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Reviewed work(s):

Source: *Ethics*, Vol. 94, No. 2 (Jan., 1984), pp. 225-241

Published by: [The University of Chicago Press](#)

Stable URL: <http://www.jstor.org/stable/2380513>

Accessed: 01/06/2012 09:59

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A Liberal Theory of Exploitation*

Hillel Steiner

A common suggestion is that liberalism intrinsically lacks an adequate theory of exploitation. Eschewing any conception of objective value or human needs, agnostic as between different tastes and preferences, dismissive of irreducibly holist or functionalist explanations of social interaction, it commits itself only to the primacy of personal rights and liberties and to individual choice as the basic explanatory datum of social phenomena. Such an impoverished commitment, it is claimed, renders liberalism conceptually incapable of either identifying or abolishing many significant forms of exploitation. The argument which follows aims to refute this claim.

I

Interpersonal transfers are generally thought to be of three broad types: donation, exchange, and theft. Of these, donation and theft consist in a unilateral transfer, while exchange consists in bilateral transfer. It is true, of course, that in donation the donor may receive something in return for his gift, such as gratitude. Thus we are able to distinguish donations from exchanges because we believe that there is some shared scale of value on which what the donor receives is rated at zero, whereas what his beneficiary receives is rated at greater than zero. However, the fact that this can equally be said in respect of thieves and their victims is important inasmuch as it implies that more is needed, by way of differentiating characterization, to distinguish these two types of transfer.

To discover what that 'more' is, let us first set out the three types of transfer on a continuum. In each case, the parties to the transfer are two persons (or groups) named Red and Blue.

	Donation	Exchange	Theft
Blue to Red		X	
Red to Blue	X	X	X

* Discerning comments from the reviewers for *Ethics* have greatly contributed to the preparation of the final version of this article.

Ethics 94 (January 1984): 225–241

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This is fairly trivial. But it is a useful way of displaying the possibility of types of transfer which are intermediate between pairs of the three broad types. Now the difference between a donation and a theft is simply that, in the first case, the initial possessor of the item to be transferred transfers it voluntarily, whereas in the second case it is transferred involuntarily. By letting v and i stand for voluntary and involuntary transfer, respectively, we can thus represent and distinguish each of the three broad types of transfer:

	Donation	Exchange	Theft
Blue to Red		Xv	
Red to Blue	Xv	Xv	Xi

But there are more complex types of transfer than are indicated by this simple classification. Consider the case of a ticket to a £100-per-plate charity banquet. There is one clear sense in which the type of transfer involved here is an exchange, and another in which it is a donation. It is not a typical donation because, so to speak, there are items traveling in both directions and neither of them is rated at zero on the shared scale of value. Yet if both were rated at the same greater-than-zero amount, the transfer would lack any donative quality. If both had the same rating, the transfer would be a typical instance of exchange. So it must be the case that this intermediate type of transfer—sometimes called a benefit— involves the trading of items which are of unequal and greater-than-zero value. This refinement in our continuum of types of transfer can be represented thus:

	Donation	Benefit	Exchange	Theft
Blue to Red		$3Xv$	$5Xv$	
Red to Blue	$5Xv$	$5Xv$	$5Xv$	$5Xi$

Evidently, however, although the three dimensions of transfers considered thus far—unilateral/bilateral, voluntary/involuntary, equal/unequal—are sufficient to distinguish each of these four types of transfer from the others, they are not sufficient to provide us with a differentiating characterization of exploitation. An exploitative transfer, unlike theft, is bilateral. And like other nontheft transfers, the items transferred are transferred voluntarily. Yet they are held to be of unequal and greater-than-zero value. Thus:

	Donation	Benefit	Exchange	Exploitation	Theft
Blue to Red		$3Xv$	$5Xv$	$3Xv$	
Red to Blue	$5Xv$	$5Xv$	$5Xv$	$5Xv$	$5Xi$

Plainly, more is needed if we are to distinguish exploitation from benefit.

One commonly canvassed suggestion is that, in exploitation, Red's transfer of $5X$ to Blue is not voluntary but involuntary. But this suggestion is problematic. Is it involuntary in the same sense of 'involuntary' as is predicated of Red's transfer to Blue in the case of theft? If so, then it would appear that Blue's transfer of $3X$ to Red is in the nature of a donation—a thief's token, as it were, of his recognition of his victim's relative impoverishment. Yet Red's gratitude seems likely to be less than profuse if, as this suggestion implies, Blue is the direct cause of his impoverishment.

Another suggestion, somewhat nearer the mark, is that Red's transfer to Blue, though voluntary, is not voluntary to the same degree as Blue's transfer to Red. Several difficulties beset this suggestion, not the least of which is the imprecision inherently attendant upon talk about different degrees of voluntariness. Imprecision aside, however, this suggestion is inadequate as a unique characterization of exploitation, because there is nothing in it that could not also be true of a benefit. That is, it may be true of a benefit that, although Red voluntarily transfers $5X$ for Blue's $3X$, the degree of voluntariness with which he does so is only 60 percent as compared with Blue's 85 percent. What characterizes a benefit and distinguishes it from an exploitation is that, although in both cases Red's transfer of $5X$ may be less voluntary than Blue's transfer of $3X$, Red would not be willing to receive a return of as much as $5X$ from Blue in the benefit case, whereas he would willingly accept a $5X$ return from Blue in the exploitation case.

