer 1996, 230).[2] This is because in a fully competitive market everyone is a price taker, that is everyone is forced to buy at equilibrium price between supply and demand. If one party offered a price that was lower to take some unfair advantage of someone else, that is tried to engage in exploitation, then that someone else would immediately turn to competition. The price obtained in a competitive market is therefore the fairest way the products of social and economic cooperation can be divided since no 'fairer' price is possible in such a context. If a 'fairer' price could be offered, for example through an increment in competition, then it would. If it does not, then it cannot, and exploitation is impossible by conceptual necessity.

Wertheimer's account has several advantages that can explain its enduring popularity. The first is its identification of exploitation with unfairness. The second is its reconciliation of two seemingly opposite imperatives, one that is normative – fairness – and one that is economical – efficiency. Wertheimer's chief merit in other words has been his demonstration of the conceptual impossibility of a Paretian exploiter. In effect, the non-exploitative price is necessarily Pareto efficient, for Pareto efficiency is indeed achieved whenever no further redistribution can be achieved without making anyone directly worse off, for example through an increment in competition. The role that competition plays as a condition for a price to be fair

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[2] Wertheimer uses the example of friends selling and buying a house. The housing market is however such a complicated example in economic theory that I prefer not to open that can of worms and use that example instead. This paper applies his account to labour market, so this one is more relevant anyway.

is however less clear. The next two parts clarify this point by discussing the account in light of two economic theories of price formation. The first sees competition as a necessary condition for fairness, and the second as a sufficient one.

2. Wertheimer at Cambridge: Exploitation and static equilibrium

This part reconstructs Wertheimer's argument as being based on a neoclassical understanding of what a fair price is, that is a static equilibrium between supply and demand. In labour markets, this happens when labour is remunerated at the same rate than its marginal revenue product. However, I will show that what makes a price not exploitative is not maximally fulfilled when labour is remunerated at that rate. There is a hypothetical 'fairer' price that could be offered. The reason why it is not is that it would come at a prohibitive cost for everyone involved. As a consequence, the price that does obtain, that is the neoclassical equilibrium point, necessarily involves unfair advantage taking. A neoclassical reading thus leaves Wertheimer in front of the contradiction he sought to avoid – an exploitative interaction can be more efficient than a fair one.

A. The fair price of labour as its marginal revenue product

The example with the specialist mentioned above seems to point out that Wertheimer believed the fair price is objectively knowable (Wertheimer 1996, 230). Neoclassical economists see the science of economics precisely in this manner, as having predictive capacity and being able of positivist objectivity (Friedman 1953). For each actual price, there is a knowable counterfactual equilibrium price that can be calculated. This allows a comparison between the two.

Neoclassical economists have developed an empirical account of exploitation that does exactly that. Arthur Pigou (Pigou 1920, chap. 14) called 'exploitation' a situation where the

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remuneration of labour was falling below its marginal revenue product. Joan Robinson has furthered this account by identifying it as the difference between the marginal product (the increase in production of one additional unit of labour-power) and marginal *physical* product of labour (the increase in production due to the hiring of one additional worker), which, in plain words, indicates that the increase of the pool of employed workers has decreased their respective shares while increasing the profits of the company (Robinson 1969, chap. 25; Heller 2007). Both explained the occurrence of exploitation through a defect in competition – for example, one that is due to a monopsonistic labour market.

Wertheimer's account seems to have simply given a normative dimension to this pre-existing empirical account. A neoclassical reading of Wertheimer applied to the labour market would consider that the fair price of labour is simply its marginal revenue product. No 'fairer' price can possibly be offered since no increment in competition would make any difference. The reason for that is that no employer would hire a worker if she had to remunerate her above that rate, and no employee would accept a lower rate since she could go to the next firm to get it.

Economic competition is therefore solely a means to achieve a pre-established fair distributive benchmark. It is a *necessary* condition for fairness, even if it is not sufficient, for it must reach a certain level to reach the benchmark. Formally, Wertheimer's argument would read as a modus tollens – if the markets are competitive enough, then a fair price will obtain, and if the price does not obtain, then a defect in competition must have occurred.

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B. Efficiency and fairness: Still opposed

I will argue now that such a neoclassical reconstruction of Wertheimer is mistaken for it makes his account run into the contradiction he sought to avoid. If marginal revenue product is indeed the price of labour that obtains in a competitive labour market, it is not non-exploitative in the sense that is relevant to Wertheimer, that is Pareto efficient and fair. Note before I start that I am not contesting or criticising the neoclassical price theory. I only show that something like the account developed by Pigou and Robinson cannot be what Wertheimer had or should have had in mind.

It is now time to notice something odd with this entire discussion. Competition occupies a central place in exploitation theory since Wertheimer, however, in capitalism as it exists, it is not the dominant mode of cooperation between labour and capital, or between the various economic agents who interact in processes of production. Workers compete to sell their labour-power, sure, but once they are hired, they leave the labour market. Competition is a very limited feature of their economic existence.

To understand why, we need to examine the reasons why production, understood as the supervision of labour inputs, is not organised through markets, but in firms. Why, if competitive markets achieve Pareto efficiency and fairness, do firms exist at all?[3] This question has been at the centre of new institutional economics. The answer they give is simply that firms are created to save on transaction costs. Operating in markets, especially in non-ideal ones, comes with high transaction costs which maintain the productive process under its possible limits:

> 'In mechanical systems, we look for frictions: Do the gears mesh, are the parts lubricated, is there needless slippage or other loss of energy? The economic counterpart of friction is transaction cost: Do the parties to the exchange operate harmoniously, or are there frequent misunderstandings and conflicts

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[3] There is a difference between firms and corporations that is related to their mode of ownership, for not every firm is a corporation, some can be cooperatives and partnerships for example (Hansmann 1996). I will use these two terms as synonyms here for these differences matter little for the matter at hand.

> that lead to delays, breakdowns, and other malfunctions?'(Williamson 1985, 1–2).

Firms replace markets as a coordination and supervision mechanism between various productive agents when they improve the efficiency of the production process (Coase 1937; Williamson 1985, chap. 1).

Now, let us imagine two different factories that produce widgets, *Corporate Factory* and *Competition Factory*.[4] For the sake of simplicity, let us assume that these two factories have only two stakeholders – owners – made of top hat-wearing capitalists who own the machines on which workers work – and workers – made of blue-collared workers who fasten screws and various appliances on the widgets.[5] The existence of managers is ignored for the sake of the present argument for it would not change much – managers are simply workers who organise production – and their inclusion would only complicate the matter. Likewise, let us assume that labour and capital are homogeneous in this fictional economy (all capital and labour that exists are used to make widgets), and that capital's profit is justified. In each factory, production is organised around two different modes of interaction.

In the *Corporate Factory,* production is organised through a top-down hierarchy. The necessary labour input is provided by workers who are hired on an external and competitive labour market. In that way, labour has its relationship with capital contractually institutionalised for an

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[4] This example might seem odd to the westerner reader given that she most likely never worked in a factory and never will. Factory work remains however the shared toil of most mankind, especially in the global south, so it is still the most relevant example to understand the relation, exploitative or not, between labour and capital.

[5] I am aware that most economists would probably not use that dichotomy that is very much reminiscent of Marxism. However, philosophical assessments of capitalism are often drawn along these lines, so I use them here as well, hoping not to distort too much the neoclassical view to make it fit my purpose here.

indeterminate amount of time. Because the external hiring market is competitive, and just as predicted by neoclassical price theory, workers are remunerated according to their marginal revenue product. Marginal revenue product does not correspond to individual output, but to the output of the last worker that the company hired and whose hiring bring an increase in revenue – otherwise, the owners would not make any profit. In that sense, most wages are not proportional to individual productivity or effort, they are just a number dictated by the bottom line of the company, the quality of available capital, the structure of the market and the type of costs each agent faces (Heath 2018; Sen 1992, 119). Likewise, workers are paid by the capitalists, in the sense that capitalists retain the final number of widgets produced, and then sell it for profit.

Now, why is that? Imagine an alternative to *Corporate* factory, called *Competition Factory*. There, workers are not *hired.* Rather, they are renting a working spot on the assembly line for only one day (or any unit of time relevant for production) from capitalists. They are competing for that spot with several other workers at the beginning of every time unit; and likewise, capitalists are competing to attract workers on the spots they have available. Just like their comrades in *Corporate Factory,* the workers' job is to fasten screws on the unfinished widgets. However, they do not obtain these from capitalists, like in *Corporate Factory*. The screws are bought from a screw shop – competing with other screw shops while the workers also compete between themselves to obtain the available screws. The widgets are bought by each worker from the worker who is before her in the production process, and she sells them to the worker who is after her in that same process after having fastened the screw she just bought, keeping the difference as an income – an income that she will use to buy new screws and widgets and pay for the spot on the assembly line she will rent the next day. Of course, she competes with

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other workers who are at the same level in the production process to obtain the unfinished widgets and sell them to the next worker.

Now contrast the two factories. As you can easily imagine, *Competition Factory* is not only an insufferable nightmare for everyone involved, it is also a comically inefficient and unproductive business. Think only of the time and resources wasted by all the mentioned agents with the competition process alone – they must gather all the relevant information, front the entry cost through the purchase of the screws and unfinished widgets, waste time negotiating and making counteroffers, probably through a system of automated auctions, and so on. For efficiency's sake and to maximise output, it is better to *suspend* market competition within the firm, which will allow a reduction of transaction costs. The institutional layout of capitalism as a competition of various firms, rather than as a competition of various individuals, is simply more efficient and more productive. *Corporate Factory* will produce more widgets than *Competition Factory*, will create more wealth, its owners will garnish higher profits, and the workers they employ will be paid higher wages.

Following Wertheimer's account, which factory is the one that is not exploitative? *Competition Factory*. Every price that occurs in the productive process – the price of the spot on the assembly line and the price of the screws and widgets – are the product of a competition between several buyers and suppliers, a process where everyone is a price taker. All interactions between all the agents involved are ones wherein no one can take unfair advantage of the other, and this result is obtained through an increment in competition compared to *Corporate Factory*. The division of the product of cooperation in all these interactions will be in that relevant sense 'fairer' than in the latter.

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But that conclusion is bizarre. Exploitation is a moralised concept, from which stems a putative duty not to exploit. It is indeed now obvious that someone committed to a non-exploitative society, needs, to remain consistent, to appeal to a complete overhaul of the labour market to dissolve firms and to maintain all interactions between workers and capitalists under their market form. Markets that would fill the gaps previously occupied by firms would however not be Coasian, that is without any transaction costs. These would stunt productivity and lead to Paretian inefficiency – this is why these markets were replaced by hierarchical firms in the first place. But this would be absurd. It would be absurd to consider that to the extent that a just society should be non-exploitative it should therefore be a deeply inefficient one.

Avoiding the opposition between efficiency and fairness was precisely Wertheimer's point. His account meant to demonstrate the conceptual impossibility of a Paretian exploiter. If, however, we apply it to non-Coasian markets, and most labour markets are like that, we arrive at the exact opposite conclusion – fairness and efficiency are incompatible again. Exploitation, through a decrement in competition, is *necessary* for efficiency. Conversely, inefficiency, through an increment in competition is *necessary* for fairness.[6]

[6] Now, we could reject the new institutional theory of the firm and keep Wertheimer's account. Unless we come with empirical objection to the former however, the latter seems the easier weight to discard. If a normative theory's strongest point becomes an insurmountable paradox as soon as we confront it to what this theory is supposed to assess, something must be wrong with the theory. Now perhaps, Wertheimer's account suits well to markets with very low or inexistent transaction costs. I wonder what his account would look like if applied to the financial market for example.

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C. Is being paid one's marginal revenue product fair?

Wertheimer's account could still be applied to labour markets as they occur in reality, that is to the markets external to the firms where labour is hired. Even if a hypothetical fairer price of labour can be obtained – the one in *Competition Factory* – perhaps we could still say that the one that obtains in *Corporate Factory*, that is the equivalent of its marginal revenue product, is sufficiently fair.

Indeed, if several firms compete with each other through a sufficiently robust competition process to hire workers, then none can take unfair advantage of them and exploitation cannot pro tanto occur. But that objection makes a different point. The neoclassical reading is a modus tollens, that is that we had a standard of fairness – a static equilibrium that cannot be fairer – and that if this standard did not obtain, then it means that a defect in competition necessarily occurred. The objection rather says that a price is fair if it follows a relevantly robust competitive process. It is a valid reading of Wertheimer that will be explored in the third part of the present essay, but it is not the one we are discussing now.

To be successful the objection must do something else. It must show that the price of labour being paid in *Corporate factory* – that is the equivalent of its marginal revenue product – is equally fair and non-exploitative than the one occurring in *Competition factory*, the normative standard being a price at which no one can take unfair advantage of someone else.

But this is not the case. Contrast again how much workers earn in both *Corporate Factory* and *Competition Factory*. In the latter, every individual's return is exactly as much as she produces at the station rented on the assembly line. Any loss or gain in individual productivity is translated into a gain or a loss for every worker's individual level of profit. Their remuneration

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equals their individual productivity. As noted by David Gauthier the individual in the perfectly free and competitive market:

> enjoys the full benefits of her labour; what she consumes is what she produces. And since she may cease her productive efforts when the cost of further production exceeds the benefit of the good produced, she has only herself to blame if the marginal costs and benefits of her activity are not equal (Gauthier 1986, 90).

This is not what happens in *Corporate Factory,* precisely because each worker is paid the *marginal revenue product* of the type of labour she is selling. That rate is equivalent to the productivity of the last worker it was profitable for the firm to hire, which depends among others on the productivity of capital and the structure of the market itself. It is however different from each workers' hypothetical *individual* productivity. To see the difference, take two employees who are working for *Corporate Factory,* Will and Harry. Both works at the same level and have a similar wage. Now suppose that Will is the first worker employed whereas Harry is the last one. They both get paid the same – Harry's productivity, which corresponds to the marginal product of the labour employed by the firm. But since Will is the first worker employed, he is, following the law of diminishing marginal returns, the most productive of the two, since the fact that Harry was hired diminished the overall marginal revenue product of labour. He is in that sense exploited by Harry for Harry benefits from his higher productivity while keeping his remuneration down.

Moreover, marginal productivity is insensible to individual behaviour. Some workers will be more productive, hardworking, and conscientious than others, some will be lazy, slacking, and shirking their tasks. Yet they will be paid roughly the same. Suppose for instance that Will is very hard working – he takes extra time, is invested in the corporate life of the firm, runs the

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extra mile to make high-quality widgets and so on. Harry, despite his nickname, is a slacker – he is the last to arrive and the first to leave, he is not very conscientious when adding his screws to the widgets he is producing, is hated by quality control, and so on. In that situation, Will is on a marginal level, subsidising Harry's slack. And even if firms allow wage differences, the point remains that some in *Corporate Factory* will receive less than what they would receive in *Competition Factory,* and some will receive more.

Given that the latter is a fairer rate, regardless of whether it is higher or lower, that is all that is needed to show that *Corporate Factory* is an exploitative workplace when compared with *Competition Factory*, since in the former prices will be fairer due to an increment in competition. This of course does not mean that the price of labour in *Corporate Factory* is unfair. There is a strong all thing considered judgement here that someone paid her marginal revenue product cannot be said to be exploited which seems to resist that assertion. But maintaining this judgement has detrimental consequences for Wertheimer's account, for it leads to the conclusion that something that can be exploitative can also be fair.

To sum up, Wertheimer's greatest contribution to the literature on exploitation was to identify it with unfairness, while showing the impossibility of a Paretian exploiter. A neoclassical reading of his account has invalidated these two claims and must be therefore be deemed to be false.

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3. Wertheimer in Vienna: Exploitation and dynamic equilibrium

Perhaps a more plausible way to apply Wertheimer to labour markets would be to start from the aforementioned strong considered judgement – it is plausible to say that it is fair to pay workers the price their labour commands in an external hiring market of competing firms. That rate might then incidentally be the equivalent of the marginal revenue product of labour, we can here keep Pigou and Robinson's intuition as a general rule of the thumb. One way to show that is to read Wertheimer as a modus ponens. The presence of competition in price formation is a sufficient condition to reach a non-exploitative, fair price. Conversely, a defect in competition in price formation is a sufficient condition for exploitation. This would allow us to consistently apply Wertheimer's account to labour markets as they exist. Instead of saying 'competition is the best way to reach an independently defined normative benchmark' we would say 'there cannot be anything unfair in a price that has been reached through competition'.

To do this, I need to reconstruct Wertheimer's argument with a price theory that is different than the neoclassical one I used so far and which particularly emphasised competition in their formation – namely the Austrian school of economics.

A. An Austrian reading of Wertheimer

Austrian economics consider that markets are coordination mechanism where prices convey information about the relative scarcity or availability of a given good. Any price is, therefore only but a moment in a dynamic, ever going process that equilibrates supply and demand. Uncoordinated economic competition is how entrepreneurs form these prices by acting on the partial and localised knowledge they acquire (Hayek 1945; von Mises 1998, 333). Objective knowledge on the state of any given market, and the economic planning that it would permit, is impossible. This means there is no way we can know what exactly the equilibrium price or any other distributive counterfactual would be. Competition within the price making process is therefore a sufficient condition to deem a price fair and non-exploitative.

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The Austrian reading of Wertheimer implies that exploitation is only possible in a market rigged by monopoly or monopsony.[7] Even if such a reading seems to go against the grain of the already mentioned specialist example extensively discussed by Wertheimer (Wertheimer 1996, 230), it has two advantages. The first advantage is its heuristic simplicity. Since equilibrium is by model construction never achieved, what will determine whether a price is exploitative or not is the process that led to it, not a static counterfactual that is beyond what can be known anyway. The second advantage is its greater tolerance towards disequilibria that is more in line with our intuitions on what is exploitative or not.

One obvious example is the already mentioned case of the external labour markets where firms compete to hire workers. Even if there could be a fairer price that could be obtained in a different market, the fact that competition has occurred before the hiring means that the price of labour is *fair enough* and that it cannot be reasonably held to be exploitative. Will and Harry both can turn to a competitor if the price offered is not to their taste, thus as long as there actually are competitors around and sufficiently low transaction and exit costs, then the price they end up accepting is pro tanto fair.

A possibly more counterintuitive example is when that happens in the other way around, when there is a high competition on the side of labour which leads to a race to the bottom. Suppose there is a sharp increase of widget-producing specialists on a sufficiently elastic widget

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[7] What I call here the 'Austrian' understanding of exploitation is actually much older than the Austrian school of economics. French Liberals have criticised French feudalism among very similar lines, for example Turgot (Schmidtz and Brennan 2010, 129–30). One could also think of Joseph Emmanuel Sieyes in *What is the Third Estate?* (Sieyes 2003). However, the French had a less astute understanding of the relation between exploitation and the epistemic features of market equilibria, which is something that is distinct to the Austrian school.

producing job market – suppose they materialised out of thin air. If the demand for that labour remains the same, the wages are going to fall drastically. Is it unfairly exploitative? On the Austrian reading, it seems that no. This conservativism towards price fluctuation was one of the main objection Ruth Sample had against Wertheimer, and in that sense, she probably had the Austrian reading in mind (Sample, 2003).

B. The problem of natural monopoly

The Austrian reading seems therefore more in line with some common intuitions we have on what the exploitation of labour is. The problem is that it is much worse on an issue that should be a prime concern for any price-based account of exploitation: natural monopolies. This can strike as somewhat bizarre. Are not natural monopolies characterised precisely by an absence of competition? The sufficient condition for exploitation identified by the Austrian view, however, is not the *absence* of competition, but a *defect* in it.

To understand the difference, imagine that in a poor, developing country, there is an isolated village that lays near a deposit of a given precious metal. A corporation arrives to mine the deposit and employs the totality of the population in the mine. The corporation pays them low wages that are barely sufficient to ensure the workers' biological survival and reaps huge benefits from this. There is no better term to designate what the company is doing than 'exploitation'. If that is hard to grant suppose these wages are lower than what would obtain if there had been several deposits mined by several competing companies.

One intuitive explanation would be that the unfairness comes from the initial vulnerability of the isolated village. It is at the mercy of the corporation which is the sole organisation able to provide the inhabitants with a – meagre – living. It is difficult however to see how such a taking

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of advantage would be necessary for exploitation if we keep a price-based understanding of it. Suppose for example that the reason the mining corporation is the sole employer because coming to the village is very expensive – in economic terms, we would say that it is a market with very high fixed entry costs. There is no way anyone would be willing to front that cost without sufficient initial capital to do so. From an Austrian perspective, whatever the price the company will offer for the inhabitant labour is the price that in its eyes made coming in the first place worthwhile. The company has simply read the price mechanism before others, has seen the low price of the available labour and has seized the opportunity, thus behaving as entrepreneurs are supposed to. If you still think that what renders that example exploitative is the mere fact of the taking of advantage, then consider the counterfactual in which the company would pay the inhabitants six-figure salaries. Would that still strike us as exploitative? Probably not. The absence of competition cannot, therefore, be a condition, sufficient or necessary, for exploitation.

