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On the Moral Dimensions of Vulnerability and Exploitation

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Michael Robillard, PhD

University of Connecticut, 2016

I argue that accounts of exploitation have been too narrowly defined specifically with respect to notions of exploitee vulnerability and exploiter benefit. Contrary to typical accounts that formulate vulnerability in terms of a physical, economic, epistemic, or emotional constraint, I contend that agents may be rendered equally vulnerable merely in virtue of their moral commitments. Furthermore, contrary to accounts that formulate exploiter benefit in terms of a physical good or service extracted from the exploitee, I contend that agents may also be exploited by being made to shoulder additional moral burdens. After outlining these under-acknowledged normative features of exploitation, I then go on to apply them to the two real-world cases of military recruitment and commercial surrogacy.

On the Moral Dimensions of Vulnerability and Exploitation

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A Dissertation

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the Requirements for the Degree of Doctor of Philosophy
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University of Connecticut

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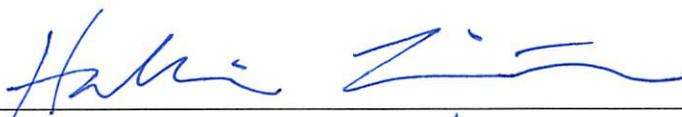
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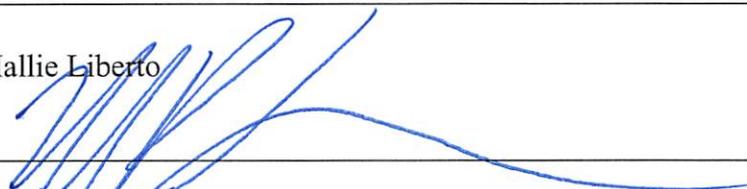
On the Moral Dimensions of Vulnerability and Exploitation

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Introduction

Exploitation is typically formulated in terms of an agent taking advantage of another person's vulnerability in order to extract a benefit that is either unfair or excessive. Much debate among scholars has thereby focused on questions pertaining to what counts as legitimate vulnerability and what constitutes a benefit being unfair or excessive. With respect to these two features, exploitation accounts have varied both in terms of scope and stringency.

Throughout the vast majority of contemporary exploitation dialogues, one can readily find accounts of exploitation motivated by a reoccurring set of standard cases and examples. For instance, cases involving sex work, organ sales, sweatshop labor, medical experimentation, commercial surrogacy, and exploitative rescues abound within contemporary exploitation literature. While not stated explicitly, these frequently cited cases nonetheless function to tacitly paint a picture of exploitee vulnerability and exploiter benefit that is ultimately too narrow and too homogeneous.

With respect to exploitee vulnerability, these examples often serve to cast vulnerability in terms of constraints acting upon an exploitee that are mainly physical or economic in nature, or sometimes emotional or epistemic in nature. With respect to exploiter benefit, this dominant theme of physicality frequently repeats itself, where the thing that is unfairly or excessively extracted by the exploiter, let us call this exploitation's *currency*, often takes the form of a material good or service (i.e. work, kidneys, sex, gestational labor, etc.).

What has gone relatively unacknowledged in contemporary exploitation dialogues, I argue, with respect to both exploitee vulnerability as well as exploiter benefit, is broadly what I

will call here the *moral* dimensions of exploitation. More specifically, my convention is that exploitation theorists have failed to recognize the role that moral obligations and moral commitments can play in rendering exploitees vulnerable and allowing exploiters to benefit.

In Chapter I, I explore what I refer to as *moral vulnerability*. Moral vulnerability, I argue, deals with the ways in which persons can be rendered vulnerable and out or reasonable options merely in virtue of their moral commitments. Indeed, despite the more common manifestations of vulnerability born from standard physical or economic constraints, I argue here that the ways in which an agent may be rendered vulnerable encompass a far greater range of cases than typically thought.

In Chapter II, I explore what I refer to as *moral exploitation*. Here I argue for an altogether different sort of benefit that can be reaped through exploitation – one that requires a somewhat different analysis. Sometimes the advantage gained by the exploiter is not any kind of material gain but rather a freedom from a moral burden. Moral exploitation thereby involves an unfair transfer of *moral responsibility* and/or a *moral deliberative role*. The defining feature of moral exploitation, I argue, involves an exploiter leveraging an exploitee's vulnerability not to acquire any material good or service but to compel that agent to consent to shouldering moral responsibilities and/or moral decision-making that she would not incur if not for her vulnerability.

In light of these two normative features of exploitation —moral commitments as a legitimate source of exploitee vulnerability and moral burdens as a legitimate currency of exploitation—Chapters III and IV focus on the application of these two concepts to two different demographics in society; military recruits and commercial surrogate mothers. While these two

normative concepts apply to more than just these two domains of human activity, the cases of soldier recruitment and surrogate recruitment nonetheless serve as paradigmatic examples of how one's moral commitments can render one vulnerable to exploitation and how the thing unfairly transferred during an exploitative interaction can take the form of moral burdens.

After applying the two normative concepts of moral vulnerability and moral exploitation to these two distinct domains, I conclude by briefly considering how, if at all, these concepts change or alter our existing theoretical apparatus pertaining to exploitation. Indeed, if, on balance, it turns out that agents are more vulnerable than we typically think and, on balance, can have more benefits unfairly or excessively extracted from them than we typically think, then, once we take these additional considerations into account, then the overall ledger dictating what counts as wrongful exploitation and what counts as mutually beneficial exploitation will almost assuredly change. Accordingly, the overall upshot of this dissertation is that it makes a strong case for how present exploitation frameworks ought to be expanded so as to account for these oft under-acknowledged moral features.

Chapter 1: Moral Vulnerability

Introduction

Consider the following case. Imagine that there is a terrorist group who makes use of human shields on the battlefield in order to gain a tactical advantage over their more technologically advantaged yet morally restrained opponent. In such a case, the terrorists use the bodies of innocent non-combatants as a means to physically obstruct their opponent's effective use of kinetic attack. If their opponents thereby choose to shoot, then they will kill the innocent non-combatants in the process of killing the terrorists. Let us further stipulate in this example that the all-things-considered good that would be achieved by opening fire on the terrorists would be insufficient in justifying the collateral killing on 'lesser evil' grounds. In other words, the collateral killing of the innocent non-combatants would be impermissible and would not count as a *pro tanto* wrong that could be justified insofar as it would contribute to the all-things-considered good/greater mission. Accordingly, the terrorists, through their impermissible act of taking human shields, change the moral landscape such that their opponent's otherwise permissible use of kinetic force now becomes morally impermissible. Consequently, while the terrorists' opponents are more than capable of swiftly defeating them were they to simply ignore

the presence of the human shields altogether, the terrorists' morally underhanded methods serve to render their opponent nearly paralyzed in terms of viable fighting options.¹

In considering such a case, we see that the terrorist group is clearly, among other things, wrongfully exploiting and taking unfair advantage of the innocent persons whom they are using as human shields. However, despite this rather obvious example of wrongful exploitation, coercion, and the violation of moral rights, there is yet another wrong at hand. Not only are the human shields being wrongfully exploited, but the terrorists are taking unfair advantage of the moral commitments and general moral decency of *the opponents* against whom they are fighting. Through their impermissible actions, the terrorists place their opponents in a situation with two unsavory options; accomplish the mission but impermissibly kill innocent civilians, or hold fast to their moral convictions but fail in accomplishing the military objective. In light of this cases and cases like it, this chapter will examine instances of wrongful exploitation specifically generated by vulnerabilities stemming exclusively from an agent's moral commitments like in the one here described.

Contemporary formulations of exploitation almost invariably include some reference to the notion of vulnerability. Along with the concept of exploiter benefit, this concept of exploitee

¹ For a similar thought experiment see Bazargan's "Moral Coercion," in *Philosopher's Imprint* Vol 14, No. 11, May 2014. While Bazargan uses such a case to motivate discussion regarding liability to defensive harming in war, I believe that such a case, and cases like it, can similarly illuminate our exploration of exploitation. The relevant similarity between my account and Bazargan's is the acknowledgement that an agent's behaviors may be constrained and taken advantage of merely by way of manipulating their moral commitments.

vulnerability seems indispensable to any working theory of exploitation.² What's more, according to many popular exploitation accounts, the degree to which an agent is vulnerable will often play a decisive role in determining whether or not something should count as a case of *harmful* exploitation. Hence, a particular case might still count as exploitation, but without sufficient vulnerability on the part of the victim, the relative difference in benefit between exploiter and exploitee might fail to be severe enough to make the exploitee 'worse off' relative to some baseline of fairness.³

Despite its pervasiveness, conceptions of vulnerability have varied considerably amongst theorists, ranging from formulations like those proposed by Alan Wertheimer to more stringent formulations like those offered by Mikhail Valdman. For Wertheimer, an agent is vulnerable to exploitation if she is under pressure because of the urgency and severity of a decision-making situation, and/or if she is lacking adequate information. For Valdman, an agent is vulnerable if she is lacking adequate information that is not available to the agent or is *completely out of reasonable options*. So for instance, on Wertheimer's view, a worker could freely choose to

² Robert Goodin (Goodin 1987) for instance, argues that the special wrongness of exploitation comes as a result of not only failing to uphold a fundamental duty to protect those who are vulnerable but then turning that vulnerability towards our own advantage. Echoing sentiments similar to Goodin, Alan Wood (Wood 1995) contends that the special wrong-making feature of exploitation is not merely the instrumental use of a person, but more specifically, the instrumental use of a person's *vulnerability*. To further our own ends by intentional targeting another's vulnerability, Wood argues, is degrading to that individual and hence is the hallmark of exploitation's unique wrongness.

³ Indeed, in all cases of exploitation the exploitee will be made better off relative to the baseline of not transacting at all. However, many philosophers working on exploitation challenge the notion that the counterfactual case of 'not transacting at all' should deb the proper moral baseline which to define harm.

allow himself to be exploited if doing so would improve his financial situation on balance despite his full knowledge of the excessive or unfair distribution of the social surplus generated by the transaction. Accordingly, on Wertheimer's view, the worker could be blameworthy for choosing to allow himself to be exploited in such a way, especially if his actions were deleterious to the bargaining efforts of his fellow disenfranchised workers. On Valdman's view however, the exploitee cannot *choose*, of his own volition, to allow himself to be exploited. Indeed, perhaps he can choose to 'let himself be used', but in such cases, according to Valdman, the agent will not be wrongfully exploited since not opting into the unfair transaction will still be among the set of reasonable alternatives available to him.

However, if the worker has a starving family and he has no other 'reasonable option' but to acquiesce to the demands of the employer or risk being fired, then, according to Valdman, the worker would not be freely choosing to allow himself to be used, but rather would be in a situation of being wrongfully exploited in virtue of his total absence of reasonable options. In such a case then, unlike on Wertheimer's view, it would be conceptually impossible for the exploited party to be morally blameworthy his decision to participate in the exploitative transaction. As Valdman puts it, in order for an agent to genuinely and legitimately be vulnerable, she must, "have her back to the wall", so to speak. In consideration of this claim, we may ask, how should we understand the scope and ways in which an agent can be said to truly be, "out of reasonable options"?

In this chapter I submit that the ways in which an agent may be truly out of reasonable options encompass a far greater range of cases than typically thought. Specifically, I contend that contemporary exploitation literature has largely focused its attention upon only some sets of

cases to the neglect of other equally legitimate ones. In addition to the typical physical, economic, emotional, and sometimes epistemic ways in which an agent is usually understood to be out of reasonable options, I argue that an agent may also be rendered vulnerable to wrongful exploitation simply because of her *moral commitments*. In other words, my claim is that an agent's moral beliefs can equally function to put an agent's 'back to the wall', so to speak, and to serve as leverage points for wrongful exploitation. In this chapter, I refer to this unique kind of vulnerability as *moral vulnerability*.

To be clear, in positing this notion of moral vulnerability, I am not offering an objection to any of the existing theories within contemporary exploitation literature. Rather, I see this chapter as an investigation of a yet to be explored way in which an agent can be vulnerable, one that does not fit neatly within the current descriptions of vulnerability presented by contemporary authors. This form of vulnerability, I contend, while compatible with existing theories of exploitation currently on the table, nonetheless requires its own analysis and examination.

In Section I, I briefly review some standard exploitation accounts offered by various contemporary theorists and investigate how these theorists typically cash out the notion of exploitee vulnerability in terms of physical, economic, emotional, or sometimes epistemic constraints. In Section II, I then offer my alternative account of how an agent may also be rendered equally vulnerable simply by means of her moral values and moral commitments and how these moral commitments may serve as potential leverage points for wrongful exploitation. Lastly, with this new understanding of how one's reasonable options may be constrained by one's moral beliefs, sometimes quite significantly, I conclude by briefly noting what this

expanded conception of vulnerability might further entail for exploitation in general.⁴ The overall upshot of this chapter is the recognition that the scope of legitimate vulnerability, wrongful exploitation, and our concomitant duties with respect to each, extends much further than and in directions contrary to what we may typically think.

I. Standard Vulnerability

It is my contention that contemporary exploitation theorists have formulated the concept of exploitee vulnerability too narrowly. Specifically, my claim is that the typical vulnerable-making constraints often assumed by many exploitation theorists have largely taken the same general and routine form (i.e. of some kind of physical, economic, emotional, or sometimes epistemic restriction). While not often stated outright, the standard exploitation cases and examples that many theorists have frequently turned to have nonetheless served to tacitly reinforce this assumed set of vulnerable-making features to the disregard of other possible legitimate considerations.

Take for instance, Valdman's *Antidote Case*, one which he offers as a *paradigmatic* example of wrongful exploitation. The case runs as follows: Two hikers, Hiker A and Hiker B are walking in the woods when Hiker A is bitten by a poisonous snake. Hiker A needs immediate

⁴ With respect to the former, the main worry is that if our conception of vulnerability extends too broadly, then it may be deleterious to related notions of individual responsibility. Conversely, if our conception of vulnerability is too narrow, then we run the risk of endorsing a form of unjustified victim-blaming. With respect to the latter, since the constraints restricting the agent's set of reasonable options are wholly *internal* to the agent, the main concern is that our attempts to aid or assist those who are vulnerable in this unique way may run the risk of crossing over into the realm of unjustified paternalism.

aid or else he will die. Fortunately for Hiker A, Hiker B has the \$10 antidote. However, rather than just giving it to him, Hiker B demands \$10,000 from Hiker A in exchange for the antidote. Left with very few options, Hiker A agrees to Hiker B's demands. The transaction occurs and both hikers exit the woods having mutually benefited, Hiker A having benefited considerably more so than Hiker B relative to the cost of not transacting at all (Valdman 2011).

Here we clearly see Hiker B exploiting Hiker A by targeting and leveraging a pronounced *physical* constraint that is serving to close off Hiker A's set of reasonable options. Valdman argues that the *Antidote* case exemplifies a paradigmatic instance of wrongful exploitation since it possesses the dual characteristics of 1.) excessive gain on the part of the exploiter as well as 2.) a total lack of reasonable options on the part of the exploitee. For Valdman, nothing short of one having her 'back to the wall' and thereby being completely out of reasonable options counts as being vulnerable. Accordingly, on Valdman's view, one cannot reasonable *choose* to be wrongfully exploited.

Elsewhere in his essay, Valdman cites other 'back to the wall' exploitation cases, ones involving an exploited assembly-line worker (economic vulnerability), a homeless man exploited by a politician for public relations benefits (economic vulnerability again), several exploitative rescue cases (physical vulnerability), and a case involving a psychologist who exploits his patient for sex (emotional vulnerability). Thus, throughout all of these cases, it would seem, the

constraints closing off the exploitee's set of reasonable options admit of one of the basic four vulnerable-making features previously described.⁵

Contrary to Valdman, Alan Wertheimer offers a less stringent notion of exploitee vulnerability. According to Wertheimer, an agent is vulnerable, not only in extreme cases when she 'has her back to the wall' but simply when she is *under pressure* and not *well informed* (Wertheimer 1996). Hence, on Wertheimer's view, an agent can be legitimately vulnerable while still having reasonable options available to her, and can sometimes choose to be exploited of her own volition. Despite the differences in their mutual conceptions of exploitee vulnerability, it is important to note the shared similarities existing between both Valdman and Wertheimer's go-to exploitation cases. In his influential work *Exploitation*, Wertheimer's set of specific exploitation cases include the following: the exploitation of commercial surrogates for their surrogacy services, the exploitation of student-athletes by universities for their athletic performance, and the exploitation of patients by psychotherapists for sex. In each of these cases we see one or even several kinds of vulnerability at work.

For instance, in the case of commercial surrogates who are often exploited for their gestational labor, the main set of vulnerabilities constraining these agents' options tend to be ones that are economic and/or epistemic in nature. For instance, the average surrogate often comes from a working class economic bracket and from more traditional backgrounds. Additionally, surrogate recruits often possess little more than a high school education. Accordingly they may

⁵ As mentioned, the cases Valdman frequently relies upon to advance his account of exploitation heavily characterize vulnerability in terms physical, economic, and to a lesser degree, emotional constraints. However, Valdman does not appear to cite any explicit cases involving vulnerability in virtue of epistemic considerations.

not fully understand the full range of medical, psychological, and biological costs that opting into the surrogacy contract might entail.

In the case of student-athletes exploited by universities for their athletic labor, some combination of economic and emotional vulnerability, according to Wertheimer, is often present. Indeed, student-athletes are often recruited from economically disadvantaged backgrounds and also have strong hopes of either ‘making it’ as professional athletes or, at the very least, acquiring a university degree with the corresponding educational skill-set commensurate with such a degree. The large amount of revenue and social capital generated by the student-athletes’ athletic labor often gets unfairly distributed to the university while only a fraction of it is seen by the student-athlete. The student-athletes on the other hand, many of which will not have their hopes and dreams of becoming professional athletes come true, will often come away from the exchange with a college education that is severely lacking, either because of the disproportionate amount of time spent on the playing field or because, from the very beginning, they were never really in a place where uptake of such classroom knowledge was even that likely.

Lastly, with the exploitation of patients by psychotherapists for sex, Wertheimer notes the pronounced emotional vulnerability that is often present in such cases. Given the psychologist’s expert knowledge, the patient often lets her emotional guard down and shares deeply personal features about herself, things she would not otherwise share with the psychologist or any other person were it not for the psychologist’s unique medical role. Oftentimes, it is not uncommon in such circumstances for patients to mistake this emotional sharing (and the psychologist’s listening and comforting) with romantic attachment. The patient is, in effect, putting herself in a place of extreme emotional vulnerability as well as in a place where there is a pronounced

asymmetric power differential between the two. Sometimes therapists take unfair advantage of this emotional vulnerability and leverage it for unfair romantic or sexual gain. While none of Wertheimer's cases meet Valdman's more stringent criteria for agent vulnerability, they nonetheless admit of the same general pattern whereby the agent's reasonable options are restricted by some physical, economic, emotional, or epistemic factor.