Let me restate this claim in other terms. I am suggesting that, given their various shared features, what distinguishes a benefit from an exploitation is a difference between their counterfactual presuppositions. A benefit is a bilateral transfer of unequally valued items such that the possessor of the higher-valued item would not voluntarily make the transfer if the items to be transferred were of equal value. An exploitation, on the other hand, is a bilateral transfer of unequally valued items such that the possessors of both items would voluntarily make the transfer if the items to be transferred were of equal value. For nonbenefactors would be irrational to decline an offer of something valued at $5X$ at any price up to $5X$. Put somewhat oversimply, an exploitation can be converted into an exchange whereas a benefit cannot. Or, more precisely, both exploiters and exploited would voluntarily become exchangers, but benefactors would not.

Thus, consider what we should think of Red's conduct at a charity banquet if he were to consume an abnormally large amount of food and drink. It seems unlikely that we should be inclined to judge this an "equitable transaction," "only fair," and so forth. We should want to say, rather, that Red was not acting within the spirit of the occasion, that he was not truly a benefactor. And the more censorious among us might even charge him with the sort of theft-*cum*-donation previously shown

to be implied by the view that exploitation involves an involuntary transfer. Contrast this with our judgment of Red's similarly gluttonous behavior at a Christmas party given by his Scrooge-like employer. This piece of conduct might similarly fail to arouse our admiration, but the terms of our disapprobation would be significantly different from those in the first case.

II

As has been argued, it is not true that an exploitation is accurately characterized as consisting in one voluntary transfer and one transfer which is either less voluntary or involuntary: both are voluntary, and may be equally so. What can be said, however, is that *part of one of the two transfers is, in a sense yet to be identified, unnecessary. That is, the convertibility of an exploitation into an exchange* implies that, under certain circumstances, Blue would voluntarily transfer 5X for Red's 5X and, by extension, 3X for Red's 3X. Why, then, is Red paying 2X "over the odds" for Blue's 3X? Note that we cannot say that he is doing so either (i) because he prefers to, as this would be a benefit, or (ii) because Blue is taking it from him without his consent, as this would be a theft. What is it about the circumstances actually prevailing that necessitates Red's transferring this surplus which, in other circumstances, he would not need to transfer to secure Blue's voluntary transfer of 3X?

Part of the answer to this question is to be had from attending carefully to what has been claimed so far. If we are saying that there can be circumstances which do not necessitate payment of the 2X, and that actual circumstances do necessitate it, we are committed to saying that actual circumstances are themselves not necessitated—or, at least, not necessitated by the same causes. What brings about the circumstances of exploitation is not what brings about exploitative transfers. The former are necessary but insufficient conditions of such transfers. They operate, so to speak, to create the mold within which whatever motivates individuals to engage in nonaltruistic bilateral transfers—exchanges and exploitations—issues only in exploitations. In the different mold that would be constituted by a different set of circumstances, that same motivation would issue in exchanges. This motivation noncontingently necessitates Blue and Red reciprocally transferring 3X. In exploitative circumstances, this same motivation necessitates Red transferring a further 2X to Blue. The occurrence of exploitative circumstances is thus due to factors other than this motivation, and its *explanans* must therefore be different from that offered for the occurrence of nonaltruistic bilateral transfers. What, then, is the appropriate explanation for the occurrence of exploitative circumstances?

We have seen that, whatever this explanation may be, it must not be such as to imply that the causes of nonaltruistic bilateral transfers, in general, would be absent in the absence of exploitative circumstances. For then we could not suppose that exchange would replace exploitation

when the latter ceased to occur with the disappearance of exploitative circumstances. And if we could not make this supposition, we should lack the required basis for distinguishing an exploitation from a benefit. On the other hand, our explanation must not be such as to imply that exploitative circumstances are a universally necessary feature of social relations, or we would lose our conceptual entitlement to regard the 2X as unnecessary and surplus.

An explanation of the occurrence of exploitative circumstances will need to include certain generalizations about social relations, such as to imply that some kinds of society contain exploitative circumstances while others do not and that the former are transformable into the latter. What sorts of generalizations can these be? Evidently they cannot be drawn from physics or biology since whatever truths these might register about a society would presumably refer to universally necessary features of it. Could they be psychological generalizations, statements about the motivational factors underlying individuals' behavior? This, too, looks unsatisfactory. For recall that, for exploitation to occur, individuals must be motivated independently—independent of the presence or absence of exploitative circumstances—to engage in nonaltruistic bilateral transfers. If the circumstance which channels *that* motivation into exploitative transfers is itself held to be the presence of a motivation to engage in voluntary bilateral transfers of unequally valued objects, then that circumstance is not only necessary but (contrary to what has been claimed) also sufficient for the occurrence of such transfers. Hence, the use of this kind of psychological generalization would deprive us of the distinction between a benefit and an exploitation. For, if it were true, it would imply that voluntary bilateral transfers of unequally valued objects would still occur on the same scale, even in the absence of the motivation to engage in nonaltruistic bilateral transfers.