Exploitation therefore requires monopoly or monopsony *power* and the use of that power, for example when someone uses the power of the state to restrict the number of buyers or seller to her advantage, or other types of legal tools that rig competitive rivalry between market agents. Imagine for instance that the reasons the salaries of the inhabitants are low are because other corporations were prevented from making counteroffers to them. Perhaps, the first corporation has friends in the government that has prevented competitors to settle in the area or has used armed guard to that same purpose.

Reading Wertheimer through the Austrian price theory seems to require the assumption of a background structure of economic rights that are unevenly enforced or protected. He becomes in that sense very close to Hillel Steiner's libertarian account, that conceives exploitation as the

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distributive consequence of an infringement of rights (Steiner 1984). In any case, such a reading has no way of seeing the mining town example, nor any other natural monopoly, as exploitative.

To sum up, it is entirely possible to apply Wertheimer's account to labour markets as they exist. This requires seeing competition as a sufficient condition for fairness, a claim that would rely on an Austrian understanding of labour prices and a background structure of equal economic rights. Fairness becomes here synonymous with non-exploitation and is reconciled with efficiency. Consistency is however achieved at a high theoretical cost – we need to accept the callous judgement that the mining town case above is fair. Now, of course, one could bite the bullet. But there are strong intuitive reasons to believe that natural monopolies are exploitative above a certain range of profit. Rejecting that intuition would require stronger evidence than what the Austrian reconstruction of Wertheimer can offer.[8]

4. Who cares?

Let me recapitulate. Wertheimer states that exploitation cannot occur in a fully competitive market because market competition ensures fairness, understood as a situation where none can take unfair advantage of the other. I have offered two possible reconstructions of his argument through two different understandings of price and competition. The first one has been made at the cost of what made the added value of Wertheimer's account – the identification of exploitation with unfairness and the reconciliation between fairness and efficiency. The second

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[8] The work of Matt Zwolinski on price gouging – which is a form of spontaneous natural monopoly – may provide something like that (Zwolinski 2008).

one, the Austrian reading might be more in line with what Wertheimer sought to achieve but has led to an obvious false negative.

What can be concluded from these two reconstructions? Assuming that the exploitation of labour has moral force – meaning in Wertheimer's terms that it warrants correction through legal regulation (Wertheimer 1996, chap. 9) – they have both shown us that exploitation is a concept that is of little normative interest, at least if understood along neoclassical or Austrian lines. This is especially the case if exploitation is understood as a concept informing a broader political theory of distributive justice. Wishing the bringing about of a society wherein exploitation is absent is a nonsensical position to have. On the neoclassical reading, such a society would not allow enough exploitation, and on an Austrian reading, it would allow too much of it.

The Austrian and neoclassical readings are therefore both inconclusive. We have not wasted our time, however, for we can salvage two key insights from our discussion and canvass them to point to a way out. The main take away idea from the Austrian reading is that the normative traction of exploitation comes from unjustly unequal enforcement of a relevant set of rights. The main take away from the neoclassical reading is the idea of an exploitative benchmark that has some distributive properties related to the economic output of the individuals involved. Both accounts and nothing here has undermined that idea, see exploitation as a problem concerning price, that is as a disequilibrium between two things that should be equilibrated.

The mistake has been to reduce these two things to what *economists* think should be equilibrated. Both the Austrian and the Neoclassical readings have indeed assumed this to be akin to individual bargaining power, that is the freedom to leave a given arrangement if a better one appears and to consider that fairness is a state when that is impossible.

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Perhaps the problem comes from here. We need not adopt the economist restricted point of view. Take a broader understanding of what bargaining power is, that is anything that influences price formation and that is not limited to freedom of exit (Lindblom 1948; Richard 2020). Wertheimer seems to be switching back and forth between such a more general, social, collective or political understanding of bargaining power and its purely economic definition. The 'open and competitive market' that leads to non-exploitation heavily seems to imply the former understanding. However, replacing the competitive price with equal bargaining power changes Wertheimer's argument into one that is more fruitful and intuitive for debates about distributive justice.

Consider for example how Wertheimer defends laws forbidding blackmail. These laws make would-be victims of blackmail *collectively* better off since they allow to take action against it. This is true even the authorisation of blackmail would make them *individually* better off since their secrets would remain under their control (Wertheimer 1996, 301). Contrast this to how critical he is regarding minimum wage laws. Minimum wage laws possibly harm the workers whose productive output fall below the rate it sets (Wertheimer 1996, 303–5).

Now, the latter position takes the economist perspective, while the former does not. Wertheimer might explain this difference of treatment through his dichotomy between moral weight and moral force (Wertheimer 1996, chap. 9). Exploitation has moral weight when its unfairness is established but when acting against it would leave the exploited party worse off. It has moral force when it warrants legal and political action against it, for such an action would improve the fate of the exploited party. Anti-blackmail laws indeed improve everyone's situation since they disincentive the collection of compromising material on other people. This is however not the case of minimum wage laws since they lead to a rise involuntary unemployment.

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Now, strictly speaking, minimum wage laws are a case of exploitation themselves – of capital by labour. If As exploit Bs in the sense that she sells to her an overpriced unit of output, then there are going to be some other As' units output that will be wasted, and that could have been obtained by some Bs if the price of every individual unit of A's output had been lower. The fact that exploitation is necessarily an inefficient price means it occurs in markets with a surplus. In labour markets, such a surplus is involuntary unemployment. It is the situation when workers willing to work at a given offered wage cannot find work, due to an excessive supply of labour at that price. Unemployment is therefore due to that price being too high, for if it were lower, then it would incentivise a lower supply. Something – the regulation imposed by the minimum wage law – has prevented the price from decreasing through a normal competitive process which is exactly what minimum wage laws do.

However, this is unfair exploitation of capital by labour and unfair harm done to unproductive workers only if we consider the interaction between capital and labour in the unregulated market as an equal and equilibrated one, and if we use it as the relevant counterfactual. Such an assumption relies on the acceptance of the economist' conception of bargaining power. But another conception, perhaps a more collective one, would show that the Paretian inefficiency created by minimum wage laws is fairer than allowing the labour market to clear at a sometimes extremely low rate.

The unionisation of Labour is one further example. Unionisation often leads to rent-seeking, which often used as another explanation for unemployment since unionised workers render difficult the hiring of new colleagues, thus creating a division between insiders and outsiders that allow them to maintain higher wages (Lindbeck and Snower 2001). This rent-seeking leads to an oversupply of labour, which, just as in the case of minimum wage laws, that labour

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exploits capital. But that conclusion is true only if the increase of the price of labour time that follows unionisation is shown to unfairly rig an egalitarian distribution of bargaining power between capital and labour. This equality, which is again assumed by the synonymity of efficiency with fairness, is however dubious (Spector 2018). At the very least, it should be demonstrated rather than assumed.

These two examples show how taking into account another measure of bargaining power than the one leading to Pareto efficient labour markets leads to a different set of judgements on what exploitation is and to a different understanding of what makes the price of labour fair. Discussions on just wages and exploitation thus cannot be limited to comparisons with counterfactuals based on competitive pricing and on economic price theories.

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II. Democratic Equilibria

Philosophical defences of competition in labour markets heavily rely on the neoclassical defence of competition. On the other hand, justifications of workplace democracy are often grounded in the opposition between two different strategies available in markets – exit and voice, following Albert Hirschman. The aim of this essay is to take this dichotomy seriously as a critique of the neoclassical view.

There is a strand of liberalism – call it the neoclassical view – that considers competition, that is the widespread application of strategic exit in markets, as an appealing mechanism because it generates distributions that generally satisfy two principles: efficiency and power mitigation. Conversely, a commitment to these two principles would rule out workplace democracy, that is the use of voice in markets, since it generates efficiency losses. I will address this argument by taking it for granted yet showing that its implications change as soon as one abandons the neoclassical understanding of market exchanges that supports it. My aim is to produce an argument for workplace democracy that is acceptable to market liberalism and to clarify the use of Albert Hirschman's ideas of 'exit' and 'voice' in justifications of workplace democracy.

It is to be noted that I shall not defend a particular conception of workplace democracy; I shall only talk of a 'reinforced workers' voice'. The theoretical argument presented in this paper is therefore meant to appeal more practical applications. In a first part I first present the neoclassical argument for competition in labour markets. I then show how this argument has led several market-oriented liberals to reject workplace democracy. Using Hirschman's critique of neoclassical economics, I finally show that the reasons market-oriented liberals commit to

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market competition should lead them to support workplace democracy as well and not to reject it. Their commitment to competition in labour markets and their rejection of workplace democracy simply comes from misguided economic assumptions.

1. The neoclassical account

Neoclassical economics consider that market competition produces distributions that present two appealing and interrelated characteristics – what I shall call efficiency and power mitigation. I explain these two properties in turn.

A market where prices are fixed only through the balances of preferences within given external constraints is said to be in a competitive equilibrium. Consider the following situation:

> *Will in the desert:* Will is stranded in the desert and for some reasons has no means of surviving. He dies alone and miserable.

Contrast it to this next example:

> *Monopoly in the desert:* Will is stranded in the desert and will die unless rescued. Suddenly, he meets the hiring manager of Rescuer Widget Inc., a widget producing company, who offers him a job for (putatively exploitative) wage X. Will does not want to die, so he agrees.

Why does Will accept such an outrageous offer? He prefers any transaction (A) to a baseline of non-transaction – here dying (B). Thus, his preference ranks: [A>B], with A being of the lowest possible value. The manager from Rescuer Widget on the other hand is ready to hire a worker's labour on a higher rate (B'), but since she can extract the same labour value at such a low price

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(A'), so she does. Her order of preferences therefore ranks [A'>B'], with A' being the lower possible. Now consider: [9]

> *Competition in the desert:* [Same as Monopoly in the desert] But suddenly, another person, a hiring manager from Saver Steel Ltd., comes and offers a job as well. Following competitive pressure, both offer a wage close to price Y.

Both hiring managers want to hire Will. Thus, a third preference appears in everyone's range. Both managers would like to remunerate him at a very low wage – option A' and A+ in their respective orders of preferences, but since they have to outbid each other's to steal the deal, no one can satisfy it. The price then rises to Y, and both can satisfy a second order preference, which is hiring Will at normal rate (B' and B+). The competitive pressure creates a new option C for Will who will choose it over A (accepting any job) and B (dying). He still prefers interaction to a non-interaction baseline (B), but C is less costly for him than A.

The first appealing characteristic of *Competition* is efficiency – markets convey condensed and valuable information through the price mechanism that channel resources where they are needed the most, thus supposedly solving the problem of limited information and lack of communication that characterise interactions in complex human communities (Hayek 1945). In the example above, the appearance of the manager from *Saver Steel* and her higher salary outcompeted *Rescuer Widget*'s rate. Will exiting the deal to take on *Saver Steel*'s offer sent an information to *Rescuer Widget* about the quality of her own offer.

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[9] Cases of hikers lost in the desert are common in the literature on exploitation, see among many others (Wertheimer 1996; Zwolinski 2012).

Efficiency in resource allocation is therefore a consequence of competition – when she is in a situation of monopoly, *Rescuer Widget* has no information about the quality of the offer she makes. Suppose an alternative version of *Monopoly* taking place on another planet. In that scenario Will is a scientist who is running out of oxygen and his rescuer is an eccentric and out of touch billionaire who has a spare bottle. Both wear space suits that limit their communication capacity to one word per day. The rescuer wants to be nice, so he wants to give his spare bottle, but since he is a libertarian, he does not want to do that for free and ask what he thinks is a reasonable amount of money, which is ten million sestertii – the amount he tips his barista.[10] He cannot know that this money is more that most today's humans make in a lifetime. On the other hand, Will cannot tell him anything else than 'yes' and cannot explain that signing such a contract would represent a disproportionate cost. The only way he could do that would be to accept a competing offer at a lower price from his colleague who just passes by. His rescuer would then know without having to talk it out that there is something wrong with his offer through the price mechanism alone. Humans in vast communities are in the same situation – prices convey information about everyone's preferences and the scarcity of the good.

The second characteristic of competitive market equilibria is power mitigation, understood here as the incapacity of market actors to interfere with each other's. Following Arthur Pigou, unfairness in markets is understood in two ways (Pigou 1920, chap. XIV). The first form is a difference of wages due to circumstances external to the market itself and the immobility of labour. For example, two countries might know two different average salaries in the same sector of the economy. This difference might be due to lack or presence of natural resources, scarcity of capital, etc., without it being the result of an underpayment of labour or exploitation. The

[10] As Hillel Steiner has pointed out, exploitation in market is rarely intentional (Steiner 2017).

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second type of unfairness is exploitation proper, that is for Pigou when monopolistic elements within markets create a certain range of indeterminacy where the wage will be set by the extent of that monopoly's bargaining power over the supply of labour (Coldwell 1990; Persky and Tsang 1974). So, from a Pigouvian point of view, in *Competition*, Rescuer Widget breaks Saver Steel's monopoly and the market clears at a non-exploitative price. *Monopoly* is therefore a case of exploitation, that is, Rescuer Widget's monopolistic power creates a difference between Will's marginal input (what he will produce for Rescuer Widget and the equivalent of which he would get in a competitive setting) and his wage (the value of X), this difference being gained by Rescuer Widget[11] Competition therefore prevents the appearance of any price indeterminacy that would allow such an abuse.[12] At its simplest version then, the argument goes like this – in markets, if everyone wants to abuse you, then no one really can since everyone is a price taker.[13]

This characteristic that is "power mitigation" is a basis of liberal defences of free markets. One of the core concepts of liberalism is that freedom is non-interference. Competition prevents

[11] Arthur Pigou conceived exploitation as a phenomenon related to labour specifically, so I spelled out the cases above accordingly. They make some discreet references to the idealised "desert cases" that dominate the literature on exploitation.

[12] All market transactions consist in someone's abusing someone else vulnerability – the difficult question is which vulnerability it is wrong to abuse, and to which extent this abuse crosses an ethical red line.

[13] The idea that monopoly is the only source of wrongful exploitation and that market competition results in fair distributions has been contested, see (Wood 2016; Sample 2003; Arnsperger and De Villé 2004). Showing how exploitation is possible in competitive markets – that it is their defining feature in fact – is also the main point of Marxist economics and political theory, see on this (Roemer 1982; Vrousalis 2013; 2014; Roberts 2017; Roemer 1985).

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interference by dissolving monopolies. This was the basis of Adam Smith's argument against mercantilism, since competition keeps the market price – what a commodity is bought for – close to what Smith calls its natural price – what a commodity costs to produce in term of natural resources and of remuneration of labour and capital, thus diminishing rent (Smith 1993).[14] Late classic liberals and libertarians are the ones who insisted the most on the market properties of power mitigation (Hayek 2001; von Mises 1998, chap. 15.6; Nozick 1974, chap. 8). This view is perfectly summarised by Von Mises: 'The freedom of man under capitalism is an effect of competition. The worker does not depend on the good graces of an employer. If his employer discharges him, he finds another employer.'(von Mises 1998, chap. 15.6).

In more recent analytic philosophy, Alan Wertheimer's seminal monograph *Exploitation* offers a thorough defence of competitive equilibria as non-exploitative (Wertheimer 1996). He would defend transactions such as *Competition* as a standard of a fair transaction as contrasted to transactions such as *Monopoly*. Liberal-egalitarians and left-libertarians complete the argument about the market's property of power mitigation with a concern for background injustice. John Rawls did not write much about just wages, exploitation and commutative justice in general, considering market properties such as efficiency as secondary norms within a theory of justice whose primary concern are background institutions. He however granted that competitive equilibria obtained against the background of such just institutions are a 'workable' and 'feasible' standard of procedural justice 'being explicitly framed to coordinate the multitude of possible criteria into one coherent and workable conception.' (Rawls 1971, 273). A similar view is defended by Hillel Steiner (Steiner 1984). Rawls and Steiner basically gave Pigou's account

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[14] For a historical perspective on how liberals defended markets precisely for the properties of power mitigation, see also (Anderson 2017, chap. 1)

of exploitation some ethical thickness by problematizing the background conditions that have influenced market prices.

As a competitive equilibrium, *Competition in the desert* strikes us as fair transaction because it mimics what a counterfactual fair transaction would look like, that is one that is efficient and not exploitative, even if it is a case of abuse of vulnerability just as Monopoly. It is not the abuse that is the problem here, but rather its extent. This is because the idea that Will would have a ceteris paribus claim-right to be rescued at no cost is indeed highly implausible, for it generates supererogatory obligations on the rescuer.[15] Rescuing Will costs something, and it is an action that needs to be incentivised, there is, all other things being equal, no problem with Will ensuing a cost here.[16]

For market liberals, this capacity of free markets to meet an independently defined standard of justice is the main argument brought in their favour. This view should sound intuitive enough to anyone familiar with liberal arguments for market competition. Robert Mayer has called this

[15] See on this (Sample 2003; Arneson 2016; Schmidtz 2000), among others

[16] Suppose I buy a hotdog because I am hungry. Have I been exploited? If we assume a neoclassical account of exploitation – as the one offered by Alan Wertheimer for example – then it depends on what happened just before I made my choice. If there was only one hotdog seller who overcharged me because they were the only person around, then the answer is yes. If I was able to choose between many uncoordinated hotdog sellers, then the answer is no, whatever is the nominal price of the hot dog. Note that these examples are meant to discuss the morality of market transactions wherein two partners exchange something, they are not concerned with whether one's rescue should be funded by the state or an insurance mechanism (for example) or whether I have a general right not to starve that warrants certain distributive or welfare policies (for instance). One can agree with these two propositions while still agreeing that 'Competition in the desert' is a transaction that is non-exploitative or otherwise unproblematic (it is, for what it is worth, my case).

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view "neoclassical" because of the influence I just discussed, so I will do the same here (Mayer 2007).[17]

Before moving one, let me discuss a particular example ot his argument at play. Take the current disputes on sweatshop labour, considered by some as the most blatant form of exploitation in today's world (Powell and Zwolinski 2012; Snyder 2010). People who do defend sweatshops' low salaries and bad working conditions tend to do that precisely because they consider them as the result of competitive equilibria – sweatshop labour would in fact be case close to *Competition in the desert*. Salaries paid by sweatshops – even if low by western standards – are higher than the ones offered by local businesses because they are the result of a competition between sweatshops and local employers and are therefore, in the relevant sense, the product of competitive pressure (Zwolinski 2007). Sure, most sweatshop labourers cannot meet their needs, but this is only because their labour is highly unproductive and is thus remunerated accordingly. Exploitation is therefore not the correct wrong at play, rather, and I think this is really the point sweatshops advocates are trying to make, it belongs to the first category of unfairness defined by Arthur Pigou. This sort of unfairness might in the end be corrected only

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[17] Allen Wood also acknowledges this influence (Wood 2016), and so does McPherson in his classification of theoretical justifications of workplace hierarchies (Mcpherson 1983). For the record, I do not believe there is anything inherently problematic about it, Marx's account of exploitation for example was also inspired by the economic consensus of his times about the labour theory of value (Marx 1976, chap. 9), although whether Marx's account needs the acceptance of what is now an outdated economic theory is heavily contested (Arneson 1981; Cohen 1979).

through economic growth that will raise the price of labour with the standards of living (Tomasi 2012, chap. 3).[18]

2. Markets against workplace democracy

The neoclassical view that I have just laid out has had a pervasive influence on debates about workplace democracy.[19]

Those who embrace it see firms as nothing more than a nexus of contracts between the various parties (Easterbrook and Fischel 1991; Alchian and Demsetz 1972), which is therefore subject to the beneficiary effects of competition. On the most extreme view, Robert Nozick, and with him the vast majority of libertarians and market liberal theorists, have argued that free markets do allow workers to create cooperatives, and if none appear, it simply means that workers are not ready to accept the trade-offs inherent to that mode of production – possible lower wages due to the decreases of efficiency inherent to democratic decision making. If people accept to enter contract in hierarchical firms, that means these are satisfactory and there is nothing more

[18] Sweatshops are mentioned here as an example of how the neoclassical view of competition works. The lack of space prevents me from engaging with it more extensively, and especially how it relies on false empirical assumption about the nature of sweatshop labour that is characterized by widespread coercion and abuse of workers. For insights on how the view I mention here presents an incorrect empirical view, see (Arnold and Bowie, 2003; Arnold and Hartman, 2006; Snyder, 2010). For a defence of this view see (Zwolinski 2007; 2012; Powell and Zwolinski 2012; Flanigan 2018a). For an empirical counter-objection to this view, see (Neu 2017), for a theoretical one, see (Kates 2015).

[19] For a complete review of the state of the art on workplace democracy, see (Frega, Herzog, and Neuhäuser 2019). On the economics of workplace democracy, see a more outdated review by Michael Mcpherson (Mcpherson 1983). In this paper, I will only mention the works that are relevant to the point made.