In addition to Valdman and Wertheimer, several other exploitation theorists have conceived of vulnerability in a similar light. Matt Zwolinski (Zwolinski 2006a, 2012b), for instance, focuses upon the set of constraints acting upon sweatshop laborers (economic vulnerability). So too does Allen Wood (Wood 1995), in one of his chapters, where he critiques capitalism's exploitation of the common worker (economic vulnerability). Elsewhere, Chris Meyers (Meyers 2004) gives a case of a rescue in the desert where an exploiter takes advantage of the exploitee's predicament in order to extract sex from the rescue victim in exchange for his life-saving services (physical vulnerability). And Hallie Liberto (Liberto 2013) gives a case involving a minister taking advantage of the special trust between himself and one of the members of his congregation in order to sell him a piece of property for an exceptionally high price (arguably a combination of emotional and epistemic vulnerabilities). In each of these cases, the presumed vulnerable-making feature restricting the agent's set of reasonable options, takes the form of the four constraints previously alluded to.

Despite this common trend in how vulnerability is often conceived, one philosopher, Robert Goodin, does in fact seem to grant recognition to the ways in which an agent can be

rendered vulnerable and out of reasonable options by way of her moral commitments.⁶ In *Exploiting a Situation and Exploiting a Person*, Goodin (Goodin 1987) gives two relevant cases where an agent's set of moral commitments function, if only partially, as additional constraints closing off her set of reasonable options. And while Goodin's primary use of these cases is designed to highlight the distinction he makes between exploiting persons versus situations, Goodin's cases nonetheless illustrate and give credence to the notion that agents can be rendered vulnerable due to their moral commitments.

The first case Goodin offers is one in which a person unfairly takes advantage of the special trust of close friends or lovers. In such a case, it would appear that the feature constraining the exploitee's set of reasonable options, and thereby rendering him or her vulnerable, does not fit cleanly into the standard categorization of physical, economic, or emotional constraints. Indeed, in a case where one exploits the trust of someone else, there is arguably an element of deception involved and hence, an exploitation of that person's epistemic vulnerabilities. However, even if we grant this constraint, I argue that there is yet another way in which the exploitee's reasonable options narrow, namely, by his or her specific moral convictions with respect to friendship. Insofar as one believes one *ought* to trust one's closest

⁶ Liberto also echoes this same sentiment in her chapter, "Noxious Markets versus Noxious Gift-Relationships", (Liberto 2013). Specifically, she argues that in the special context of friendship, both parties knowingly take the other person's interests into account when making decisions. Accordingly, there is a tacit understanding between both parties to refrain from 'playing hardball' and to refrain from attempting to maximize just one's own interests. Like Goodin, Liberto thereby acknowledges the action-constraining features generated by one's moral commitments with regard to friends and friendship.

friends, then, one's reasonable options appear to be even further constrained beyond his or her disadvantaged epistemic predicament.⁷

The second relevant case Goodin offers is one where members in a group exploit their hardworking peer who is considerably more invested in the group project. Knowing full well of their peer's deep investment in the success of the project, the other workers choose to neglect their own duties, confident that their peer will pick up the slack. It is unclear in Goodin's case whether or not the exploited worker is more invested in the project because of selfish motives or because of a sense of moral obligation to be a hard worker. And while Goodin presents these cases to illustrate different points, what I suggest is that these cases, and other relevantly similar cases, show that moral convictions can be a source of moral vulnerability, and can sometimes dramatically constrain one's reasonable options.

II. Moral Vulnerability

As we see in the majority of standard exploitation cases, the constraints typically taken to be acting upon an agent's set of reasonable options are often cashed out in features that are physical, economic, or emotional. This is not always the case however, as we also saw instances of exploitation where it is primarily an *epistemic* factor serving to constrain an agent's overall set of reasonable options. These epistemic cases are important to note since they demonstrate many theorists' acknowledgement that vulnerability need not always be, to use Parfit's

⁷ Liberto's minister case could be similarly construed in this way insofar as the member of the minister's parish might hold the moral belief that there is something wrong about assuming or suspecting that the minister would ever 'play hardball' in a business deal with members of his own flock.

language, ‘fact-relative’, and that an agent’s set of reasonable options need not always be constrained by some objective state of affairs.⁸ Rather, in recognizing that one may also be rendered vulnerable by his or her disadvantaged epistemic or informational position, many exploitation theorists thereby acknowledge how it is that an agent may be made vulnerable by ‘belief-relative’ and ‘evidence-relative’ constraints as well. In these cases where an agent is epistemically vulnerable, the specific beliefs constraining her reasonable options are exclusively about *non-moral* contents. Such acknowledgement however, lends greater credence and plausibility to the idea that an agent could be rendered vulnerable by his or her beliefs concerning *moral* contents as well.

Just as one’s perceptions or misperceptions of one’s set of reasonable of options can be leveraged against him or her in order to derive excessive or unfair benefits, so too, I argue, can one’s moral commitments. In such instances, as is with cases involving epistemic vulnerability, an objective, fact-relative need or urgency need not always be present in order for one to be legitimately vulnerable. However, what one’s moral commitments can effectively do is place *additional restricting parameters* upon an otherwise normal situation, changing that situation into a vulnerable one and making otherwise reasonable options justifiably unreasonable.

⁸ Consider, for instance, the case of the old woman who (accidentally) sells her husband’s baseball card collection for a price radically lower than the going market price. In a ‘fact-relative’ sense, it does not appear that the woman is vulnerable. She is not in a particularly compromised physical, economic, or emotional predicament that another can take advantage of. However, in a ‘belief relative’ sense, she is in fact somewhat vulnerable insofar as her severe lack of specific knowledge regarding baseball cards and their values renders her in a position where she then gives them away at what would appear to many to be an exceptionally unreasonable price.

Consider a case where a food vendor is exclusively dealing his products to a small, isolated community made up of mostly vegetarians. Realizing that the vegetarian members of the community, because of their ethical code, will not eat any of the meat products that he is selling, the vendor decides to use this fact to his advantage and to raise the price of all non-meat products to ridiculously high levels.

The initial thought here might be to say that the wrong-making feature of the vendor's actions has everything to do with his being a monopolist and taking advantage of, for all intents and purposes, a relatively captive market. Structurally, this would be no different than if there were a food shortage in that same local area and the vendor decided to up *all* of his prices to excessive levels in order to capitalize on the town's hunger. Wertheimer might want to say that the feature which makes the vendor's actions wrongfully exploitative is the fact that he raised his prices well beyond the morally justified *reservation price* as informed by the going market price of those commodities. This case would then be structurally no different from the umbrella salesman who suddenly ups his prices by 400% during a rainstorm. The exploitative feature of the scenario then is not the vendor's specific leveraging of the vegetarians' moral commitments, but merely the upping of prices (whatever the commodity happens to be) beyond a certain morally justified reservation value as informed by the going market price.

These interpretations are somewhat accurate, however they nonetheless fail to capture one important morally relevant feature. If we examine the cases of the vendor dealing with the starving community or the umbrella salesman dealing with customers in the middle of a rainstorm, we notice that the vulnerabilities of the agents are produced by the agent's external environment. In other words, the exploitee's lack of reasonable options directly results from his

situated-ness within some constrained physical, economic, or emotional context. The constraints of this context then become the leverage points which the exploiter intentionally targets. In the case of the starving community, it is the agents' hunger. In the case of the rainstorm, it is the agents' bodily discomfort. This however is not the case with our original example.

When the vendor ups the price of all of his other products besides meat, the constraining feature promoting greater urgency and taking away reasonable options for the vegetarians is neither something physical nor economic nor emotional. Nor is the constraint even epistemic in nature. (Though, we know from cases of epistemic vulnerability that constraints need not be external. If the starving community did not know about its many food options, and the vendor capitalized on this ignorance, the vendor might still be guilty of wrongful exploitation.) Instead, the vegetarians of the community are fully informed about the extent of their options. Rather, the main feature limiting the agents' options in this scenario has everything to do with their *moral commitments*. This is the feature that the vendor intentionally and opportunistically targets, knowing that it is acting upon the vegetarians of the community in the same way that a physical constraint would act. In the starvation case, the vendor exploits the citizens by giving them the option to pay exorbitant prices or to starve to death. In this case, the vendor exploits the vegetarians by giving them the options to pay exorbitant prices, starve to death, or sacrifice their moral commitments. While the vegetarians are not technically in a place of physical, economic, emotional, or even epistemic vulnerability and ostensibly *do* have reasonable alternatives given only those parameters, because of their moral commitments pertaining to meat-eating, such alternatives become no longer reasonable. Though not vulnerable in the standard ways, they are vulnerable nonetheless.

Returning to our original human shield case, we see another instance demonstrative of the way in which an agent's set of moral commitments can serve to further constrain that agent's set of reasonable options, thereby rendering that agent open to wrongful exploitation. In terms of the objective, fact-relative fighting options available to the just state fighting against the terrorists, the only hard parameters acting upon their set of reasonable options, it would seem, are those determined by brute physical or technological factors. Nonetheless, it would appear that the state's set of reasonable options is restricted in a way that goes beyond mere consideration of physical or technological constraints. Indeed, in virtue of its moral commitment to not attack innocent human shields, the state's set of reasonable options is further restricted beyond the brute limitations of its physical and technological predicament. While it is indeed possible for the state to choose, at any time, to relax or even jettison altogether its self-imposed moral restrictions regarding the targeting of human shields, it is not possible for the state to do the same with regard to the hard physical, technological, or epistemic restrictions acting upon them. Importantly, such restrictions, it would seem, are not similarly under our volitional control.

Nonetheless, what the terrorist group is precisely counting on, is that the state *will* in fact choose to forego using certain tactical options readily available in order to uphold their recognized moral obligation to protect innocent bystanders. Indeed, were the terrorists to believe that the use of human shields would fail to cause the state to restrict its own behavior in anyway whatsoever, then the terrorists would likely refrain from this tactic altogether since doing so would not produce any sort of tactical advantage or change in their opponents' behavior. In this way, the exploitation of the just state is much like the exploitation of the vegetarians. It is this

particular constraint, one of a fundamentally *moral* sort, of which the terrorists knowingly take unfair advantage in order to gain a tactical upper-hand.

There is therefore something very important to note here when it comes to moral vulnerability. Unlike other kinds of vulnerability, moral vulnerability is not to be located anywhere in the agent's external situation or predicament but rather it is something fundamentally internal to the agent's constitution. In this way, it is similar to epistemic vulnerability.⁹ However, moral vulnerability differs from epistemic vulnerability in at least one significant way. Unlike these other kinds of vulnerability, moral vulnerability is always something that is consciously *self-imposed*.¹⁰ Thus, while vulnerabilities brought about by the constraints of an agent's physical, economic, emotional, or epistemic predicament cannot simply be willed away by an agent's decision-making, constraints of a moral sort *can* in fact be removed (or conversely, erected) in this very way. Put simply, moral vulnerability has a unique volitional component that other kinds of vulnerability fail to possess.

This is not to say that there is no objective morality, only that whether or not one actually *abides by* objective morality is determined by a volitional component that is wholly absent when it comes to other kinds of vulnerability. The fact that moral constraints are something that are fundamentally self-imposed, thereby brings about an important question as to the extent to

⁹ And arguably emotional vulnerability depending on whether we conceive of emotional vulnerability as a propositional attitude or as a sub-species of a physical constraint located in the physical body.

¹⁰ I thank Daniel Silvermint for developing this point.

which agents are actually being *wrongfully* exploited. Indeed, we can imagine another case, different from our previous two, that illustrates this point.

Imagine a case where there is a white supremacist who believes it to be morally wrong to do business with anyone but the one white car-dealer in town. Imagine also that the car-dealer has to keep his prices competitive when dealing with all his other clients, who are just as likely to go elsewhere. Imagine lastly, that the white supremacist explicitly explains his reasoning to the salesman, and that upon hearing this, the salesman exerts a considerable effort to provide sound reason and argumentation to the white supremacist as to why he should change his presumed moral duties with respect to other races, but to no avail. If, after such efforts, the salesman chose to take advantage of the white supremacist's bigoted moral convictions by charging him and only him an exorbitant amount, would we then want to say that the racist customer was *wrongfully* exploited and morally vulnerable in the exact same way as the vegetarian community who refused to eat meat or the state who refused to fire on human shields?

In assessing this case of the white supremacist, I believe it would help for us to make a distinction between *actual* versus *perceived* moral constraints. While a full account of the difference between actual moral constraints versus perceived moral constraints far exceeds the scope of this chapter, I nonetheless think it highly important that we keep these categories separate and distinct. My contention here is that 'actual' moral constraints on one's reasonable options are ones that are morally real constraints. "Merely perceived" moral constraints are non-real moral constraints that are nonetheless believed to be constraints by certain people. Some merely perceived moral constraints are nonetheless well-reasoned moral convictions and, like

actual moral constraints, have the power to legitimately constrain an agent's set of reasonable options, thereby making her vulnerable to wrongful exploitation.

However, irrational, poorly-reasoned, and epistemically negligent moral convictions lack a similar constraining power. What matters then when considering merely perceived constraints is whether or not the agent's set of beliefs are arrived at in a manner that is coherent, responsive to evidence, and free of cognitive biases. Thus, even if the agent's moral convictions turn out to be ultimately unjustified (i.e. if it turns out deontology is incorrect), his or her well-thought-out moral reasons can nonetheless undermine the reasonableness of other alternatives for that agent. However, if there are no good reasons for the agent's moral conviction, or if the moral conviction is irrational, then there is nothing to undermine the reasonableness of the alternative for the agent. Hence, it doesn't constrain that agent's reasonable options in the same way and he or she is therefore neither morally vulnerable nor wrongfully exploited on account of such perceptions.

Of course, people care about and are guided by their convictions, reasoned or not. Further, philosophers have long since allowed that false beliefs can make someone vulnerable to wrongful exploitation. So, why can't false beliefs about morality, reasoned or not, make someone vulnerable to wrongful exploitation? Remember, I'm not rejecting Valdman's suggested criterion for wrongful exploitation: a victim must be without reasonable options. I am just expanding it to say that some moral convictions, real or perceived, can limit one's reasonable options. However, for an immoral feature (or believed, immoral feature) of an option to preclude that option from being among an exploitee's reasonable options, that feature needs to be deemed bad on the basis

of considered reasons. Only constraints that stem *from* reasons can restrict the range of what is subjectively reasonable.

As I've explained, someone can, through reasoning, get to a false moral belief. These constrain an agent's reasonable options from a subjective perspective, just as a false belief does (e.g. a belief that snake that bit you has poisonous venom, when it does not). This is why I believe the important distinction bearing on the wrongfulness of exploitation lies between reasoned and un-reasoned moral convictions, not real and merely perceived ones.

If a well-reasoned moral conviction speaks against a particular option, then it has the power to undermine the reasonability of that option (given the balance of reasons). If a faith-based, superstitious, or fallaciously reasoned moral conviction is all that speaks against a particular option, then it does not have the power to undermine the reasonability of that option (given the balance of reasons). This means that the car buyer's racist moral beliefs might not make him vulnerable to wrongful exploitation. However, the vegetarians' food ethics would make them vulnerable to wrongful exploitation. Note that this would be true even if it turned out that it is permissible to eat meat. The power of a moral conviction to undermine an otherwise reasonable option does not depend on the moral conviction being true. The conviction just has to be supported by good, well thought out reasons.

One important point to note here is that a while one might be rendered legitimately vulnerable due to a merely perceived but well-reasoned moral constraint, over time, such a constraint may turn into a merely perceived, poorly reasoned moral constraint – as evidence accrues and the agent fails to be responsive and adaptive to new epistemic and moral reasons. In such a case, the original vulnerability experienced by the victim of wrongful exploitation would

thereby vanish. Take for instance, the case of a young Huckleberry Finn, who, given his youth and the highly limited epistemic environment, is taken advantage of because of a particular racist conviction of his that he has nonetheless arrived at by his best epistemic efforts. If Huck or anyone else in his position could not have done better, then, on my view, his predicament should thereby be regarded as rendering him legitimately vulnerable to wrongful exploitation. Relying on mere testimony from well-regarded adults, when you are a child, is not unreasonable. If, however, Huck were to continue to grow up and to have the opportunity to learn that his racist acculturation was deeply flawed and was to *still* maintain a set of entrenched racist beliefs, *then*, were someone to leverage those racist beliefs towards and unfair or excessive gain, much like in the case of the racist car buyer, I do not think Huck would have any claim whatsoever to being vulnerable in any way.

The distinction between actual and perceived moral constraints does play a crucial role with regard to the possible *duties* one might have to those who are vulnerable in these ways. If the agent is made vulnerable by what we might, by our best philosophical lights, consider to be an actual moral constraint, then the aid and assistance we offer to the vulnerable party might simply take the form of bringing the exploitation that is occurring more to his or her conscious awareness. Indeed, at a minimum, one would think that we have an obligation to at least avail the vulnerable party to the fact that somebody else is, to use Goodin's language, 'playing for advantage' against her and doing so specifically by targeting her moral convictions. In fact, in a great many cases, it may just be the case that the exploitee is morally vulnerable in *two* respects and not simply one: one vulnerability being the specific set of moral values that the exploiter actively targets (i.e. a person's commitment to vegetarianism) and the other vulnerability being

the exploitee's basic default trust in the goodness of humankind and an assumption that another person would never try to take advantage of her in such a way. Thus, actively pointing out the exploitation at hand to the exploitee is arguably a minimal duty one has when dealing with exploitees whose conviction are actual moral constraints.¹¹

If, however, the agent is made vulnerable by merely a *unreasoned* moral constraint, one grounded in something like superstition, excessive emotion, fear of punishment, formal or informal fallacies, social conformity, or some other form of uncritical reasoning (which seems very much to be the case with respect to the white supremacist), or even if the conviction is well-reasoned, but still false, then aid and assistance directed towards the vulnerable party may actually take the form of trying to *rid* that agent of these perceived moral commitments. That being said, in the case of unreasoned moral convictions, there might simply be a limit to this duty of aid and assistance at some point. In the singular snake-bite case, we think it Hiker B's duty to aid and assist Hiker A, and to do so in a non-exploitative way. However, after Hiker A's one hundredth consecutive snake-bite due to repeated personal negligence, Hiker B's duty of aid and assistance arguably might not be as strong. In such a case, it is at least plausible that Hiker B could be permitted to begin charging Hiker A an exploitative price for the antidote. Such is the case, I argue, with our white supremacist. If, after a certain amount of attempts to rid him of his irrational beliefs, he continues to hold fast to his irrational, perceived moral convictions, then, I

¹¹ One might also argue that this is the *maximal* positive duty of assistance one has in these cases as well and, that after pointing out to the exploitee the unfair power dynamic at play, that one is obliged to refrain from further assistance for reasons of respecting autonomy.

argue, at some point it might be permissible for the salesman to take advantage of those racist moral convictions in order to fleece the white supremacist for all that he's worth.