Without canvassing further unsatisfactory candidates for the kind of explanation required to account for the occurrence of exploitative circumstances, I propose simply to suggest that what is involved here is a generalization about social institutions. That is, if (i) certain things are true of the institutions within which interpersonal transfers occur, and (ii) at least some of these transfers are nonaltruistic bilateral ones, then at least some of these transfers are exploitative. What are the institutional conditions of exploitation?

Here we get some assistance from the fact that exploitation is commonly considered unjust. A minimal characterization of injustice is that it involves denying a person what is due to him, something to which he is entitled, something to which he has a right. People have a right not to have their just property transferred from them without their consent. Hence theft is unjust. But an exploited person transfers his property, including his services, voluntarily. How can exploitation be unjust? To understand how this can be so, we must look briefly at the concept of a right and at the ways in which sets of rights are structured to form social institutions.

A right is an inviolable domain of practical choice. What this means is that, with respect to the domain of choice denoted by the object of a right, anything the right holder chooses to do or have done is permissible, and interference by others with the execution of those choices is impermissible. Others are prohibited, are under an obligation to refrain, from interfering with those actions. It is a general truth about all obligations—whether correlative to rights or not—that they are valid only if their fulfillment is possible: ought implies can. Since a right entails a correlative obligation, a right can be valid only if its correlative obligation can be fulfilled. For all the rights in a set of rights to be valid, it is necessary that all the obligations they entail be capable of being conjunctively fulfilled. **If the fulfillment of one such obligation renders impossible the fulfillment of another such obligation, at least one of the rights in the set of rights involved must be invalid, and that set of rights must be an impossible set.** If A_1 is an action the doing of which is (i) an obligation correlative to right R_1 , and (ii) a violation of an obligation correlative to R_2 , then either R_1 or R_2 is not a valid right. And the set of rights in question is an impossible one inasmuch as it contradictorily implies of A_1 that it is both obligatory (and hence permissible) and impermissible.

I have elsewhere argued that this condition for the validity of a set of rights—the condition that they are all compossible—can be satisfied only by a set of rights which are (or are reducible to) titles to objects, rather than entitlements to pursue (or to have others refrain from pursuing) certain specified kinds of intention.¹ Compossible rights are property rights: they are title based, not action based. It can thence be shown that all exercises of a right by its owner consist either in his modification of the object to which he holds the title, or in his (temporary or permanent) transfer of that title to another person. And all violations of a right consist in interferences by others with such exercises. It follows that all valid rights are so inasmuch as they derive from exercises of (previously) valid rights.² And, correspondingly, any right is invalid which derives from actions interfering with exercises of valid rights. A thief's title to his gains is invalid, as is that of anyone to whom he transfers those gains, as is that of anyone (including himself) to the proceeds from the sale of those gains or to objects purchased with those proceeds, or to objects exchanged for those objects, and so forth.

These, then, are the structural implications of imposing the compossibility condition on a set of rights. As such, they are sufficient to justify an important part of the "historical entitlement theory" of just rights.³ A set of compossible rights has, as its members, a set of titles which have mutually consistent causal and proprietorial pedigrees. To validate a title, one must show that it was created by the exercise of a

1. Hillel Steiner, "The Structure of a Set of Compossible Rights," *Journal of Philosophy* 74 (1977): 767–75.

2. *Ibid.*; see further my *An Essay on Rights* (Oxford: Blackwell, 1984), chap. 3.

3. Cf. Robert Nozick, *Anarchy, State and Utopia*, (Oxford: Blackwell, 1974), chap. 7.

valid right. To validate an action's status as an exercise of a valid right, one must show that it involved the use of no object to which another person held the valid title. All titles which have ever been valid thus stand in relations of antecedence and consequence one to another. And the validations of such titles may thereby be conceived as a network of interlinked chains, each of which is historical or temporally sequential in form.

Hence a theft is a break in a chain of validation. And so long as it goes unrectified—so long as the stolen object is not restored to its owner or restitution made to him—the chain remains broken, and all titles consequent upon the theft are invalid. The thief's unilateral or bilateral transfer of the object does not give any subsequent acquirer a valid title to it or to the proceeds of its sale.

III

Where does the institutional circumstance of exploitation fit into this account? The property system of a society—the set of legally sanctioned titles and their enforced correlative obligations—constitutes a social institution. Although a title may be invalid inasmuch as it derives from an interference with the exercise of a right (previously) recognized as valid within that system, it may nevertheless enjoy legal protection. The bearing of this on the circumstance of exploitation may be illustrated by a series of examples.

Suppose Blue wishes to trade his 3X for Red's 5X. Suppose, too, that Red wishes to trade his 5X for someone's X, but would nonaltruistically prefer it to be 5X rather than less. Blue cannot escape the charge of violating Red's rights if he simply takes the 5X and leaves his 3X for Red, without the latter's consent. This would be theft. Blue's problem is that White is prepared to offer Red 5X for his 5X. Nevertheless there is a way in which Blue can secure Red's 5X for only 3X, without stealing it. He can do this by forcibly preventing White from offering Red more than 2X for Red's 5X. Have any rights been violated here? No one has actually forcibly taken anything from anyone. Yet an injustice—an exploitation—has occurred. How is it to be explicated in terms of our theory of rights? Is Blue's title a valid one? According to our theory of rights, this depends upon whether that title derives from a rights violation, of which theft is the paradigm form.