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to the story. Whether democracy in the workplace is a preference that the market is able to satisfy is an open question, and tellingly, Robert Nozick does not seem to consider other institutional means of satisfying it.[20]

Liberal egalitarians are more divided on the issue, although most take workplace democracy more seriously and discuss stronger cases than Nozick's straw man. Those who support it generally reject the neoclassical view by rejecting the idea that firms are more than simple nexi of contracts and are in fact analogous to states or other political organisation that yield a form

[20] If I could indulge in the same sort of mildly irritating rhetorical questions Nozick was so famously fond of, I would make my point in this way:

Why when discussing worker's increased control would Nozick immediately use the straw man of the inefficient cooperative with cumbersome and inefficient political meetings? Interestingly, John Tomasi does the same in *Free Market Fairness* when he criticises the politicisation of the workplace (Tomasi 2012, chap. 6). I wonder why this limited political imagination seems to be a pattern of libertarian thought. I also wonder what would Nozick say about the evidence showing that democratic workplaces tend to have similar levels of efficiency and identical behaviour than non-democratic ones when markets are fully competitive, and that any difference is generally explainable by market failures (Bowles and Gintis 1993)? *Surely,* he would have considered the information asymmetry between the ranks and files and management to explain this inefficiency and why they tend to fail – an asymmetry that could be corrected if cooperatives would be more common and workplaces more democratic. I think it is very telling that he chose to beg the question in this way.

(I apologise to my reader, but this was too tempting). On the economics of cooperatives, see among others (Samuelson 1957; Dow 1993; Dow and Putterman 2000; Pérotin 2016). For further reflection on why cooperatives fail, see (Elster 1989). Note that the present paper does not necessarily advocate for cooperatives, only for increased worker's voice.

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of political power that should be kept in check.[21] If Americans have democratic rights in the United States, then workers employed by Rescuer Widget for Saver Steel should have the same democratic rights on their workplace. Robert Dahl (Dahl 1985)[22] defended the perhaps most influential version of this 'firm/state analogy', making democratic rights a matter of justice in both cases. Just as states', the firms' authority must be under control (McMahon 1994).

Liberals who reject workplace democracy contest this analogy. Richard Arneson for example rejects any right to democratic voice within the firm on the basis of an instrumental understanding of democratic rights – these are useless in the firm since employees can always leave (Arneson, 1993).[23] Robert Mayer follows a similar line when he denies a moral right to democratic voice in firms on the basis of the differences between since the firm and the political community, although he remains open to other justification for workplace democracy (Mayer 2000). Some libertarians have given their own version of this objection: since they see the state as the oppressive institution par excellence, they conversely consider that the firm is the institution of relevantly strong voluntary membership given the possibility of exit (Narveson 1992; Cowen 2017). Exiting one's country, if the right exists at all, is simply more costly than quitting one's job, and the state yields much more power than the average firm.

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[21] For a discussion of this view, see (D. M. Hart 2009). For why it is incorrect to understand nature of the firm, see (Ciepley 2013).

[22] On Mayer's objections to Dahl, see (Mayer 2001b). For a reply by Dahl, see (Dahl 2001). For a follow up by Mayer, see (Mayer 2001a).

[23] See also how this argument can also be deduced from John Rawls' theory of justice (Singer 2015, 79–80). On Rawls and workplace democracy, see (Hsieh, 2005, 2008).

The case for the analogy argument has been revived by Helene Landemore and Isabelle Ferreras, who discussed several objections to it (Landemore and Ferreras 2016). To the argument on the right to exit (Landemore and Ferreras 2016, 67–69), for example, they reply that expertise-specific workers have often limited exit options, and that most workers do not have alternative jobs to turn to. Tom Malleson on the other hand has compared hierarchical firms to the patriarchal marriage (Malleson, 2013). According to this analogy, workers should be freed from their bosses by increasing their bargaining power and through the promotion of democratic workplaces, just as women were liberated by the tyranny of their husband through the capacity to divorce and through the promotion of egalitarian relationships.

Contra the approaches mentioned above, I will offer a justification of workplace democracy that bypasses analogies between the firm and the state and accept the view that the firm is a nexus of contract.[24] I see several reasons for this. The first is that accepting the neoclassical view from the start will force concerns for efficiency into my arguments. The analogy between the firm and the state has indeed been criticised on the basis that contrary to the latter, the former is placed under efficiency constraints (Singer 2018a). The reason people join firms (instead of working for them as independent contractors for instance) is to reach efficiency gains through lowered transaction costs. When these gains fall under what would be obtainable in a competitive market, the incentive to join a firm disappears. The upshot is, as Abraham Singer notes, that unless workplace democrats accept to make compromises on workplace governance for the sake of efficiency, they will soon have nothing left to democratise. The argument has a

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[24] I think this analogy is a non-starter – it might be useful as a form of clarification in the way Anderson uses it in her paragraph 'Communist Dictatorships in Our Midst' to illustrate what she means by private power (Anderson 2017, 37–41), but I see no particular reason to take it further – I will discuss Anderson's view later.

lot going for it, one could actually follow Malleson's analogy for instance and notice that the disappearance of patriarchal marriages has been indeed a disappearance of marriages tout court. People marry less, because the dilution of patriarchal structures and norms has diminished the advantages of the division of labour inherent to this type of matrimonial contract. The second reason is that I hope to make an argument for workplace democracy convincing to free market liberals and libertarians who accept the neoclassical analysis of competition. Most of them make very little case of democratic rights that they see as derivative of (von Mises 1998, chap. XV.6; Hayek 2001) or secondary (Tomasi 2012) to their economic counterparts and reject workplace democracy for that very reason. The case for workplace democracy will have been made stronger if it can be compatible with a general pro-market viewpoint. Third, and most importantly, taking the neoclassical view seriously is precisely what leads me to Albert Hirschman. His idea that market strategies of exit and voice are nothing else but two similar mechanism of lapse recovery was meant to point out the limits of the neoclassical perspective on competition. Incidentally, Hirschman often appears in debates on workplace democracy,[25] but his contribution has not been really properly laid out, simply because the object of his critique has not been properly appreciated. This has led workplace democrats to underestimate what a powerful ally Hirschman is.

3. Exit and competitive equilibria

The best way to criticise a normative argument based on an empirical model is to cast doubt on the capacity of the latter to support the former. A noted critique of the neoclassical view, Albert

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[25] He is especially cited by the most recent literature on the topic, see among others (Landemore and Ferreras 2016; Malleson 2013; Dahl 1985, chap. 3).

Hirschman believed that its proponents have misunderstood how competition really works and what it can really achieve. In this part, I reformulate the neoclassical argument for competition in the light of this critique

For Hirschman, neoclassical economics misunderstand how firms and other market actors react to lapse, slack, and in general, to comparative deterioration in quality (Hirschman, 1970). This led to a false appreciation of what competition is and what it can achieve, “for the image of the economy as a fully competitive system where changes in the fortunes of individual firms are exclusively caused by basic shifts of comparative advantage is surely a defective representation of the real world” (Hirschman 1970, 2).

In *Competition*, the appearance of *Saver Steel* creates a lapse in the quality of the offer of *Rescuer Widget* that is corrected *by* Will – and presumably the other workers – leaving *Rescuer Widget* for *Saver Steel*. This behaviour – that Hirschman’s coins as ‘exit’ – corrects the now inefficient distribution since it satisfies Will’s preferences while forcing *Rescuer Widget* to correct its course to recuperate a flying workforce. This behaviour by Will and other workers is how competition generates the properties of efficiency and power mitigation in *Competition.*

However, *exit* can fail as a mechanism of lapse recovery. Hirschman lists several reasons why. One interesting reason is capital concentration, although Hirschman does not use this exact term. He takes the example of the failure of the national Nigerian railways company to improve the low quality of its services even when facing competition because it could rely on the financial backup of the government (Hirschman 1970, chap. 5). To come back to the example of sweatshops, is the garment industry, which is mostly responsible for their creation, in a different situation given its fabulous wealth? A shortage of labour would need to reach overarching scales for exit strategies to be effective.

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The other, related, reason why exit might fail he calls ‘competition as collusive behaviour’. which occurs when the dissatisfied leaver is easily replaced. So, take the following amended version of *Competition in the desert*:

> *Saturated market in the desert:* [Same as in competition in the desert]. But at the same moment, Harry arrives, who is also about to die unless rescued. *Saver Steel* having already hired the workforce it needed, *Rescuer Widget* makes him an offer with exploitative price X, which Harry accepts.

If Will exits *Rescuer Widget* for *Saver Steel* the first will simply hire Harry instead. This is the meaning of the sentence so many employees hear from their management: ‘if you do not like it, quit, there are ten people queuing who want your job!’ Even if the labour employed by sweatshop is unskilled and has a higher rate of turnover – due for instance to the absence of firm-specific skills – competition might not deliver the desired effects.

There is however a more fundamental reason why exit-based strategies might sometimes be defective: the productive surplus that often characterises market-based human societies makes lapse and slack affordable. Just as in the *Competition* example above, a lapsing firm is immediately replaced. When competition keeps everyone on their toes, there is no margin for lapse, one sinks at the first misstep (Hirschman 1970, chap. 1). This is, Hirschman notes, the reason why neoclassical economists never really conceived exit as a mechanism of lapse recovery at all – they did not need it to for their models to work since they assume that any slacker is immediately replaced.

In reality however, most firms can easily sustain a certain amount of slack and revenue losses:

> The wide latitude human societies have for deterioration is the inevitable counterpart of man's increasing productivity and control over his environment. Occasional decline as well as prolonged mediocrity in relation to achievable performance levels-must be counted among the many penalties of progress (Hirschman 1970, 6).

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And going further:

> Recognition of this unpleasant truth has been impeded by a recurring utopian dream: that economic progress, while increasing the surplus above subsistence, will also bring with it disciplines and sanctions of such severity as to rule out any backsliding that may be due, for example, to faulty political processes (Hirschman 1970, 7).

To put the problem in the context of labour markets, most firms have the capital and the means to stay understaffed, to have a hard time recruiting, to sustain a high turnover – in other words, they do not necessarily have the incentives to perform optimally. *Competition in the desert* is not a distorted view of how labour markets work because most firm such as *Rescuer Widget* can afford, to a certain extent, to ignore the problem of workforce flight. Firms will not always to try to tie every lose end – they will simply perform above the threshold that keeps them from existence-threatening losses – which in the case of sweatshops and multinational firms, to go back to this example, is obviously extremely low. Competition in other terms does not always provide the incentive to reach an optimal level of performance that would lead to distributions characterised by efficiency and power mitigation.

Now, neoclassical liberals could make the following counter-objection: if exit strategies do not correct lapse, then it means that this was not a lapse as far as they are concerned, and that a competitive equilibrium has already been reached. In the cases above, both Will and Harry may not have got their respective absolute preferred options, but they obtained satisfaction on the preference that is possible to satisfy given the conditions in which these markets operate – and the latitude to slack is simply one of them. We come back here to Pigou categorisation of

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unfairness, such a situation would be unfair in the first sense, but is not a case of exploitation[26] and exit-based competition only appears to fail but in fact the distribution that has been achieved is the optimal one given how much can be distributed.[27] This is precisely the sort of objection that the proponents of the firm/state analogy cannot reply to. Landemore and Ferreras for example might be right that most workers have no available exit option (Landemore and Ferreras 2016, 67–69). But for the neoclassical perspective, this is not a problem that justifies giving them democratic rights, on the contrary, it shows that the system worked – the market has cleared in the existing conditions.

This is where Hirschman's dichotomy between exit and voice will turn out to be helpful. Suppose indeed that we add now a little twist to the examples described above. If Rescuer Widget is a monopoly, Will and his fellow workers could refuse to accept any position from the factory owner or any other employer until the offer fulfils a desired standard – say, they are

[26] One first problem with this reply is that we would lose here the intuitive distinction between Competition and monopoly. After all, Monopoly might be said to satisfy conditions of power mitigation and efficiency in a very minimal sense since Will has a way out – he can just choose to die. The relevant baseline then would be Hiker in the desert, compared to which Monopoly in the desert stands at equilibrium since it added an option to Will's range of preferences. Rescuer Widget's first offer created a new option within Will's ranges of preference that he would not have, had the offer not been made. Conversely, Will's vulnerability creates a new option in Rescuer Widget's preferences as well. Both are better off, compared to the counterfactual reality where such a transaction would not happen.

[27] The capability approach as developed by Amartya Sen and Martha Nussbaum contest such a view. The entire debate about adaptive preferences justifies the lower preference structures that develop in poverty against that objection. On how the two interact see (Teschl and Comim 2005). On how adaptive preferences might undermine autonomy, thus possibly weakening the neoclassical argument in the case of sweatshop, see (Colburn 2011).

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paid a given minimal salary. By choosing this option, none of the workers will get the net benefit provided by the exploitative contract, but this action – call it *Strike 1* – may bring future, better deals with other employers who thus have to raise the bid to fill their empty positions. Suppose alternatively that Will and the workers would have accepted to work for monopolistic *Rescuer Widget* but would decide not to leave once *Saver Steel* opens an establishment nearby – instead, they ask for similar pay or working conditions, call this *Strike 2.* What in other terms, *voice* instead of *exit?*

This is the sort of strategy that I will discuss and defend now. I will show how what Hirschman calls 'voice' is a mechanism of lapse recovery that when used in labour markets leads to distributions that display the same properties of power mitigation and efficiency that characterise distribution obtained through competition; even if they are different from distributions achieved through competition alone.

4. Democratic Equilibria

What can justify the use of voice in the workplace and its distributive outcomes? In short: the same arguments that justify exit-based competition. The corollary is that if one supports market competition because of the two already identified properties – power mitigation and efficiency – one should support similar mechanisms that present these same properties or do it better.

Can a distribution that is modified by worker's voice present the same two appealing characteristics discussed so far? [28] Let me tackle efficiency first. Prices formed in competitive equilibria do convey information; however, one of their obvious limitation is that they do not

[28] For a general review of the main economic argument presented against democracy on the grounds of inefficiency, as well as a reply, see (Kelman 1988).

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necessarily convey all the information necessary for market actors to make fully informed decisions, democracy here has clear epistemic value (Gerlsbeck and Herzog 2019). If I buy a pair of shoes for two hundred sestertii, this amount of money might tell me how much this model and this brand are in demand as compared to the quantity that was produced. They will however give me little information on the conditions these shoes were made in, or say, the level of animal welfare of the cattle that gave the leather, or what was the carbon footprint of their production. The same goes for wages, workers, when they accept the positions they are offered, accept the features of their position as a whole package whose content is not necessarily indicated by the price of their labour.

To take the previous example, when Will signs a contract with a firm offering sweatshop-like conditions, he accepts a package of twenty units (the marginal cost of his labour determined by exit-based competition), that are divided in say, fifteen units of wage (X amount of sestertii paid in monthly instalments), three units of workplace safety (paid from the firm's budget), and two units of benefits (paid holidays and parental leave, for example). Opponents to regulations-setting minima on workplace safety or on other perks consider that they will harm the preference of the workers since they cannot get more that these twenty units (since they correspond to their marginal input), and any increase in the units devoted to, say, workplace safety and benefits will mean a decrease in the units devoted to wage, whereas it was precisely the wage that lead them to accept sweatshop labour in the first place (Zwolinski 2007). Regardless of its soundness, this argument overlooks the fact that if the workers had a different preference on how their compensatory packages should be divided, that would be precisely the sort of information management does not have or cannot obtain from exit-formed labour prices.

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The neoclassical view will not see this as a problem of efficiency however – if the need for better working condition was strong enough while being possible to satisfy, the share of the workforce that looks for such an improvement would immediately move to a firm ready to accommodate it, or create an incentive for this accommodation. The problem is that even in a competitive setting, there is no real trade off to be made between price (how much a worker is ready to drop from their salary in exchange of an improvement of any other part of their remuneration package) and quality (working conditions and perks) in job markets – good working conditions usually come tied with good wages and bad working conditions usually are tied with low wages. As Hirschman notes, this is typically a case where quality consciousness will not be correlated with a disposition to exit. Voice would in this case prevent efficiency losses, as the more it is used, ‘the more quality-inelastic can demand be without the chances for recuperation stemming from exit and voice combined being impaired” (Hirschman, 1970, p. 36). By being bargaining tools, *Strike 1* and *Strike 2* are information sending strategies to the same extend than *Competition* is. Will and his fellow workers send a feedback to management that what they offer has become unacceptable.

I grant that voice can be interpreted as something broader and less committing than workplace democracy, for instance, simply a better communication between the rank and file and management. As Hirschman notes, voice is ‘an art constantly evolving in new directions’ (Hirschman 1970, 43). But enshrining its usage in the structure of the firm through a less hierarchical organisation and the creation of bargaining opportunities is necessary to obtain the full effect of the mechanism, especially that given that is triggered when the opportunity cost of using it is low as it ‘is costly and conditioned on the influence and bargaining power customers and members can bring to bear within the firm from which they buy or the

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organizations to which they belong' (Hirschman, 1970, p. 40). Moreover, it is the only way to obtain the effects of power mitigation, to which I turn now.

That voice has power mitigating properties may sounds obvious to those workplace democrats that support the analogy between the firm and the state, but in the present case it needs to be spelled out carefully. Since Ronald Coase, firms' hierarchical structures have only been discussed in the light of the efficiency gains and economies of scale that they allow, and not as places of power dynamics (Coase 1937).[29] Economic growth, and the multiplication of exit opportunities that it created, was thought to be sufficient to dissolve managerial discretionary power and to mitigate any possible abuses that are ubiquitous in hierarchical organisations. This point of view changed with the regular occurrences of economic recession and stagflation that limited worker's exit opportunities on one hand; and with the improved access to the public debate of structurally disenfranchised categories of workers, like women or minorities, which revealed the exploitative practices of which they were generally the first victims, on the other hand.

These evolutions changed how the firm is conceived. In Elizabeth Anderson's words, although the idea goes back at least to Karl Marx, firms are increasingly seen as forms of 'private government' (Anderson 2017, chap. 2). Regardless of the economic conjecture, they are places that are primarily defined by the power of the few – the top and middle management – exercise on the many – the rank and file. Market mechanisms of power mitigation do not apply there, since in Anderson's words, the firm's boundaries are where "markets end, and authoritarian centralized planning and direction begin" (Anderson 2017, 39). When workers contract with a

[29] On the opposition between Ronald Coase and Arthur Pigou's views, see (Singer 2018b).

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firm, they enter a sphere that is not controlled publicly, they submit to a regime of unaccountable government that is the private business and property of the ruler. And hence, even in the developed world, workers are often denied bathroom breaks, are controlled for what they are doing during their working time and their time off, and are penalized for not doing, or not doing enough, what their contract did not mention they need to do in the first place.

The main problem with Anderson's argument is that it does not address the neoclassical counter objection mentioned at the end of Part III. Under a situation of market competition any unpleasant aspect of work and dictionary managerial power might only be a means of labour mobilisation that is necessary for efficiency gains (Alchian and Demsetz 1972) – the same efficiency gains that motivated the workers to enter the firm in the first place. Just as in the case of sweatshops, abusive management might be accounted in the price of labour and is the only way for the firm to stay afloat in a competitive market. In this context, practices that look exploitative only fall under Pigou's first categorisation of unfairness – as before, there is not enough productive surplus to support better working conditions or better wages.

This is however a problem that Hirschman's explanation of the limits of exit can account for. The fact that the firm may afford a departure from the competitive equilibrium means not only that it has the time to predict any lapse that may put it at risk, it also means that it can allow a certain amount of workforce flight as long as the incurred losses remain above its subsistence threshold. This is a margin the firm has that the worker does not, which creates a space of indeterminacy (to put things in Pigou's terms) that may be abused by the firm's management and that cannot be closed with simple bargaining power obtained through the threat of exit. As Hirschman points out, added competitive pressure can even make things worse, since its pushes away the potentially most vocal malcontents (Hirschman 1970, 47–49).

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This makes exit powerless against all the exploitative and abusive experiences that characterise the contemporary workplace, the petty humiliations, the occasional unpaid overtime, the uncomfortable working conditions, and the constant control that sometimes borders on harassment. These practices, often symptomatic of a larger managerial culture aiming at obtaining incremental gains in productivity[30] – are possible precisely because markets create the material conditions that allow firms to resist strategic exit while depriving the workers from the only alternative they have, that is voice.

Firms may therefore always engage in this sort of power abuse simply because they are always to some extent immune to exit-driven competitive pressure. Bad working conditions are therefore not the symptom of a market failure or a necessary cost to reach competitive equilibrium. It is not a direct consequence of the firm's organisational structure either – which is the point Anderson and the proponents of the firms/state analogy above miss – the problem is what Hirschman has called above the 'penalty of progress', the very surplus created by market institutions.

Without voice and only exit, the worker might be a price taker, but the firm is very much a price maker. Voice however allows this sword to cut both ways. Once it is accepted that firms can afford a certain level of lapse, the debate on the firm' organisational structure, hierarchical, democratic or else, simply becomes one on who should pick up the slack. Workplace democracy is hence justified as a fairer way to share the costs of sub-optimality, or conversely, how to divide the productive surplus obtained above the firms' subsistence threshold. In other words,

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[30] As an example, see this discussion of the evidence of the negative effect on working environment of lean production (Hasle et al. 2012)

if departures from competitive equilibria are not life threatening, then the rank and file workers may ask, to some extent, for better conditions, better wages or a better remuneration package without the firm immediately running out of business because of decreased profit, of course up to a threshold fixed by external market conditions. The neoclassical conception of exploitation as a deviation from a distribution achieved at market equilibria – where, say, McDonalds cannot increase its employees' wages because it would lose its clients to Burger King, meaning McDonald cannot be possibly exploiting its workers in that context (Wertheimer 1996, chap. 8), is therefore incorrect.[31]

Is there a way however that voice, as Hirschman puts it, may be 'overdone' (Hirschman, 1970, pp. 31–32), that is induce a decrease in efficiency? There are several responses to this. One obvious problem with the discussion so far is its high level of idealisation. In many cases, unfairness is in fact the products of extra-economical injustices that created in the first place a vulnerable class of people ready to take any deal. Sweatshops, to come back to this example, are often the consequences of forced rural flight caused by land appropriation (Neu 2017), and the role of land enclosure and coercion as means of labour mobilisation in the development of capitalism are a well-studied subject (Polanyi 2001; Beckert 2015). Workplace democracy may help markets not to simply reproduce pre-existing unjust social institutions and may re-enfranchise people who literally lost their voice.

