

2014

The Deontological and Utilitarian Cases for Rectifying Structural Injustice in Sweatshop Labor Ethics: A Critical Assessment

Clark J. Kissiah
Claremont McKenna College

Recommended Citation

Kissiah, Clark J., "The Deontological and Utilitarian Cases for Rectifying Structural Injustice in Sweatshop Labor Ethics: A Critical Assessment" (2014). *CMC Senior Theses*. Paper 923.
http://scholarship.claremont.edu/cmc_theses/923

This Open Access Senior Thesis is brought to you by Scholarship@Claremont. It has been accepted for inclusion in this collection by an authorized administrator. For more information, please contact scholarship@cuc.claremont.edu.

Claremont McKenna College

**The Deontological and Utilitarian Cases for Rectifying Structural Injustice in
Sweatshop Labor Ethics: A Critical Assessment**

SUBMITTED TO

Professor Alex Rajczi

BY

Clark Kissiah

For

SENIOR THESIS

Spring 2014

26 April 2014

Abstract

Sweatshop labor has been condemned by scholars, activists, students and consumers in more developed countries on charges of wrongful exploitation, and a failure to respect the dignity, and basic needs of sweatshop workers. This paper surveys charges against sweatshop labor, and some of the more influential arguments for, and against, rectifying the background structural injustices that perpetuate it. I argue that in certain sweatshop cases, compensating workers below a prima facie morally acceptable level can be most successful in striving towards the duty of beneficence that employers owe to their employees. Therefore, we ought to pursue utility-maximizing acts over others in better alignment with a deontic duty to compensate employees at a certain level. I eventually conclude that this debate is a paradigm example of deontological versus utilitarian moral judgments. Sometimes, utility maximizing acts are morally impermissible. Sometimes, adhering to deontic duties instead of committing a wrong to produce a right is morally required. In the circumstances that I describe, the morally right acts ought to be those that are most successful in maximizing overall utility for the most number of people. This responsibility coincides with acts that may not compensate workers at a prima facie morally acceptable level, but incidentally maximize overall utility, welfare and autonomy for some of the world's most marginalized and impoverished people.

Acknowledgements

Thank you to Professor Alex Rajczi for overseeing this project and providing unparalleled guidance, feedback and support along the way. I very much appreciate the time it took to comment on several earlier versions of this essay, and the patience to entertain all of my questions and concerns.

Thank you to Professor Dustin Locke for the many discussions regarding my thoughts and arguments. Your feedback and insights were instrumental in shaping this paper.

Thank you to anyone still willing to give my moral character the benefit of the doubt. I promise that I am a good person.

A special thank you is in order to those who never failed to humor me as I passionately argued for various views and asked them to consider absurd hypotheticals. Thank you to Mark Blumenfeld, Gabe Siegel, Anthea Weixel, Jeffrey Hochhauser, Hannah Hummelberg, Soundcloud.com, the Ryal Thesis Krew, and my wonderful and ever supportive family. You were all instrumental in helping me to wrap my mind around this issue.

Thank you to Claremont McKenna College for providing me with the most rewarding experience I ever could have asked for.

Table of Contents

| | |
|---|----|
| 1. Introduction | 1 |
| 2. The Descriptive Claims of the Classical Utilitarian Argument | 7 |
| 3. Unfairness as Wrongful Exploitation | 9 |
| 4. Background Structural Injustice | 14 |
| 5. Background Structural Injustice: the Responsibility to Rectify | 16 |
| 6. Background Structural Injustice: the Implications of Rectification | 22 |
| 7. Background Structural Injustice: the Anti-Utilitarian Response | 28 |
| 8. Maximizing Overall Social Utility: the Necessary Assumptions | 35 |
| 9. Maximizing Overall Utility: Striving Towards Beneficence | 44 |
| 10. The Argument | 47 |
| 11. Conclusion | 49 |
| 12. Bibliography | 52 |