Consider what we would deem a theft. My stealing 3X from you is, trivially, a theft. Does it matter what I do with the 3X after I steal it? Is my act less of a theft if I consume the 3X rather than sell it? Clearly not. Is it less of a theft if, after taking it, I destroy the 3X rather than consume or sell it? Again, the answer would seem to be no. What if I destroy it without actually removing it from where you last put it? Although in technical legal usage this offense would be termed a "tort" rather than theft, its difference from the previous case does not appear to be of any considerable pertinence to what is at issue here. In both cases, the salient

feature of the offense is that it consists in my disposing of your property without your consent. Now suppose that, without either removing or destroying your 3X, I act so as to render it wholly beyond your control. Again, we have a distinction without a relevant difference. Finally, then, suppose that, again without either removing or destroying your 3X, I act so as to render it *partly* beyond your control. That is, while my action does not uniquely determine the fate of your 3X—does not specifically direct its disposition toward a particular use—it does prevent your using the 3X in certain ways otherwise possible. This action, too, differs from the previous ones only in degree and not in kind. Our reasons for regarding any of them as rights violations are the same as our reasons for regarding theft as a rights violation.⁴ And it is this last kind of action that Blue is performing in forcibly preventing White from offering Red more than 2X for Red's 5X. Blue acts as if he possesses the title to White's 3X. And the upshot of this interference is that Red voluntarily transfers the title to his 5X to Blue in return for Blue's 3X.

It is important to notice that, although White is the person who has suffered something relevantly akin to a theft, he is not the victim of the exploitation. Red is. Further, although Red is the person exploited, it is not his rights that have been violated, for he has no entitlement to White's 3X. Red's exploitation results from White's rights being violated. "Results from" because the circumstance of exploitation—a rights violation akin to a theft—though necessary, is not sufficient for exploitation to occur. Red's wish to sell his 5X is also necessary. Nevertheless, because Red's sale of his 5X is not unjust, whereas Blue's violation of White's rights is, and because the latter is necessary for Blue to acquire Red's 5X, we can say that that acquisition is unjust and Blue's title invalid.⁵ It is a title which derives from an interference with an exercise of a valid right. Perhaps it is the insufficiency of a rights violation, for exploitation to occur, that accounts for the reluctance of some rights theorists to perceive it as an injustice along with theft, for the occurrence of which a rights violation is both necessary and sufficient.

Let us take several increasingly complex, but also more realistic, further examples. Suppose Red wishes to sell his 5X at an auction. And suppose that White is prepared to pay 5X for it, while Blue will offer only 3X. Black forcibly prevents White from offering more than 2X. And the result is that Red sells his 5X to Blue for 3X. Here Black is the rights violator, Blue is the exploiter, and White is the victim of a rights violation. In a third case, Black forcibly prevents both Blue and White from offering

4. An appropriate, if—in the earlier cases—somewhat gruesome, thought experiment which would corroborate this claim, consists in imagining that 3X is one of your limbs. Causing total or partial loss of control could, in this case, consist of causing complete or incomplete paralysis.

5. More precisely, we should say that Blue's acquisition of 2X is unjust, and his title to it invalid, since it is his acquisition of this part of Red's 5X that is due to a rights violation. The implications of this refinement will be discussed presently.

Red more than $3X$ for his $5X$. Regardless of the fact that Blue, who purchases Red's $5X$, is someone who has also suffered a rights violation, he is nevertheless an exploiter. His title to the surplus is the result of an interference with the exercise of valid rights, others' as well as his own. A fourth and final variation will serve to complete this list of examples, though more are conceivable as are combinations of these. Suppose that Black imposes no exploitative maximum price on Red's $5X$. Instead, he enforces a minimum price on the property of others such that anyone selling $3X$ to Red must receive $5X$ from him. This transaction, too, is exploitative. And like the others, it arises from Black's violation of the rights of persons other than Red. In this instance, Black forcibly restricts their use of $2X$ to which they have valid titles.

All these schematized forms of exploitation may be taken to illustrate two points. The first is that, although the mode of deprivation involved in exploitation is not the same as that involved in a violation of rights, it results from such violations and, moreover, the two deprivations may be of the same value. Second, whereas rights violation—paradigmatically, theft—is a bilateral relation, an exploitation is essentially a trilateral one. At least three persons, or sets of persons, are needed for an exploitation. Consider what is generally regarded as the archetypal form of exploitation—slavery. It might be thought that slavery is a clear case of a bilateral relation in which the master simply forces the slave to transfer something which is of greater value than the latter receives in return. But, except in untypical cases where the master renders the slave's noncooperation literally impossible, this is untrue.⁶