[31] Note that like most contemporary accounts of exploitation, Wertheimer's stays quite vague on what it takes to achieve a non-exploitative benchmark – since he only defines exploitation as "unfair advantage taking of unfairness". This is not incompatible sensu stricto with the idea of reinforcing voice in the mechanism of distribution since voice-deprivation might be considered as unfair. His reflection on the value of economic competition could deter one to read him in this way, however.

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But one needs not make a historical argument. Labour's inherent low mobility, especially compared to capital, and heterogeneity – combined with wider structural problems such a chronic unemployment or the emergence of slow growth economies – make it hard to believe that exit alone will bring about distributions meeting the two criteria of efficiency and power mitigation. Given all these constraints, voice here can be shown to increase efficiency following the idea that second bests distributions may only be achieved by departing even further from the conditions necessary to an ideal equilibrium (Lipsey and Lancaster 1956).[32] Incidentally, Arthur Pigou himself had a positive opinion on unions and their capacity to re-equalise bargaining power and to simulate situations of competition (Pigou, 1920, p. 559):

Even when the gap (between marginal products and the supply curve) is large the occurrence of exploitation is not certain, and in occupations where the workpeople have been able to organize themselves into strong Trade Unions, supported by reserve funds and bargaining for their wage rates as single collective wholes, it is not even probable.

Even if the introduction of voice might modify the initial market-based distribution, this does not mean that a loss of efficiency or power mitigation has occurred. In fact, and this replies to the counter-objection that concluded the third part, it is possible to rearrange the distribution while obtaining gains in efficiency and power mitigation. Voice so conceived is only correcting a lapse from another type of equilibrium that maximises these two properties while balancing both mechanism of exit and voice. I propose to call this distribution a *democratic equilibrium*.[33]

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[32] On the relevance of this second best theorem for business ethics and corporate governance, see (Heath 2014; 2009, chap. 3)

[33] A democratic equilibrium differs from a competitive equilibrium because voice has participated to its emergence. Voice, for Hirschman, is the characteristic of the sphere of politics, hence the name – a feature

By being the normative clerks of neoclassical economists, market liberals and libertarians share their 'defective representation of the real world' (Hirschman 1970, 2) and have misunderstood the nature of inefficiency and exploitation. There is also, in general, something to be said in favour of a society where abuse is impossible because contractual agreements maintain space for bargaining, as opposed to one where virtuous behaviour is drilled by economic incentives and the risk of sinking at the first misstep. The question the present argument asks is however simpler: [34]

5. If you are pro-market, how come you are not a workplace democrat?

To wit, if you are pro-market, there is no reason for you not to be a workplace democrat, at least in a minimal sense; unless your opposition to workers' voice is purely ideological.

This paper provides a very general justification for workplace democracy, through the increase of the rank and file workers' voice. This is a more of a foundational work that I hope have undermined the confidence that liberals with a neoclassical sensitivity place in workplace hierarchy, and have made them more open to non-market-based ways of challenging them, regardless of whether that would imply full fletched workers' ownership or simple increased public voice, as exemplified by the recent *#me too* movement that showed how exit was powerless, among others, to face sexual abuse in the workplace. [35] I have simply made

acknowledged by workplace democrats who always characterise it as strengthened workers' voice. This difference in how the equilibria appear is the key difference; it might be possible that their distributive results are the same.

[34] A question to ask especially to liberals contemptuous of politics rights such as John Tomasi for example (Tomasi 2012).

[35] Joni Hersch has argued that sexual harassment is not an abuse of power but the product of a rational exchange between utility maximizing individuals (Hersch 2011). The mere fact that this paper exists shows that there is

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theoretical space for bargaining and deliberative practices within reasonably free and competitive markets. From here, further reasons can be made in favour of particular models of workplace democracy.

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something neoclassical perspectives cannot understand about exploitation and the real nature of workplace relations (and I suspect, simply do not want to).

Part II
Liberalism and the Exploitation of Labour

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III. Exploitation and Anticapitalism

Exploitation was originally an anticapitalistic concept, even if the idea that the payoff of an economic transaction may be unjust goes back to antiquity (Reiff 2013, chap. 2). Used in that sense by Karl Marx, it aimed at showing that economic and social relations in capitalist economies are just as based on spoliation, appropriation and inter-class violence than the feudalism they had replaced. This original understanding of the concept has been replaced in the literature by a second sense that could be called 'business ethical' that is one where exploitation is seen as an unfair taking of advantage occurring at the interpersonal level, and that rather than being a necessary feature of a given economic system, is a contingent ethical wrong that mostly originates in the morally noxious behaviour of the exploiter. The concept of exploitation has attracted a significant renewal of interest in recent years,[36] however, under the influence of Alan Wertheimer, it has mostly been understood in the 'business ethics sense'. The first original reading has been recently revived on the other hand by Nicholas Vrousalis in a series of papers that seek to identify exploitation as the product of the discretionary power the capitalist has over the worker.

My aim in this paper is to lay out what an account of exploitation must look like to be of the first type and deliver a successful anticapitalistic critique. I will focus on Vrousalis[37] since

[36] See three following conceptual mappings of the literature on the topic (Ferguson 2018; Zwolinski and Wertheimer 2016; Vrousalis 2018).

[37] Apart of Vrousalis, the consensus seems to be that exploitation understood as an anti-capitalistic concept is a dead end, for even if it is proven that capitalism is inherently exploitative, it seems unclear what exactly we should do about it (Zwolinski 2016).

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among all the existing account it is the one that is the most explicitly anticapitalistic, and on Wertheimer's, since as I will show it is the exact opposite – it is consciously designed as accepting the institutions of capitalism. I argue that they are indistinguishable, and thus that Vrousalis' account fails to deliver its anticapitalistic critique. My argument is that an anticapitalistic account of exploitation needs to address the institutions and rules of capitalism – stringent private property rights traded in markets that organise the allocation of scarce resources through strategic interactions – understood as an ideal. Wrongful exploitation must be shown to stem from the optimal functioning of these institutions rather than from their contingent failure. Unfortunately, this is precisely what Vrousalis' accounts fail to achieve, being in the relevant sense indistinguishable from the 'business ethical' approach. I will remain agnostic in my discussion on whether capitalism is indeed exploitative or not, that question will remain an unanswered one during the entire length of this essay. The problem is *not* that these two accounts fail to reach a conclusion that is otherwise true (that capitalism is exploitative).

I will argue, especially, that both accounts are moralised in the same way. Exploitation is indeed not wrong in itself. Rather it is a moralised concept that is used as a proxy towards the more general wrong that is present in the incriminated interaction. Take a moral wrong X. If X is present in an interpersonal interaction where it has led A to benefit at the expenses of B, and that benefit would not have occurred without X, then what we mean by 'A has exploited B' is really 'A has Xed B'. 'X' is relevantly equivalent to 'has exploited', however, what that means will vary depending on what the identified wrong at play is. In that sense, every account of exploitation talks about something else – Nicholas Vrousalis talks of domination, Alan Wertheimer of unfairness, Ruth Sample of disrespect, Hillel Steiner of infringement of rights, and Mark Reiff of infringement of welfare rights, exploitation consisting in the benefiting from

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these interpersonal wrongs (Vrousalis 2019; Steiner 1984; Wertheimer 1996; Sample 2003; Reiff 2013) – the list does not mean to be exhaustive. An anticapitalistic version of each of these accounts would require their respective wrongs to stem from the ideal application of the institutions and rules of capitalism. Stringent private property rights traded in markets that organise the allocation of scarce resources must be shown to lead to domination, unfairness, disrespect and infringements of the relevant set of rights.

This essay is structured around five parts. First, I will establish what an account of exploitation would need to do to be anticapitalistic. It needs to be an account of necessary – as opposed to contingent – exploitation. By that, I mean that it needs to show how exploitation is a type of interaction wherein an independently moralising criterion is present, and to show that this criterion necessarily derives from the institutions and rules of capitalism. In the second and third parts, I introduce the two accounts I will discuss, the ones formulated by Alan Wertheimer and Nicholas Vrousalis. I show that Wertheimer's is the most typical example of an account of contingent exploitation for it establishes the impossibility of a Paretian exploiter. Pareto optimality, achieved with a price obtainable in a perfectly competitive market, is the core principle of capitalistic distributive justice. Wertheimer's account is unable, by definition, to be an account of necessary exploitation, and that was most likely its entire point. This reconstruction of Wertheimer's account is a necessary step for what comes next, for it shows us what an anticapitalistic account of exploitation must, *not* look like. The fourth part focuses on Vrousalis specifically to show that once we factor in certain costs that Vrousalis has ignored, his view collapses into Wertheimer's, that is what is a prime example of contingent exploitation. The fifth part concludes by showing that the inability of both accounts to reach the theoretical level necessary for an anticapitalistic critique comes from how they are moralised. Every

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account of exploitation that will assume that it is a function of someone's discretionary power will lead to the stalemate in which Vrousalis found himself stuck.

1. Anti-capitalism as the critique of rules of strategic interaction

Showing that a set of rules and institutions is wrongfully exploitative requires to show that they necessarily produce wrongfully exploitative interactions. If wrongful exploitation necessarily derives from following, that is not breaking a set of rules, then the rules are wrong, and the institutional context that enforces the rule is wrong as well. A social and economic system is therefore wrong, or unjust, or unfair, or dominating, or presenting any other moralising feature because it produces transactions that are wrong, or unjust, or unfair, or dominating, or presenting any other moralising feature. For example, arbitrarily coercing people is wrong. Slavery as a system or set of rules produces types of interactions where among other wrong-making features, people arbitrarily coerce other people. Therefore, slavery is wrong, although obviously, that is only one of the many reasons why. An anticapitalistic argument based on exploitation would follow a similar structure, replacing 'slavery' by 'exploitation' and 'coercion' by the relevant moralising feature. Conversely, an account that would conceive exploitation as not necessarily following a set of rules and institutions will be called, as far as these rules and institutions are concerned, 'contingent'.

An account of necessary exploitation must however not only show that it necessarily derives from the institutions it seeks to criticise and that *that* makes these institutions wrong following a relevant moralising criterion, but it also must be the kind of wrong that institutions should prevent qua institutions. Certain types of wrongs that derive form political and economic institutions cannot reasonably be held against them. For example, you should not cheat on your wife if you promised not to do so, because it is, arguably, wrong – the moralising criterion being

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here the act of lying. But it would be silly to say that criminal law is incomplete or wrong because it allows your cheating on your wife (for example by failing to sanction such a behaviour). There are certain other wrongs on the other hands, that the institutions should correctly identify as wrong, usually every action that is related to a violation of fundamental rights. For example, the coercion that is inherent to the institution of slavery is an infringement of the rights of the slave – here again, among many others – and a set of rules or institutions that allow slavery as a type of interaction is wrong.

To illustrate, consider the following example, inspired by Lewis Carroll's reinterpretation of the fable of Achilles and the Tortoise (Carroll 1895):

> *Rigged game*: Achilles and the Tortoise decide to run a 100m race. The story starts the familiar way – Achilles lets the Tortoise start 20m ahead. The Tortoise 'uses' Zeno's paradox to win[38] – forcing Achilles to first reach the point where she has been 20m upfront, then having to run the distance that she had run through in the meantime while she is making a further advance, and so on. In the end, the Tortoise wins. She won not with her athletic skills but through the application of a philosophical paradox.

Call this type of interaction a strategic interaction, where two (or more) rational agents are trying to obtain a scarce good, that is one that only one of them can get. That good here is 'Winning the race', and it is a scarce good, meaning only one of the two can obtain it, and the one that obtains it will only do it at the expenses of the other. This 'scarcity assumption' is a sufficient condition for strategic interaction, if both Achilles and the Tortoise could win at the same time, they would not need to interact. How this scarce good will be distributed depends

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[38] If you are confused on how the Tortoise can 'use' Zeno's paradox to win, suppose that, in the context of this example, philosophical paradoxes such as Zeno's can be used as some sorts of magic spells. If that is hard to imagine too – suppose then that the Tortoise, simply explains the paradox to Achilles which (understandably) confuses him so much that he loses the race.

on the particular rule or principle that will structure the interaction – here the rule that says the fastest athlete is the one who wins.

Suppose there is a principle of justice that says 100m races, as a subclass of strategic interactions, should be won by physical skills alone. Suppose for example that this is the only way the result of a 100m race can be fair, with fairness being the main criteria through which this type of interaction is morally assessed. Fairness gives us here a criterion of what counts as a good rule to determine the winner of a 100m race – a rule that takes into account physical fitness alone does indeed what the rule for a 100m race is supposed to be doing. With this in mind, there are two ways the Tortoise can win the 100m race by using Zeno's paradox, both indeed related to how good the rule is and how it is enforced.

Suppose that the race in *Rigged Game* is ruled by what counts as a good rule – it measures physical fitness alone and nothing else and ensures the fairness of the race. Properly enforced, it leads to an optimal result – the victory of the athlete who has trained the hardest, who is the fittest, and so on, it is a *fair result*. In this context, the only way for the Tortoise to win by using Zeno's paradox is to abuse an injustice that is in the background of the race and is rigging it. For example, suppose that the Tortoise knows the referee of the race has a strong racist prejudice against people with weak heels. Achilles has a weak heel. Therefore, the Tortoise knows that although in general 100m races are judged according to physical fitness, in this *contingent* case, the referee will close her eyes on her using Zeno's paradox. She will have effectively won with philosophical fitness instead because the rule against this cheating will have not been enforced. In this context, the Tortoise has exploited Achilles' status as a member of an oppressed minority – those with weak heels. The problem here is that the rule has failed, in the sense that it has not provided the optimal result it was meant to for reasons that are contingent and independent from

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that rule. It has failed because there is an offset between the incentive given to the rational agent (winning the race) and what the rule should be doing (ensuring the fairness of the result), whereas they should align in optimal conditions. This failure, however, does not originate in the rule itself, it is rather that a contingent event happened that the rules did not and could not foresee. One could criticise the rule precisely for such an oversight, but that would lead to another altogether argument. We would not arrive to a critique of the rule itself, but rather to a critique of the application of the rules to that particular strategic interaction.

There is another way Tortoise can win by using Zeno's paradox. Suppose now that the rule is not a good rule, in the sense that it does not determine the winner solely through the measurement of physical fitness and that its enforcement does not lead to a fair result. For example, the rule is ill-designed and, allows, through a loophole, to win by using silly philosophical paradoxes like Zeno's. Considering the moralising criterion that should be used to measure 100m races, the rule is bad in the sense that one can play unfairly while not breaking it. If the Tortoise wins with the paradox, she wins without cheating, she has done nothing that the rules do not forbid and, in that sense, *has followed the rule*. Here, the result is wrong, because the rule itself is wrong. The Tortoise does not have to play unfairly in that way. Given the initial incentive, however – she entered the race to win, and she wins only if Achilles loses – it is reasonable to assume that she will. Unfair playing necessarily follows the strategic nature of the interaction when that interaction is structured by a bad rule.

There are therefore two ways of conceiving *Rigged game* as not abiding by any given moralising criterion (here – fairness) that we use to assess 100m races. The first way is to see it as a matter of contingency, that is some external element (here – background injustice such as racism) rigs the result of otherwise good rules of racing. Wrongness, in that case, *may* occur

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when the game is played. The second way is to see it as a matter of necessity, where the game is rigged by a bad rule that by itself does not enforce a given moralising criterion. Wrongness *necessarily* occurs *whenever* the game is played.

Accounts of necessary and contingent exploitation respectively follow the same two reasonings. The institutions of capitalism or any given economic model are a set of rules of strategic interactions enforced by a set of institutions. For example, because of the institution of private property, capitalism does not allow you to take my property away unless I have consented to it. The rule here calibrates how you are going to respond to a given pre-existing incentive. My property rights in that sense create a constraint on your behaviour in the same way the rules in the 100m race prevents the Tortoise from winning by shooting an arrow into Achilles' weak heel. If the rule is wrong, you will necessarily commit wrong (for example unfairness) in your interaction with me just because your response to the incentive that triggered the interaction will not be calibrated to prevent that wrong.

Making exploitation an anticapitalistic concept requires showing that its institutions and rules lead to exploitation in *that* necessary sense. If it can be proved that exploitation is a matter of necessity, then capitalism is wrong because the result of the application of its rules will be necessarily wrong. Conversely, an account of contingent exploitation cannot be anticapitalistic, because it can only show that exploitation occurs when the rules of capitalism have failed for – precisely – contingent reasons. Just as the first reading of *rigged game* did not lead to a critique of the rules of the race, but rather to an appreciation to their inadequacy given the referee's racism, so the incapacity of capitalism to deliver optimal distributions within political or social constraints that do not depend on it cannot be retained against it. If an account of exploitation can only show that exploitation follows from such constraints, then it is not an anticapitalistic

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account, it is an account that criticises these constraints. In other words, moralisation comes through a normative appreciation of these constraints, but not of the rules of capitalism.

2. Two accounts of exploitation

The distinction made in the introduction between the 'business ethical' and the 'anticapitalistic' accounts corresponds to contingent and necessary exploitation respectively. For this paper, I will identify two main representatives of these two views of exploitation. Alan Wertheimer will be the frontman for the contingent account and Nicholas Vrousalis for the necessary one.

Wertheimer sees exploitation when there is a deviation from a baseline of fairness expressed through a price equilibrium obtainable in a competitive market. For example, if one person sells her house to her friend, and offers her the price that was quoted by a specialist as the current market rate for houses in the area, then the buying friend has no claim of being exploited (Wertheimer 1996, chap. 7). What makes fully competitive market prices non-exploitative is what happened just before the transaction, none of the two friends in the example above can claim that she has been abused unfairly in the bargaining process, since a competitive market, no 'better price' could be offered. Such an unfair price would be the result of the discretionary bargaining power of the exploiter who has the power to 'make price', that is to impose the price she wants (within the limits of the exploited reservation price) because of the lack of competitors:

> when we say that A takes unfair advantage of B, we typically assume that A could have chosen not to take unfair advantage of B, that their specific transaction could have occurred on fairer terms. And this is precisely what generally cannot occur in a perfectly competitive market (Wertheimer 1996, 217).

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Exploitation is here the normative equivalent of Pareto inefficiency. Wertheimer's account effectively implies the impossibility of a Paretian optimal exploiter. This, in turn, renders any critique of capitalism based on exploitation impossible, precisely because inefficiency comes from a failure of the institutions of capitalism.

Before making that point, let me lay out what exploitation is for Vrousalis. He considers it to be an appropriation of unreciprocated utility (the talks of labour time in clear Marxist fashion, but the idea is the same for my purpose here) by the exploiter. For Vrousalis, the independent reason that explains the wrongness of exploitation is the relation of domination that results from relational vulnerability. This results in an interaction that is unequal in the utility transferred on both sides, a differential reaped by the capitalist as 'the dividend of servitude' in Vrousalis' sexy expression (Vrousalis 2013; 2019; 2016). Domination through relational vulnerability is here the locus. There is however an additional feature – for Vrousalis, abusing this vulnerability must be the reason why the exploiter interacts with the exploited.

We can talk of exploitation whenever a relation or an interaction between two individuals features these two elements, first, one party is relationally vulnerable to the other, and second, benefiting from that vulnerability is the reason of the interaction and the origin of the exploiters' profit. Here, again, Vrousalis' argument can be anticapitalistic – which is its stated ambition (Vrousalis 2013, 131) – if it can show that these two features both necessarily derive from the institutions of capitalism.

3. Domination and Paretian efficiency

My main point in this part will be to show that Vrousalis' account is, in fact, one of contingent exploitation that is virtually the same than Wertheimer's. To arrive at this conclusion, I need to

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discuss one of its features that Vrousalis has assumed without justification. Once we have accounted for this feature, his account faces the same limitations than Wertheimer and becomes unable to show the possibility of a Paretian optimal exploiter.

Applied to capitalism, Vrousalis' account claims that the relational vulnerability induced by the institution of private property leads to a domination of the worker by the owner of capital the capitalist. Suppose for example that I lose my keys outside and call a locksmith to open the door. I am relationally vulnerable to her, and she uses my vulnerability – my incapacity to open a closed door myself – to make a profit through her ownership of the means of locksmithing. This is, at first sight, an account of necessary exploitation. Vrousalis moralises exploitation through domination and shows how the division of labour inherent to capitalism leads to relations of domination that lead to exploitation. Since the capitalist institution of private property creates such a vulnerability between capital and labour, capitalism creates a relation of domination between capital and labour and is therefore exploitative.