As a final consideration, if my argument for the legitimacy of vulnerability on account of one's moral convictions is correct, then one serious question that remains yet to be explored is the question of how one might be made uniquely vulnerable by *particular moral frameworks*. In other words, one might wonder whether or not the deontologist, for instance, is morally vulnerable in unique ways that the consequentialist or the virtue theorist is not, and vice versa. While a full investigation of this question well exceeds the scope of this chapter, I believe that the same general considerations as previously mentioned apply. That is, that an agent can be said to be legitimately vulnerable due to his or her moral convictions if he or she has come to those convictions by way of conscious, rational reflection and responsiveness to relevant epistemic and moral reasons. If, however, one adopts what amounts to only be a very shallow version of a particular moral framework based predominantly upon a desire to conform to popular opinion or to authority, for example, then, on my view, such an agent would fail to count as being morally vulnerable.

Indeed, a close parallel can be drawn between how one's moral convictions might make one vulnerable to wrongful exploitation and how one's moral convictions might serve to exculpate agents from potential blameworthiness. Gideon Rosen (Rosen 2003) and Elizabeth Harman (Harman 2011), for instance, offer opposing views as to whether or not moral ignorance brought about by one's circumstances and entrenched societal norms can function, to some degree, to exculpate agents from blameworthiness. While Rosen argues that one's moral ignorance can indeed serve this exculpating role, Harman largely resists such a notion. Without

getting into the mechanics and nuances of either of these particular arguments, my general intuition is that whatever turns out to be the correct view to concerning the degree to which one's deep or shallow commitment to a particular moral framework may be exculpating, similar conclusions will by-and-large hold with respect to the degree to which one's moral framework may render her vulnerable to wrongful exploitation.

Conclusion

In this chapter I have argued for a more expansive account of the ways in which an agent may be vulnerable and left without reasonable options. Specifically, I have argued that philosophers' typical accounts of vulnerability have focused too narrowly upon instances and scenarios where an agent's reasonable options are constrained by factors that are physical, economic, emotional, and sometimes epistemic in nature. This narrow account of vulnerability, I contend, has subsequently allowed for theorists to too easily gloss over equally legitimate cases of vulnerability generated by an agent's moral values and moral convictions. While it may be the case that agents can be made morally vulnerable by their moral commitments, and can thereby be wrongfully exploited, the moral force of that exploitation, I argue, will largely come down to the *type* of moral conviction (actual vs. perceived) constraining that agent's set of reasonable options.

If the agent's set of reasonable options is constrained by an actual moral constraint, in other words, one that has been arrived at by way of good epistemic virtues, then, I argue, the agent should be considered just as vulnerable as anyone who is bound by any other constraint recognized in the literature (physical, economic, lack of non-moral information, etc.). If the

person's set of options are constrained by a merely perceived moral conviction, then whether the conviction was arrived at through reason, and in response to real moral reasons – even if not the overriding ones. On the other hand, if the conviction is one arrived at negligently, or due to irrational cognitive bias, *and* the agent had the opportunity to update her moral beliefs but failed to do so, then the agent should not be considered morally vulnerable.

This distinction, I have argued, further informs our duties to belief-holders. If the moral restriction acting upon the agent is an actual one, or is a merely perceived but reasoned one, then our duties of action or restraint will shake out one particular way. If the moral restriction acting upon the agent is merely a perceived one that is not the result of reasoning or responsive to moral reasons (i.e. unreflective, superstitious, contradictory, not evidentially supported, etc.), then our duties of action and/or restraint will shake out a different way. In the case of the latter, as we noted, this might take the form of a duty to try resolve or eradicate the circumstances causing their merely perceived moral restrictions. By understanding agent vulnerability in terms that extend beyond standard categorizations, we come to realize that one can have his or her 'back to the wall' because of a moral belief.

Chapter 2: Moral Exploitation

Consider the following scenario. Anna is Beth's boss. One day, because of budgetary cuts within the company, Anna is faced with the difficult decision of having to fire one of two employees. Both of these employees are excellent workers who have spent equal time with the company and both of them have an important reason for not wanting to be fired. One worker is a single mother of three. The other is trying to raise money for his wife's chemotherapy. Not wanting to have to deal with the psychological duress of moral deliberation that would go into making such a difficult decision and not wanting to be potentially blameworthy for making the wrong decision, Anna decides to delegate the responsibility of firing one of these two employees to Beth in exchange for a promotion that will lift Beth out of the ranks of people who are being considered for upcoming lay-offs. Anna knows that Beth will accept since Beth is in dire need of job security. For the sake of argument, let us also assume that this new responsibility falls well outside of Beth's normal job description. Anna proceeds to task Beth with this new responsibility and Beth accepts without resistance.

In examining this case, we may note, that by transacting with Anna, Beth takes on three new and distinct burdens, or at least three potential burdens, that she did not have prior to the transaction. For one, by agreeing to Anna's proposal, Beth takes on a new and distinct *deliberative role*, one outside of the purview of her expected job requirements, and one which entails new psychological stresses she did not have before. Secondly, Beth takes on new *moral responsibilities* associated with this deliberative role, along with potential blameworthiness were

she to make the wrong decision. Lastly, even if Beth makes a morally correct decision and is technically blameless, Beth may well feel some degree of guilt due to her role in the termination of another person's job. (Arguably, even if she is blameless, some remorse in this circumstance is fitting.)¹²

On standard exploitation accounts, one person, A, extracts an excessive or unfair benefit from another person, B. Importantly, the unfair extraction is made possible by B's vulnerability. The *currency* of exploitation, as I call it, refers to that which is unfairly extracted or gained by the exploiter.¹³ In many of these cases, the currency of exploitation is presumed to take the form of some kind of tangible good or service (e.g. money, sexual services, physical labor). In this paper, I argue that freedom from moral burdens can also count as the currency of exploitation. The specific burdens I will discuss are: the taking on of a deliberative role; the taking on of moral responsibility; and/or the shouldering of emotional guilt (that may or may not be fitting). This paper will examine the various ways in which these three unique burdens can serve as exploitation's currency.

Since exploitation has commonly been addressed in ethical literature pertaining to markets and, more recently, the sexual exploitation of women and children, the cases that most commonly arise do in fact involve some sort of physical good or service that is unfairly extracted from an exploitee. I argue here that this set of cases fails to exhaust all of the ways by which an agent may be exploited. Specifically, my claim is that in addition to standard cases of

¹² To use Bernard Williams' language, Beth is now in a situation where she is likely to experience some degree of 'agent-regret' even if she makes the morally correct decision.

¹³ I borrow this notion of exploitation's 'currency' from Hallie Liberto.

exploitation involving the unfair transfer of a physical good or service, an agent may also be exploited, and indeed wronged, by being unfairly made to accept additional deliberative roles, moral responsibilities, and/or emotional guilt, that, because of her vulnerability, she could not have reasonably refused to accept. It is in this special way, I contend, that Anna exploits Beth in our original example. In this paper, I refer to this unique species of exploitation as *moral exploitation*.¹⁴

One way of conceiving of the concept of moral exploitation is to think of it as a sister-concept to Saba Bazargan's notion of *moral coercion*. Moral Coercion operates through the same manipulative strategy as ordinary coercion. However, the threat that is used by the coercer is that she will perform a moral wrong to someone else – one that does not necessarily harm the coercee, or wrong him directly, but nonetheless motivates him to comply with the coercer. Similarly, moral exploitation involves the same manipulative strategy as ordinary exploitation. The difference has to do with the nature of one of the strategy-defining components. (In the case of moral coercion, it is the threat; in the case of moral exploitation, it is the currency.) One important difference is that, with moral coercion, the strategy will only work if the victim is sensitive to the moral considerations – the bad outcomes for third parties – that are involved in the threat. With moral exploitation, the strategy *could* still be employed successfully if the victim was not morally sensitive in this way. Although passing along a moral decision to be handled by a psychopath might not make the exploiter feel *unburdened* in the same way she would feel if she passed the decision along to a morally conscientious person!

¹⁴ By 'moral' I do not mean morally praiseworthy. Rather, 'moral' here refers to the kind of exploitation where the currency exchanged between exploiter and exploitee is of a moral sort (i.e. moral responsibility)

To be clear, I am not claiming that this idea is *incompatible* with existing exploitation accounts, but rather that this notion of moral exploitation offers us a new way of looking at exploitation and from a different starting point. Indeed, most exploitation theorists who have some minimal working notion of exploitee vulnerability and exploiter benefit (i.e. Wertheimer, Goodin, Sample, Valdman, etc.) seem fully capable of extending their conception of exploitation so to account for this unique phenomenon. Hence, one of the main virtues of my account is that it puts focus on some of the more subtle manifestations of exploitation that present accounts have largely ignored. So, the purpose of my paper is not to pose a set of cases to serve as counterexamples and, hence, objections to these theories. Instead my aim is to use these traditional theories to demonstrate how this as of yet undiscussed type of transaction, one of moral burdens, occurs, and why it indeed counts as wrongful exploitation. The upshot of this paper then is to identify and explore a species of exploitation that has gone un-addressed within contemporary exploitation literature and whose unique nature and wrongness has failed to be explicitly captured by traditional exploitation accounts.¹⁵

In Section 2, I provide an explication of several popular theories within contemporary exploitation literature illustrative of the common theme previously mentioned, namely, that exploitation must involve the unfair transfer of a physical good or service. In Section 3, I make the case for what I have here called moral exploitation, the notion that one can be exploited by

¹⁵ Parallels can be drawn here between moral exploitation's relationship to existing exploitation accounts and various feminist theories' relationship to accounts of the social causes of oppression. In each case, while the theory in question does not technically *oppose* any particular orthodox view, it nonetheless provides an important way by which we may see those views as finding purchase in the world. In this sense, the concept of moral exploitation sheds greater light upon a set of otherwise previously missed opportunities in the exploitation literature, ones warranting greater attention.

being unfairly tasked with shouldering moral responsibility, moral decision-making, and/or emotional guilt – burdens that one would not have accepted otherwise, were it not for the fact that one was vulnerable. Here, I provide several key examples demonstrating this distinct kind of exploitation. In Section 4, I describe the unique wrongness of moral exploitation and show how it is distinct in kind from the wrongness of standard types of exploitation. Lastly, in Section 5, I address and respond to several objections to this concept of moral exploitation.

I. Standard Exploitation

Many exploitation theorists have conceived of exploitation as necessarily involving the unfair transfer of some kind of physical good or service between exploiter and exploitee. This trend is no doubt largely a result of the strong influence of Marx upon traditional exploitation literature and his focus upon the capitalist exploitation of workers for their surplus labor power. This dominant theme of physical transfer continues to persist throughout much of present-day exploitation accounts, both in terms of the examples frequently cited as well as in terms of theorists' descriptions of what constitutes an exploitative act. Consider the following exploitation accounts,

Exploitation forms part of an exchange of *goods and services* when 1) the [*goods and services*] exchanged are quite obviously not of equivalent value, and 2) one party to the exchange uses a substantial degree of coercion. [Moore 1973]

It is the fact that the capitalist's income is derived through forced, unpaid, [*surplus [wage] labor*], the product of which the workers do not control, that makes wage *labor* exploitative. [Holmstrom 1977]

It is difficult to give a precise account of when one's non-transaction costs are unacceptable, though I think Stuart White's idea of market vulnerability could be

usefully employed. For White, C's urgent need for [*some good*] and D's monopoly over that [*good*] permits C to wrongfully exploit D. [Valdman, 2009]

A society is exploitative, when its social structure is organized so that unpaid [*labor*] is systematically forced out of one class and put at the disposal of another...On the force inclusive definition of exploitation, any exploitative society is a form of slavery. [Reiman, 1987]

(Italics mine)

Additionally, the examples of exploitation frequently cited by contemporary exploitation authors are equally telling of this re-occurring theme of exploitation necessarily involving an exchange of material commodities. For instance, in his influential work, *Exploitation*, Alan Wertheimer [1996] focuses upon several exploitation cases to include the exploitation of commercial surrogates for their surrogacy services, the exploitation of student-athletes by universities for their athletic performance, and the exploitation of patients by psychotherapists for sex. In each of these cases, we see a repetitive theme of the currency exploitation taking the form of a physical good or service.

Wertheimer is not alone in this trend. Mikhail Valdman [2009], for instance, argues for what he takes to be an uncontroversial example of wrongful exploitation, what he calls the *Antidote* case, where an exploiter unfairly extracts an exorbitant amount of money from a snakebite victim in exchange for the \$10 antidote. Elsewhere in his essay, Valdman cites other exploitation examples involving an exploited assembly-line worker, a homeless man exploited by a politician for public relations benefits, and several exploitative rescue cases. Although Valdman explicitly argues that his account of exploitation extends beyond the purview of only market transactions, his go-to case to demonstrate this point is one in which a psychologist

exploits a patient for sexual benefits. Thus, even though Valdman's account extends to encompass non-market based cases, his cases continue to display a physical theme.

Similarly, Matt Zwolinski [2006a, 2012b] papers, focuses on sweatshop labor and its connection to wrongful exploitation. Allen Wood [1995], at the end of his paper on exploitation, offers a scathing critique of capitalism, arguing how such an economic system serves to unfairly extract excessive gains (in the form of labor power) from the common worker. And Chris Meyers [2004] gives a case of a rescue in the desert where the rescuer demands sex from the rescue victim in exchange for his rescuing services. In each of these cases, the exploitative exchange involves the transfer of some sort of tangible good or service.¹⁶

Several important implications follow from this narrow conception of exploitation's currency. For one, if the marker of a wrongfully exploitative act is presumed to always take the form of a transfer of a tangible good or service, then the moral prescriptions we derive from such assumptions, both in terms of prevention and correction, will likely be constrained in a similar fashion.¹⁷ Hence, in terms of our moral prescriptions *ex ante*, our focus will likely be restricted to preventing and being on the lookout for only those scenarios where a physical good or service might be unfairly exchanged. In terms of our moral prescriptions *ex post*, our ideas of proper

¹⁶ There are several exceptions to this trend. In 'Exploitation and the Vulnerability Clause', Hallie Liberto [2012] gives a case involving an aggressive flirt who exploits a woman's desire to stay dry beneath a canopy during a rainstorm. Though the flirt exploits the woman's desire to stay dry in order to continue his flirtatious advances, the benefit he derives cannot be cashed out in terms of a transfer of a physical good or service. Additionally, Wertheimer also provides the case of a marriage where the exploiter derives certain domestic advantages, only some of which (e.g. chores) can be accounted for in traditional, material terms.

¹⁷ Consulting the 'fair price on the free market' seems wholly inappropriate in determining a baseline with respect to the transfer of moral responsibility, decision-making, and emotional guilt.

corrective measures will likely be confined to only notions involving a re-distribution of exclusively physical commodities between exploiter and exploitee. If, however, a case does *not* display this feature of a recognizable physical transfer, then the unsaid conclusion, it would then seem, is that what it is that we are looking at is in fact not exploitation and therefore not warranting of similar preventative and corrective measures. The tacit implication is that if there is no unfair distribution of goods and services that might foreseeably occur, then there's nothing to prevent in terms of exploitation. Likewise, if physical goods and services are appropriately re-distributed after an exploitative act, then the exploitation is presumed to have stopped. Both of these conclusions, I contend, are false.

II. Moral Exploitation

Spelled out explicitly, moral exploitation involves cases where an exploiter takes unfair advantage of an exploitee's vulnerability, not to gain any sort of physical good or service but rather to compel that agent to accept additional decision-making, moral responsibility, and/or emotional guilt that she would not otherwise accept were she not vulnerable. It is important to note that I am not committing myself to any one specific theory of exploitation or vulnerability. Indeed, I believe that my notion of moral burdens as a legitimate currency of exploitation can be paired with stringent accounts of vulnerability, like Valdman's, which require that an agent must be out of all reasonable options in order to be vulnerable, or with less stringent accounts, like Wertheimer's, which simply require that a vulnerable agent be under pressure or lacking relevant information. What's more, I believe that this idea of moral exploitation is compatible with accounts that formulate exploitation as sometimes mutually beneficial, consensual or non-

consensual, or necessarily or contingently involving the unfair distribution of a generated social surplus.

Like standard cases of exploitation, in cases of moral exploitation, the exploitee is usually all-things-considered made better off relative to not transacting at all. However, just like in cases of standard exploitation, in cases of moral exploitation, what the exploitee ultimately gains is unfairly disproportionate to what the exploiter gains (or tries to gain) from the transaction.¹⁸ And while the exploiter does not technically gain any sort of physical good or service during a morally exploitative act, what the exploiter does gain is a sort of *escape* from the set of moral burdens (e.g. deliberative role, moral responsibility, emotional guilt) that he effectively passes on to the exploitee to bear. In this way, the feature of an unfair or excessive gain on the part of the exploiter is still very much present in cases of moral exploitation but manifested somewhat differently when compared to standard exploitation examples.

In cases of moral exploitation, in many respects, the exploitee's agency often becomes more constrained in virtue of her taking on these new moral burdens. However, it is worth noting that in other respects, the exploitee's agency may be technically *enhanced*.¹⁹ Consider once again our case of Anna and Beth. Here, it is true that Beth is unfairly saddled with new burdens of moral responsibility, moral decision-making and emotional guilt she will likely feel regardless of what she decides. However, at the same time, in having this new deliberative role thrust upon

¹⁸ Certainly, the degree of unfairness of the exploiter's gains cannot be as precisely tracked for cases of moral exploitation as it can for market-based transactions, since there is no 'moral baseline' that we can appeal to. Nonetheless, this lack of precise measurement does not mean that we are incapable of speaking meaningfully about excessive or unfair gains that can be captured in terms of an escape from the moral burdens here described.

¹⁹ In this way it is possible that persons in leadership roles can also be morally exploited.

her, Beth is also endowed with the capacity to make a decision she was not previously able to make. What's more, we can also imagine a case where Beth would gain certain incentives within the company (i.e. higher pay, faster career progression, etc.) were she to take on the responsibility of firing one of her fellow employees. But these gains are in keeping with the proposal that Beth is wrongly exploited. After all, standard exploitation cases usually involve gains to an exploitee. Indeed, that is why most exploited persons consent to their own exploitation.