A more perspicuous understanding of the slavery relation is one which construes it, like any other property relation, as trilateral: a relation between master, slave, and all other persons. It is the master's forcible exclusion of all other persons from engaging in commerce with the slave that creates the circumstance of the slave's exploitation by the master. To this it might be objected that, if the slave is the master's property, the latter has a right to exclude others and is not violating their rights in doing so forcibly. The reply to this objection is that it implicitly equivocates over the status of the master's title to the slave. For although it may enjoy legal protection, we can still ask whether it is valid or invalid. And if it is invalid, the master is violating the rights of others whom he forcibly excludes from commerce with the slave. To be valid, as we have seen, the title must have been created by the exercise of a (previously) valid right. In the present case, there are three possible alternative rights which could serve as the antecedent of the master's title: (1) the title of the slave to himself before he sold or donated himself to the master; (2) the right of the master to appropriate unowned objects, including human

6. Where the master renders the slave's noncooperation literally impossible (and, say, provides him with subsistence), the slavery relation has little bearing on their bilateral transfer, and what we have instead is something akin to the theft-*cum*-donation case mentioned earlier.

ones; (3) the title of the slave's previous master who sold him to the present master—but we can ignore this possibility as it presupposes either 1 or 2. Now the difficulty with 1 is that, if the slave himself incurred his servitude through sale or donation, it is not clear in what sense his transfers to his master can be construed as exploitative, rather than as gifts, benefits, or exchanges.⁷ And the same is true, though for different reasons, with regard to 2. For if one holds that, prior to his enslavement, a person was unowned, that is, had no title to himself—much like natural resources, including animate ones—then the only sense in which he can be said to be exploited under slavery is the same sense as that in which animate and inanimate nonhuman objects are said to be exploited. This may, indeed, be a legitimate use of the word “exploitation.” But it is evidently not the one which concerns us here, since there is nothing either voluntary or involuntary about the transfers made by such objects. Hence, since the claim that slavery is exploitative, though bilateral, presupposes that the master's title is a valid one; and since the validity of the master's title presupposes either 1 or 2; and since 1 and 2 imply that the slave is not exploited; I conclude that slavery cannot be both a bilateral relation and exploitative. Either the master's title is valid, in which case there is no exploitation. Or the master's title is invalid, in which case there is exploitation and it arises trilaterally from the master's violation of others' rights.

IV

What is true of slavery is true of all other forms of exploitation. In each of the latter three schematic variations outlined above, Black secured the circumstance of Red's exploitation by violating the rights of others. “Why,” one might ask in this welter of exploitative permutations, “does not the state intervene to prevent Black's violation of valid rights?” A standard liberal answer is that Black *is* the state. The defining feature of the state as the wielder of superior force in society implies that any unreversed violation of rights is either performed or sanctioned by the state. Any forcible interference, with the terms of trade between persons or groups, sets up the circumstance of exploitation and implicates the state in a rights violation, the injustice of which it compounds when legal recognition is accorded to the property titles arising out of that commerce.

It might thus appear that, on the liberal view of the matter, exploitation is a quadrilateral relation between four relevantly distinct parties: the state (Black), the exploited (Red), the exploiter (Blue), and those who suffer rights violations (White). For this to be true, however, there would have to be no motivational reason to suppose that Black's intervention in the terms of trade is authorized by any of the other three parties, that

7. Self-enslavement through sale or donation is conceptually problematic in itself. Donors and sellers incur obligations not to use what they have transferred to another, while sellers also acquire rights to what has been transferred to them. Slaves, however, are not usually regarded as bearers of obligations and rights.

Black is in effect acting as an agent for one of them as principal. Is this the case? Since Black's action results in a relative loss to Red, they cannot be regarded as forming the relevant coalition. What of Blue or White? In at least the third and fourth interventionist variations outlined previously, Black's action appears to be as much a violation of Blue's rights as of White's. Or rather, it would be a violation of the rights of both of them were there no reason to suppose that either of them had himself consented to that intervention. For as with any right, its owner's waiver of the forbearance obligation correlative to it has the consequence of dissolving that obligation and rendering the prohibited intervention permissible and not a violation of rights. Would White exercise such a waiver? Only if he were unwilling to undertake an exchange with Red. But *ex hypothesi* White is willing to give 5X for Red's 5X: his unwillingness to do so would have rendered Black's action entirely superfluous. What about Blue? Since he, as the exploiter, is the beneficiary of Black's intervention, it is difficult to see why he would withhold consent from it. To suggest that he would is to imply, contradictorily, that Blue is moved by an altruistic concern for Red in his nonaltruistic bilateral transfers with him. So the case for identifying Blue's interests with Black's action—the exploiter with the state—looks to be unimpeachable. And this identification supports the trilateral characterization of exploitation.

How have liberals applied this trilateral conception of exploitation? Whom have they identified as the occupants of the three principal roles—exploited, exploiters, and sufferers of rights violations—involved in exploitative relations? Obviously the answer varies from one society and one historical epoch to another. Nor is this identification always easy to perform. For the impact of any one intervention can place a person in a role different from the one in which he is simultaneously placed by another intervention. Empirical judgments about the identities of role occupants tend inevitably to be based on on-balance assessments of the aggregate impact of diverse interventions on particular individuals and groups. Such aggregations are often difficult to compute inasmuch as they involve multitudinous counterfactual judgments about transactions which would and would not have been undertaken had particular interventions not occurred. If Blue had not extracted a 2X surplus from Red, it is not impossible that the entire series of their subsequent transactions—whether with one another or with others—would have been different from what it actually was.