One immediate objection is to make a *reductio* – Vrousalis' account would seem to condemn locksmiths, but also emergency room surgeons and tug masters to the sixth circle of hell along with usurers and price gougers (Arneson 2016; Miller 2017). Vrousalis' account would create false positives and deems for exploitative what is at worse the normal way humans interact, especially so in market contexts. There are cases where relational vulnerability is abused that are not wrong, thus making Vrousalis' account too strong and too encompassing. Vrousalis reply is that such a reading fails to take into account that exploitation is a form of servitude, that is a relation of domination that obtains in any use of favourable market position for enrichment (Vrousalis 2016; 2019).

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The objection to his account that I will present now is that he has failed to consider certain costs that are inherent to the type of strategic interactions that for him lead to exploitation. Once these costs are factored in, it becomes unclear how exploitation occurs *necessarily*. Take the following example, that he discusses extensively (Vrousalis 2013) :

> *Ant and Grasshopper Original*: Grasshopper spends the summer months singing, whereas Ant spends all her time working. When the winter comes, Grasshopper needs shelter, which she presently lacks. Ant has three options: she can do nothing to help Grasshopper, she can offer her shelter that costs Ant nothing, or he can offer her shelter on the condition that she signs a sweatshop contract. The possibilities, in the relevant metric, are:
>
> (Ant, Grasshopper)
> (i): Do nothing: (10, 1)
> (ii): Sweatshop: (12, 2)
> (iii): Shelter: (10, 3)

For Vrousalis, only (iii) is non-exploitative. (ii) is exploitative, because it is a case where Ant gains the dividend of her domination over Grasshopper that is due to her ownership of the means of sheltering. This case is central for Vrousalis' account, for it allows to ground the exploitative character of strategic interactions based on cleanly generated inequalities of property, such as those described by Robert Nozick in his Wilt Chamberlain argument (Nozick 1974, 161–63). This allows Vrousalis' account to sidestep the conceptual necessity of primitive accumulation as an ethical explanans for capitalist exploitation and to show the exploitative character of 'cleanly generated capitalism'. In other terms, Vrousalis needs this case to be successful for his account to be one of necessary exploitation.

The payoffs are however simply bizarre. Why is (iii) a positive-sum transaction? Why does offering shelter cost nothing to Ant? (iii) is a unilateral transfer of utility, contrary to (ii) which sees the production of some additional utility through Grasshopper labour to Ant and through Ant's payment of a wage to Grasshopper. If this is supposed to be an idealisation of the relation

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between labour and capital, it seems wrong to assume that capital's utility function is unchanged if parts of this capital are unilaterally transferred to labour.

A capitalist can consume her capital after all – Ant can simply enjoy her shelter and food reserves on her own instead of buying Grasshopper's labour time with a share of that capital. The interaction between Capital and Labour does not cost something only to Labour, it costs also something to Capital – this is the basic libertarian argument for the justification of profit (Böhm von Bawerk 1949; Nozick 1974, 253–56). Likewise, it is incorrect to consider that the locksmith from the example above does not undergo any decrease in utility by rescuing me for free – coming to my flat has a cost, it costs her something. In other words, interacting with the worker and with me has a marginal cost for the capitalist and the locksmith, due to the scarcity of the capital owned by the capitalist and of the time and capital owned by the locksmith.

Besides, it is unclear to me how 'do nothing' is even an option. Suppose Ant decides to consume her capital instead of buying Grasshopper's labour time. Suppose for example that she rather decides to spend it in one night in Las Vegas. By doing so she will incentivise as much labour as if she had offered a labour contract to Grasshopper. Has she dominated people employed in the entertainment industry by doing so, in the sense that her money was what motivated Las Vegans to work as croupiers, strippers and hotel managers? The only way that Ant can indeed 'do nothing' here is by printing her capital in banknotes and setting it on fire.[39]

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[39] Keeping that money in the bank *is* an interaction, for by putting her money on a checking account she is actually *lending* it to the bank – putting in on a saving one is of course even worse. The general point is simply that in a market society characterised by private property rights and a complex division of labour, most actions will be

The problem with *Ant and Grasshopper* is that it has set aside the scarcity assumption – any modification of the initial distribution in favour of Grasshopper can only be made at the expenses of Ant and any course of action undertaken by both agents will have a marginal cost. Ant endures the cost of saving Grasshopper (she could go to Las Vegas instead of hiring her); the locksmith endures the cost of saving me (he could go to the second-best paying customer instead). This must be taken into consideration into the analysis of the payoffs. The payoffs in *Ant and Grasshopper* should look like this – my corrections are italicised with the marginal costs properly factored in:

Ant and Grasshopper modified
(i): Do nothing: (10, 1)
(ii): Sweatshop: (12, 2)
(iii)*: Shelter: *(10-2), (1+2): (8, 3)*

It is now (iii)* that looks like a case of exploitation – Grasshopper has exploited Ant for she is the one that is going to gain some of Ant's utility without reciprocating it, even if we keep the assumption that Grasshopper is still relationally vulnerable to Ant.[40] The relation of exploitation, expressed through the direction of the transferred utility, here goes in the opposite direction than the relation of domination. Factoring in marginal costs creates here axiomatic

reducible to strategic interactions with others, and if 'doing nothing' means avoiding these types of interactions, then 'doing nothing' will very rarely be an option at all.

[40] Both Vrousalis' original version and the amended one seem vulnerable to the objection that there could be a non-exploitative pay off, for example (iv) = (11, 4). Vrousalis' would reply that any interaction here where Ant benefits is a case of exploitation, as it is an abuse of a case of interpersonal vulnerability. Such an implication might seem implausible, but anything else would imply a conception of 'fair price' that seems to go against the grain of his account. I am unsure why he uses the charged word of 'sweatshop', for it follows from his view that any type of labour here would count as exploitative, whereas 'sweatshop' seems to imply that only that one type of labour is (assuming sweatshops are synonymous with exploitative labour).

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problems for Vrousalis – domination does not look like a necessary condition for exploitation when such costs apply.

There are two ways (ii) in *Ant and Grasshopper original* may still be a case of exploitation. The first depends on some additional context added to (ii) in the modified version. Suppose for example that Ant has closed the borders of the country in which Grasshopper lives to prevent her to emigrate and then comes to offer her the job. This would be a case of exploitation, but it will not be a case of a necessary one, for the relational vulnerability is not based on the private property of Ant's capital, but on a violation of Grasshoppers' rights to move to greener pastures. The other way out is to simply keep the payoffs of the original version but to change how we interpret the origin of Ant's wealth. Suppose Ant did not work to get what she has but has at her disposal a magic money tree that produces all the value she may need and that this tree is in her possession out of sheer luck (there is neither reason for her to have it or not to have it, nor did she get it in an unjust or rights-violating way). In that case, only can she transfer two units of utility to Grasshopper without incurring any diminution of her utility total and in that case only would it be wrong for her to demand that Grasshopper labours in exchange of the utility produced by this tree since the marginal cost is nil, given that all the utility she spends will be effortlessly replaced. In other words, *Ant and Grasshopper original* works as an example of exploitation only in situations of non-scarcity. Profit is then wrongly exploitative in *Ant and Grasshopper original* because it is possible to interact for free, or without incurring any costs at all. This, however, raises the question of the general relevance of Vrousalis' account. Scarcity is indeed why we need rules for strategic interaction in the first place, scarcity, as we saw, is what *incentivised* strategic interaction that the rules of capitalism guide.

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Think of two such scarce resources – external material resources and labour time. The institutions of private property and the division of labour allow distributing these to those who have ranked them the highest in their order of preference. Why? Take again the case of the locksmith above, who opens my door because I foolishly lost my keys. Consider the alternative. I could, for example, learn locksmithing myself. I could buy an opening door tool kit, acquire the skills necessary to open a locked door, undergo the skyrocketing insurance and security costs induced by living in a society where everyone has the skills to break into my flat, and more importantly, endure the time wasted while taking such a course of action – I presently have more interesting things to do than learning locksmithing, like writing about exploitation among other things.

On the other hand, my choosing not to learn locksmithing incentivises the locksmith to take on the job of locksmithing, since ideally, she has no preferred alternative. This means that I will have to pay her, since, without this, she would not rescue me, for she needs to front her initial investment in her productive capital (her tools, skills and so on). Covering her expenses is not enough, however. I also need to pay her a certain amount of profit. It has indeed an allocative function related to the scarcity of the locksmith's time – someone who needs a locksmith the most will pay the most, and the locksmith will, therefore, use her limited resources to help the one who has the highest willingness to pay, and who ideally is the one who needs help the most.[41] Our respective specialisation (my writing philosophy paper and her locksmithing respectively) leads to Paretian optimality in the distribution of a scarce resource – time – since

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[41] Vrousalis seems to accept the allocative functions of markets – see (Vrousalis 2019, 12–13).

we have both satisfied the highest possible preference we had concerning the way we are to spend it.

It is possible to modify Vrousalis' account to integrate scarcity related costs? Yes, if we consider that exploitation occurs whenever the exploiter has the power to impose a profit that rises above marginal costs. This realigns the relation of domination with the exploitative payoff. Suppose for example that the locksmith has a monopolistic position in the sense that she is the only one around. She can in that situation ask whatever price she likes. The lack of competition does not calibrate the way she will react to the incentive my vulnerability to her has created. In that sense she dominates me, and the price I will pay will most likely be exploitative. When the scarcity assumption hold, Vrousalis' account is therefore concerned with *how much* just as Wertheimer.[42] More to the point, Vrousalis cannot show that a Paretian optimal exploiter is possible, for the monopolistic locksmith exploitative price will necessarily be Pareto – inefficient.

However when there is no monopoly, and the price is Pareto optimal, there cannot be any 'dividend' involved on either side of the transaction, even less one coming from 'servitude', unless we lift the scarcity assumption.[43] Vrousalis and Wertheimer's accounts become indistinguishable despite their different moralisations through domination and fairness respectively. Since the latter cannot be anticapitalistic by definition, neither can the former.

[42] As he admits himself, his view is actually fairly close to Wertheimer's in that sense (Vrousalis 2016).

[43] Whether workers are dominated in capitalism is a different issue than whether they are exploited. One could agree with the present paper while holding without contradiction a view similar to Gerald Cohen's that workers are unfree in capitalism (Cohen 1983b; 2001).

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Both are accounts of contingent exploitation, and both fail to reach the conceptual level necessary to criticise capitalistic institutions.

4. Duties not to exploit

This becomes even clearer when we analyse which types of duties exploitation generates on economic agents. Exploitation is indeed a moralised concept, and I take it to ground a range of duties we may have towards each other (Christiano 2015; Goodin 1987). By analysing the type of duty an account of exploitation generates in strategic interaction, we may identify its scope, and, what is of interest here for us, whether it leads to the conclusion that the moral wrong to be avoided is an issue with the institutions of capitalism themselves. In this part, I will show that both Wertheimer and Vrousalis fail to do that. Here again, if it was an intended corollary for the former, it is a contradiction for the latter. And this, I argue, has become apparent once we have factored in marginal costs of interaction.

What duties agents have in their interacting strategically with each other? Here again, we can do some primarily exploratory work by temporarily leaving exploitation aside for a moment. So, let me come back to *Rigged game*. Remember that the Tortoise may wrong Achilles in two ways, she can either follow the bad rules, or she can use a contingent failure of the good rules. In both cases, her doing so is however at her discretion. She may and she should choose not to do either of these things and not to use the power she has been bestowed either by contingency or by necessity. Her not wronging Achilles in either way can, therefore, be expressed in two different duties generated by the nature of the rules of the race. In the first case, the Tortoise's duty not to wrong Achilles is a *duty beyond compliance*. Because the rules are wrong in the sense that they do not comply with what a good rule should do, complying with them does not exhaust her duties towards him. Her duty to the contrary goes beyond and further of what the

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rule dictates. This applies to social rules and norms at large. If I live in a society practising slavery, my duty cannot be limited to follow the law that enforces slavery by doing everything that it allows in my strategic interactions with others. I have a duty beyond that, I have a duty not to do what the rules allow me to do – owning a slave – and I also have a more general duty to do what the rules do not allow me to do – I must liberate as many slaves and eliminate as many masters as I can. In the second case, however, the Tortoise has a *duty of compliance* – that is she must follow the rules even if she has an incentive not to and that not complying would be the quickest way to win the race. She should not rely on the referee's racist prejudice towards Achilles' weak heel for the same reasons she should not abuse contingent unfairness that would prevent Achilles from competing (for example she has a fair play duty to stop running if Achilles gets a sprain to his weak heel in the middle of the race). In either case, she must race normally and behave as if the referee's prejudice did not exist. The same applies to exploitation and capitalism. To show that the institutions and rules of capitalism are exploitative, an account of necessary exploitation must imply for a market agent willing to avoid it has a duty beyond compliance, for if capitalism is inherently exploitative, I must do more than just follow its rules.[44] As I will show now, the only duties Wertheimer and Vrousalis can justify are duties of compliance.

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[44] This might be a controversial point for it may imply a duty for individuals to try to change the unjust institutions in which they live. John Rawls, among others, would disagree and would consider that an unjust basic structure does not mean I should forgo the benefits I derive from it. My argument here works orthogonal to this issue, for it is purely analytic. My only point is that exploitation can be identified as contingent or necessary by figuring out what type of hypothetical duty it generates on someone who would not want to be an exploiter. Whether one actually has a duty of being a non-exploiter is a different issue altogether.

Remember that both account – Wertheimer and Vrousalis under *Ant and Grasshopper modified* – imply that exploitation is strategic interaction with a result that is Pareto non-optimal. Any non-exploitative benchmark can, therefore, be expressed as follows, where X and Y are the payoffs of each party, that correspond to Pareto efficient equilibrium:

$$X = Y$$

Equality represents the fact that no exploitative excess of the relevant kind is present within the transaction. This benchmark corresponds to the non-exploitative pay off in that modified version of *Ant and Grasshopper* and to the non-exploitative selling in Wertheimer's example of the friends selling a house. Now, suppose that an act of exploitation occurs. The selling friend in Wertheimer's example charges a price that is 2000 denarii too high from the relevant benchmark because she can, and Ant receives 2 units of utility (priced in denarii as well) because she has that power as well. Here are the payoffs in each case:

Paretian Exploitation

a) Selling Friend = Buying Friend

$X^{+2000} = Y^{-2000}$

b) Ant = Grasshopper

$X^{+2} = Y^{-2}$

In both cases, Selling Friend and Ant (hereafter called 'the exploiter' when undifferentiated) have the possibility not to exploit, but decide to act on their discretionary power to do so. Selling Friend could sell any $X + n$ where $n \geq 0$ denarii and Ant could offer any contract to Grasshopper, if at all, where her profits, if any, could be $X + n$ where $n \geq 0$ denarii. In other words, the exploiters exploit the exploited in the sense that their profit here equals the exact economic value of the discretionary power they have. This is therefore clearly a case of exploitation on

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both Vrousalis and Wertheimer's accounts since the exploiter has every power to impose any rate of profit – Vrousalis talks of a disposition of hers (Vrousalis 2019), Wertheimer of 'unfair' taking advantage (Wertheimer 1996, chap. 9).

For these to be cases of necessary exploitation, this discretionary power must obtain because the exploited and exploiters comply with the rules of capitalism. Thus, the duty the exploiters have must be a duty beyond compliance. If, however, exploitation does not derive from the institutions of capitalism, then the duties they have are different. If their discretionary power comes from something else, some external and contingent circumstances that would rig the distributive outcome of the two transactions for example, then the exploiters have a duty of compliance, that is, they must act as if they did not have the leverage they have on the exploited because of these external circumstances. Now obviously, contingent exploitation of that sort is impossible without the rules and institutions of capitalism. But the duty of the exploiters towards the exploited does not follow *from* these rules and institutions, rather, it follows from the contingencies that have allowed the exploiters to exploit.

Take the examples and dilemmas that Wertheimer and Vrousalis discuss as examples of what they mean by exploitation:

If I am a tug master and find a ship with a broken engine, should I ask for the extortionate price, or the fair, market, one (Wertheimer 1996, chap. 2)? *If I am in a deep pit with a rope, and throwing this rope to the person below me costs me nothing – should I abuse the fact that her survival depends on my willingness to throw the rope* (Vrousalis 2013, 133–34)? *Ant has food*

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for winter, should she give shelter to Grasshopper or oblige her to sign a sweatshop contract (Vrousalis 2013, 150)?[45]

In all these examples, the exploiter (the tug master, the person with the rope, and Ant) has a plausible duty not to exploit. In which category identified above does that duty fall? Answering that question would allow us to identify with which type of exploitation – contingent or necessary – we are dealing with. To do so we need to determine what exactly makes exploitation possible in these cases. Is it the institutions of private property (that the tug master owns the tugboat, that the person with the rope owns the rope, and that Ant owns the food supplies)? Or is it something external to those institutions (the bad luck of the boat's mechanism breaking, the bad luck of the person falling into the pit, or the Grasshopper's reckless behaviour).

Private property seems off the hook in all these cases, for if it is necessary for the exploitative interaction, it is also necessary for the non-exploitative ones. The person with the rope needs to own the rope to perform the rescue. There would be no rope available at all if she was not incentivised to produce or purchase it and claim exclusivity on its usage. The tug master needs to own his boat, less he would not be patrolling around looking for people to tow. Likewise, the Grasshopper can rescue Ant because she owns the food she has collected. In all these cases, and to use Vrousalis' words it is true that private property transforms absolute vulnerability (in all these cases, the exploited is vulnerable in the sense that she satisfy the first-order preference on

[45] Note that one objection here would be to invoke a duty to rescue. This duty once again depends of the type of cost I endure when discharging it. Suppose I find a man stranded in a pit. If I can save him by simply going to the next barn to fetch a ladder, a not so costly action, I have a duty to rescue. But if I have to buy a million-dollar ladder made of diamonds because the man in the pit has luxury tastes – then I do not have any duty to rescue him for free. It seems fair to send him the bill of the person who built the ladder for me.

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her own) in relational vulnerability (the exploited is vulnerable to the exploiter because the exploiter owns the means necessary to satisfy the preferences of the exploited) (Vrousalis 2013, 133–35). But this relational vulnerability is here related to the allocative function of property. The fact that it can be converted into a profit by the tug master, the rope-owner and Ant is what allows Grasshopper to have her preferences satisfied.

The duty of the exploiters in all these cases is then not to ask for no profit, thus rescuing for free and operating at loss. Such a duty would correspond to duty beyond compliance, a supererogatory one in that case given that all these examples do incur marginal costs. Rather the exploiters must ask for the level of profit that would occur if they had no latitude in determining it and which corresponds to precisely what covers this marginal cost. The profits of the exploiter would be very minimal in such a case and correspond to the marginal cost.

This duty does not stem from the rules and institutions of capitalism, but from their contingent failure to deliver an optimal result in the face of unusual and contingent circumstances, which are outside of their reach. The fact that exploitation would be impossible without these circumstances shows that relational vulnerability induced by private property is not the problem here. Exploitation does not, therefore, stem from the institutions and rules of capitalism themselves but from contingent circumstances. These unusual and contingent circumstances may be very common. Market failures, natural monopolies and asymmetry of information often lead to exploitation in that sense, and this is the main point of all the non-ideal critique of capitalism. Some business ethicists indeed consider even that market agents have a duty of compliance in the sense that they should not abuse these failures (Heath 2014). However, it is a different argument than one showing that the rules and institutions of capitalism are exploitative *in themselves* because of the relational vulnerability they create. We reach the same

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conclusion as before. Once we have factored in the marginal cost faced by each agent, both Vrousalis and Wertheimer's accounts can only be cogently understood as accounts of contingent exploitation, that is ones that cannot be anticapitalistic (and here again, it is a problem for the former, while it is not one for the latter).

One objection could be raised in Vrousalis' defence specifically. His account must be applied specifically to class relations. Capitalists, who are buyers of labour time, retain power overall on workers, who are sellers of labour time as a class, and thus dominate and exploit them and it is this power that leads to exploitation. In the same way, Grasshopper is vulnerable to Ant, and Ant relationally dominates Grasshopper from which Grasshopper extract surplus value from Ant, labour is exploited by capital because it is relationally vulnerable to it.

But this macrolevel vision fails for the same reason the micro one does. Strategic interaction has a marginal cost for the capitalists as a class too. As for what type of duty one must infer from that reformulation, it is a duty of compliance stemming from an account of contingent exploitation. Imagine an alternative reality where Vrousalis would be a libertarian and that his goal would be to advance an account of exploitation seeking to justify the institutions of capitalism. I do not think it would be much different from the account of exploitation defended by our world's Marxist Vrousalis. For once we have already established that the necessity to factor in marginal costs, our libertarian Vrousalis could simply follow through. He could agree that exploitation is indeed domination in strategic interactions, but instead of advocating the abolition of the institutions of capitalism, he could without any contradiction offer the usual libertarian credo – lower barriers of entry, ditch occupational licencing, and enact all the other policies that increase competition within markets while decreasing monopoly power. These measures are precisely the ones that would prevent domination in markets while reducing the

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profits to whatever covers marginal costs. Ant can be prevented from asking more than the marginal cost of offering shelter by several other Ants owning shelters making counteroffers to Grasshopper in exchange for her labour time.[46] If that is the case, then no Ant can dominate Grasshopper, and even if they did, they cannot 'cash in' this domination and reap a benefit above marginal costs.