Nonetheless, Anna has morally exploited Beth. This is so precisely because there has been an unfair imposition of a set of moral burdens upon a vulnerable agent, who, because of her vulnerability, likely could not have refused to accept such burdens regardless of the accompanying benefits. Hence, even though Beth's agency is all-things-considered enhanced by the exploitative exchange, she is nonetheless wronged, if only in a *pro tanto* sense, given that the deliberative role was ultimately placed upon her unfairly. The degree of unfairness here seems to be at least partially tracked by the degree to which the new responsibility unfairly thrust upon her diverges from the role she originally consented to. Consider a real-world example of a rather extreme divergence in roles.

In, 'This Is Not Your Father's War- Confronting the Moral Challenges of "Unconventional" War,' George Lucas [2009: 329-340] tells of a rather disturbing trend in military contracting companies. He writes,

He [a U.S. officer] was assigned a personal bodyguard, a Gurkha from Nepal, armed with an AK-47. As the two chatted, the major discovered to his horror that his Nepalese friend had initially been hired to work as a dishwasher, but, upon arrival in Iraq, was handed a rifle and re-assigned (to his amazement!) as a security guard, without prior training or experience.

I am assuming here that the Nepalese worker was not being handsomely compensated for his new security guard work. In this case, the Nepalese worker has clearly been wrongfully exploited. Given his highly vulnerable economic and geographical predicament, he has little option but to accept the new job as a security guard, despite his official contract to be a dishwasher. Certainly, the worker is wronged here by a breach of contract. And clearly he is wronged by being placed in a situation of greater physical danger. What's more, we may also note, that because the worker had virtually no choice in the matter, this case is then somewhat atypical of more standard exploitation accounts. Despite these considerations, I contend that the way in which the worker is wronged does not end there.

Indeed, in virtue of being handed a lethal weapon, one in which he is minimally competent in operating, he is effectively saddled with the heavy moral burden of determining when to use that weapon. And even if he is paid considerably more than he would have originally been paid, and even if he is given significant protection such that the risk he would face as a security guard would be no greater than were he a dishwasher, he is still morally exploited in virtue of the additional moral responsibility thrust upon him in the form of a gun. Thus, the radical disparity in responsibilities between the worker's agreed upon role and the role pushed upon him says something important about the unfairness done to him that is not properly captured by standard (material-focused) exploitation accounts. Even if the worker had more of a choice in the matter (let us imagine he was offered the security guard job in Nepal prior to entering Iraq and that taking this job made the most sense given his vulnerable economic

situation), the gains unfairly extracted from him would nonetheless fail to be fully captured simply in terms of the additional *physical* risks he took on.

Moving forward, moral exploitation I see as dividing up into two major types. The first, more common type involves an unfair offloading of some kind of *deliberative role* from exploiter to exploitee, but not, as it were, an actual offloading of *moral responsibility*. To see this, consider the borderline case of the baby at the doorstep. Imagine that in the middle of the night I leave my newborn baby on your doorstep, ring your doorbell, and run away. In doing so, we do not think my physical off-loading of the newborn child has resulted in an actual offloading of the accompanying moral responsibility for caring for the child.

Experientially, it might very well *seem* to me that I'm off the hook in terms of my responsibility to the child. I might even be able to sleep more soundly at night because of this, but I would simply be mistaken as to what my responsibilities actually were. Indeed my duties to the child would still very much obtain. I would just be failing miserably in my actual upholding of them. Nonetheless, when you open your door to discover the newborn baby, regardless of the fact that the responsibility for that baby was originally mine, a new positive duty of aid has nonetheless been generated for you as a direct result of my shirking. It is not as if it is permissible for you to shut the door and go back to bed on account of never having actually consented to take on these additional duties. Rather, these new moral responsibilities now obtain for you regardless, as does the experiential duress of moral decision-making accompanying these duties, all on account of my failure to uphold a responsibility that was originally mine. While I have failed to relieve myself of moral responsibility for the child, I have succeeded in relieving myself of the present (and future) psychological duress attached to the deliberative role of caring

for the child.²⁰ In this sense, though I have not gained a freedom from moral responsibility, I have gained a freedom from my deliberative role.

The previous example describes a case where an agent's shirking of responsibility activates a positive duty for a third-party, whom no prior contract of shared responsibility had been previously established. In such cases, the exploited party has no specific associative duties resulting from any special relationship to the exploiter. We can imagine a different case however, where there is in fact a pre-established contract or relationship between parties and where the exploiter shirks his share of associative duties. In shirking his duties, the exploiter does not technically generate new positive duties for the exploitee as much as he *exacerbates* the weight of the exploitee's presently existing moral decisions.

For instance, imagine a case where we are two parents raising a newborn baby together, and one day I choose to walk out on you. In this case, since responsibility for the baby is in part yours, we would not think that my walking out on you activates a positive duty of care that you previously did not have. Rather, we would think that you already possessed some positive duty of care for the child prior to my exiting. Nonetheless, even though this positive duty of care for the child already obtained for you, my exiting nonetheless makes you worse off. You are made worse off not just because you must now shoulder the additional physical, financial, and

²⁰ One response to this example might be to question just how it is that the supposed exploitee is actually vulnerable. While you, the exploitee, are not vulnerable in the typical sense (you are not economically or physically in a considerably disadvantaged position) you are nonetheless vulnerable in so far as your set of moral convictions act as a constraining factor upon your actions much like any physical or economic constraint. Indeed, this is exactly what I am counting on as evidenced by the fact that I place the baby on your doorstep at all. My expectation that you will be a decent person and will care for the child is the very thing that allows me to believe that my responsibilities will be effectively picked up by someone else.

psychological burdens associated with raising a child by yourself. You are also made worse off in so far as you are saddled with the additional moral decision-making which you are now forced to exercise completely on your own in the coming years. In so far as I have made you worse off in this way, I have also wronged you.

In both of these cases, the benefit which I, as exploiter, effectively ‘gain’ during this exploitative exchange amounts to a sort of experiential or hedonic good, in so far as I have relieved myself of experiencing further psychological duress associated with having to take part in future moral decision-making involved in caring for the child.²¹ While I have not succeeded in actually offloading my share of moral responsibility, I nonetheless succeed in thrusting the psychological weight of future moral decision-making, in caring for the child, onto your shoulders, thereby obligating you to sort through difficult moral decisions that I do not want to deal with anymore. And while I still very much bear the responsibility for the child’s care, when you (or whoever else) are stuck wrestling with a particularly difficult moral decision pertaining to the raising of the child, I will have circumvented such future psychological burdens altogether, having opted out long ago. In all likelihood, I will be completely unaware of such future worries, having fully distanced myself from the issue.

There is something important to note here regarding our two previous examples. Unlike standard cases of exploitation, moral exploitation is not zero-sum in nature, where what should have fairly gone to the exploitee goes instead to the exploiter. Whereas in cases of standard exploitation where what should have fairly been gained by the exploitee necessarily becomes (or

²¹ By sticking you with the sole responsibility of raising the child, I will have averted altogether the psychological duress of having to deal with important future moral decisions pertaining to such things as punishment, education, possible medical complications, etc.

at least translates into) what is additionally and unfairly gained by the exploiter, in cases of moral exploitation, the exploitee can unfairly take on new moral responsibilities without the exploiter having legitimately divesting himself of those responsibilities. In this way, the first type of moral exploitation here described involves not a *transfer* of moral responsibility but rather an unfair *compounding* or *spreading* of moral responsibility onto vulnerable agents.

There is also a second, more robust type of moral exploitation, I argue, which does in fact involve a *full* transfer of moral responsibilities from exploiter to exploitee such that the exploitee alone becomes the sole and legitimate bearer of those responsibilities. Such instances of moral exploitation, I contend, often occur when the specific currency exchanged between exploiter and exploitee takes the form of not a one-time decision, but rather, the assumption of an ongoing deliberative role. In such cases, there will oftentimes be a diachronic rather than a synchronic relationship between the exploitative contract and the responsibilities entailed. By synchronic, I mean those cases where the contract and the responsibilities accompanying that contract obtain at the same time. This would be like our original case of Beth and Anna where Anna agrees to assume responsibility for the one-time decision of firing one of her co-workers. At the moment she agrees to the contract, she simultaneously assumes the responsibility of the one-time decision.

Contrast this case, however, with one in which Anna agrees to assume *an entire new job position* as the person in charge of all future firings. In this case, a diachronic relationship exists between the contract and its accompanying set of moral responsibilities in that there is now a 'lag time' between when the contract obtains and when the prospective responsibilities entailed by that contract actually manifest. It is this lag time, I argue, which allows for the possibility of a

full transfer of prospective moral responsibilities from exploiter and exploitee during a morally exploitative exchange. Indeed, we see this particular type of moral exploitation most prevalently in cases involving vulnerable agents embedded within some sort of official institutional context.

Consider, for instance, the case of the young recruit who enters into a contract with the military under deeply exploitative conditions and who is vulnerable in the traditional sense (i.e. socio-economically disadvantaged, young, etc.). At the moment the recruit agrees to the exploitative contract, he assumes responsibility for an entire set of prospective duties latent in the institutional role he takes on, but none of which obtain at that very moment and may actually never obtain. Let us imagine that he then proceeds through his training, becomes a medic, is sent off to war, and during one particular mission, must be the one in charge of an exceptionally complicated triage scenario and the difficult moral decision of allocating limited lifesaving medical resources amongst wounded friendlies, civilians, and enemies. What do we say of such a case?

Despite the exploitative nature of the initial military contract, we do not think that the soldier can simply opt out of his responsibilities during the triage scenario even if he were to come to a sudden realization about the exploitative nature of his original contract. Rather, we would likely think that these moral responsibilities do very much still ‘stick’ to him and that he could not disavow such responsibilities despite recognition of the exploitative nature of the contract which led to his eventual acquiring of these additional duties. Thus, while the soldier does not take on any additional moral responsibility at the moment of signing the exploitative contract (synchronically speaking), his signing nonetheless sets him along *an institutional lane* such that, over time, (diachronically speaking) he will foreseeably acquire additional moral

responsibilities that will very much be his and his alone. In this way, the recruit is morally exploited, and in the more robust sense described. This is so since the exploitative contract between the recruit and the military results not just in the recruit taking on responsibility and psychological duress for a one-time decision. Rather, the recruit's vulnerability is leveraged such that he agrees to enter an institutional lane which, over time, will likely place him in future decision-making contexts where foreseeable moral duties and additional moral responsibilities will obtain.

We may consider another case illustrative of this second, more robust kind of moral exploitation. Imagine that Albert is a politician up for re-election. Bob is a junior staff member who is a young, somewhat naïve, go-getter who is eager to prove himself. Consequently, he is quick to take on assignments that are given to him with little resistance. Let us also imagine that Albert is aware of this feature of Bob's character. Shortly before the election, a new board is created, designed to deal with controversial race issues in the local schools. There have been no serious problems as of yet, however, Albert believes that there is a likelihood of at least one major morally problematic issue arising between now and the election. Not wanting to have to deal with such heavy moral decision-making, and not wanting to risk getting those decisions wrong, Albert convinces Bob to join the board in his place.

Much like in the case of the young military recruit, it seems as if Albert does not transfer any additional moral responsibility onto Bob *at the moment of the initial agreement*. However, there does seem to be a type of exploitation occurring here nonetheless. In the above case, Albert takes unfair advantage of Bob's naiveté in order to get him to agree to take a position which, while not possessing any additional moral responsibility at the moment of agreement, entails the

taking on of potential moral responsibilities in the foreseeable future. Thus, in so far as Albert leverages Bob's naiveté in order to transfer onto him *prospective* moral responsibilities that are effectively 'built in' to the original agreement, Albert morally exploits Bob in the more robust sense.

III. The Wrongness of Moral Exploitation

Given the aforementioned cases, how should we understand moral exploitation's unique wrongness? While no physical good or service has been extracted from the vulnerable parties in these scenarios, it still seems as if these agents are being wronged in an important sense. For one, we might think that these agents are being wronged in so far as they are made to unfairly experience additional psychological duress, duress which necessarily accompanies the moral deliberation which has been unfairly thrust upon them. To unfairly or unnecessarily generate for someone, the psychological duress of difficult moral deliberation, we might conclude, is to wrong that agent in some way.

We may wonder however, if in cases of moral exploitation, whether or not agents are wronged in ways that go beyond the imposition of psychological duress. Consider the following claims. To merely expose another person to the risk of physical or psychological harm, most philosophers would accept, constitutes a distinct wronging of that agent whether or not that harm actually eventuates. Thus, the negligent doctor who performs surgery while grossly intoxicated, but miraculously pulls off the procedure successfully, while not harming his patient, still seems to wrong her in an important way. Accordingly, just as one can be wronged by being unfairly exposed to situations of physical/psychological risk and the possibility of physical/psychological

harm, I argue that one can also be wronged by being exposed to situations of high-stakes moral decision-making, moral dilemmas, and the possibility of moral failure. Thus, even if an agent *does everything right* while in these high-stakes moral situations, in so far as he is unfairly exposed to scenarios where there was still the possibility of making a moral error, he is nonetheless wronged in an important sense. The unfairness of moral exploitation, it would seem, can therefore be located in the disproportionate distribution of moral responsibility, moral decision-making, and risk of moral failure onto vulnerable agents, when such responsibilities and risks could have been more equitably distributed amongst all agents involved, to include those who are less vulnerable. It is therefore, this phenomenon of ‘sticking’ vulnerable parties with the lion’s share of moral responsibility, moral decision-making, and risk of moral failure which is the hallmark feature of moral exploitation’s unique wrongness.

As a final set of considerations pertaining to the wrongness of moral exploitation, I think it important to say something briefly about Thomson’s notion of *moral residue*. Thomson’s concept of moral residue states that while one is obligated to sometimes infringe a right in order to promote the all-things-considered good, such a rights infringement nonetheless constitutes a *pro tanto* wrong. Accordingly, the agent who infringes the right, even though morally obligated to do so, incurs some amount of moral residue or residual debt which is owed to the infringed party in the form of compensation. With respect to moral exploitation, we might think in such cases, a type of wrong is being done to vulnerable parties when they are disproportionately exposed to situations where the risk of incurring moral residue is foreseeably likely or inevitable. In so far as moral residue ought to be equitably distributed amongst an entire group of agents, vulnerable agents who are pressured to be the disproportionate bearers of such moral residue

seem to be wronged in an important way. Thus, by being over-exposed to high-stakes moral situations where there is a likelihood of incurring moral residue, vulnerable parties are wronged by moral exploitation and uniquely so.²²

IV. Objections

Given what I have said thus far about moral exploitation and how it differs from other types of exploitation, both in terms of its character and its unique wrongness, I will now consider several objections to this view.

Objection 1: What's wrong with exposing agents to moral risk?

One objection to my previous claims would be to challenge the analogy that I have drawn between physical/psychological risks and moral risks. While it may be the case that I wrong someone by exposing that person to the physical risk of an intoxicated surgeon, it does not follow that I do the same when I expose that same person to the risk of making a moral mistake. In the case of the surgery, the potential harm that I expose the victim to is one in which, if it eventuates, the victim will be wholly non-culpable. Conversely, if I expose someone to a difficult moral decision, and he chooses the immoral course of action, then I have arguably done nothing wrong to him whatsoever. Rather, what I have done is provided him with an opportunity to demonstrate his own lack of character, one which had remained previously hidden on account of

²² In addition to over-exposing vulnerable parties to situations where the incurring of moral residue is likely or inevitable, we might also think that vulnerable parties can be wronged by being placed in difficult moral contexts where they stand a strong likelihood of violating their own integrity in some way.

moral luck. At most, it would seem, I have given him an opportunity to wrong himself. If, however, he is a decent person, then, one might argue, he will make the right choice and will therefore have nothing to worry about.

Reply

This line of reasoning would work were it not for the fact that morality and the world in general do not behave so easily. Sometimes an agent with the most impeccable of characters can still do everything right and nonetheless end up committing wrong. This would hold true for cases of genuine moral dilemmas (where two values are incommensurably at odds with one another) as well as in cases where a *pro tanto* wrong must be committed for the sake of some all-things-considered good as previously alluded to. In both of these scenarios, for the decent moral agent, much psychological hardship will likely accompany her moral deliberation. In other words, these will not be easy, stress-free decisions. Therefore, even if the agent makes all of the right decisions for all of the difficult moral challenges thrown at her, it is unlikely that deliberation regarding these issues will be completely stress-free nor will it be the case there will be no residual doubt, guilt, or self-blame after the decision has been made. In all likelihood, she will expend some degree of psychological energy after the fact, wondering if her decisions were indeed the correct ones. Thus, it seems as if agents can in fact be wronged simply by having difficult moral decisions thrust upon them, both in terms of the generation of psychological duress (both pre and post decision) as well as in terms of conflicts of integrity. To this end, I argue, an agent can be wronged by way of the moral risk entailed by moral exploitation.

Objection 2: The redistributing of associative duties is pragmatically impossible.

The second major objection to the concept of moral exploitation is derived from an argument by Bob Goodin. Let us call this *Goodin's Challenge*. In, 'What Is So Special About Our Fellow Countrymen?', Goodin [1988: 663-686] points out that while we may all have a general duty of rescue, the discharging of this duty by all parties, all at the same time, would likely result in a far worse state of affairs than were no one to act at all. Imagine, for instance, a person drowning in the ocean, and every person on the beach, all at once, attempting to save that individual. In such a scenario, not only would such an attempt be highly inefficient in bringing about the intended result, in all likelihood it would create greater risk of drowning for all of rescuers involved. Hence, despite all agents having this positive duty of rescue, pragmatism demands that some persons (i.e. life guards) be assigned as the official agents who have the special associative duty to perform the rescue on behalf of the rest of the community while everyone else refrains from acting.

One implication of *Goodin's Challenge* then is the notion that, pragmatically-speaking, it seems fundamentally infeasible for us to distribute associative duties *equally* across all members of a society or even within a small group of persons. The brute facts of life, pragmatics, and efficiency will likely demand that some minority of agents bear the burden of discharging certain associative duties, within certain contexts, on behalf of the greater community while other agents refrain from carrying out such duties. Accordingly, it is not then as if soldiers, doctors, nurses, police officers, firefighters, etc. are being morally exploited by society in virtue of the added responsibilities that accompany their special roles, rather, it is just an undeniable fact that someone will have to serve in these roles regardless, and not everyone can do so all at once. The

fact that society does not distribute these associative duties amongst all members equally, is therefore not indicative of unfairness or of exploitation, since the redistribution of duties in such a manner would be pragmatically impossible. Assuming one accepts that 'ought' implies 'can', a proponent of *Goodin's Challenge* would conclude that the pragmatic impossibility of a redistribution of associative duties amongst all agents in society entails that there is in fact, no corresponding duty to do so.