Nevertheless, some roughly determinate identification of role occupants seems to be possible, not least because there is usually no difficulty in identifying Black whose activities are a matter of public record. Empirically, it seems likely that the greatest identification problems arise less in discovering who Red is—who roughly constitute the exploited in any society—and more in distinguishing the Blues from the Whites. Drawing lines between aristocracy and gentry, landed interests and commercial interests, financial and industrial capital, and so forth can sometimes

be less than informative about circumstances in which the actual persons owning one of these types of property also own property of the other type and can employ both in the transactions they undertake.

These remarks bring us to a further issue suggested by our earlier discussion. An exploitative transfer, it was argued, gives rise to an invalid title inasmuch as it occurs by virtue of a rights violation. Blue's title to Red's 5X—or, more precisely, to the surplus 2X portion of Red's 5X—is unjust in the sense previously indicated. The question we have now to answer is whether a subsequent bilateral transfer between Red and Blue, of 2X for 2X, is itself exploitative or unjust? This question is important because its answer will tell us whether Red has any grounds for just complaint in a society where Black, having seen the error of his ways, has ceased to intervene in interpersonal commerce. It seems clear that a trade of 2X for 2X cannot be termed exploitative. But it is equally clear that, since a thief cannot be said to have a valid title to his gains nor to the proceeds of his sale of them, neither can Blue's title to the purchased 2X be accounted valid.

Liberals, having rightly judged many types of precapitalist society to be unjust due to their exploitative arrangements, have often given scant attention to the active legacy of those arrangements in the commerce of a *laissez-faire* order. Blue's accretions of property from his past exploitations—along with Red's corresponding depletions—constitute a perpetuation of the injustices from which they originated and tend less to excite liberal indignation than do persisting interventions. A plausible, if somewhat unsatisfying, reply would be that liberalism cannot be expected to furnish a theory of how to undo the compounded effects of previous illiberal regimes: the unjust legacy of past exploitations cannot be rectified, but noninterventionist liberal institutions can at least ensure that it is not augmented.

What is interesting about this latter claim is that both parts of it have been denied by some liberal theorists themselves. Such natural rights thinkers as Henry George and the early Herbert Spencer reject the standard liberal view that a regime of *laissez-faire* is a necessary and sufficient condition for the absence of exploitation. To understand the reasoning behind this rejection, we must refer back to our discussion of the structural implications of rights compossibility.

As was there suggested, the validity of a right or title depends upon its being derived from the exercise of a previously valid right. Such exercises were said to be of essentially two kinds: they are either transfers of the title by its previous owner to its subsequent one, or they are modifications by the owner of the object he owns. This implies that all currently valid titles are consequents of a series of antecedently valid titles. And it further implies that all currently valid titles presuppose a set of ultimately antecedent valid titles: the historically original terminal links in all chains of validation. Since all titles which are not ultimately antecedent are ones to objects incorporating (owned) labor—through

appropriation and manufacture—ultimately antecedent titles can only be ones to natural resources. Transfers or modifications of natural objects enjoy logical and historical priority as exercises of valid property rights. To whom could these rights belong?

According to Spencer and George, they belong to everyone. A number of different arguments can be brought for this contention, but I shall here present only one.⁸ It was previously remarked that a necessary condition for all the rights in a set of rights to be valid is that all those rights are compossible. For rights to be compossible, the correlative obligations they entail must themselves be compossible, that is, conjunctively fulfillable. A property right is a right *in rem*: it is a right entailing correlative obligations in all persons who are not the owners of that right to refrain from using (occupying, etc.) the object of that right. If Blue holds the title to a piece of land, all persons other than Blue are obligated not to trespass onto it. If some, but not all, persons conjunctively hold titles to every portion of the globe, the obligations of nontitleholders not to trespass are not conjunctively fulfillable. This implies that rights to land must, to be valid, belong to everyone. How does the violation of this requirement result in exploitation on the trilateral model?

Suppose Blue appropriates all land. And Black, pursuing a liberal policy of nonintervention in commercial relations, confines his use of force to the protection of property rights. How do we account for the fact that the nonaltruistic bilateral transfer between Blue and Red is, as before, one of 3X for 5X? In enforcing Blue's title, Black is violating the rights of White who is equally entitled to land and would rationally bid up to 5X for Red's 5X. Of course, Black is also violating the similar right of Red himself. And it is true that, if Red's right to land were not violated, he would not be exploited by Blue and would reciprocally exchange 5X (or 3X) with him.⁹ Hence it might appear that Red's exploitative transfer of 2X to Blue can be explained bilaterally by reference to the fact that his own right to land has been violated and not, as the trilateral model of exploitation implies, because of the rights violation which White has suffered.