5. Addressing the rules of capitalism

Critiques of capitalism have been for a long time focused on its perceived inefficiency and irrationality, especially compared to what they saw is the rationality of central planning. Since this criticism is misguided – a point settled during the socialist calculation debate – anticapitalistic arguments started to focus on how the type of interaction generated by capitalism is morally noxious (Cohen 2009; Schmidtz and Brennan 2010, chap. 4). Vrousalis' account and its specific moralisation must be understood in that context – it tries to show how behind market freedoms and equal property rights, capitalism leads to domination and servitude. Such a critique of capitalism is fine, as long as it is reaching its target. Factoring in marginal costs makes it miss it by quite a margin. Now, this part concludes the paper by pointing out two ways an account of exploitation could be successfully anticapitalistic.

First, we need to figure out what exactly is wrong at play in exploitation that just institutions are supposed to avoid. For example, Wertheimer and Vrousalis have moralised exploitation in

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[46] A further objection is that profit really never is reduced to its allocative function, simply because competitive pressure rarely has that effect due to various market failures, inequalities in capital endowment and contingencies (Richard 2020; Miller 2017). This is a very important objection to neoclassical defences of markets, but it is still based on an account of contingent exploitation. The duties market agents have in such situations are still duties of compliance, in the sense that in order not to exploit it is enough for them to transact at the non-exploitative rate.

two different ways – unfairness for the former and domination for the latter. But unfairness and domination may sometimes be acceptable if preventing them is either too costly or morally problematic, that is if mutually beneficial exploitation is indeed too beneficial (Zwolinski 2012). Perhaps some forms of domination and unfairness will always be present in human societies, and exploitation is the form it takes within capitalistic institutions. Without an explanation of why capitalism makes these two casual moral wrongs *unjustly* wrong, this will not count as a point against its institutions. An unjust wrong is indeed one that needs to be avoided by just institutions, as opposed to a moral wrong that ought to be tolerated by any said just system.

Suppose for example that Vrousalis is right and that it is true that labour under capitalism is dominated because 'domination' is a type of interaction that is incentivised by capitalistic institutions. Suppose further that avoiding domination would come at a prohibitive cost, for instance, because labour without any capital input is highly unproductive and because what incentivises investment in capital is, on the other hand, the existence of a return on this investment. Now, if any level of return on capital is exploitative (which remember, was Vrousalis' original point), and the institutions of capitalism are what allows this return, then it does not follow that capitalism is a set of institutions that must be rejected (which is a conclusion that should follow from an anticapitalistic argument). If anything, we have simply clarified the sense in which exploitation can be indeed mutually beneficial. But to be a critique of capitalist institutions, the argument needs to criticise the backseat that domination has taken when confronted with the productive surplus that capitalism allows.

For this, we need a theory of institutions to figure out exactly what sort of exploitation is acceptable, and which is not, and whether we prefer a society where domination is impossible

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over one with greater material productivity. Once we have done that, we need to provide a principle that explains why this wrong (unfairness or domination) overrules the other principle that obtained in the interaction (say its mutually beneficial character). And once we have done that, we need yet another principle to explain why the previous principle overrules another possible principle, and so forth. That is why I believe both Vrousalis and Wertheimer's account never seems to reach the theoretical level necessary to be one of necessary exploitation. They simply link exploitation to domination and unfairness, but they need to take a step further, and give us the moral compass that can direct us to which type of unfairness and which type of domination is exploitative to the extent that such exploitation should ground a rejection of a given set of institutions.

To illustrate this, take one last time Carroll's story of Achilles and the tortoise (Carroll 1895). In his original paper, Carroll illustrated the problem of logical regressivity by showing that to accept a logical inference, Achilles has to assume the very principle of inference, and by including this assumption within the argument, he had yet to reassume that inference is correct for that inclusion to be valid, and so on. With exploitation, we are in the same situation. Just as in Carroll's story, we are unable to ground our judgement simply because we need to appeal to what is potentially an infinity of various principles that may arise in the infinity of possible ways humans interact and exploit each other's.

So, to put it in more abstract terms, suppose A is exploitation, that is either moralised through domination (a la Vrousalis) or unfair taking advantage of unfairness (a la Wertheimer) and where $\sum$ is the conclusion we want to reach to show that capitalism (or any other set of institutions) is wrongfully exploitative and that it counts as an argument against it.

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1): ‘If A, then exploitation occurs’
2): ‘Capitalism leads to A’
∑: ‘Capitalism is wrongfully exploitative and should be abolished’

The problem is that for that argument to be anticapitalistic, we need to explain why A weights more than, say, B, which also follows from capitalism, and why is also weight more than, say, C, and so on. Hence the argument should look like this:

1): ‘If A, then exploitation occurs’
2): ‘Capitalism leads to A’
3): (1) and (2), and also B is irrelevant
4): (1) and (2) and (3), and C is also irrelevant
And for any n
(n): (1) and (2) and (3) and (4) and ($n - 1$), and not (n letter)

How do you avoid that problem? You need a ranking of all the various principles that structure strategic interactions within given institutions.

1): ‘If A, then exploitation occurs’
2): ‘Capitalism leads to A’
3): ‘Society should not lead to A, because of A>B>C>D…’
∑: ‘Capitalism is wrongfully exploitative’

Asserting 3) is what a theory of justice does, and this is what an account of exploitation needs to rely on for its moralisation. An account of exploitation that seeks to be anticapitalistic can only be moralised through a theory of justice.[47]

The second point precisely concerns how both Wertheimer and Vrousalis have moralised their respective accounts. Both identify exploitation as stemming from contingent interpersonal power. Imposing an unfair price or reaping the dividend of one’s dominating position are

[47] This is precisely why the debate on whether Marx’s critique of capitalism is moral or economic is so essential to contemporary Marxism – see the debates between Ziyad I. Husami and Allen Wood on whether Marx was implying a theory of justice or not (Husami 1978; Wood 1979).

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decisions made willingly by the exploiter, as we have seen in the discussion of the various duties the rules of capitalism impose on economic agents. An anticapitalist account of exploitation, however, must be one that emphasises the *necessity* of exploitation regardless of the intention of the exploiter. The best example is indeed the account offered by Karl Marx.[48] The place of exploitation in his work is somewhat unclear. It can be either understood as a normative concept, exploitation is what makes capitalism unjust for it fails to meet a given distributive standard (Arneson 1981), or as an economic one, exploitation being the central mechanism behind the fall of the rate of profit that, Marx believed, dooms capitalism on the long run (van Parijs 1980; Marx 1981). It is also an account that is successfully one of necessary exploitation. Any economic interaction that exchanged labour time against a wage wherein the value of this labour is appropriated through the enforcement of property rights is exploitative because of the capacity of labour to produce more than its value. [49] So, if a widget costs say 10 denarii in labour, and it sells at 15, the labourer has a claim of being exploited since her labour has, in the process of production created more than what it has obtained as remuneration in the form of a wage – the initial 10 denarii (Marx 1976).

This theory allowed Marx to show that all economic transactions occurring within the institutions and the rules of capitalism, even in competitive markets, were exploitative. It managed to show that a capitalist is an exploiter whatever she does, whatever her disposition

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[48] Another one is defended by Hillel Steiner (Steiner 2017).

[49] Analytic Marxism has denied that the labour theory of value is necessary for Marx's account of exploitation to work, see on this (Cohen 1979). For a defence of the labour theory of value against marginalist critiques, see (Foley 1982). For an explanation of how this 'new interpretation' and its congruence with orthodox Marxist economics, see (Duménil 1983).

is, whoever she is, and whatever is the wage she pays her employees. Marx clearly shows why any agent cannot possibly have a duty of compliance, simply because one cannot have a duty to comply with a bad rule. What sort of duty beyond compliance Marxism can offer is an altogether different story.[50]

The abandonment of the labour of theory of value and its replacement by marginalism at the turn of the 19th century has made it difficult to offer a successful anticapitalistic argument based on necessary exploitation. For if marginalism is correct, exploitation does not occur in a competitive market, since a worker receives the full value of what she is worth to the capitalist, and this marginal, and necessarily, subjective value is the only one that matters. But Marx's example shows that a necessary condition of any successful anticapitalistic theory of exploitation is to show that a worker is exploited regardless of whether she has a wide choice of capitalists competing for her labour and regardless of the exploiter's intentions. This is precisely what both Wertheimer and Vrousalis fail to achieve.

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[50] The existence of such a duty would have to rely on hypothetical 'Marxist business ethics'. For an overview of what sort of contribution Marxism could make to that field, see (Corlett 1998).

IV. Liberal Anticapitalism

Exploitation was historically used as an anti-capitalistic concept in Marxist, left-libertarian and anarchist political traditions.[51] That original meaning has guided a critique of capitalism based on two claims. The first is that in capitalism a class of people – the owners – exploit another class of people – the non-owners, with that exploitation being systematic, necessary, and specific to capitalism. Second, *that* type of exploitation is a form of injustice that should be held against capitalism, understood as a system of institutions that enforce certain rules of interactions.

In contemporary philosophy, that meaning has been chiefly defended in the works of analytic Marxists. Among the latter, Gerald Cohen has arguably done the most to show how the seemingly voluntary and mutually beneficial interactions that characterise capitalism hide relations of mutual abuse and a widespread condition of unfreedom (Cohen 1979; 1983b; 2009),[52] a tradition that has been recently revived by Nicholas Vrousalis (Vrousalis 2013; 2019). Authors working outside of the Marxist tradition have treated exploitation as a topic of applied ethics that takes capitalism as a given (Mayer 2005; Sample 2016; Wertheimer 1996; Brennan 2017; Ferguson 2016),[53] or as a specific injustice that should concern broader theories

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[51] Mark Reiff argues that exploitation is in fact the continuity of ancient and scholastic theories of the just price (Reiff 2013, chap. 2). I agree, and as I will show later, exploitation is best conceived as unjust price. I am more interested however in how exploitation has been historically used by anti-capitalist thinkers.

[52] See also (Roemer 1982; Elster 1986)

[53] For three helpful overviews of the growing literature on the topic, see (Zwolinski and Wertheimer 2016; Ferguson 2018; Vrousalis 2018).

of justice complacent with capitalism (Reiff 2013). Existing liberal opposition to capitalism on the other hand is justified through other concepts than exploitation and more often focus on its distributive shortcomings (Rawls 2001, pt. IV). This paper will develop a liberal account of exploitation that can recover its anticapitalistic meaning and ground liberal critiques of capitalist institutions in the types of interactions they create.

My argument proceeds as follows: The first part does some definitional work by explaining what I mean by *exploitation*, *capitalism*, and *liberalism*. The second part tries to come to the sources by salvaging several key insights from the original Marxist account of exploitation. To be clear Karl Marx was not the only one to criticise capitalism for being exploitative. However, his account of has been the most influential and long-lasting in anti-capitalist philosophy through what I take to be its three truth conditions: *systematicity*, *necessity*, and *specificity*. In the third part, I will try to explain why the ‘original Marxian intuition’ has been abandoned. I will argue that the so-called marginal revolution – the idea in short that the value of any input is subjective and negatively correlated with its quantity – has rendered it obsolete. The fourth part discusses the ways liberals have analysed exploitation so far, and address the accounts of Hillel Steiner, Matt Zwolinski, Alan Wertheimer, Mark Reiff, Arthur Pigou, Joan Robinson and John Rawls. I will argue however that all these accounts fail to show how exploitation in capitalism is systematic, necessary and specific, following the truth conditions identified by Marx. This is on purpose, for none of these accounts is meant to be anticapitalistic. If some of the mentioned thinkers support capitalism – for instance, Matt Zwolinski and Mark Reiff – those who oppose it – for example, Steiner or Rawls – do it for reasons that are different from exploitation. The fifth part identifies a common point of all account classified as right-exploitation; they are all based on a *moralised* account of freedom. An alternative account

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based on non-moralised freedom at the moment of interaction will be proposed. Although more promising, this 'freedom-exploitation' leads to a paradox that will be explored in a sixth part – abandoning rights as its truth condition means it cannot show why capitalism is unjust. A further step is required: adopting a conception of freedom as being a limited resource that justice requires to distribute equally. Such a conception of freedom, I argue, is the *only* way liberalism can be anticapitalistic on grounds of exploitation.

1. Exploitation, Liberalism and Capitalism

First, I need to define the three core concepts I will be using in this paper – *Exploitation, Capitalism and Liberalism.*

A. Exploitation

Exploitation is an economic interaction that is wrong when compared to an independently defined counterfactual that is not. It is also an interaction that is mutually beneficial, that is it equilibrate the preferences ordering of all the agents involved compared to a baseline of non-interaction, even if there is a possibly better *objective* counter factual. The identification of what counts as 'wrongly' and what is the relevant counterfactual has been the concern of most of the recent development in theories of exploitation. Exploitation is a concept that is *moralised,* one of these conditions must indeed be *normative* with the various existing accounts disagreeing on what exactly that is. When I say X is a true condition for the sentence 'Carol exploits Will' to be true, it is not enough to identify X, I must also explain why X means that Carol did something *wrong.* For instance, Alan Wertheimer talks of the taking of unfair advantage (Wertheimer 1996), Hillel Steiner of previous infringement of rights (Steiner 1984) and Mark Reiff of a violation of the principle of reciprocity (Reiff 2013).

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Suppose Carol buys Will's X. In one version of the interaction, she does so for 5 denarii. This is due to the relationship Will has with Carol, which fulfils a given normative truth condition for wrongful exploitation and which determines their respective preference orderings, which equilibrate at 5 denarii. For example, he is unfairly vulnerable towards her or has been the victim of a previous violation of rights, or their relationship is one that is not adequately reciprocal. That is why the price of is X will be indeed 5 denarii if they both decide to interact. However, the price would have been different if the normative truth condition that made the interaction exploitative had been absent. In that counterfactual interaction, Will's reservation price would have been, say, 10 denarii. By getting the exploitative price instead of the non-exploitative one, Carol makes a benefit – Marxists call it 'surplus value', Liberals call it 'rent' – of 5 denarii.

For Carol to exploit Will, Will must be somehow vulnerable to her. Using someone else's vulnerability to one's advantage is a necessary condition for exploitation, and it has been conceived as a sufficient one as well (Wood 2016; 1995; Sample 2003). However, an account based on vulnerability alone would be too overreaching. Taking advantage of vulnerability is how humans interact, and especially so in a capitalistic society where the division of labour renders everyone vulnerable to and dependant on everyone. More generally, in any society, some people will find themselves vulnerable to others in a way that is unproblematic (Zwolinski 2016). Suppose for example that Will enjoys jumping into big holes, and then expect Carol to rescue him for free. Carol has enough of this and one day decides to charge Will for getting him out of the holes. Here again, Will is vulnerable to Carol, a vulnerability that she uses to her advantage. But it seems implausible to say that Carol is *wrongfully* exploiting Will just because she has enough of his abusing her kindness. This is especially true

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from a liberal perspective, which will have to differentiate between unjust exploitation and the petty abuse that must be tolerated in the name of certain normative principles such as neutrality (Steiner 2013; Reiff 2013, chap. 5) or certain secondary norms such as responsibility and privacy (Arneson 2016).

Since vulnerability is insufficient for wrongful exploitation, it must be considered as a type of wrongful *price* rather than a wrongful *relation*. What makes it wrong is not some normative feature of *how* but *how much*. Exploitation has been understood in this way for most of the history of philosophy (Reiff 2013, chap. 2), from the scholastics (Elegido 2015; 2009) to Karl Marx himself (Arneson 1981). To grasp the difference, consider Wertheimer's account, which asserts that exploitation is impossible in a fully competitive market (Wertheimer 1996). As an institution, such a market is a cluster of multilateral relations of interdependence and mutual vulnerability. However, it also *prevents* exploitation within these relations since everyone in such a market is a price taker. Carol cannot buy Will's widget at a better price, since not better price can be obtained.

B. Capitalism

There are varied definitions of *Capitalism*, none of them is consensual, and most of them, in Joseph Schumpeter's words, are hopelessly wrong (Schumpeter 1954, chap. 2). For my purpose here, I will understand it as a system of interaction which is primarily characterised as the exchange of labour for capital. This definition requires three justificatory steps.

First, the central feature of capitalism is the institutional enforcement of equal private property right. This does not mean that private property rights are an absolute, inviolable value, but that there is a strong presumption in favour of its enforcement in a capitalist society.

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Second, this enforcement incentivises a mode of *interaction* between people that is the economic exchange. The economic exchange is a type of exchange wherein individuals immediately fulfil their mutual obligations, and where these obligations are held towards other specific individuals voluntarily. If I pay you 10 denarii for the widget you own, our interaction is over once I received the widget and once you receive the 10 denarii; and it is enforced if and only if we both voluntarily agreed to that exchange. These two features are unique to capitalism. In the moral economies that preceded, low levels of capital diversification and division of labour allowed obligations to be directed towards the community as a whole and enforced through symbolic coercive means rather than incentivised (Sahlins 1972; Graeber 2014). The voluntariness and immediacy that are the fact of most of our interactions today are a historical specificity peculiar to capitalism.

Third, every possible resource is already it privately owned. Almost every existing thing is already the subject of a property right that will be enforced; thus, I cannot possibly get it for nothing unless its owner is ready to gift it to me. On the other hand, the ownership, possession and use of material goods are necessary for humans to live. Such a statement is detached from any account of human needs – it is rather to be taken in a matter of fact way. Other people's rights, including their rights to property, limit how much I can do unless I give them something they may want in exchange. But in a word where everything is owned, that something is the only thing I got for nothing – my time, that I sell as *Labour time*.

The combination of these three unique features of capitalism leads to a particular type of exchange that is central to it and depends on what people own. Some people own some external tangible objects that have value, things that we will call *capital*. Some other people do not own anything but themselves, in other words, they own *labour time*. Because each's individual

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property rights are equally enforced by institutions, the latter *self-owners* sell their labour time in exchange for a wage to the former *owners.* Capitalism creates a distribution of external resources that is primarily achieved through the exchange of labour for capital. That type of exchange is obviously not the only type of exchange that occurs. The point is rather that this exchange is the most common mode of distribution of material goods. I own the laptop I am typing this text on because I paid for it, and I received the money I used for this payment in exchange for my labour. Same of the clothes I wear and the food I will soon cook to make myself a dinner.

In fact, any other mode of distribution is an exception that is justified ad hoc, for considerations of distributive justice or efficiency. Capitalism in that sense does not only include the unfettered, unrestricted capitalism defended by rights wing liberals, libertarians and laissez-faire economists, but also its *welfare state* alternative. Welfare states as they exist – in Western Europe for example – condition the entitlement to public help to the legal status that comes with a valid or previously valid working contract. Someone who has never worked is entitled to a much smaller share, if at all. This help is also always seen as temporary, with unemployment considered to be an abnormal situation, that the individual must leave as soon as possible. State's welfare is never seen as a legitimate income, and controlling what its beneficiaries use it for is one of the main obsessions of contemporary democratic politics (Colombi 2020).

The same goes for one of the main philosophical justification of the welfare state – luck egalitarianism. Suppose Carol owns 10 widgets and Will owns 0. Luck egalitarians will consider that Will should be given 2 widgets in the name of equality only if he has 0 because of his bad luck (for example his initial share of widgets mysteriously disappeared overnight).

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In other words, Will's substantive rights to a more egalitarian distribution only supersede Carol's property rights when inequality between them is unfair. But again, in a world where it is given that Carol owns the 10 widgets and Will owns 0, what is a fair distribution is whatever will result from the exchange of Carol's capital for Will's labour, and anything Will comes to own, he owns because he worked for it.

An anti-capitalist account of exploitation must show that this fundamental principle of the voluntary exchange of capital for labour is exploitative. Of course, focusing on modes of exchange is not the only way to be anti-capitalist. Exploitation does not exhaust injustice and there is a vibrant tradition of opposition to capitalism that focuses on its distributive effects. This tradition has been especially dominant in liberalism.

C. Liberalism

I conceive *liberalism* as a broad cluster of ideas articulated around the core concept of distributive justice. Distributive justice determines how scarce resources must be distributed given certain assumptions about human nature and normative ideals such as freedom and/or equality. This distribution is achieved through *just institutions* that guide free individual behaviour towards it through the enforcement of certain rights. Liberals do not consider that justice is the sum of individual virtues but rather the institutional calibration of individual actions towards a just state of affairs.

Regarding justice, liberals can be classified into two categories that could be delimitated following what just institutions are supposed to enforce. The first category sees justice as an end-state distributive pattern that has to follow a given principle – for example, an equal distribution of liberty (Rawls 1971; 1985; Steiner 1994) or equal consideration for every

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individual (Dworkin 1977; 1985). The other category sees justice as limited to the enforcement of property rights, that can be freely exchanged by individuals (Nozick 1974). This opposition can be transposed into their respective views on the distributive outcomes of capitalism. The first category – predominantly liberal egalitarians – consider that these outcomes are unjust and must be corrected through a relevant redistributing institutional mechanism. The second category – predominantly libertarians – see these outcomes as just and consider to the contrary that any attempts at redistribution would be unjust.