Reply

The fundamental problem with this objection is that it makes the inference from the pragmatic need within society to have an unequal distribution of associative duties in some contexts and roles to the conclusion that the way by which those roles are filled cannot be of a more or less equitable form. Consider, for instance, a tribal scenario where it makes pragmatic sense for us to only have one leader during our hunts. While it makes sense to have only one leader during the hunts and to not have twenty leaders for instance, we would likely think it unfair if the tribe demanded that the same person lead the hunts, each and every time, without being allowed to trade out occasionally with other equally capable members. Thus, even though the pragmatics of hunting dictate that the most efficient way for us to achieve our ends is to have one leader, it does not follow that we must saddle *the same* individual, time and time again, with the weighty responsibility of keeping the entire tribe alive by his own wits when other equally capable persons could trade in for that role at times. In this same way, one can in fact be morally exploited when the distribution of morally weighty group roles falls frequently and inequitably upon the shoulders of vulnerable agents.

Objection 3: What if the agent simply wants to take on additional moral responsibility?

A final objection, offered by Peter Singer, states that if the agent, of his own accord, simply wants to be the one who shoulders additional moral responsibility, then in such cases, it appears no harm is actually being done to this agent. In the absence of any harm, there is no wrong here.²³

Reply

If this is a problem, then it is not a problem for the concept of moral exploitation exclusively. Indeed, *any* theory of exploitation, and arguably any theory of oppression as well, will have to deal with these tricky cases where there is a sharp contrast between what appears to be an objective wrong being done to an agent and that agent's own subjective desire for that apparent wrong to be done to him. Indeed, the literature on exploitation takes consensual cases – and ones of mutual all-things-considered benefit – to be the paradigm cases for analysis, since these cases of exploitation cannot be explained in terms of other wrongs (e.g. like rights violations). How one finally comes down on this issue will largely depend upon his or her commitments to related concepts such as autonomy as well as subjective vs. objective notions of well-being. Such a discussion however, goes well beyond the scope of this paper. Suffice it to say, in so far as the concept of moral exploitation is parasitic upon theories of exploitation in general, I do not see Singer's objection as a defeater specific to my particular view.

²³ This point was made to me by Peter Singer during a Q&A session as part of an early presentation of this paper at the University of Melbourne's Center for Applied Philosophy and Public Ethics, April 2014.

Conclusion

A necessary part of life and of our collective human struggle is that there are many difficult and oftentimes unavoidable moral decisions to be made and many weighty moral responsibilities to be shouldered. Sometimes agents step up and take on these decisions and responsibilities freely and of their own accord. Other times however, perhaps more often than we care to realize, the voluntariness of such acceptance of these responsibilities is highly questionable. It is questionable for the simple reason that, given certain disparities between various persons' stations in life, advantaged parties in society oftentimes have the luxury of avoiding tough decision-making contexts and certain moral responsibilities altogether, leaving more vulnerable parties with little other option but to pick up the moral slack. The overall effect of this dynamic is that advantaged parties are oftentimes left with what often amounts to impeccably 'clean hands', morally speaking, for the simple fact that their position has allowed them to circumvent such moral responsibility and moral decision-making altogether.

The wrongness of moral exploitation however, is not merely that an agent has disavowed his responsibility for another agent to freely choose to take up. Rather, in cases of moral exploitation, the exploiter takes advantage of the disadvantaged party's vulnerability such that she is compelled to take on additional responsibility and decision-making that was never properly hers to begin with. Thus, the wrongness of moral exploitation is not just a passive failure to shoulder responsibility, rather, it is an active and ultimately unfair redistribution of responsibility and moral decision-making from those who are advantaged to those who are vulnerable and thereby can do little else but to accept.

Chapter 3: Moral Vulnerability (Applied)

Introduction

In light of the two normative features of exploitation discussed in Chapters 1 and 2—moral commitments as a source of exploitee vulnerability and moral burdens as a legitimate currency of exploitation—this chapter will now look at the first of these two concepts, moral vulnerability, as it applies to two real-world cases; namely, military recruits and commercial surrogates. While these two demographics might appear, at first glance, rather disparate and somewhat unrelated, a closer and more careful analysis of these two respective groups, especially with regard to commonalities in their moral commitments, reveals some rather striking similarities in terms of the ways in which these two groups are often morally vulnerable. And while it indeed the case that the concept of moral vulnerability applies to more than just these two domains of human activity, these two cases nonetheless both serve a paradigmatic examples of how one's moral commitments can frequently and, in fact, dramatically render one vulnerable to exploitation in ways often under-appreciated and under-acknowledged within contemporary exploitation discourse.

To review, my general claim here is that in addition to the standardly recognized ways in which an agent may be rendered vulnerable and thereby 'out of reasonable options', an agent may also be made legitimately vulnerable, and hence legitimately exploited, merely by means of his or her moral commitments. In other words, in addition to standardly recognized vulnerable-making features like physical constraints, economic constraints, emotional constraints, and epistemic constraints, one's moral commitments, I argue, both actual and perceived, may be

leveraged by an exploiter in order to extract an excessive or unfair benefit from an exploitee. Thus, just as the vegetarian's ethical commitments may be leveraged against her in order to get her to pay an exorbitant amount of money for non-meat products, a similar kind of vulnerability due to moral commitments, I argue, may, and in fact does get leveraged in the present transactional dynamic between the military body and military recruits as well as commercial surrogate agencies and potential surrogate mothers.

An examination of these two groups reveals striking similarities in terms of economic background, age, educational level, physical location, and for our purposes, *shared moral values*.²⁴ Furthermore, there are also very strong similarities between soldiers and surrogates in terms of the content of the general recruitment pitch they come to receive, incentives offered to them, the bindingness of their respective contracts. Indeed, both the soldier's and the surrogate's contracts involve the transfer of bodily rights in some shape or form. Once the transfer of bodily rights occurs, opting out of the contract seems exceedingly difficult. While the bindingness of the soldier's contract is enforced by the coercive features of the state, the bindingness of the surrogate's contract is held in place more or less by the brute biological facts of pregnancy. And while it is the case that the surrogate can in fact break her contract and opt for an abortion, surrogates are nonetheless often led to believe that the contract is more binding than it is and that they therefore are legally obliged to carry out the pregnancy to term.

In light of these shared similarities, we therefore have some initial reason to think that the present relationship existing between commercial surrogacy agencies and surrogate mothers in the United States, like that of the military body and the average American recruit, possess

²⁴ I will explore and elucidate these similarities in detail in the subsequent sections.

similar elements of exploitation of an agent's moral commitments. And while the unfair leveraging of moral commitments can certainly be found in other domains of human activity, surrogate recruitment and soldier recruitment nonetheless both serve as exemplar cases for our examination of this particular kind of vulnerability.

Before delving into the specifics of these two morally vulnerable demographics any further however, let us quickly look at another real-world expression of moral vulnerability, one proposed by Rob Lawlor. While Lawlor does not use the specific language of 'moral vulnerability', his case nonetheless highlights a phenomenon that could easily be couched in such terms. As Lawlor points out, sometimes we are faced with collective action problems that often warrant instating a specific law in order to get everyone on board with a specific coordination plan that would then benefit the common good. Sometimes such plans require that all persons participate, but other times, some plans require only that a certain threshold be satisfied in order for the plan to succeed. For the sake of popular policy, we therefore often allow some segment of the population to free ride on the good behavior of a subset of the greater population, persons who are motivated by their moral convictions.

Lawlor gives the specific example of a state official who could instate a legal requirement for everyone in a given city to recycle. As it turns out, in order for the city to get the environmental and monetary benefits out of recycling that they need, about only 80% of the city would actually need to participate. For the sake of argument, let us stipulate that about 80% of the city's population are in fact morally motivated to do so. As a result, the state official doesn't have to instate the unpopular legislation that would require all citizens to recycle. Accordingly, in so doing, he exploits that 80%, letting the other 20% free ride on the good behavior motivated by

their moral commitments.²⁵ While the legislation mandating that all citizens would be more fair, it would certainly be more unpopular and potentially deleterious to the state official's chances for re-election. The state official therefore garners the added benefit of increased popularity within his voting constituency on account of the moral commitments of the 80% who see it as their moral duty to recycle.²⁶ While the state official does not exploit the 80% by leveraging their physical, economic, or epistemic predicament, he does in fact exploit them by leveraging their moral commitments.

Indeed, the 80% are not in a 'back to the wall' situation where failing to recycle will result in severe physical or economic repercussions nor are they lacking at all in terms of relevant knowledge pertaining to the rational choices available to them. They are not under the false impression, for instance, that they will be immediately arrested if they don't recycle. Rather, the only feature constraining their actions in any way is their own self-imposed moral standard pertaining to environmentalism and citizenship. If we are to therefore regard such a case as a case of exploitation, then what we take to be the source of agent vulnerability in this example appears to be somewhat different when compared to the standard exploitation cases previously mentioned. Keeping Lawlor's example in mind, as we will return to it shortly, let us now move on to consider moral vulnerability as it specifically applies to soldiers and military recruitment.

²⁵ In a sense, there are two exploiter groups benefitting excessively from the moral commitments of the 80%; the politician who keeps his high ratings by not having to enact a law compelling everyone to recycle, and the 20% who garner the economic and environmental benefits by free riding off of the efforts of the 80%.

²⁶ I credit Rob Lawlor for this example.

I. Soldiers

The idea of the exploitation of soldiers is hardly anything new. Indeed, throughout much of human history, wars serving the interests of ‘the haves’ have largely been fought by ‘the have nots’, with members of this latter group often finding themselves opting into the military body from a place of pronounced vulnerability. Often, theorists have cashed out such vulnerability primarily, if not exclusively, in terms of socio-economic pressures.²⁷ We find echoes of this sentiment in V.I. Lenin’s famous quote that, ‘a bayonet is a tool with a worker at each end’. And while this depiction of the vulnerable predicament of the common soldier, both past and present, is not incorrect, it is nonetheless partial.²⁸

Indeed, another significant, though under-acknowledged way in which soldiers are vulnerable to exploitation is due to age. Statistically, the majority of those entering into military service for the United States are recruited shortly after or even during high school. For instance, a U.S. Department of Defense Personnel and Readiness Report for Fiscal Year 2011 reflected

²⁷ Since the vulnerability-making features of recruits’ socioeconomic conditions will be taken by many philosophers as obvious and given, I will refrain from exploring such considerations any further in this chapter and will instead focus on factors connected to moral commitments and to age; vulnerable-making factors often under-appreciated in contemporary dialogues about soldier exploitation.

²⁸ One of the more noticeable features of the transactional dynamic existing between recruit and military body, one that differentiates it from other more standard market transactions, is the pronounced set of *ex ante* benefits offered to would-be soldiers that, by all accounts, would render the decision to enlist (potentially) rational from the perspective of the exploitee. The case of military recruitment can therefore still be morally problematic even if the incentives pulling both parties into the agreement are ones that make the decision (potentially) rational. The case of military recruitment might in fact be a paradigmatic instance of a transaction that is mutually beneficial precisely because of the overwhelming *ex ante* benefits. This makes such a case unlike the typical sort of benefits that come with other typical market transactions (i.e., human trafficking).

that of the 283,108 applicants for active component enlistment, nearly 75% of applicants came from the age range of 17 to 21, with 56% of all applicants coming from the age range of 17 to 19.²⁹

The age of the typical recruit gives us good reason to think that these agents are vulnerable to potential exploitation by the military body and in several respects. In terms of brain maturation, formation of the prefrontal cortex, and overall cognitive development, recent findings in the area of neuroscience suggest that full cognitive maturation does not occur for the average human being until somewhere around age 25.³⁰ Ironically enough, age 25 is the very age when the selective service requirement for male citizens in the U.S. effectively ends. Given this data, and given the average age of new recruits, one may seriously question to what degree the average recruit is capable of apprehending the full moral gravity of the contract he or she is about to enter into. This includes not only future concerns about difficult moral scenarios *in war*, but also potential moral concerns about one's state *going to war* in the first place.

It is highly unlikely that most 17-year old recruits have given such questions the proper degree of reflection before they agree to enter into a profession which will thrust such moral responsibilities upon them. In fact, it's likely that most new recruits are not yet even fully cognitively *capable* of making such a choice. After all, the state seems to recognize the importance of age when it comes to other morally weighty decisions made by young people such the as those pertaining to alcohol consumption and the right to vote. Accordingly, these examples

²⁹ See Office of the Under Secretary for Personnel and Readiness. Accessed November 28, 2013. <http://prhome.defense.gov/RFM/MPP/ACCESSION%20POLICY/PopRep2011/contents/>

³⁰ See Aamodt, [Brain Maturity Extends Well Beyond Teen Years.](#)

show that the state at least agrees, in principle, that age is a relevant factor in a person's ability to make valid moral decisions. To be clear, this is not to infantilize young recruits or to say that 20 year olds are equivalent to 10 year olds. But to be fair, 20 year olds are certainly not 30 year olds either.

That being said, it might still be the case that restrictions on activities like alcohol consumption and voting have nothing to do with the state's acknowledgement of a young adult's vulnerability due to moral commitments and everything to do with pragmatic reasons pertaining to good social order. While this might indeed be the case, what is relevant to our inquiry here are the kinds of moral commitments that young adults often hold at such an age and how those commitments often make someone at that age additionally vulnerable to exploitation by the military.

More specifically, recruits may be vulnerable to exploitation by the military on account of their heightened sense patriotism at such a young age. Given that the vast majority of recruits enter into the military at a young developmental age, and often possessing only a high-school education, we may seriously question just how robust and nuanced a notion of civic duty these agents possess as well as how politically aware they are at the time of decision. If anything, the typical recruit at such an age usually possesses, through no fault of his or her own, a somewhat idealized sense of patriotism, sometimes bordering on naiveté, which may constitute a unique kind of vulnerability in its own right.³¹ What's more, until age 18, in the US, young people are

³¹ The military's recent use of military-themed video games as a new recruitment tool demonstrates yet another way in which the military is deliberately targeting and leveraging the values sets of youth and youth culture. See NPR "War Games Lure Recruits for 'Real Thing'", <http://www.npr.org/2010/07/31/128875936/war-games-lure-recruits-for-real-thing>.

strongly directed to do what adults tell them to do. Furthermore, they are surrounded by adults who, at least in theory, play a role in which they are supposed to take care of them, act in their best interests, and certainly to advise them to do what is in their best interests. Accordingly, deference to the assumed wisdom of school authorities, guidance counselors, parents, coaches, etc., is all too common. Thus, youth and an idealized sense of patriotism often correlate with one another for a variety of explanatory factors. For instance, one statistical analysis of recruitment numbers states that,

More than 44 percent of U.S. military recruits come from rural areas, Pentagon figures show. In contrast, 14 percent come from major cities. Youths living in the most sparsely populated zip codes are 22 percent more likely to join the Army, with an opposite trend in cities.³²

Another demographic analysis of military recruits between the ages of 18-24 also looked at several metrics often thought related to increased recruitment numbers. Despite looking at features of a geographic region such as voting frequency, percentage of youths who go on to college, unemployment rate, etc. the most statistically significant factor which correlated with greater recruitment numbers in a given location had to do with the number of military veterans per demographical region.³³ And while the notion of ‘patriotism’ is a somewhat amorphous concept and one difficult to quantify, it nonetheless seems quite plausible that the heightened number of veterans in a given area would contribute to a young person’s sense of patriotism and sense of moral obligation to serve. Indeed, if it were just a matter ‘civic duty’ in general that was

³² See “Youths in Rural U.S. Are Drawn To Military”

<http://www.washingtonpost.com/wp-dyn/content/article/2005/11/03/AR2005110302528.html>

³³ See Schacherer, Rachel-Ann. “Conditions Affecting Military Enlistments” *The Public Purpose* Vol. III

motivating such persons, then one would expect there to be a tighter correlation between voter turn-out and military recruitment numbers. However, this was not the case. Rather, the most statistically significant factor that correlated with increased military recruitment numbers had to do with the number of veterans co-located with recruits in a given recruitment region. This data point lends credence to the idea that an increased sense of patriotism is a significant driving factor for many young recruits.

What's more, there is also good evidence suggesting that persons are often highly responsive to the moral behaviors of the social group that they often find themselves within. Furthermore, recent statistics pertaining to recycling behavior in local communities show that once a certain threshold of habitual recyclers is reached, a sharp increase in recycling behavior within the remainder of the community tends to follow.³⁴ Accordingly, not only can the increased recruitment numbers in certain geographic areas be explained just in terms of the heightened density of veterans in those areas, it can also be explained more simply in terms of the basic human tendency to go along with the group once a certain threshold or tipping point of participants has been reached regardless of the specifics of the moral behavior.

If it is indeed the case, that a young person's sense of patriotism and obligation to serve can be leveraged to get her to join the military, then arguably both the military body as well as the greater civilian populous benefit excessively or unfairly from such a transaction. Returning to Lawlor's case of the state official who benefits from the moral commitments of the 80% who choose to recycle, we can now see a strong analogy here between this case and the case of military recruits. Even if we think that, in principle, military service should be more fairly

³⁴ See Gladwell, Malcolm, *Tipping Point*, Little Brown 2000.

apportioned among society as a whole via some kind of institutional mechanism like a draft; at the end of the day, military drafts are still *very* unpopular. Consequently, politicians and state officials gain quite a lot in terms popularity by not proposing them. What's more, the vast majority of the American population who do not choose to enter the military arguably free-ride on the efforts of the 1% of the population who feel morally compelled to join up for active duty service.³⁵

Furthermore, once young American citizens do join up, the military body often continues to leverage the soldier's sense of patriotism and service as a method for future retention.³⁶ To see this consider, for instance, connotations typically associations with the word 'mercenary'. When we think of the word 'mercenary', we typically think of persons who are morally unscrupulous, lacking in character, and 'totally in it for themselves', willing to kill anyone for any cause if the price is right. Even though the military does in fact pay soldiers for their military service, to suggest that soldiers are motivated primarily by self-interested gains like monetary compensation, job skills, or educational benefit often seems tantamount to calling them mercenaries and hence, one of the highest of personal insults. Indeed, even something as subtle as the military sometimes being referred to as 'the service' further illustrates this general attitude of assumed selflessness and (extreme) foregoing of self-regarding/self-interested concerns. To

³⁵ In this case the exploitative relationship is two-fold. In one sense the politician is benefitting from the moral commitments of the few who feel it their duty to serve. In another sense, the population as a whole is also benefitting by free-riding on the efforts of the small population of persons in society who feel it their duty to serve.