But this is not correct. For what Red's transfer of 2X to Blue amounts to, on this explanation, is not an exploitation but a theft. Black, in forcibly protecting Blue's property right in all land, makes it physically impossible for Red not to relinquish his 2X, in the same sense that rendering something wholly beyond its owner's control was previously shown (Sec. III) to be

8. For other arguments, cf. Hillel Steiner, "The Natural Right to the Means of Production," *Philosophical Quarterly* 27 (1977): 41–49, "Slavery, Socialism and Private Property," *NOMOS XXII: Private Property*, ed. J. R. Pennock and J. W. Chapman (New York: New York University Press, 1980), "Liberty and Equality," *Political Studies* 29 (1981): 555–69, and "Land, Liberty and the Early Herbert Spencer," *History of Political Thought* 3 (1982): 515–33.

9. The possibility of economic autarky was previously ruled out by the assumption that Red wishes to engage in nonaltruistic bilateral transfers. The reasons for this assumption are given in Sec. II above.

an act akin to a theft—to the untypical case of a master physically compelling his slave's transfer. Red's transfer, on this explanation, is involuntary in the precise literal sense that the spatial displacement of his body is entirely under the control of Blue whose right to all space is enforced by Black. To claim (i) that it is Red's being forcibly deprived of land that necessitates his transfer of 2X to Blue, and (ii) that this is an exploitation, is to suppose that Red would have had to make this transfer even if White's right to land had not been violated. But this is untrue since, had White's right not been violated, it would then have been possible and rational for him to have paid Red up to 5X for Red's 5X. Hence, *if* Red's payment of the 2X surplus is to be understood as an exploitation, it must be explained trilaterally by reference to the rights violation which White has suffered.

To say this is not, of course, to say that violation of some persons' rights to land *necessarily* results in exploitation. In the case just considered, for example, Red is not exploited if both Blue and White own land, and even though Red does not. And this is fully consistent with the Spencer-George argument which aims to show only that traditional liberalism is mistaken in holding that nonintervention in commerce is sufficient, as well as necessary, to guarantee nonexploitation. It *is* necessary, but it is not sufficient. Exploitation can occur when some persons do not own natural resources.¹⁰

Whether it does occur depends on several factors. If there are more than one Blue (landowners) but only one Red, then as we have just seen, Red will not be exploited. If however, and as seems realistic, there are also more than one Red, the matter becomes more complex. Let us take three groups of persons: Blues (landowners), Whites (owners of nonlanded property), and Reds (owners of no property). The following six propositions seem to be necessarily true: (i) Reds cannot trade with each other since, lacking property, they lack materials and physical space with/in which to perform their services; (ii) Whites can trade with one another; (iii) Blues can trade with one another; (iv) Reds must trade with Blues and/or Whites; (v) Whites must trade with Blues, at the least, to secure space for their nonlanded property; (vi) Blues need not trade with either Whites or Reds. What these propositions suggest is that *if* any surplus payments are made in a set of transactions not subject to intervention, they will accrue, directly or indirectly, to Blues. The occurrence of surplus payments, though probable, is not necessary.

V

This brings us to our final question: are Spencer and George correct in thinking that *laissez-faire*, conjoined with nonviolation of the universal right to natural resources, is both necessary and sufficient to ensure

10. An alternative formulation of the Spencer-George argument, and one which would align it with the traditional liberal claim, would be to say that the violation of persons' rights to land just *is* an intervention in commerce.

the absence of exploitation? When everyone is possessed of an unviolated right to natural resources, is there any reason why a nonaltruistic bilateral transfer might nevertheless by one of $3X$ for $5X$? Let us begin our search for the answer to this question at the beginning of historical time, by assuming that what exists are only people and natural resources. In this situation, each person's possessions are the same as every other's—except with regard to skills.

Suppose Blue possesses a unique skill the services of which are valued by others. Is there any reason to imagine that the $5X$ Red pays him for these services includes an exploitative surplus of $2X$? Such a conjecture implies that, on the shared scale of value, Blue's services are worth only $3X$. But if this were so, others would have offered him only up to that amount for them. In which case, Red's payment of $5X$ would constitute a benefit rather than an exploitation. Next, suppose Blue employs $5X$ of his skill on $3X$ of his natural resources to make a garment. And suppose he demands $10X$ as its price. Will anyone buy it? Evidently not, unless they are altruistically motivated. Finally, suppose Blue employs $80X$ of his skill and $40X$ of his natural resources to build and supply the material inputs of a factory which will produce $100 Y$'s to sell for $3X$ each. And suppose he tries to engage ten Reds to run the factory at a wage of $5X$ each. Will they work for him? Again, not unless they judge Blue to be in need of a benefactor and see themselves in that role.

A person's monopoly ownership of his uniquely skilled service is crucially different from a person's monopoly ownership of natural resources. The second is secured through a violation of rights, while the first is not. The second can constitute a circumstance of exploitation, while the first cannot. Most significantly, intervening in the commerce of the second can prevent exploitation, while intervening in the commerce of the first brings about exploitation, by forcibly preventing others from paying the owner of the service as much as it is worth to them. If it is not exploitative to "charge what the traffic will bear" for the service of a unique skill, then, as the preceding examples suggest, it is difficult to see how any deployment of that skill by its owner could result in exploitation. And it is thus equally difficult to see how any forcible reversal of the effects of that deployment could avoid being exploitative (strictly, theft).