Introduction

In the early 1990s, United States citizens became increasingly aware of some of more gruesome effects of globalization and international trade. Consumers in more developed nations started to see the often excruciating conditions under which many of their goods were being produced. Stories and images of marginalized and impoverished employees working in unsafe conditions, for inhumane hours, in exchange for minimal and unfair wages began to seep into the public eye.¹ Activists, scholars and university students condemned sweatshops² and the multinational enterprises (MNEs) who contracted them. Much of their criticisms were grounded in the basic moral intuition that exploiting some of the world's poorest people is wrong.³ Some people, usually economists, responded that many of these critics had neglected to consider the positive benefits enjoyed by all parties when sweatshops enter a lesser developed country, and felt

¹Several of the authors that I will cite in this paper have described the negative responses to sweatshop labor and awareness in the United States. They cite news articles from the *Los Angeles Times* ("Doing Business: New Shots Fired in Indonesia Wage War: U.S. Labor is Urging Trade Action Against a Land Where Daily Take-Home Pay Is Measured in Cents"), *The Chicago Tribune* ("Wages of Shame"). They recount protests in front of Nike stores ("Justice Do It! The Nike Transnational Advocacy Network: Organization, Collective Actions, and Outcomes." *Sociology of sport journal (0741-1235)*, 16 (3), p. 206) and Kathee Lee Gifford crying during congressional testimony over the accusation that child laborers were working in unjust conditions to manufacture her clothing line. For a sampling see Ian Maitland, "The Great Non-Debate Over International Sweatshops," in *Honest Work A Business Ethics Reader, 2nd edition*. Joanne B. Ciulla and Clancy Martin and Robert C. Solomon (USA: Oxford University Press, 2010), 428-38; John Miller, "Why Economists are Wrong About Sweatshops and the Antisweatshop movement," *Challenge*, 46:1. (February 2003): accessed February 6, 2014, Illiad; Powell, Benjamin, and Matt Zwolinski. "The Ethical and Economic Case against Sweatshop Labor: A Critical Assessment." *Journal Of Business Ethics* 107, no. 4: 449-472 (2012). Philosopher's Index, EBSCOhost (accessed April 27, 2014); and Chris Meyers. "Wrongful Beneficence: Exploitation and Third World Sweatshops." *Journal Of Social Philosophy* 35, no. 3: 319-333 (2004). Philosopher's Index, EBSCOhost (accessed April 27, 2014).

²The term "sweatshop" is difficult because many scholars disagree on its definition. Some definitions are too narrow to be useful in moral analysis, others are overly pejorative. For the purposes of this paper, I will employ Matt Zwolinski's definition because it is appropriately pejorative while allowing for the possibility that sweatshops could be morally justifiable: A sweatshop is "a place of employment in which worker compensation or safety is compromised, child labor is employed, and/or local labor regulations are routinely disregarded in a way that is prima facie morally objectionable." Matt Zwolinski. "Structural Exploitation." *Social Philosophy and Policy* 29 (2012): 162, accessed February 14, 2014. Philpapers.org.

³A helpful overview of these arguments and scholars can be found in Powell and Zwolinski, "The Ethical and Economic Case."

that activists and protestors did not understand the complicated reasons and systems that dictated the existence of low-wage labor in the first place. In defense of sweatshop labor, proponents began to construct arguments grounded in neo-classical economic theory.⁴ They argued that sweatshop jobs are frequently the best available option for some of the world's poorest people to provide for themselves and their families. To take these jobs away would be to pull up the ladder as the desperate and marginalized finally begin to climb out of devastating poverty.