³⁶ As an interesting side-note, Stephen Vogel's, "White House Proposes Cuts in Military Recruiting Budget", states, "From 2004 to 2008, annual funding for recruiting and retention programs more than doubled, from \$3.4 billion to \$7.7 billion."

suggest anything less, it would seem, would be to assume the noble, selfless soldier is tantamount or morally equivalent to the lowly, profit-hungry mercenary.³⁷

Accordingly, such language suggests that if the main reason a person becomes a soldier is actually for self-interested gains like the ones here described, then that person is acting for the wrong reasons. Such language therefore often prevents or at least, substantially inhibits soldiers from effectively negotiating or advocating for themselves within the military body, since doing so would necessarily entail a kind of selfishness that would mean they were less morally fit for the job. What's more, something similar to Liberto's minister case might be going on as well. Indeed, the soldier, like the parish member, might even begin to suspect that he is being exploited in some manner but might then feel guilty and that it is somehow wrong of him to even entertaining such suspicions about his parent organization. Such feelings of guilt could then inhibit the soldier from effectively negotiating for himself. Thus, when it comes to not only soldier recruitment but also soldier retention, a soldier or recruit's moral commitments and sense of patriotism can often serve as strong leverage points for exploitation, where the military body, the state, politicians enacting certain policies, and society at large benefit excessively from the exploitative exchange.

³⁷ What's more, one reason calling a soldier a 'mercenary' might be so insulting may have less to do with the mere fact that mercenaries are self-interestedness and more to do with the fact that their self-interestedness is coupled with what appears to be a complete lack of *loyalty* to anyone or anything beyond themselves.

II. Surrogates

Just as military recruits can be rendered vulnerable to exploitation by means of their moral commitments, so too, I argue, can this same morally troubling dynamic apply, quite considerably even, to the case of commercial surrogate mothers. Before delving too deeply into my particular claims regarding commercial surrogacy, I would like to first briefly review some of more past treatments of commercial surrogacy within contemporary ethics literature. For the purposes of this chapter, I will limit my discussion to only commercial surrogacy practices in the United States and not elsewhere in the world. Furthermore, my use of the term ‘commercial surrogate’ here refers specifically to ‘gestational’ surrogates, where the surrogate’s body is used for it’s incubational/gestational capacities but the egg/ovum comes from the donor mother.

One argument, offered by Elizabeth Anderson, claims that the practice of commercial surrogacy not only limits the choice set of both surrogates and non-surrogate women in society, damages special bonds between mother and child, but also corrupts and distorts the quality of women’s reproductive labor itself. By applying standard market norms to the special sphere of women’s labor, Anderson argues that a woman’s claim to respect is violated in three major ways. Firstly, the surrogate mother is required, by the nature of the market transaction to actively repress any feeling of love she may have for the child. Many times, the surrogate experiences deep feelings of grief for giving up the child, grief which the surrogate agency seems quick to marginalize. Secondly, as the surrogate’s own perspective regarding the pregnancy matures and changes throughout the course of activity, market norms marginalize the legitimacy of that maturing perspective. Third, the woman’s non-commercial motivations are taken advantage of and only ever recognized with commercial compensation. All of this together, argues Anderson,

reinforces a set of societal norms that attempt to ‘redefine parenthood’, stripping women of the special relationship they have to the children they bear and ‘doing violence’ to the emotional bonds connected to the project of pregnancy and childbirth (Anderson 1990).

Aside from Anderson, another popular account of the morally troubling elements of commercial surrogacy comes from the writings of Debra Satz. In *Why Some Things Should not be for Sale*, Satz departs from more standard moral criticisms of commercial surrogacy that ground the wrongness of such practices upon the potential damage they do to the special relationship between mother and child. As an alternative account, Satz argues that what is fundamentally wrong with commercial surrogacy has less to do with the disruption of special relationships and more to do with the gender inequalities between men and women that the practice perpetuates. Such surrogacy contracts, on Satz’s view, reinforce the societal notion that women’s bodily rights are something that can be commodified and that women’s bodies are fundamentally instruments; social norms not symmetrically affecting men. According to Satz,

[t]here are likely to be ethically significant externalities that affect other people who do not choose to participate in the practice. The gender inequality that I hypothesize may arise in a prostitution market or a surrogacy market—operates via third party effects. It is what the market does to the way a group—women—are viewed that is objectionable although the group itself is not a participant in the market, only single individuals are.
(Satz 2010)

According to Satz, what is therefore most morally problematic with commercial surrogacy practices is the deleterious effects it has upon the ‘choice set’ of *all* women in society, not just the very small minority who participate in the practice.

While both Satz and Anderson’s criticisms of commercial surrogacy practices in the United States may be morally valid in their own right, the main author who most cleanly situates

the topic of commercial surrogacy squarely within discussion regarding *exploitation* is Alan Wertheimer.³⁸

In “Two Questions About Surrogacy and Exploitation,” Wertheimer argues that whether or not commercial surrogacy counts as exploitation will first depend upon whether one thinks exploitation must necessarily be, on balance, harmful to the exploitee or whether exploitation can be mutually beneficial to both the exploiter and exploitee though still unfair.³⁹ While some philosophers might reject the coherence of this latter category, for the sake of argument, I will grant Wertheimer’s claim that there can indeed exist such a thing as a mutually beneficial transaction that is not necessarily harmful but exploitative nonetheless for reasons of unfairness.⁴⁰

Given this account, if commercial surrogacy is in fact exploitation, then, according to Wertheimer, it must be so on account of it constituting a (net) harm to the surrogate or on account of its unfairness. In the case of the former, whether or not commercial surrogacy is, on

³⁸ I should note briefly that there exists a third popular view related to the morally problematic features of commercial surrogacy advanced by Laurie Paul. Paul argues that there are certain activities, like pregnancy and childbirth, that are so experientially transformative that persons cannot legitimately enter into contractual arrangements involving them. This would then make certain commercial surrogacy contracts illegitimate. I note this account for the reader but will not explore it any further here.

³⁹ See Wertheimer *Two Thoughts on Commercial Surrogacy*. Elements of the same argument also found in Wertheimer *Exploitation*, Chapter 3.

⁴⁰ It is also important to note that Wertheimer, unlike Valdman, Zwolinski, and others, uses the term ‘exploitation’, both harmful as well as mutually beneficial exploitation, in the *thick* sense with respect to wrongfulness. While Valdman makes the distinction between exploitation versus (wrongful) exploitation, Wertheimer builds the wrongfulness into the definition of exploitation itself in all instances. Accordingly, on Wertheimer’s view, the notion of (wrongful) exploitation would therefore be redundant much like the notion of (wrongful) genocide.

balance, harmful for the surrogate will depend on one's prior commitments pertaining to subjective versus objective notions of well-being and what counts as a legitimate setback to each. With regard to the latter, whether or not commercial surrogacy is unfair will depend upon whether or not the benefits garnered by the intended parents are excessive with respect to the benefits garnered by the surrogate and whether or not this asymmetric distribution of benefits stems from the surrogate's initial decision to enter into the contract due to, as Wertheimer puts it, *a defect in choice*.

Wertheimer cashes out the notion of a defect in choice in terms of the agent being *coerced* or the agent making a genuine *miscalculation*.⁴¹ Given that my inquiry here only concerns commercial surrogacy in the United States, an admittedly flawed though arguably non-coercive market, I will refrain from exploring any further Wertheimer's specific thoughts on unfair surrogacy contracts resulting from coercion. Accordingly, in light of these considerations and assumptions, what we are left with two questions in need of answering:

- 1.) If commercial surrogacy is exploitative due to it being a case of *harmful* exploitation, then how do we cash out our understanding of something being harmful for the surrogate?
- 2.) If commercial surrogacy is exploitative due to it being *mutually beneficial* exploitation that is nonetheless unfair, where unfairness is constituted by an excessive benefit derived from the surrogate's miscalculations, then what counts as a benefit that could be excessive and what counts as a legitimate miscalculation?

With regard to the first question, Wertheimer states the following,

There is much that might appear on the debit side of the ledger: the risk of physical harm or death resulting from the pregnancy or the delivery, restraints on the surrogate's choices

⁴¹ Put another way, one might read Wertheimer's notion of a 'defect in choice' as being roughly analogous to what I have here been calling a 'vulnerability'.

during pregnancy, and the inconvenience and discomfort associated with a normal pregnancy. Perhaps most important, the surrender of the baby to the intended parents may be psychologically harmful to the surrogate. And, unlike the previous harms, some of which last no longer than the pregnancy, this harm may endure for an indefinite period thereafter (Wertheimer 1992).

He continues,

In addition, it might be argued that a surrogate may be "objectively" harmed even if she does not feel harmed, *ex post*. It is a commonplace that B's interests-as B defines them-can be harmed even if B is unaware that the harm has occurred (Wertheimer 1992).

With regard to the second question, Wertheimer gives some commentary on what might constitute a benefit for the exploiter and what might constitute a genuine miscalculation on the part of the surrogate. With respect to how the ostensible exploiter (the intended parents) may benefit excessively from the surrogacy contract, Wertheimer seems to only explicitly acknowledge that the intended parents may excessively benefit from the (physical) pro-creational labor that is performed by the surrogate. Avoidance of psychological harms associated with that physical labor, Wertheimer also seems to suggest could likewise count as another kind of benefit garnered by the parents but he does so only tacitly.

With regard to what constitutes a legitimate miscalculation, he writes:

Even if a financial inducement does not coerce a woman into serving as a surrogate, her decision will not be fully voluntary if the lure of the financial gain motivates her to make a decision that she will regret or would regret if she thought "objectively" about its effect on her life. And, it may be said, to knowingly or negligently take advantage of a woman's tendency to make such a miscalculation is a form of exploitation (Wertheimer 1992).

Accordingly, Wertheimer seems to think that legitimate miscalculations on the part of the surrogate often derive from pernicious forms of financial inducement that may serve to skew the surrogate's rational decision-making. Notice however, that throughout Wertheimer's account,

nowhere does he suggest that such miscalculations could stem from the surrogate's own set of moral commitments.

To be clear, my aim here is not to show how Wertheimer's account of the exploitative features of commercial surrogacy is incorrect. Indeed, at no point does he claim to be offering an exhaustive account of what could legitimately count as a miscalculation. Rather, my fundamental aim in this chapter is simply to present an account of exploitation that extends our understanding of the types of constraints that limit an exploitee's set of rational choices as viewed through the particular cases of military recruitment and commercial surrogacy. More specifically, my claim is that an exploitee may be rendered vulnerable simply on account of her moral commitments, perceived or actual, and that this realization thereby forces us to reconsider the scope of what constitutes a legitimate 'defect in choice' according to Wertheimer.

Indeed we have good reason to think that such vulnerabilities are present in many women recruited by commercial surrogate agencies and that these agencies specifically leverage these same vulnerabilities (along with more standard vulnerabilities like those due to economics or epistemic orientation) both during the initial recruitment phase and throughout the duration of the surrogate's contract. Reflection upon the many similarities existing between military recruits and surrogates in terms of demographics, content of the recruitment incentives, and testimonies of surrogates all serve to lend further credence to the above claims about moral vulnerability.

Indeed, the fact that military spouses are, statistically speaking, the most sought after demographic for commercial surrogacy in the United States lends further credence to the above claims. According to one UK Telegraph report, "20 percent of the surrogate babies born in America each year are carried by military wives, a cohort that represents less than one per cent of

the female population of childbearing age.”⁴² Given that, on the whole, married couples in general tend to be strongly similar in terms of age, socio-economic class, geographic region, education level, and *values*, military wives will likely share many of the same traditional values as those of their military counterparts.

Such a strong overlap between surrogates and soldiers should therefore give us some reason to think that surrogates may be similarly morally vulnerable. Similar to their military partners, a surrogate’s traditional moral values might function to make her considerably more vulnerable to exploitation than one might typically think. Indeed, just as military recruiters select for recruits who show strong signs of altruism, so too do many surrogacy agencies. This exceptionally high premium placed on the virtues of selflessness and altruism permeates the language and testimonies of both soldiers and surrogates alike. Indeed, according to one military spouse/surrogate (who earned \$30,000 while her husband earned the same amount while deployed to Iraq for a year), she described her surrogacy experience as, "a way for me to earn some kind of income, but also bless the family. I mean, you have to have your heart in it to be a surrogate mother."⁴³

Suze Berkhout, whose philosophical inquiry into surrogacy I will address in greater detail shortly, points out the strong emphasis on altruism and pervasive ‘gift’ language found in the testimonies of many surrogates. For instance, Berkhout notes one surrogate, commenting on her motivations, stated, "I wanted to do the ultimate thing for somebody, to give them the ultimate

⁴² <http://www.telegraph.co.uk/women/mother-tongue/11583541/US-army-wives-the-most-sought-after-surrogates-in-the-world.html>

⁴³ <http://abcnews.go.com/GMA/Parenting/military-wives-surrogates-carrying-babies-love-money/story?id=11882687>

gift. Nobody can beat that, nobody can do anything nicer for them.” (Berkhout 2012) Similarly, in other surrogacy communities we also find similar language of, “mothers helping mothers.” Such an emphasis on the virtue of altruism, Berkhout argues, ultimately results in a dichotomy between the “pure” surrogate and the “wicked” surrogate. She writes,

In public discourse, the "pure" surrogate is dichotomized with the "wicked" surrogate; goodness and badness rely on the idea that altruism and remuneration are mutually exclusive. Stigmatization is thus associated with the presumed moral character of the surrogate—a negative evaluation if the commercial elements of surrogacy are prominent. These dichotomous tropes lend themselves to the use of gift language and the emphasis on altruism by those in the industry, and especially by the surrogate mothers. (Berkhout 2012)

Indeed, Wertheimer echoes a similar sentiment when he considers how the mere offering of more monetary compensation to surrogates often problematizes the situation by stigmatizing the surrogate rather than making matters better. He writes,

I suspect that higher pay is not offered as a solution to the problem of exploitation in part because the very receipt of monetary compensation may actually cause some of the psychological harm experienced by some surrogate mothers, who may feel they are doing something “sleazy.” (Wertheimer 1992)

Such considerations about non-altruistically motivated surrogates bring us back to my earlier point regarding non-altruistically motivated soldiers and connotations typically associated with the word ‘mercenary’. Just as suggesting that soldiers are primarily motivated by self-interested gains like monetary compensation, job skills, or educational benefit connotes a kind of moral deficiency, one that often constrains a soldier’s negotiating power with the military, a similar tactic seems to be employed by many surrogacy agencies when recruiting surrogates and when negotiating with surrogates throughout the duration of the surrogacy contract. Not wanting to appear selfish or ‘sleazy’, and often ascribing to more traditional deferential roles, surrogates

often find themselves in situations where demanding greater compensation or sticking up for themselves would run contrary to their stated traditional values.⁴⁴

And while Berkhout couches the wrongness of such tactics in terms of their deleterious effects upon the surrogate's autonomy through a diminishing of her recognition self-respect, I believe that the same general phenomenon can be recast in terms of exploitation. In other words, surrogacy agencies often exploit surrogates by taking unfair advantage of the surrogate's traditional moral values, values specifically relating to altruism, deference, and servility.

Reflection on this point leads us to consider whether a further distinction might be made with respect to moral vulnerability. Specifically, one might wonder to what degree one can be made legitimately vulnerable *not* on account of possessing positive moral commitments about a particular subject outside of one's self (animal welfare, regard for the lives of innocent non-combatants, etc.), but rather, on account of an *absence or deficiency* in self-regarding duties.

III. Deficiencies

In "Buns in the Oven: Objectification, Surrogacy, and Women's Autonomy", Berkhout argues that one particularly morally troubling feature of commercial surrogacy in the United States is the deleterious effect it has upon a surrogate's sense of self-respect. Borrowing from Darwall, Berkhout makes the distinction between *appraisal* (or estimative) self-respect and *recognition* self-respect. Appraisal self-respect, according to Berkhout, refers to sense of self-esteem or self-worth that accompanies one's (perceived) merit and accomplishments. Appraisal

⁴⁴ We might think that a similar sort of dynamic occurs not only for surrogates and soldiers but also for typically college athletes when universities tell them that pursuit of monetary gain during their tenure goes against the spirit of the 'scholar-athlete' ethos.

self-respect is therefore contingent upon one's achievements within some socially-constructed context. When I say that I 'respect' a tennis player's serve despite his questionable character, according to Darwall and Berkhout, I am announcing my appraisal respect for such a person. Recognition self-respect, on the other hand, refers to the sense of self-worth based upon one's basic humanity and personhood. Recognition self-respect, according to Berkhout, "will at least depend on one's ability to see oneself and act in a way that is reflective of one's equality, agency, and individuality." (Berkhout 2012) Berkhout argues that while the act of being a surrogate may serve to build up the surrogate's sense of appraisal self-respect insofar as surrogates often receive tremendous praise for being noble vehicles who deliver 'the ultimate gift', such a dynamic might in fact serve to subtly erode the surrogate's sense of recognition self-respect as it normalizes the idea of her seeing herself as a mere instrument.

Indeed, something very similar might be said to occur in the case of many soldiers. For instance, much of the military indoctrination process is designed precisely to break down the pre-existing ego boundaries of the individual and to then rebuild him in accordance with the values of military culture. Hence, while a soldier's sense of *appraisal* self-respect might increase, even dramatically so, as he acquires more ribbons, medals, rank, etc. within the military culture, his *recognition* self-respect might indeed diminish (or at the very least, stagnate) as he so too begins to see himself more and more as a mere instrument. Though there is not extensive research on this topic, it is notable that military personnel have not better organized or self-advocated for better long-term health care or social services in the United States. One explanation is that, like surrogates, their long treatment as mere tools or pawns in a bigger picture might erode their recognition self-respect.

Accordingly, we may ask whether or not a person's diminished sense of recognition self-respect and absence of self-regarding moral commitments may also count as a legitimate instance of moral vulnerability. I believe that such a case (of deficient self-regarding duties) could indeed count as a legitimate case of moral vulnerability. However, such a case is nonetheless substantively different from previously discussed cases of moral vulnerability in at least one major respect. In the case of the vegetarian and the food vendor, it seems that the vegetarian could, at least in principle, be fully cognizant of the dynamic going on in the exploitative interaction and of the way in which the food vendor was putting her back to a wall by means of her moral commitments. Put another way, the vegetarian could know, with a fair degree of certainty, 'what the vendor was up to'.

In the case of the soldier or surrogate lacking in a sense of self-regarding duties however, a similar sort of distanced evaluative standpoint seems absent. Were we to ask the vegetarian her evaluation of her predicament, we could imagine her saying something to the effect of, "I know that he is leveraging my moral commitments about eating meat to extract more money out of me. I see *exactly* what he is doing." Accordingly, she would have good reason for complaint against the vendor and could also be able to articulate the particular locus of that complaint.