Leaving libertarians aside – which are a straightforward case – we may notice a paradox in the way liberal egalitarians oppose capitalism. If they oppose it because of its distributive outcomes, they remain uncritical towards its central feature, that is the exchange of capital for labour. They criticise what is best defined as a system of interactions by focusing solely on its effects. They are thus not *anti-capitalists* if anti-capitalism is opposition to capitalism as defined above.

Is it a weakness of the liberal-egalitarian critique of capitalism? Yes, for two related reasons. First, it is an empirical question about whether liberal egalitarians ideal distributive institutions, if implemented, will turn out to fulfil their underlying justificatory principles. Capitalism might very well end up being the only reachable second best given certain constants such as human nature or the imperfections of institutions as they exist. This is the shortcoming of all critiques of capitalism based on a comparison with an ideal model. Second, it is also an open question of whether non-capitalistic institutions follow from these underlying principles. John Rawls for example, although himself an anti-capitalist, may have underestimated the extent to which capitalistic economic freedom, and thus capitalist distributive outcomes and their supporting institutions, are compatible with his theory of justice (Tomasi 2012). Liberal egalitarian

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opposition to capitalism needs to be complemented by a proper *Liberal anticapitalism,* that is one that shows that a feature of capitalism as a *system of interactions* is that it is unjustly exploitative.

2. Rescuing Marxist insights

What does an anticapitalistic account of exploitation look like? Karl Marx was the first to argue that exploitation in capitalism, understood as the mode of economic interaction between capitalists and workers was, as I shall put it a *systematic, necessary* and *specific* injustice.[54] Regardless of the veracity of Marx's account, which is not the topic of the present essay, I will show that to be anticapitalistic, an account of exploitation must fulfil these three conditions.

A. Systematicity

Karl Marx considered that exploitation is systematic in capitalism. That is, it occurs whenever two classes of economic agents – in the terms I used above owners and self-owners – interact. This is due to the central institution of capitalism that is private property. A class of people owns the so-called 'means of production' and they need labour time to produce value. Owners of labour time – workers – are hired to produce that value.

To show the systematicity of exploitation under capitalism, Marx had to resort to what his most cynical critiques would call an unproven dogma[55] – the labour theory of value (LTV). For Marx

[54] There is a significant debate on whether Marx saw capitalism as unjust because it was exploitative. On the place of exploitation in a possible Marxian theory of justice, see (Arneson 1981) as well as the debate between Wood and Husami (Wood 1972; Husami 1978). See also (Reiff 2013, 29–30). Exploitation also was key for Marx's idea of the Tendency of the rate of profit to fall (Marx 1981, chap. 13; van Parijs 1980).

[55] In the words of Joan Robinson (Robinson 1974, chap. 2)

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labour is indeed the only economic input that can produce value. How then can capitalists – owners – make any profit? They have to extract some of the value produced by labour. Workers – self-owners – are made to work more than what is needed to produce the labour time they sell, and that *surplus value* is reaped by the capitalists in the name of their ownership of the means of production. Because of the institution of private property, workers are remunerated less than they would be without that institution, and that counterfactual shows how they are exploited.

Both classes are defined by what they own that is relevant to the others. Most owners own themselves as well, but in the context of the capitalist relations of production, the relevant economic fact about them is that they own *capital*. Likewise, self-owners may own certain things – for example, many workers in the real world own real estate and savings – but in the context of capitalist relations of production, the relevant economic fact about them is that they own *themselves*. Moreover, exploitation does not depend on the preference of either party. Perhaps Will the worker prefers to interact with Carol the capitalist over Iris the industrialist with one of the interactions being more beneficial to her, but that does not change the fact that because of her class membership she is exploited by either of them. A non-exploitative exchange is not possible regardless of the equilibrium of their preferences and their respective satisfaction. The first Marxist insight is therefore that exploitation must necessarily occur whenever owners and self-owners interact.

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B. Necessity

From *systematicity* follows the idea of the *necessity* of exploitation, that is exploitation is a not a contingent feature of the interaction between owners and self-owner and is thus independent of their inclinations. It is not a contingent act that depends on the malevolence of the individual exploiter either but follows necessarily from what they own and from their places in the capitalistic system of interaction. Exploitation is rather the only way capital and labour can interact in the capitalist economy. It is, therefore, necessary in the sense that without it, interaction, and from there capitalism, would be impossible. To make that point, Marx needs the LTV as well. Since all value is created by labour (Marx 1976, 342–43), then capital is only accumulated value created by labour. The exchange of capital for labour is thus not an exchange of two product of same value, but the appropriation by the capitalist of the value created by the worker, as 'the time during which the labourer works, is the time during which the capitalist consumes the labour-power he has purchased of him' (Marx 1976, 342).

C. Specificity

From *necessity* comes the *specificity* of capitalistic exploitation. The difficulty here comes from in the 'most diverse socio-economic formations' (Marx 1981, 728) many people will have some advantage that will allow them to 'exploit' others. Karl Marx himself differentiated between 'antediluvian' forms of capital, that would belong to pre-capitalist times, and capital that is specifically accumulated within the capitalist system. Following, two types of exploitation are distinguishable, the type that predates capitalism and the one that directly follows from capitalistic relations of production. Having an account of exploitation that can only identify the former is useless for our purpose here, for an anticapitalistic account of exploitation must show that capitalism is *specifically* exploitative, that it presents a form of exploitation that would not present in other types of exchanges.

Marx identified the specificity of capitalist exploitation as follows: In capitalism, workers cannot refuse the exploitative deal they get because of the institutions of private property forces them to work. So even though exploitation is a fact of all societies that hitherto existed, and

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even if in that sense the condition of the self-owner in capitalism is similar to the one of the medieval serf (Marx 1976, chap. X), exploitation through wage-labour as a systemic and necessary feature is specific to capitalism.[56]

3. The marginalist objection

Showing that exploitation is systematic, necessary and specific to capitalism also means that exploitation it is a feature of a perfectly competitive market, that is exploitation is the primary type interaction in capitalism even when it functions under ideal conditions. As I have sketched it in the previous part, Karl Marx achieves this through the LTV.

The LTV is however considered to be false by standard economic theory for reasons that are outside of the scope of this paper and that I shall not discuss here.[57] Whether Marx needs the LTV for the success of his argument has been contested by analytic Marxists (Cohen 1979; Holmstrom 1983; Cohen 1983a). I will not intervene in this debate either for this is not a paper on Marxist exploitation. Contemporary economists consider in any case and contrary to Marx, that value does not come from labour, but from the quantity of a given scarce good that is to

[56] This raises the question of how to understand command economies as they appear in communist states such as the former Soviet Union or present North Korea, where after all, workers had to work for a wage as well. I do not wish to engage into the semantic – and in my opinion completely pointless – debate on whether these countries count as 'socialist' or 'capitalist'. I will just notice that *under the definitions given above,* and *for the purpose of the argument presented here,* these countries count as a particular form of capitalism, since the main distribution mechanism they present is one of labour for capital. What changes is by whom the productive apparatus is owned – by state apparatchiks rather than by individual bourgeois. Imagine Carol and Iris, but with *ushanki* rather than top hats.

[57] For an overview of some of the objection to the LVT – see (Zwolinski and Wertheimer 2016).

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be valued. Suppose there is a limited number of widgets and gadgets which can be exchanged with each other. The more abundant the widgets are, the more widgets will be necessary to exchange to get one gadget. The value of every widget and every gadget, therefore, decreases with quantity – every time you add one widget or one gadget to both quantities, the value of each already existing widget or gadget declines and equals the value of the last – *marginal* – unit added. This value, inherently subjective since it relies on the individual preferences of the economic agent, is expressed in the price at which the widgets and the gadgets will be traded. A marginal theory of value, because it expresses an individual preference, invalidates the three truth conditions of systematicity, necessity and specificity, for as I will show, it makes exploitation impossible in a fully competitive market.

A. Against Systematicity

Suppose Will the worker, who is a self – owner, wants to sell his labour to Carol the capitalist, who is an owner. If Will is hired, he will add 10 denarii per relevant unit of time to Carol's profit. If Will has many other owners to choose from, the wage he will obtain will be strictly equal to this value of 10 denarii. If he received less, he would turn to Carol's competitor, Iris the industrialist, and if he received more, then Carol would not hire him in the first place, for if she did, she would start operating at loss. In a fully competitive market, every unit of labour is bought for the equivalent of its marginal productivity. But that objective measure is simply a happy coincidence, it is simply that this is how much it is worth to the rational owner who buys it.

There is thus nothing special about labour, which is a productive factor just as all the others. Suppose for example that Carol the capitalist sells a widget to Iris the industrialist, who is another owner. Suppose further that at the same time, Will the worker sells a gadget to Harry

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the hardworking, another self-owner. Both transactions also clear at 10 denarii, following the preference expressed by each of them. According to marginalism, all these transactions are indistinguishable. Nothing, as far as modes of ownership and exchanges are concerned, allows separating the four characters into two separate classes.

B. Against Necessity

Marginalism transforms what was a relation of necessity into one of contingence. Will, Carol, Iris and Harry may reach a non-exploitative equilibrium price in the four-persons market they form because if any of them tries to go against the other's preferences, that other party will turn to any other of the remaining characters. The institutions of capitalism that enforce the ownership rights of each prevent exploitation by forcing them to interact at equilibrium point.

This, however, assumes several empirical assumptions – market elasticity, perfect information and the absence of transaction costs. Often, these assumptions do not hold, but this is a contingency that does not necessarily stem from the institutions of capitalism. Art dealers, for example, may very well exploit their patrons. But that is because knowledge about art is hard to acquire and maintain, not because art dealers own the paintings their patrons want to buy. Under a marginal conception of value, exploitation does not necessarily follow from the institutions of capitalism; it rather follows from their contingent failure. This does not shield capitalism from critiques based on the non-ideal conditions in which its institutions operate. But it makes a defence of these institutions much easier for a pro-capitalistic advocate. All that she has to do is showing that in *these conditions* capitalistic institutions will fare reasonably better than any set of institutions.

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C. Against Specificity

Marginalism does not rule out the possibility of exploitation, and I will explore in further details in the next part several accounts which are compatible with such a theory of value. The prime cases of exploitation it implies are the ones of monopoly and monopsony since they both prevent competition to run its course. Iris the industrialist would exploit Harry the hardworking if she prevented him to sell his labour to Carol the capitalist for a better price.

But that type of exploitation is not specific to capitalism, for it was already criticised by liberals in the rent-based economic systems that preceded it – feudalism and mercantilism. French liberals were especially critical of the first (Schmidtz and Brennan 2010, chap. 4) and especially of the role of the state as the main agent of aristocratic rent-seeking (Richard 2019). English liberalism mostly focused on the second – Adam Smith's critique of mercantilism is the best-known example (Smith 1993). Smith conceived exploitation as the difference between the labour-based production price of a commodity and its market value (Fairlamb 1996; Brewer 1987). This difference could be closed through market competition since this production price was also the minimum nominal value of a given good. Exploitation as the consequence of monopoly might be how exploitation occurs in capitalism, but it is not specific to it, and hence will not do to ground liberal anticapitalism. In Marx's terms, a monopoly is an antediluvian form of capital that leads to non-specific exploitation.

D. Marginalism and preference exploitation

What follows from an account that is marginal is that the only way one can be said to be exploited is through the unfulfillment of a preference that could have been otherwise possibly fulfilled. That is, an interaction is not as mutually beneficial as it could have been given the

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structure of rights against which it is enforced. But this is precisely what cannot happen under capitalism, at least when it functions under ideal conditions. To the contrary, an account of economic value that is objective – for example the aforementioned LTV – allows to go beyond the individual preferences of the individuals involved in order to determine that on an objective measure one of them systematically, necessarily and specifically do not receive as much as she should have. This impossibility of any other exploitation than *preference exploitation* explains the variety of liberal positions they will be described in the next part.

4. Exploitation and liberalism

The marginal theory of value is what has rendered liberalism unable to develop an anticapitalistic account of exploitation, for its corollary is that it is impossible in a perfectly competitive market.[58] Since exploitation is impossible in conditions of perfect competition, then it is impossible in conditions of what John Rawls has called *Pure Procedural Justice* (PPJ), that is an outcome whose justice is defined by the just procedure that leads to it with the distributive nature of that outcome being left indeterminate (Rawls 1971, 74). The problem is that from a liberal perspective, capitalism understood as a system of voluntary exchanges of capital for labour *is* a case of PPJ, under the condition that it operates under a background where the relevant principles of distributive justice are realised, and the relevant substantive rights are enforced. Libertarians will thus support capitalism precisely because voluntariness in exchange is the only such principle they acknowledge, and property rights are the only rights they conceive. Liberal egalitarians will oppose capitalism because it never functions in ideal

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[58] For some further thoughts on how marginalism has rendered difficult to show how competitive market can be exploitative, see (Gauthier 1986, 110–12; Spector 2018).

conditions and will thus lead to unjust distributions following a more extensive set of egalitarian principles and a more comprehensive system of rights.

A. Exploitation and libertarianism

If capitalism, as it functions in ideal conditions, is a state where the price of labour will be necessarily just, how then do we achieve such an optimal functioning? Libertarians argue that it is through equal enforcement of property rights. Such an enforcement will tend, even if not always, to lead to interactions clearing at marginal cost and thus to render impossible any form of *preference exploitation*. A wage, or any distributive share for that matter, is therefore just if and only if it has been obtained following a capitalistic exchange.

To parody a famous thought experiment (Nozick 1974, 160–64) – suppose Robert Nozick is a famous philosopher who attracts many fans and admirers at his lectures. He signs a contract with Harvard University that states that philosophy undergraduates will pay an additional 10% of the value of their tuition fee that will be directly wired to his bank account. The students are excited about attempting his talks, it is worth the additional cost to them, they *prefer* to hear Nozick's presenting his fancy thought experiments and jokes rather than keeping that money. After the academic year ends, Nozick will have become much richer than his colleague John Rawls, a much less liked and popular lecturer. The outcome here is just since everyone's private property rights were enforced at every step. Libertarian distributive justice is achieved here necessarily through the capitalistic exchange, with voluntariness being a sufficient condition both for distributive justice and for non-exploitation. Exploitation, understood as being paid below one's marginal rate, becomes for libertarians a form of distributive injustice rather than an interpersonal one, since it generally – even if not always – stems from a previous violation of rights.

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This confusion of exploitation and distributive injustice is a characteristic of libertarianism. It can be explained by that it is but a corollary – libertarians defend capitalism because of a theory of just entitlements, not because it produces just wages. This is clear in the account of exploitation defended by Hillel Steiner (Steiner 1984; 2009). It is also a possibly controversial reading of Alan Wertheimer (Wertheimer 1996).

Hillel Steiner conceives exploitation as a two-paced problem that occurs in market type interactions. These are a universal model for how humans interact because all human interactions are strategic games that are motivated by scarcity (Steiner 1984; 2009). Applied to the exploitation of labour, it goes as follows: suppose that Will the worker wants to sell her labour. Capitalist Carol offers a wage of 10 denarii which incentivises a given supply of labour from Will the worker. However, here comes Industrialist Iris, who would like to buy the labour of Will the worker as well, but for a wage of 5 denarii for an equivalent number of hours. She then prevents the interaction between Carol and Will and reaps a surplus value/ rent of 5+*n* denarii. Indeed, if counterfactually Iris had to compete with Carol for the same labour supply, she would have to outbid her, meaning she would have to pay a wage superior in value *n* to the original offer of 10 denarii, a value *n* that is added to what he has saved compared to Iris' offer (5 denarii). Will has been exploited here, as the value of his wage is lower than what he could have received if Iris has not infringed Carol's property rights. Carol cannot exploit Will in other terms if their property rights are equally enforced.

For Wertheimer, exploitation occurs when there is 'unfair taking of advantage' of someone, which leads to the interaction occurring at an unfair price (Wertheimer 1996, chap. 7). A fair price is the marginal one, that is the one that would have been paid in an open and fully competitive market. If Will tries to take unfair advantage of Carol, then Carol would turn to

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Harry. Thus, is Will and Carol do interact, there can be no fairer price than the one they agree on. Matt Zwolinski has read his account as being moralised through the violations of equally enforced property rights that necessarily underlie competitive markets (Zwolinski 2007, n. 51).[59] According to this view, the normative truth condition of exploitation necessarily implies monopoly or monopsony power achieved through violations of rights. Neither of these however concerns the type of interaction at play, but the distributive injustice that stems from an economic system that unequally enforces property rights.

B. Exploitation and liberal egalitarianism

Liberal egalitarians share the judgement that exploitation, understood as an unjust wage, is impossible in a situation of PPJ (Rawls 1971, para. 47). They only hasten to add that capitalism is a just procedure only against the background redistributive institutions responsible for distributive justice, that they conceive more extensively and in a more egalitarian manner than libertarians. Thus, if Nozick signs a preferential contract with Harvard, the resulting income inequality between him and Rawls will be just if it has fulfilled all the conditions liberal egalitarians hold to be necessary for justice – for example, Nozick's income is adequately taxed and the contract he has signed with Harvard has been democratically approved. In other words, libertarians and liberal egalitarians disagree not on the non-exploitative character of the capitalistic exchange itself, but on how to assess what happens before and after, in other words,

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[59] Zwolinski seems to be reading Wertheimer in that way when arguing that sweatshop labour is not exploitative, since sweatshops do not break the rights of their employees by employing them and by rejecting the idea that exploitation comes from sort of background unfairness concerning the cheapness or unproductivity of these employee's labour (Zwolinski 2012). He addresses in this way a critique of Wertheimer made by Denis Arnold on the lack of effective moralisation of his account (Arnold 2003).

the context in which it has occurred. The former believe that justice requires only to enforce its resulting distribution, the latter believe that it requires to correct it if needed following an end-state pattern of distributive justice.

Such an articulation of exploitation with distributive justice has been most explicitly defended by Mark Reiff. He conceives exploitation as 'the unjust extraction of value from another as part of a voluntary exchange not otherwise prohibited by law' (Reiff 2013, 27). The wrongness of exploitation stems from a right against being so exploited, that Reiff believes contradicts the principles of reciprocal exchange at the basis of capitalism. Reiff considers that exploitation occurs whenever profit is made above the costs of production, although in the name of the principles of liberal toleration and because exploitative profit is necessary for capitalism itself, he considers that the state should allow exploitative profits below a margin of 100%, above which interaction is considered as *Iaesio enormis* and must be prohibited (Reiff 2013, chap. 5).

Reiff's account is less concerned with exploitation understood as a class of interaction ubiquitous in capitalism and more with its distributive shortcomings as they occur in an imperfect, non-ideal world, among which growing inequalities in capital and revenues (Reiff 2013, pt. introduction). He focuses especially on excessively high managerial compensation – one of the biggest drivers of income inequality today – as well as the low wages that are endemic among the uneducated workforce (Reiff 2013, chap. 6). But these examples betray a concern for distributive injustice, namely for inequalities of income and capital, rather than for *exploitation*, that is a wrong that occurs within the interaction itself. Reiff's originality is that he supplements the redistributive mechanisms usually advocated by liberal egalitarians with a regulatory standard.

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His account of exploitation proper is however similar to the one defended by the libertarians mentioned in the previous part in the sense that it also cannot occur in perfectly competitive markets. In such a condition, the regulatory measures he advocates would be superfluous since costs of production would equal marginal costs, with profits solely fulfilling a necessary allocative function (Veneziani 2015). Reiff is a market failure away from libertarianism since, in perfectly competitive markets, voluntariness would be sufficient for a just wage.

To grasp the way liberal egalitarians separate exploitation and distributive injustice, take a landmark legal case that has had the merit to clarify two possible positions on the relation between voluntariness and exploitation. *Lochner v. New York* (Harlan et al. 1905) is a case that has overruled limits on working time in the state of New York after a bakery owner claimed that they violated his freedom of contract. On the libertarian view, Lochner was being exploited by his employees. Suppose that he pays them a wage of 1000 denarii for ten hours. He would have preferred to pay them that wage for twelve hours but was not allowed to because of the relevant regulation. His employees were thus reaping the benefit of two hours of pay that they would otherwise have to work for. But – and this was the opinion expressed by three dissenting justices John Harlan, Edward White, and William Day – the employees had some independently defined rights to safety and health that would be jeopardised if the regulation was overruled. Oliver Holmes' famous dissent arguing that the American constitution does not enact laissez-faire economics made indirectly the same point. The dissenters did not argue that the workers in the bakery would be *exploited* in the absence of regulation but that they had other rights than their right to property that legislation also had to protect as a matter of justice. Within the framework of these rights, the contract they signed with their boss was procedurally just and thus not exploitative.

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The separation between exploitation and distributive injustice has been the most explicitly acknowledged by John Rawls. Rawls considers that a ‘sufficient’ (Rawls 1971, 268) condition for just wages is a competitive pricing system embedded in his account of just institutions. He assumes a marginal theory of value when he explicitly agrees with Arthur Pigou’s idea that exploitation consists in receiving less than one’s marginal productivity due to the non-ideal conditions in which markets operate (Pigou 1920; Persky and Tsang 1974; Flatau 2001):

> Factors of production never, in fact, receive their marginal products, and under modern conditions anyway industries soon come to be dominated by a few large firms. Competition is at best imperfect and persons receive less than the value of their contribution, and in this sense, they are exploited (Rawls 1971, 272).[60]

What is fair about competitive markets is that it is fair to receive a reward equal to one’s marginal contribution. When it comes to what a just wage is, Rawls, just like Reiff, is a market failure away from libertarianism: as long as markets are competitive, voluntariness is a sufficient condition for non-exploitation. This principle of just wages, however, subordinate to the principles of distributive justice enforced by background institutions (Rawls 1971, para. 12;47). The core principle of capitalism, voluntariness, is but a subordinate common sense norm which may or may not matter depending on how distributive justice is institutionalised in a given society (Rawls 1971, 270). For that reason, Rawls believed that exploitation is ‘not especially worrisome’ (Rawls 1971, 272), since it will be corrected by the institutions that maintain distributive justice.