Sweatshop defenders generally support some variation of the classical libertarian view which argues that a self-regulating, *laissez faire* approach to regulation results in better outcomes for everyone. To require that sweatshops compensate their workers at a level above the market rate, or do anything else that requires some sort of additional cost on their behalf, might push the market out of equilibrium and effectively shift that cost to the workers. The economic assumption behind this view is that any increase in cost for sweatshops to produce their goods results in a decrease in demand for labor. The result would be to throw workers back into the labor pool and harm the very people that need help the most. Though everyone generally agrees that the demand curve is downward sloping,⁵ there were discrepancies over interpreting its moral implications for sweatshops and the corporations that contract them. Eventually, economists and philosophers on both

⁴ For early proponents see Paul Krugman. "In Praise of Cheap Labor." Slate, March 21, 1997 (accessed February 14, 2014); and Maitland, "The Great Non-Debate."

⁵ As I mention in footnote 6, some have attempted to argue that in some specific circumstances, raising costs would not negatively affect the demand for labor to the extent that economists anticipate. Due to the highly empirical nature of this question, I am less concerned with this issue than it perhaps ought to be. Zwolinski cites a quote from John Miller (2003) who summarized the debate adequately for present purposes. "Either you believe labor demand curves are downward sloping or you don't...of course, not to believe that demand curves are negatively sloped would be tantamount to declaring yourself an economic illiterate." Zwolinski, "The Ethical and Economic Case," 450.

sides of the isle came to agree on two previously contested issues: (1) Sweatshop labor is often the best available opportunity for the global poor to improve their lives and the lives of their families. (2) Any efforts to forbid, restrict or regulate sweatshops must be done with extreme caution so as to not make workers worse off.

Regardless of these stipulations, critics still maintained that sweatshops were doing something morally impermissible. They returned with increasingly complex accounts of unfairness and wrongful exploitation that incorporated the same widely accepted neo-classical economic theories that supported the classical libertarian viewpoint. Critics found the economists' arguments controversial because they heavily relied on empirical data that varied depending on the circumstances. Sweatshop opponents presented counter evidence to attack the economic conclusions that supported very foundation of the libertarian arguments.⁶ The criticisms became twofold when they argued that sweatshop labor, even if mutually accepted and mutually beneficial, can still be morally impermissible. They argued that even if empirical evidence and economic theory were to prove that the classic libertarian argument maximized overall social utility in some instances, it would not necessarily follow that we ought to condone sweatshop exploitation – compensating workers with wages or benefits below a morally acceptable

⁶ This included witness testimony, international and domestic laws, historical events and economic statistics. Some attempted to argue, though certainly not without significant reliance on contestable data and various other issues, that the increase in sweatshop wages would not result in layoffs. Douglas K. Adie and Lowell Gallaway, review of *Myth and Measurement: The New Economics of Minimum Wage*, by David Card and Alan B. Krueger, *Cato Journal Book Reviews* vol. 15, No. 1 (Spring/Summer 1995), retrieved from: <http://www.cato.org/sites/cato.org/files/serials/files/cato-journal/1995/5/cj15n1-8.pdf> . (Accessed April 20, 2014). I will have more to say about these views later but for a brief overview see John Alexander. "Sweatshops, Context Differentiation, and the Rational Person Standard." *Philosophy In The Contemporary World* 18, no. 1 (March 1, 2011): 68-74. *Philosopher's Index, EBSCOhost* (accessed April 27, 2014); and Coakley, Mathew, and Michael Kates. 2013. "The Ethical and Economic Case for Sweatshop Regulation." *Journal Of Business Ethics* 117, no. 3: 553-558. *Philosopher's Index, EBSCOhost* (accessed April 27, 2014).

level. It is possible to do wrong, they said, even if an action makes everybody better off and nobody worse off.⁷ Because the economic debate is largely empirical, arguments in the latter vein became the most troublesome for armchair philosophers.