The testimony of the self-abnegating soldier or surrogate however, would likely be quite different. When asked to give her honest evaluation of the dynamic going on between herself and the surrogate agency, or conversely, between herself and the military body, because of her deficiency in self-regarding duties, we can imagine her reporting no form or instance of exploitation or sense of being taken advantage of whatsoever. Consideration of this point brings us back to our earlier distinction between actual versus perceived moral commitments.

In other words, if a deficiency in self-regarding duties is the factor constraining an agent's reasonable options, and if such a deficiency stems from a place of rationally-informed reflection, good epistemic virtues, etc. then we should thereby consider such a constraining factor as a reason-responsive though merely perceived moral constraint, and thereby as an instance of a legitimate vulnerability. If, however the agent's deficiency in self-regarding duties fundamentally stems from a place of epistemic negligence (i.e mere conformity, lack of rational reflection, superstition, failure to entertain differing viewpoints, etc.) then we should thereby consider such a constraining factor as an instance of a non-reasoned moral constraint. However, a non-reasoned, merely perceived moral constraint of this type might not fail to be a legitimate vulnerability. It just might not be a moral vulnerability, but instead a vulnerability stemming from something more like a psychological or emotional disorder. Unreasonable self-abnegation might simply fall into an already-established category of exploitee vulnerability.

As noted in Chapter 1, this distinction between reasoned and unreasoned moral constraints will be parasitic upon our notions of epistemic blameworthiness and ultimately upon notions of blameworthiness *in general*. Accordingly, what might be considered a legitimate vulnerability for an epistemically responsible teenager might in fact count as an unreasoned and merely perceived moral constraint for a fully formed adult. So, while the reasoned/unreasoned distinction usually helps us in our moral assessment of the exploitation of soldiers – it won't be relevant in the case of very young recruits, like the ones commonly targeted in high school. However, once they are formed adults, there is a difference in vulnerability between the military recruit who is morally motivated by a nuanced, epistemically-justified sense of civic duty versus one motivated by blind patriotism, or between the surrogate who regulates her eating because of

her concerns regarding prenatal injury versus for reasons of mere conformity. All mentioned are vulnerable to exploitation, but only the vulnerabilities caused by reasoned moral convictions make one vulnerable to wrongful exploitation. At the very least, this distinction is relevant for determining the degree of wrongfulness involved in the exploitation.

To what extent should it matter whether the exploited parties' moral convictions are actual versus merely perceived, independent of good or poor reasoning? In the case of agents with actual moral constraints, our duties will often take the form of negative duties of respecting and not 'playing hardball' by means of those constraints. In the case of merely perceived moral constraints, our duties will often take the form of a positive duty to try to disavow the agent of such perceived constraints. However, as noted, in these particular cases where the thing constraining an agent's reasonable options is a deficit in self-regarding duties, attempting to disavow the agent of such perceptions will be more difficult than in other cases where the perceived moral constraint is externalized.

That being said, in determining the specific content and robustness of such positive duties, much will depend on one's other commitments pertaining to such things as autonomy, paternalism, adaptive preference, and subjective versus objective accounts of well-being. While a thorough inquiry into such concepts well exceeds the scope of this dissertation, I nonetheless offer them to the reader for further consideration.⁴⁵

⁴⁵ To be fair, I leave open the possibility that one could be vulnerable due to a deficiency in self-regarding duties that does *not* stem from an actual or perceived moral constraint but rather from some confluence of emotional vulnerabilities and/or epistemic vulnerabilities (cognitive biases, religious biases, superstition, etc.). However, exploration of such considerations unfortunately falls outside of the scope of this chapter.

Conclusion

In this chapter, I have explored the phenomenon of moral vulnerability as seen through the lens of two real-world cases; namely, soldier recruitment and commercial surrogacy. Though both of these demographics might appear at first glance somewhat unrelated, a deeper, more thorough investigation into these two groups reveals some stark and important similarities in terms of economic class, geographic region, age, and shared traditional values. I have made the argument here that both soldiers and surrogates alike are often vulnerable to exploitation specifically on account of this last factor, a factor under-acknowledged and under-appreciated within contemporary exploitation dialogues. Indeed, just as in the case of the food-vendor and the exploited vegetarian, soldiers and surrogates' moral commitments (both actual and perceived) can and often do play a significant role in constraining their set of reasonable options, thereby often placing them in a 'back to the wall' kind of scenario.

What's more, I have also argued that the moral vulnerability of the common military recruit or common surrogate can often take the form of a *deficiency* in self-regarding moral commitments rather than the possession of a positive moral commitment pertaining to some other moral concern outside of one's self. Despite the agent's vulnerability often taking the form of a deficiency in self-regarding duties, I argue nonetheless that such a state of affairs can indeed count as a legitimate case of moral vulnerability. If we take advantage of veterans' eroded sense of recognition self-respect to spend our national resources on projects less important than veteran healthcare and social services, then we wrongfully exploit their deficiency in self-respect.

Lastly, just as in the case of other instances of moral vulnerability, I argue that the degree of wrongness of leveraging such moral deficiencies as well as one's concomitant duties (both

positive and negative) to the agent are contingent upon whether or not the agent's deficiency is grounded in actual versus perceived moral constraints; and whether the latter result from the agent's epistemic due diligence or lack thereof.

Chapter 4: Moral Burdens (Applied)

Introduction

Symmetrically to Chapter 3, this chapter will look at the second of our two normative concepts—moral burdens as a currency of exploitation—applied once again to the two real-world cases of military recruitment and commercial surrogacy. Much like with moral vulnerability, these two seemingly disparate cases share strong similarities in terms of the ways in which these two groups come to take on additional moral burdens precisely in virtue of their vulnerability (moral and otherwise). And while the concept of moral burdens, like moral vulnerability, certainly applies to more than just these two contexts, these two vulnerable demographics nonetheless represent paradigm instances of this morally troubling phenomenon.

Indeed, the morally problematic similarities existing between present-day surrogate recruitment and present-day military recruitment with respect to exploitation do not simply end with considerations of moral vulnerability. In fact, in terms of *what* is actually being unfairly or excessively transferred between exploiter and exploitee during the exploitative transaction, for both soldier and surrogate, often involves more than just a redistribution of physical benefits and/or physical risks. In other words, both surrogates and soldiers, by the very nature of their unique labor, will also come to take on a set of concomitant *moral burdens* inextricably linked to that unique labor. As outlined in Chapter 2, these moral burdens include: 1.) an increased exposure to moral risk 2.) an increased exposure to the chance of incurring moral residue 3.) an increased chance of agent regret. Indeed, all of these features appear to be present in our earlier case involving Anne and Beth. To review,

Anna is Beth's boss. One day, because of budgetary cuts within the company, Anna has to fire one of two employees. Both employees are excellent workers with equally morally weighty reasons not to be fired. Not wanting to have to deal with the moral deliberation that would go into making such a difficult decision, Anna delegates the task to Beth in exchange for greater job security. What's more, the task falls far outside of Beth's typical job description. Anna proceeds to task Beth with this new responsibility and Beth accepts without resistance.

Indeed, what seems to be most morally troubling about this particular exploitation case is not the set of physical or cognitive burdens that Anne offloads onto Beth, but rather, the set of associated moral burdens (connected to the act of firing a fellow vulnerable employee) that Beth comes to accept only in virtue of her low rank in the company and her precarious economic predicament. Something very similar seems to occur with the set of moral burdens that soldiers and surrogates often come to accept and take on. And while I do not think that exploitation's currency only takes the form of moral burdens in surrogacy or soldier recruitment cases, the cases of soldiers and surrogates nonetheless serves as instances of exploitation where this feature of moral burdens is particularly pronounced. Accordingly, the ways in which soldiers and surrogates are exploited often end up being fundamentally different from normal instances of exploitation, at least in this one major respect.

To be clear however, I am not arguing that one is wronged simply by having to take on moral responsibilities. Indeed, taking on responsibilities is a necessary and unavoidable feature of the human condition. What's more, differences in the degree and kind of responsibilities persons will come to take on within society will almost inevitably vary given peoples' varying abilities as well as some kind of division of labor within society. It is also arguable that one component of the life well-lived is in fact the acceptance and shouldering of moral responsibility and moral decision-making. Hence, in some circumstances, it might actually be *good* for a

person that he or she be made to take on certain responsibilities and a detriment to their growth to insulate them from the acceptance of such responsibilities. That being said, the kinds of responsibilities I am referring to here, those endemic to the taking of life and of the creating of life, I believe are of the sort that can quickly become excessive and hence deleterious to the life well-lived. To see how this is the case, let us now examine some of the similarities existing between soldiers and surrogates with respect to the nature of the contracts they opt into as well as the associative moral duties connected to their contractual arrangements.

I. Soldiers

While it is understood that part of the very burden of being a soldier is the acceptance of the possibility, if not high likelihood, of physical danger as well as physical and psychological hardship, the extent of the burden that the common soldier accepts fails to be exhausted by the domain of the physical. Rather, in addition to the array of physical and psychological burdens that a soldier is expected to take on, there is also a set of profound and weighty *moral* burdens that the agent is expected to shoulder once he or she consents to join the profession of arms. Note that I am not merely addressing the problem of soldier scapegoating here, although it is a closely related problem. Rather, I am focusing on cases where soldiers *actually* take on additional moral responsibility and moral risk – not just greater risk of being blamed or punished for resultant wrongdoing or perceived wrong-doing. Hence, if the transaction between soldiers and the

military body or state were successful and legitimate, then the exploitees would, in fact, be the correct locus for blame, should they make wrong moral decisions in war.⁴⁶

If, however, the agent's initial consent was fundamentally derived from his or her pronounced vulnerability (physical, socio-economic, epistemic, moral, or otherwise) then it would seem that the recruit/would-be soldier could not have reasonably refused to transact with the military body in the first place and therefore could not have refused the additional moral responsibility, moral risk, and potential blameworthiness thrust upon him or her. The result of such a transaction, in effect, is a sort of off-loading or outsourcing of moral responsibility, moral risk, and potential blameworthiness from society as a whole onto a very small minority of frequently vulnerable agents. Exploitation involving this kind of currency is therefore not redundant, given the multitude of different ways soldiers are often exploited – precisely because it is often soldiers who have a little discretionary power and who are therefore often victims of this sort of moral-burden-off-loading. Hence, it might be the case that soldiers are exploited in this unique way but not necessarily physically exploited.

The extent of moral responsibility placed on soldiers is something many are not fully aware of at the time they join the military (particularly if we include the *ad bellum* moral burden of deciding whether or not it is just for one's nation to even go to war in the first place). However, even if we restrict our inquiry to only *in bello* moral burdens concerning the morality of fighting well while *in war*, it is still likely that the average recruits will be underprepared to

⁴⁶ This is compatible with other agents being indirectly blameworthy. For instance, if a commander off-loads a particular moral burden onto an officer who is unequipped to handle the moral decision, then the commander bears some responsibility both for the bad outcome, as well as the negligent or risky delegation of responsibility.

accept and acknowledge the full moral weight of just such an undertaking. Indeed, many soldiers go to war expecting to feel like heroes and end up returning home feeling like moral monsters on account of the acts they had to do but likely did not anticipate, at least not fully.⁴⁷

For instance, in *On Killing*, psychologist David Grossman notes that testimonies gathered from WWII reported that a staggering number of soldiers in combat scenarios never fired their weapons during actual moments of combat. Furthermore, Grossman goes on to argue that given the typical firing rates, distances, and accuracy of weapons used during the American Civil War, battles should have lasted *only several minutes*, however, historical reports suggest that they went on for many, many hours. Grossman's theory; that soldiers were intentionally missing one another in order to prevent themselves from being killers. Such evidence suggests that many soldiers were therefore not really prepared to kill other human beings. As a result, after WWII, the U.S. military began implementing marksmanship training using more human-looking targets in order to desensitize soldiers to the act of killing. This suggests a long history of soldiers not being well prepared, at the time of recruitment, certainly, for what it really meant to take another person's life. (Grossman 1996)

Returning to exploitation, despite the myriad ways in which theorists have cashed out wrongful exploitation in terms of an exchange of a physical good or service, such accounts fail to be exhaustive. Rather, in addition to the array of instances of exploitation adequately captured in terms of an exchange of physical goods and services, there exists yet another set of legitimate exploitation best described in terms of a transfer of moral burdens, as I have argued. The

⁴⁷ In a way, this currency of exploitation is sometimes made possible by soldiers being misinformed about features of the conflict in which they are fighting. For instance, recruits might not know that the enemy is using children as soldiers or as human shields.

defining feature of such instances of exploitation involves an exploiter leveraging an agent's vulnerability *not* to acquire any particular material good or service but rather to compel the agent to accept additional moral responsibility, moral deliberative roles, or moral risks he/she would not otherwise take on. Moreover, such exploitation can occur even when agreements between the recruit and the military body involve informed consent. Indeed, the exploitation could be wrong because of unfairness, or because of other vulnerable aspects of recruited soldiers, even if they were fully informed.

Bearing such considerations in mind, one can see how the unfair transfer of moral burdens onto vulnerable soldiers tightly dovetails with Nancy Sherman's notion of 'moral injury.' While we should be careful to treat cases of exploitation involving the unfair transfer of moral burdens and moral injury as distinct, there is indeed much overlap between these two closely related concepts. Moral injury, according to Sherman, is a harm that fundamentally results from one transgressing his or her own moral code or from performing some wrongful action, either as a *pro tanto* wrong in service of the all-things-considered good or simply in a moment of moral failure. (Sherman 2015) As Sherman puts it,

It's moral anguish that sticks with people, and the sense of moral violation or failure (yours or others) – I failed to bring all of my soldiers home from war; my decision cost that Marine his life; I wasn't as good as I thought I was; others, with whom I am partnered or at higher pay grades, betrayed me. I think of moral injury as a wound that comes with holding yourself and others to account for past transgressions, or for falling short of one's ideals. Young military service members are especially prone to this injury, in part because they hold themselves to lofty ideals that they can't perfectly fulfill. And they often think of morality in black and white terms, yet war is filled with moral gray.
(Sherman 2015)

If Sherman's account is correct, and the concept of moral injury maps onto a real phenomenon occurring for many soldiers, then cases of exploitation involving the unfair transfer

of moral burdens say something very important about *the stage-setting conditions* that place certain vulnerable agents into high stakes decision-making contexts where the risk of moral injury is considerably more likely. Thus, just as Sherman points out that the average soldier makes risks and sacrifices involving not only her physical body, but her moral character, the transfer of moral burdens onto soldiers that I have here described points to the fairness (or lack thereof) of the distribution of those risks of character among society as a whole.

To get clearer about how this notion of a transfer of moral burdens specifically applies to the moral injuries sustained by soldiers, let us consider several real-world cases. Take for instance, the case of Reserve Army Captain John Smith, who, as a company commander, was in charge of running a routine traffic control point in Iraq.⁴⁸ One night, while Smith was on duty, commanding the soldiers at the traffic control point, a lone car came driving towards them at an exceptionally high speed. As per standard unit protocol and rules of engagement, Smith ordered his soldiers to flash their spotlights at the moving vehicle to get the drivers attention. The car did not decrease its speed or seem to acknowledge at all the flashing lights. Captain Smith then gave the order to one of his soldiers to fire a warning shot over the top of the vehicle. The vehicle continued to speed towards them. Smith ordered another warning shot. Still no response. With the vehicle now coming dangerously close to his soldiers, and with very little time left to attempt to shoot out the tires with a precision shot, Smith made the difficult moral call, ‘light it up.’ Smith’s men fired upon the moving vehicle with a hail of machine gun and rifle fire, riddling the vehicle with bullet holes, bringing it to a standstill. Smith’s men then moved in to inspect the vehicle and to their absolute horror, quickly realized that they had just shot and killed a family

⁴⁸ Name deliberately changed for considerations of respect and privacy.

who were on their way to the hospital, driving quickly because the female in the car was in labor and about to give birth.

For years after the tragedy, many of Smith's men suffered from depression and post-traumatic stress disorder. Smith himself exited the military and slipped into severe bouts of alcoholism and depression and two of his men later committed suicide. By all routine protocols and epistemic standards however, Smith technically made the 'right' call that fateful night.⁴⁹ And while such routine protocols are often put in place precisely to shift responsibility away from the officer in charge and away from trigger-pullers, the fact that Smith and his groups felt the way that they did after the incident, even with this protocol in place, suggests that protocols weren't of much help or, at least, not of sufficient help.

Or consider the case of Corporal 'Lalo' Panyagua, a Marine who found himself on his third combat tour in the Helmand Province of Afghanistan in 2009. On one particular day, while leading a routine patrol with a pair of MRAP (Mine Resistant Ambush Protected) vehicles, one of Corporal Panyagua's soldiers, Corporal Justin Wilson, stated over the radio that he had to 'go number 2'. Given that the area appeared secure, Panyagua told his men to pull over to allow Wilson to quickly relieve himself in a nearby hut. However, just as Wilson exited the protective cover provided by the heavily armored vehicle, the unit came under heavy mortar fire. Wilson was blown up and severely injured. He later died after being medically evacuated from the area. After the tragic incident, Panyagua was wracked with guilt and self-loathing, second-guessing whether or not he had been reckless, if they could have secured the area better before letting

⁴⁹ <http://www.militarytimes.com/story/military/2015/11/19/moral-injury-troops-talk-how-war-assaults-conscience/76000632/>. Story further articulated by Smith at the University of Georgetown November 16th, 2016 panel for Nancy Sherman's *Afterwar*.

Wilson out of the vehicle, if they should have stopped at all, or if he could have radioed for medevac resources faster. Unlike Smith, whose moral injury revolved around an act of commission, Panyagua's moral injury was one of perceived omission; of the persistent, gnawing feeling that, morally speaking, he could have done so much more but somehow failed to do so. (Sherman 2015)

Lastly, consider the case of Army Major Jeffrey Hall who experienced suicidal post traumatic stress (PTS) as a result of an incident in Baghdad in 2003 after his unit collaterally killed several Iraqi civilians during a hit on a high value target. After the tragic event, Hall was tasked with being the unit liaison officer in charge of giving monetary compensation to the family of the deceased; a meager \$750. Upon receiving the envelope of money from Hall, the patriarch of the family angrily threw the money on the ground and demanded the return of the bodies of their loved ones (for traditional funeral rites) as well as official death certificates. His head hung in shame, Hall returned to his unit and began navigating his way through the byzantine network of administrative machinery in order to secure the bodies of the deceased along with the corresponding death certificates in hopes of salvaging some shred of dignity in this tragedy. After fighting through many layers of bureaucratic red tape for several days, Hall returned to the mourning family with the bodies of their loved ones; un-embalmed and rotten beyond recognition and with death certificates that had been erroneously marked 'ENEMY' by another institutional agency. Despite the incompetence of the military institution in handling this tragedy, Hall's legal orders were to nonetheless be the official bearer of these woefully inadequate tokens compensation; orders which he dutifully carried out with both guilt and shame. (Sherman 2015)

It is important to note here, that Major Hall's case seems importantly different from our others cases insofar as he was not given any discretionary power. The main moral burden in this case was therefore having to be *the representative* of those with actual discretion – of having to go through the worst part of wrongdoing, sorting through the aftermath, even though he had not made a mistake himself. Such a case is more similar then to someone who makes her subordinate fire a bunch of workers without giving that subordinate any discretion about who gets fired. Hall was put in a position where he had to feel the guilt, shame, etc., of the act even though he did not have any discretion. Hence, we should see Major Hall's case as a subset of moral burdens described earlier, namely, agent regret.