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[60] That sense of ‘exploitation’ as the market distributive shortcomings can also be found in the works of Ronald Dworkin (Dworkin 1985, 181) and Isiah Berlin as well (Berlin 1969, 38).

C. Can liberalism be anticapitalistic?

This overview of liberal positions on exploitation has been disappointing: None of the liberal views I outlined in this part is anticapitalistic in the sense we defined just before – that is to show that capitalism is systematically, necessarily, and specifically exploitative. Libertarians are pro-capitalistic because they believe that capitalism is sufficient for a just wage *and* distributive justice. Liberal egalitarians agree first the former, they only disagree with the latter. Their disagreement does not therefore come from the injustice of capitalism as a system of interaction, they disagree on the justice of its distributive outcomes following a more extensive understanding of rights. This disappointing result comes from the marginal theory of value. Since value is marginal and subjective, and an objective given in the interaction, then the only way exploitation can be conceived is a disequilibrium, that is a situation where preferences are not fully satisfied. If one remains committed to the marginal theory of value in other words, one must take exploitation – and injustice – to be outside of the preference ordering of the individual agents.

5. Capital and freedom

Liberalism is therefore either pro-capitalistic or if it is anti-capitalistic, it is for other reasons than exploitation. Either side can, of course, be perfectly happy with that results. But I still believe it is possible to develop an anticapitalistic account of liberal exploitation. First, I will show that considered judgements on what is exploitative or not depends on the particular articulation of freedom and rights that is assumed. Second, I will show that what characterises interactions under capitalism is unequal freedom, of which exploitation is the rent. Equal freedom being liberalism' most basic principle and lowest common denominator (H. L. A. Hart 1955; Steiner 1974; Rawls 1971, para. 11), I take such an account to be rather uncontroversial

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among liberals – although I do not mean that liberal necessarily have to agree with what follows as a matter of consistency. Finally, in a third sub-part, I will show that to make this account consistently anticapitalistic, the adoption of a controversial conception of freedom is required. Other accounts of freedom can be defended for other reasons obviously, but in that case other reasons than freedom will have to be advanced to justify an opposition to capitalism.

A. Exploitation and freedom

Liberals have understood freedom in various ways, although since Isaiah Berlin they have mostly considered it as *negative freedom* (Berlin 1969; Rawls 1971, 176–80; Carter 2019). Freedom so conceived is a relation between three objects – Will is free from X to do Y. Y is any item or action that may possibly be on Will's order of preference, and X is an interference that prevents Will to do Y if and when Will decides to do Y. Property rights, which as we saw are at the basis of capitalism as a system of exchanges, are such an X. They interfere with their addressee's freedom in her interactions with their bearer, and the main way the addressee has at her disposal to lift that interference is the economic exchange. Negative liberty is therefore the most fitting conception here, positive freedom, especially when understood as collective self-determination, is irrelevant to our purpose.

Now take the following example:

> Vienna – Budapest
>
> Will lives in Vienna but enjoys going to Budapest for whatever reason. Overnight, Carol buys all the property around him. From now on, Will has to pay a toll to Carol to go to Budapest. He has no money, so he cannot go. He now has to work to get the money to pay Carol.

Is this a case of unfreedom? The fact that Carol purchased this piece of property, which now happens to be in Will's way and that she uses to ask him for a toll, has not rendered him unfree, since she has a right to buy it. The interference that there is between him and Budapest whose lifting he will have to purchase with money is *just*. In this reading of *Vienna – Budapest*, Will's freedom is taken to be moralised, that is it is limited by a relevant set of individual rights as a conceptual matter of facts. According to this view of freedom, the proposition 'Will is not free to do X because Carol has a right against X' makes no sense, for as a conceptual matter of fact, Will can be only be free to do what he has a right to. Carol's right is therefore a variable he must take into account when he determines his preference as to the price to go to Budapest.

Is Will being exploited? On the liberal perspective, I have been discussing at length so far, no. This situation occurred through a just procedure that is arguably common within market institutions. Whether the final distributive outcome itself – Carol owning land and Will owning nothing and whatever endowment each will end up having as a result – relates to background conditions of distributive justice that have been left out on purpose, for this is a different question from whether either of them is being exploited. The fact that Will has a preference to be able to go to Budapest for free is irrelevant given that his preference must include the respect of Carol's rights. The relevant set of preference against which exploitation will be measure starts at the one that is compatible with these rights.

Now, notice that this negative result has been achieved because we have started with an account of freedom that is *moralised* through property rights. *Moralised freedom* has been criticised on two fronts which are relevant for exploitation. The first problem, identified chiefly by Hillel Steiner, is semantic. Moralised freedom does not track the way we understand and use 'freedom' as a word in ordinary language (Steiner 1994, chap. 1). Is Will in *Vienna – Budapest* free to go to Vienna, at least to the same extent than he used to? Not really. Semantically, it

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does seem that Will is rendered unfree by Carol's purchase. The same goes for exploitation. Even if *Vienna – Budapest* occurred through a just procedure, it seems Carol is exploiting Will.

The second critique of moralised freedom is political. Will is unfree to go to Budapest because if he does without having the necessary money, he will forcibly be removed by the power that be from the premises of what has become Carol's property (Cohen 2001). By enforcing theoretically equal individual property rights that power only enshrines Will and Carol's unequal factual freedom to go to Budapest. Going to Budapest indeed requires access to a material resource – the land that Carol presently owns – and that access is denied because of Carol's property rights. There is thus a relevant sense in which Carol's ownership of certain resources limits Will's freedom (Cohen 1995) and increases hers.

This sense is totally independent however of how both agents see their new situation. On their respective preference scale, either of them may actually ranked the new situation higher. Suppose that we can rank both Carol and Will's preferences regarding Will's not going, going after having worked and going for free in the following table:

Vienna-Budapest Preferences

			Carol	
		No go	Work and goes	Goes for free
	No go	3rd / 2nd; 2st		
Will	Work and goes		**2nd / 1st; 1nd**	
	Goes for free			1st / 1st; 3rd

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We could add some possibilities – for example, Will does not go to Budapest while Carol *could* make his work for it, but these preferences only complicate the matter. Vienna – Budapest is the bolded pay off in the middle.

As far as Will is concerned, focus first on the values on the right of the slashes. Following his and Carol's preferences, *Vienna – Budapest* is a Pareto improvement since it ranks as their 1st preferences, whereas the situation wherein Will was going for free was their 1rst and 3rd preferences respectively. But this is only because we are assuming a moralised account of freedom – Will here cannot rank going for free on a higher value than going and paying because as a matter of right he has no entitlement to do that preference. But if we get property rights out of the picture – looking now at Will's values on the left hand of the slash – then Will has indeed been rendered less free than compared to Carol, since there is one preference that he cannot express and act upon. This is true even if *Vienna – Budapest* remains a Paretian optimal equilibrium in both cases and is a mutually beneficial interaction in the very banal sense that it ranks higher on both agents' preference scales compared to no interaction at all – here, not going.

The point made in this part was purely analytical – I only wanted to show that our judgements of what counts as exploitation change according to what conception of freedom and rights we have. I have not yet defended a positive account of exploitation nor any underlying or assumed account of freedom.

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B. Is freedom to work freedom at all?

How to substantiate the judgement that Will is unfree, and exploited in the *Vienna-Budapest* case even if the situation is Pareto optimal and mutually beneficial on Carol and Will's preference scales? We can stop focusing on possible references equilibria and rather compare Will and Carol's freedom regardless of how it is moralised. Will and Carol's interaction is exploitative because there is one interference or prohibition that Will faces that Carol does not – the interference that prevented him from going to Budapest. This is even though they both nominally have equal property rights – Will owns the labour time he may use to pay Carol's price; she owns the land around Will. What matters however is that regarding their respective freedoms to go to Budapest, what they respectively own has a different value.

To understand why, suppose that Carol the capitalist starts with a capital of ten denarii, whereas Will the worker owns one hour of labour time whose market value is also ten denarii. Will's hour of labour time is not worth anything, its marginal, subjective value is the *same* as if he owned the aforementioned starting capital. It is therefore an open question whether he can prefer the latter to the former. If he did, then the exchange would occur, and there is a sense in which any potential exchange would be, from the subjectivity of his preference ordering, beneficial.

There is however one objective difference between what he owns and what Carol owns. He will have to *work* for that hour to cash in this value and be able to start lifting interferences following any preference ordering. The ownership of capital of any relevant value can lift interferences X at time T. Labour can do the same at time T+*n* where *n* is the length of labour time one needs to sell to gain the same capital necessary to lift X. At time T then, there is a whole bunch of interferences that an owner can lift that a self-owner cannot. There is, therefore,

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a measure in which at time T owners are freer than self-owners. Capitalism, as a system of interaction, is what allows them to reap a rent out of this greater freedom, for the price they would need to pay for the worker/self-owner freedom is lower than it would be if their freedom was equal, because that unfreedom modifies the preference ordering of the workers when it comes to the price they sell their labour for. Exploitation is therefore the rent of unequal freedom at time T.

Now, such an account of *Freedom-Exploitation*, contrary to *Preference-exploitation* can accommodate the idea that exploitation is a systematic, necessary and specific feature of capitalism. The exploitation of self-owners by owners is due to what they own – labour time and capital – and is thus systematic. It is inherent to class membership that is determined by the nature of what is owned and is thus not a function of individual behaviour, making it necessary. It is also based on wage labour, that is on the interaction between owners and self-owners, two classes of people that have appeared with the institutions of capitalism and that will most likely disappear with them, fulfilling the condition of specificity. Freedom-exploitation is also possible while assuming a marginalist and subjective account of value, since it can show that owners exploit self-owners even in competitive markets. My incapacity as a self-owner to lift interference X at time T unless I sell *n* hours of labour time is an injustice that is orthogonal to whether the market is competitive or not. The fact that Will has a subjective preference for the exploitative interaction, which is beneficial from his point of view, is irrelevant as well. The interaction is in fact mutually beneficial *because* the capacity to lift interference has been distributed unevenly, but he would not have this preference in the first place if his freedom at time T was equal to Carol's.

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Obviously – that is not the only way people can exploit each other's in capitalism or in any other system, preference exploitation for example is a type of exploitation that is most likely universal. Freedom-exploitation is not an exclusive account and is compatible with other contingent ways people take abuse of each other's vulnerability.

C. Liberal Anticapitalism and Socialism

Freedom-exploitation, however, leads to a paradox. The various accounts of exploitation liberals have assumed and that I have exposed in the fourth part have normative traction specifically because they rely on a moralised account of freedom. Freedom-exploitation, on the other hand, seems the most conceptually capable of showing why capitalism is exploitative since the private ownership of capital systematically, necessarily, and specifically leads to exploitation by comparatively limiting the freedom of workers. The problem, however, is that since it does not integrate any pre-existing account of what makes liberty valuable and who has a right to what, it becomes normatively indeterminate.

Paradoxically then the account of exploitation that has the most potential of being anticapitalistic cannot show that capitalism is *unjustly exploitative*. An interaction between an owner of ten denarii of capital and the owner of an hour of labour time will indeed be exploitative only if ten denarii should not be making one freer than the owning of one hour of labour time. In *Vienna-Budapest,* Carol exploits Will if both should have equal freedom to go to Budapest. But freedom-exploitation does not establish any of that. It must go one step further to reach anticapitalistic conclusions.

Freedom-exploitation must conceive its counter-factual of just interaction as one where negative freedom is equally distributed. The acquisition of greater liberty through the

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ownership of capital – that is the greater capacity to lift interferences at time T – is only made at the expenses of the other party and is thus a zero-sum game. Hillel Steiner's has called this the principle the 'law of conservation of liberty' (Steiner 1994, 50–52). Negative freedom is a finite resource, and the only thing a system of rights does, and especially of property rights, is distributing it. Exploitation, therefore, occurs whenever this resource is distributed unequally, and whenever someone reaps the rent of this inequality when that inequality levels down the preference scale of the exploited agent. Such an understanding of freedom is controversial (Kramer 2003), however, it is the only way liberalism can turn anticapitalistic in the sense I have described previously.

This point allows me to answer a question which will conclude the following essay. Does liberal anticapitalism lead to socialism? Suppose, as some do (Edmundson 2017; M. O'Neill 2008), that socialism fulfils liberal principles of distributive justice and that as far as these principles are concerned, the choice between capitalism or socialism is an open question. Can this question be answered based on how private property rights, and especially the private property of capital, distributes negative liberty?

Take the following interaction between an owner and a self-owner, in different institutional settings:[61]

> *Ant and Grasshopper*: Grasshopper spends the summer months singing, whereas Ant spends all his time accumulating capital. When the winter comes, Grasshopper meets Ant with the former being unable to get food unless she gets some of Ant's capital. There are three possible interactions. There are three options. The first is the non-interaction. The second is one of capitalist labour, Ant trading labour time for some of Grasshopper capital. The third is one where

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[61] It is inspired by a similar thought experiment used by analytic Marxist philosopher Nicholas Vrousalis to show how capitalism leads to exploitation without any previous infringement of rights (Vrousalis 2013, 150)

> Ant and Grasshopper own the total capital together and then barter on that basis. Here are the relevant metrics after the interaction occurred:
>
> (Ant, Grasshopper)
> (i): Do nothing: (20, 0)
> (ii): Capitalist labour: (18, 2)
> (iii): Common ownership of capital: (19, 19)

The measures in bracket represent the total amount of interferences that can be possibly lifted. The two last payoffs correspond to two different economic systems. (ii) corresponds to capitalism, where the capital is privately owned by Ant. Grasshopper is here exploited, for her agreement to capitalist labour comes from her lesser freedom as the capacity to lift interferences, a capacity she will fulfil only by working for Ant. Both have gained from the interaction, but both remain unable to lift interferences to equal extents. (iii) corresponds to socialism, where capital is owned and controlled collectively. 19 is because each cannot be physically at the same spot than the other, bodily integrity being the only one interference that cannot be *physically* lifted. Now it seems that a commitment to equal freedom should lead an anticapitalistic liberal to socialism since *(iii) Common ownership of capital* is here clearly the distribution of freedom that will lead to non-exploitation.

This is the point made by Ian Carter when he considers that collective property makes individuals freer than private property (Carter 2004, 258–73). Carter's point is to criticise – precisely – Hillel Steiner's law of the conservation of liberty. Carter, however, assumes a situation of non-scarcity, that is where the consumption by either Ant or Grasshopper of one marginal unit of capital will not decrease the amount available to the other. Carter acknowledges this highly implausible assumption, which makes his objection bizarre, given that the scarcity of natural resources, especially across generations, is at the basis of Hillel Steiner's account of justice (Steiner 1987; Steinvorth 1995). What it means for exploitation, however, is that all that anticapitalistic liberals need to do is to reject socialism – understood

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as collective property – is to rely on the plausible assumption of the universal scarcity of natural resources. Collective property rights are simply not a model of ownership that can be applied to just any type of goods.

We need therefore to add one metric to *Ant and Grasshopper:*

> (iv): Egalitarian private ownership of capital under conditions of scarcity: (10, 10)
>
> Here the metric is equal, however, how it has been equalised is irrelevant, the important part is that contrary to (ii), it has not consisted of an exchange of labour for capital.

Take three possible regimes of ownership where Carol and Will interact. The first is wherein all property is held collectively, which means they do not put any interference on anybody's freedom. Everybody has, therefore, as a matter of fact, an equal capacity to lift interferences, simply because no such interferences exist. Call this solution 'Socialism'. That solution, however, requires a situation of non-scarcity. The other is where property is distributed in such a way that the capacity to lift interferences is equally distributed as well, that is wherein owning ten denarii does not lift more interferences than owning one hour of labour time. Call this solution 'liberal egalitarianism'. The other scenario is simple capitalism.

Freedom and socio-economic systems

	Carol	Will
Capitalism (where Carol is a property owner).	20	0
Socialism (property is held in common)	19	19
Egalitarian Capitalism (exchange of labour for capital is not the only distributive mechanism)	10	10

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Capitalism is here the exploitative option.[62] The regime to choose between egalitarianism and socialism will, however, depend on the scarcity of what is there to distribute. The issue of scarcity is here the fundamental difference between the liberal and the socialist distributive benchmarks from which exploitation will be identified, with private property obtaining justification from purely efficiency-based considerations. As Onora O'Neill wrote criticising the priority of liberty takes in liberal theories of justice, 'Liberty then cannot be the first, nor the only, virtue of social arrangement' (O. O'Neill 1980, 58), and how its equal distribution is to be assured is a question that is larger than exploitation. Liberal anticapitalism, therefore, needs not rejecting private property – it only needs to reject the idea that the main permissible distributive mechanism is the exchange of capital for labour.

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[62] Note that the last two institutional regimes are not *outcome egalitarian* in the sense that they distribute equally all the existing scarce goods. Rather they are shown to distribute equally one type of scare good – freedom. How this is achieved and maintained and how this distribution influences the distribution of other scarce goods is a larger, and partly empirical, question. And even if an equal distribution of liberty should lead to an equal distribution of the other scarce goods, then this requirement may be overruled by other consideration – for example economic efficiency. A theory of unjust exploitation *is not* the same as a theory of justice.

Conclusion

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My argument has followed two main threads. First, I have criticised the price disequilibrium account of exploitation, that has dominated the literature since Alan Wertheimer's eponymous book. Wertheimer's problem is that his account remains trapped in the opposition – between fairness and efficiency – that it was designed to solve in the first place. Most of his present critics by contrast, have focused on showing that his account generates false positive or false negative, and that unfair taking of advantage can be neither a necessary nor a sufficient condition for exploitation. Some cases of advantage taking are indeed fair, and some cases of exchanges that are not cases of advantage taking are unfair. From there, I have shown that Wertheimer misunderstood how exploitation works in the capitalistic labour market, and through a redefinition, I have defended workplace democracy as being an *extension* of the market, rather than being its opposite. By the same token I have clarified how Hirschman's taxonomy of market strategies as of *exit, voice and loyalty,* can be used in debates on workplace democracy.

Second, I have, through a critique of Nicholas Vrousalis' and then a discussion of Karl Marx's respective accounts, identified what an anticapitalistic account needs to do to succeed. It needs to rely on a plausible vision of what market agents owe to each other's. It needs to integrate certain economic assumptions – among which the problem of scarcity. And finally, it needs to show that in capitalism exploitation is a systematic, necessary and specific phenomenon. I have also argued that private individual property needs not being a brut instrument of power but can simply be considered as an institution that seeks to maximise efficiency. I have ultimately shown that to succeed, a liberal account of exploitation that seeks to criticise capitalism needs to adopt a controversial account of freedom as being a scarce and finite good that must be

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equally distributed as a matter of justice. That distribution is determined through modes of ownership whose sole justification becomes their effect on the efficiency of that distribution.

I have achieved this while addressing several existing understandings of exploitation that have had a major influence on the literature. As mentioned, my two main foci were the accounts developed by Alan Wertheimer and Nicholas Vrousalis. I have however also addressed Mark Reiff's conception of exploitation as unjust price, that I have shown is more concerned with the distributive injustice of capitalism than with exploitation itself. This raises the question of whether his account is one of exploitation at all. I have also discussed Arthur Pigou and Joan Robinson's conceptions of exploitation – appropriated by John Rawls – as a price of labour falling below marginal revenue product and have shown how it is unable to lead to anticapitalistic conclusions.

What 'Liberal anticapitalism' may entail will require further research. Anticapitalistic philosophy has suffered from the lack of consensus that surrounds what exactly capitalism is. As I have shown in the last chapter however, the nature of the liberal opposition to capitalism will heavily depend on how it is conceived. I have characterised capitalism as a specific system of economic interactions – the exchange of capital for labour rather than an end-state pattern of distribution. This is I believe the most accurate description of what it is from the point of view of the non-economical social sciences, such as anthropology and sociology. A better integration of what these have to say on the matter with debates about justice may be needed. Specifically, capitalism is primarily a mode of exchange and production, and a critique that focuses solely on its distributive effect might miss what makes its originality compared to other socio-economics systems.

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This collection of essays has had a more limited scope and has focused on a conversation with the economic theory that supports capitalism. Just as I committed myself to in the introduction, I have stayed within the theoretical assumptions that are shared by today's mainstream economics. I also have tried to address what various economic schools – Neoclassical, Austrian, Marxist, and New Institutional – have to say on the topic of labour markets, and to integrate them into the discussion. In that sense, the recipients of these essays are capitalism' philosophical and economic advocates, that I hope to have met on their own ground with a critique expressed in terms they may accept. To capitalism critics, I hope to have shown the attempt was worth trying.

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