Consider Nozick's well-known Wilt Chamberlain example.¹¹ Starting from whatever pattern of property distribution his reader considers just—say, equality—Nozick asks what can be unjust about the subsequent property distribution resulting from various people paying an aggregatively large sum to purchase the service of Chamberlain's unique basketball-playing skill. Space does not permit, nor do our present concerns require, consideration of the large literature which has emerged in response to Nozick's argument. Only four points need to be made. First, any enforced restriction on the price Chamberlain may demand is a violation of others'

11. Nozick, pp. 160–64.

property rights. Second, any such restricted price—so long as it is greater than zero—will result in a property distribution pattern different from the initial one. Third, any measure to restore the status quo ante is doomed to fail inasmuch as it cannot restore to Chamberlain the service he gave to others. (This last point does, indeed, expose one of the underlying fallacies of purely patterned or end-state conceptions of just distribution: namely, that, somewhat ironically, they imply that only material objects, and not labor, have value.) Fourth, Nozick's argument, in the Chamberlain example and elsewhere, confirms what has previously been suggested—that only initial property distributions can be (and, I would add, must be) assessed as just/unjust by reference to patterned or end-state principles. And, as we have seen in our discussion of the conditions of rights compossibility and rights validity, initial property distributions pertain to the ownership of natural resources.

The foregoing arguments were brought to consider whether exploitation could occur if the universal right to land (along with the rights derived from its exercise) had been respected from the beginning of historical time. But it hasn't. Spencer and George were acutely aware of this historical fact. What therefore remains to be considered is whether their proposed remedies—*laissez-faire* plus, respectively, land nationalization or rent nationalization—are sufficient to abolish exploitation. The Wilt Chamberlain case suggests that no members of a set of voluntary transactions can be exploitative if that set derives from a just distribution of initial property rights. Chamberlain's fees for his service are not exploitative. And if there is similarly no forcible intervention in transactions for all other goods and services, there is no reason to suppose that the wages paid by Chamberlain, to those who work in the factory he purchases with his fees, could be exploitative. Nationalization either of the rent extracted from the use of natural resources, or of those resource themselves, were conceived by George and Spencer to constitute a just distribution of initial property rights.

There are problems besetting both the Georgist and the Spencerian proposals, and these problems have implications for political institutions. The relative merit of George's proposal, as he saw it, is that public taxation and administration of land rent would require a far less extensive state than would be needed to administer nationalized land. Spencer, on the other hand, envisaged a system whereby the state would lease natural resources to individuals and groups on the basis of competitive bidding for tenancies. The chief difficulty with both proposals lies in their underdeveloped conception of the kind of political institutions required to implement them.

Recall that the object of such exercises is to furnish each person with an initial share of natural resources. But persons do not, so to speak, all arrive on the scene at the same moment. As with afternoon cocktail parties, they arrive in successive and overlapping and indefinitely numerous generations. And the inconvenience of this state of affairs implies that

providing each new arrival with a share in the rent or allocation of natural resources requires a public decision-making procedure of some intricacy. For what counts as the rent of a natural resource, or as the highest bid for its tenancy, is a function of the prevailing set of prices. And these are themselves functions of the prevailing property distribution (as well as of people's preference schedules): that is, the distribution of property already prevailing at the time of a new person's arrival on the scene. Since his just entitlement is supposed to be parametric for the prevailing distribution, rather than determined by it, some institutional arrangements are required to reflect his preferences with respect to what belongs to the public of which he has, after all, become a member.

It would be out of place here, nor do I feel sufficiently competent, to embark on a detailed discussion of what these arrangements could be.¹² I would, however, venture to guess that they rule out the Georgist proposal as inadequate to the task. Spencerian land nationalization looks to be a more promising basis for the abolition of exploitation. Interestingly, Spencer's views on land ownership were chiefly influenced by Thomas Hodgskin, of whom it was said that his "illustrious disciple [was] Karl Marx."¹³ One could therefore do worse than to conclude this essay with a pair of quotations from Marx:

To this extent the monopoly of landed property is a historical premise, and continues to remain the basis of the capitalist mode of production, just as in all previous modes of production which are based on the exploitation of the masses in one form or another.¹⁴

The future will decide that the land cannot be owned but nationally. To give up the soil to the hands of associated rural labourers, would be to surrender all society to one exclusive class of producers. The nationalisation of the land will work a complete change in the relations between labour and capital and finally do away altogether with capitalist production, whether industrial or rural. Only then the class distinctions and privileges will disappear together with the economical basis from which they originate and society will be transformed into an association of "producers." To live upon other people's labour will become a thing of the past.¹⁵

12. Some very general remarks on this subject are to be found in the last three papers referred to in n. 8 above.

13. Beatrice Webb and Sidney Webb, *History of Trade Unionism*; quoted in Élie Halévy, *Thomas Hodgskin* (London: Ernest Benn, 1956), p. vii.

14. Karl Marx, *Capital* (Moscow: Foreign Language Publishing House, 1966), vol. 3, p. 617.

15. Karl Marx, "Nationalisation of Land," *Labour Monthly* 34 (1952): 415–17, p. 417. This is taken from the draft of what is presumed to have been a letter written to Robert Applegarth in 1869. I am grateful to Michael Evans for drawing it to my attention.