There is a certain commonality to all of these cases. Notice that none of the soldiers in any of these cases sustained any kind of physical injury. What's more, notice that none of these soldiers sustained any psychological injuries typically associated with post-traumatic stress disorder as well. For instance, none of them had what might be considered a 'close call', were physically wounded, or a bad moment where they faced a clear and imminent threat of death or severe bodily harm. Rather, the commonality between each of these soldiers' stories is that each one of them, each in their own way, found themselves suddenly trapped in an exceptionally difficult ethical situation where their moral best was simply not good enough. What's more, the set of circumstances and decisions leading up to and placing them in such high stakes decision-making contexts was well out of their hands.

Usually when someone is in a moral dilemma, it's because they have made some moral error earlier for which they are blameworthy, even if they have no good option now (e.g., over-commitments, or when someone has run out of time to discharge all of their duties because they

have been lazy or procrastinated). It seems however, that soldiers are never actively trying to put themselves into moral dilemmas, or situations where they, without meaning to, wind up doing something that makes them feel guilty forever after. They are however, often in constant fear of ending up in these situations, and relatively powerless from preventing them from occurring. Indeed, something about the unique institutional design of the military (and of following orders) has an odd way of ushering soldiers to that final point of decision, often trapping them in situations, like the ones here described, that seem morally un-winnable.

This feeling, even dread of *the inevitability* of making a moral mistake or the eventuality of moral blameworthiness is well articulated by author Ben Fountain in his novel *Billy Lynn's Long Halftime Walk*. Fountain writes,

His fear up to the moment the shooting started being that of fucking up. Life in the Army is miserable that way. You fuck up, they scream at you, you fuck up some more and they scream at you some more, but overlying all the small, petty, stupid, basically foreordained fuck-ups looms the ever-present prospect of the life-fucking fuck-up, a fuck-up so profound and all-encompassing as to crush all hope of redemption. (Fountain 2012)

Here Fountain touches on the sense of inescapability many soldiers feel when it comes to making a moral mistake, incurring dirty hands, or accidentally stepping on some other sort of moral land-mine given enough time in combat. This perhaps might somewhat account for the strained civil-military relationship that currently exists between many returning veterans and society at large. While society as a whole might be doing a decent job at recognizing the physical and psychological harms done to soldiers as a result of their combat service, they have arguably failed to adequately acknowledge or appreciate the set of moral injuries suffered by soldiers; moral injuries, ostensibly incurred as a result of shouldering the additional moral burdens

endemic to modern warfare.

Given our earlier investigation of the various vulnerabilities of many military recruits, unless such scenarios of this kind can be effectively and thoroughly communicated to such persons at time of recruitment, soldiers will continue to take on a type of burden that they do not understand at the time of recruitment. Furthermore, given what we have seen with regard to age and moral vulnerability, I am similarly skeptical of the average recruit's capacity to fully understand the moral weight of such potential scenarios latent in their initial decision to join up. Lastly, all things considered, even if a soldier did not possess any of these aforementioned vulnerabilities at the time of recruitment, statistical speaking, he or she still likely would have been making their decision to join the military body from a place of socio-economically vulnerability. From this investigation, we therefore see that in addition to physical and psychological burdens within society, the risk of 'dirty hands', moral injury, and agent regret are yet another burden that some of the most vulnerable within society are often forced to bear.

As a final point, it is worth noting that Sherman's main prescription for the healing of moral injuries is for soldiers to engage in the practice of *self-empathy*. Self-empathy, according to Sherman, is different from mere self-forgiveness, since forgiveness seems to suggest that one has intentionally transgressed against another. Sherman therefore thinks that this description of self-forgiveness is somewhat ill-fitting for soldiers with moral injuries, since in very many cases, the predicament of the soldier will be one where no intentional wrongdoing was present. (Sherman 2015) Self-empathy, therefore is a particular perspective that one adopts regarding the evaluation of one's past self; one which involves, as Sherman puts it, "a fairer self-judgement and less rigid notions of success and failure that ultimately help loosen self-destructive

feeling.” (Sherman 2015)

We should find this prescription telling. We should find this prescription telling because Sherman isn’t simply suggesting that soldiers be given medication to lessen the symptoms of post-traumatic stress, or that they receive prosthetic limbs, or monetary compensation, or educational benefits. Nor is she even arguing that soldiers be given psychological therapy aimed at mitigating the effects of external environmental triggers that might elicit a neurological responses of alarm or panic in soldiers (i.e., traditional ‘ptsd’ symptoms). Indeed, the need for self-empathy specifically addresses the psychological wounds one experiences when he or she makes a moral mistake, incurs moral residue or dirty hands, or simply finds one’s self experiencing a fitting degree of agent regret coming away from a difficult moral decision. Put another way, the need for self-empathy is evidence that the moral burdens soldiers come to take on can serve as a legitimate currency of exploitation.⁵⁰

II. Surrogates

Given our investigation of the moral burdens often offloaded or outsourced onto vulnerable soldiers, let us now consider the way in which a similar dynamic occurs for many commercial surrogates. One noteworthy similarity between surrogates and surrogacy agencies and military recruits and the armed forces, and one which sets them apart from many other types

⁵⁰ It is important for us to note that common foot soldiers are not the only ones subject to this offloading of moral burdens. Indeed, it is often the case that persons in *leadership positions* become the frequent bearers of moral burdens. Indeed, there are many stories of ‘chateau generals’ in WWI, many miles removed from the front lines of combat, collapsing from exhaustion due to the emotional duress of sending legions of their fellow countrymen to their deaths.

of human activity and forms of labor, is the unique *bindingness* of their respective contracts. While other types of contracts usually allow for at least a moderate degree latitude with respect to an agent's re-negotiation of the initial contract or breaking of the contract, that same degree of latitude is considerably absent in the case of the soldier as well as the surrogate. In the case of the soldier, the bindingness of the contract is more or less solidified by the coercive force of the state. The penalty for breach of contract is a dishonorable discharge — something that a soldier entrenched in military mores might not find to be a viable option. In fact, calling such discharge “dishonorable” creates circumstances in which soldiers are morally vulnerable, according to the concept I have introduced in earlier chapters.

In the case of the surrogate, the bindingness of the contract is more or less solidified by brute facts about biology and the length of pregnancy. In both cases, once the exploitee has opted into the initial contract, the capacity to renegotiate or opt out of the contract, while not impossible, is markedly more difficult than typical contracts.

Hence, even in the case of the sweatshop worker, at the end of the day, the sweatshop worker still seems in a much better position to negotiate the terms of her contract or to break the contract altogether. Indeed, were the sweatshop worker to break her contract, she would, in all likelihood, still face the very same set of economic pressures that initially compelled her to opt into the sweatshop job in the first place; the very same pressures that likely compelled the soldier and the surrogate to similarly opt into their respective forms of labor as well. However, absent in the case of the sweatshop worker is the additional constraint of either state coercion or of brute biology. In opting out of her contract, the sweatshop worker indeed risks her economic stability in the face of market uncertainties. She however does not risk going to jail, harming her body

and reproductive abilities, or harming the fetus/child in her womb to whom she may have grown emotionally or psychologically attached. (Even absence an emotional attachment, the surrogate might oppose abortion on moral grounds — and likely does, as holding this moral position is one of the factors used in surrogate selection by agencies, as discussed in Chapter 3.)

In addition to the extreme bindingness of the military or surrogate contracts relative to typical contracts, the military or surrogate contract also involve the unique feature of the exploitee coming to take on additional moral burdens connected to their physical labor. In the case of the former, the additional moral burdens mainly center on the taking of life. In the case of the latter, the additional moral burdens mainly center on the creation of life. Consequently, in this way, military contracts or surrogacy contracts are markedly different from other (potentially) exploitative contracts involving only physical labor or only medical risk. Indeed, the likelihood of the exploitee coming to take on moral burdens (moral risk, moral residue, agent regret) seem considerably less when it comes to other domains of human activity and other common exploitation cases.

With regard to moral risk (in other words, the increased likelihood of making a moral mistake) the gestational labor performed by surrogates clearly seems shot through with this morally problematic feature. Regardless of one's moral commitments pertaining to the breaking of contractual obligations, aborting the fetus, or fighting to keep the child post-birth, one can at least accept the idea that these kinds of decisions, inextricably linked to surrogacy, carry with them a moral dimension that other exploitative activities like sweatshop labor or playing basketball for an exploitative university do not. Indeed, even day-to-day activities like sleeping, eating, and physical movement will all carry tremendous moral weight and moral risk for the

surrogate insofar as all of these activities carry the ever-present potential for prenatal injury. Accordingly, not only is the physical labor of gestation outsourced to surrogates who are often vulnerable, the moral risks associated with decisions pertaining to when and if to abort as well as what day-to-day decisions might cause prenatal harm are similarly outsourced. If the surrogate makes a morally bad decision, just like the soldier, it will be *her* bad decision, not the parents'. Similarly, even if the surrogate does everything right, the surrogacy contract spans a long stretch of time wherein the risk and chance of making a moral mistake are high.

Recall, in my discussion of the moral burdens shouldered by soldiers, I described moral residue — the guilt, shame, or real responsibility for a directed wrong of another individual, even when a decision made was not a mistake overall, and was, on balance, permissible. With regard to the feature of moral residue as it pertains to commercial surrogacy, an analogy to soldiers can be drawn. Certainly in the case of soldiers, the placement of soldiers in battlefield contexts will almost certainly entail that they perform some kind of *pro tanto* wrong action in the service of the all-things-considered good. Indeed, adjudicating countless morally ambiguous contexts involving the distribution of harm and risk between self, comrades, combatants, and non-combatants, decisions about following or disobeying orders, and decisions about going to war at all will almost assuredly generate instances where moral residue will obtain to some degree for soldiers.

The gestational labor performed by surrogates admits of this same morally troubling feature though it manifests itself in different forms. While a surrogate will not, for instance, have to face the difficult decision of whether or not to collaterally kill a non-combatant in service of the greater mission, she nonetheless will be forced, by the nature of her contract, to adjudicate

the often conflicting set of values pertaining to, amongst other things: her duty to honor her initial contract with the surrogacy agency and intended parents, her own bodily integrity rights and derivatively, her right to therefore abort, her duty to avoid prenatal injury, and lastly, the actual or perceived duties she might feel towards the fetus/ yet to be born child.

While the case of killing of innocents in service of the greater mission is almost uncontroversially accepted by ethicists as (at least) constituting a *pro tanto* wrong that would thereby generate moral residue, things are less clear in the case of surrogates. Whether or not the surrogate's decision to say, break the initial surrogacy contract by aborting the fetus, or fight to keep the child post-birth constitute a *pro tanto* wrong is a more open question depending upon which value one grants lexical priority to. Regardless of which particular value one grants lexical priority to (the honoring of contracts, bodily integrity rights, duties to the unborn, associative duties to one's own progeny, etc.), the surrogate is nonetheless placed in a decision-making situation where one of these values could conflict with one of the others. When such situations occur, the surrogate, like the soldier, will necessarily incur moral residue for the set of decisions that will indeed be *hers* to own.

Let us now move on to consider the final kind of moral burden that I have here noted, namely, agent regret. Much like in the case of the soldier, even if a surrogate makes the morally right decision with regard to the honoring or breaking of her contract, aborting the fetus, or fighting to keep the child, she most likely will experience some form of agent regret. This is because of the moral weight, complexity, and ambiguity of the options and their value (or disvalue) and the costs and benefits attached to the probable outcomes associated with those options. Accordingly, much like in the case of the soldier, the unique labor the surrogate

performs seems shot-through with this additional moral feature of agent regret (as it does with the features of moral risk and moral residue). And much like the case of the soldier with respect to the rest of society, the surrogate, not the parents or the surrogacy agency will come to be the bearers of these additional moral burdens.

Indeed, while not all that common, sometimes the moral burdens a surrogate comes to bear diverge quite radically from what she took to be in the spirit of the contracting parents. In fact, sometimes surrogacy “contracts” (that may or may not be legitimate) require that a surrogate have an abortion in the event of an unanticipated chromosomal problem with the fetus such as Downs Syndrome. There have been some recorded cases where the surrogate has refused to abort the fetus on moral principle, but the genetic parents have refused to take the child.⁵¹ Accordingly, the tragic consequence has been that the baby either becomes the ward of the state or has to be adopted by the surrogate, who doesn’t herself have the resources to raise a child in need. If, in consideration of these poor options, or in respect of the contract, the surrogate does choose to abort the fetus, the morally pro-life surrogate might experience guilt and/or moral regret. If she decides to give birth to the child — in breach of the contract, then she may well feel guilt at leaving the child to be the ward of the state.

One might think that this guilt is fitting — since the surrogate made the decision to bring the child into the world (at the point at which the genetic parents exercised their own contracted opportunity for exit), she ought to raise it. However, the fact that she, the surrogate, was likely selected precisely on account of her anti-abortion convictions places some of the responsibility

⁵¹ For instance see <http://abcnews.go.com/Lifestyle/surrogate-mom-baby-syndrome-toddler-hitting-milestones/story?id=38486518>

for the raising of the child back onto the surrogacy agency and/or the genetic parents. Indeed, in a normal case of an unwanted pregnancy, we do not think that the biological father can similarly abdicate his paternal responsibilities simply because he wanted the woman to have an abortion, and she chose otherwise. While instances in surrogacy like the one I have here described might turn out to be, such cases are nonetheless instances of moral burdens shouldered by vulnerable surrogates — and ones that they might take on unknowingly.

As a final consideration, in light of the moral burdens that I have here discussed, I would like to briefly say something once again about Sherman's notion of 'moral injury' as it specifically relates to surrogates. As stated in previous chapters, moral injury is a harm to one's self resulting from a transgressing of one's own moral code or from performing some wrongful action, either as a *pro tanto* wrong in service of the all-things-considered good or in a moment of moral failure. While the notion of moral injury is almost always, if not exclusively, associated with harm to soldiers, given the arguments that I have made here, I believe there is good reason to think that moral injury could equally apply to many surrogates.

Indeed, if what is at the heart of moral injury is the agent going against her own moral commitments (out of actual obligation, perceived obligation, or by mistake), then the surrogate's moral predicament, for the reasons here outlined, seems surprisingly similar to that of the common soldier. Accordingly, if we think it at all plausible that surrogates could be morally injured in a similar way as soldiers, then such considerations might therefore warrant that society create similar and better *ex ante* precautions prior to the surrogate entering into the surrogacy contract as well as similar and better *ex post* compensation and means for healing on the back end. While a thorough analysis of the concept of moral injury and its relationship to commercial

surrogacy far exceeds the scope of this chapter, I nonetheless leave these considerations to the reader for further reflection.

All this being said, it is nonetheless important to note that perhaps a certain amount of exploitative off-loading of moral burdens is necessary for the effective waging of just wars. Accordingly, even if such moral off-loading is wrong, the social goods that it delivers might nonetheless justify its continued practice within a free and democratic society, all things considered. The market practice of commercial surrogacy and the particular social goods that it provides arguably do not admit of a similar necessity. Accordingly, while the wrongs of shifting moral burdens onto vulnerable populations might be equally severe and equally prevalent for military recruits as with surrogate recruits, the prohibition or restriction of such contracts will ostensibly be harder to justify in the case of soldiers.

Conclusion

In this chapter, I have argued that moral burdens can function as a currency of exploitation. More specifically, I have argued that the two specific cases of soldier recruitment and commercial surrogacy serve as paradigmatic examples of an unfair or excessive transfer of this kind of currency. With regard to military recruitment, the full set of benefits that society garners from the exploitative exchange includes not only an offloading of physical or psychological burdens and risks, but also an offloading of heightened exposure to moral risk, moral residue, and moral injury endemic to combat. With regard to commercial surrogacy, the full set of benefits that the intended parents garner from the exploitative exchange likewise include not only an offloading of physical or psychological burdens connected to pregnancy, but

also an offloading of weighty moral decision-making (associated with pregnancy, abortion, prenatal injury) onto the surrogate.

As things stand, both Wertheimer and Valdman's accounts of exploitation fail to explicitly acknowledge this additional kind of currency/exploiter benefit. However, neither Wertheimer nor Valdman explicitly deny the inclusion of such currency as well. Accordingly, I see no reason why the theoretical apparatus of Wertheimer or Valdman's accounts could not be extended so as to coherently accommodate this additional moral consideration. That being said, were Wertheimer, Valdman, or any other exploitation theorist to incorporate this additional kind of currency/exploiter benefit into their existing exploitation account, then in so doing, their end verdict on what would therefore count as exploitation as well as the moral severity of such exploitation would likely change; perhaps even radically so.

Conclusion

In this dissertation I have made the case for an account of exploitation that is more expansive than typical accounts in two major respects. Firstly, with regard to the feature of agent vulnerability, I have argued that an agent may be rendered legitimately vulnerable an out of reasonable options due to her moral commitments alone, much in the same way an agent can be rendered vulnerable by means of a physical, economic, emotional, or epistemic constraint. Secondly, with regard to the feature of what is transferred between exploiter and exploitee during an exploitative exchange, I have argued that the currency of exploitation may take the form of not just a physical good or service but also the off-loading of moral burdens. Having outlined the details of these two normative features of exploitation, I then went on to look at two real-world instances where these elements of exploitation are most salient; military recruitment and commercial surrogacy.

In considering these concepts and cases in relation to the existing theoretical frameworks within exploitation literature, we discover that agents are more vulnerable than we typically think and exploited in a greater number of ways than we typically think. Accordingly, the overall upshot of this dissertation is that it makes a strong case for how present exploitation frameworks ought to be expanded so as to account for these oft under-acknowledged moral features such that persons may be better protected against wrongful exploitation and society as a whole may be made more aware of the ways in which exploitation and vulnerability may obtain.

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