Arguments focusing more on moral impermissibility than on empirical data have been predominately deontological – their claims are largely grounded in an appeal to an overarching normative ethical duty, rule, obligation or value. Deontologists generally maintain that no matter how much moral good an action can produce, some actions are always morally impermissible.⁸ Typically, the deontologists oppose utilitarian, act-utilitarian, consequentialist or contextualist theories – theories that tend to assign moral value based on the outcome of various actions in different contexts. Consequentialists generally argue that actions that increase overall “good” are morally right.⁹ Deontological critics might agree with the descriptive components of the classic libertarian position, but find its implications unsettling. In response, these critics generally offer a normative “duty” derived from Emanuel Kant’s categorical imperative – an account of respecting humans as an ends in themselves rather than as a mere means to an ends – to ground

⁷ Many of these critics attacked both the empirical/economic views as well as the philosophical arguments. Some argue that sweatshops are impermissible despite Pareto efficiency, while others argue that sweatshop regulation may not actually make anybody worse off. See Arnold, Denis G, and Norman E Bowie. 2007. "Respect for Workers in Global Supply Chains: Advancing the Debate Over Sweatshops." *Business Ethics Quarterly* 17, no. 1: 135-145. Philosopher's Index, EBSCOhost (accessed April 27, 2014); Jeremy C. Snyder. "Needs Exploitation." *Ethical Theory And Moral Practice: An International Forum* 11, no. 4: 389-405 (2008). Philosopher's Index, EBSCOhost (accessed April 27, 2014); Jeremy C. Snyder. "Exploitation and Sweatshop Labor: Perspectives and Issues." *Business Ethics Quarterly* 20, no. 2: 187-213 (2010). Philosopher's Index, EBSCOhost (accessed April 27, 2014); Robert Mayer. "Sweatshops, Exploitation, and Moral Responsibility." *Journal Of Social Philosophy* 38, no. 4: 605-619 (2007). Philosopher's Index, EBSCOhost (accessed April 27, 2014); and Richard W. Miller. "Moral Closeness and World Community." In *The Ethics of Assistance: Morality and the Distance Needy*, Cambridge: Cambridge University Press: (2004). Philosopher's Index, EBSCOhost (accessed April 27, 2014).

⁸ For a brief summary of deontology see “Deontological Ethics,” *Stanford Encyclopedia of Philosophy*, last modified December 12, 2012. Accessed April 14, 2014. <http://plato.stanford.edu/entries/ethics-deontological/>.

⁹ Ibid.

some sort of special obligation or responsibility.¹⁰ Though often very complex, these accounts argue for a moral obligation on behalf of sweatshops and the MNEs who contract them to respect the dignity of their fellow humans by offering some morally acceptable package of benefits. Deferring to the market to determine workers' wages, benefits and ultimately their overall welfare would not be acting in accordance with these obligations. They assert that despite certain market restrictions or background structural conditions that may legitimately restrict a sweatshop's ability to supply these benefits without consequence we cannot allow sweatshops to act without any obligations or restrictions.¹¹ Arguments for *laissez faire* economics do not necessarily entail *laissez faire* morality.

A range of duties and obligations for participants¹² in exploitative actions or systems have been offered by various scholars. These duties span from compensating workers with "living wages" even if they are above the current market rate, to organizing a politically-oriented collective action effort to reform the macro-level systems that oppress third-world laborers.¹³ The basic conclusion is that even if sweatshops make the

¹⁰ This is a massive simplification. For a brief overview of Kant's categorical imperative see "Kant's Moral Philosophy," Stanford Encyclopedia of Philosophy, last modified April 6, 2008, accessed April 12 2014, <http://plato.stanford.edu/entries/kant-moral/>.

¹¹ I will primarily be focusing on Snyder's arguments for duties of beneficence on sweatshops and MNEs.

¹² Thus far, I have used "MNE" and "sweatshop" to refer to two separate agents. I will use "participants" to refer to anyone who can be demonstrated to be operating within the causal chain of structural injustice. This could include sweatshops, the MNEs who contract sweatshops, consumers or various governmental bodies. Generally, however, "participants" will refer to either MNEs or sweatshops themselves, as they are the direct participants that I am concerned with in this paper. Participants are to be understood as distinct from perpetrators of structural injustice. Not all participants are direct perpetrators, but some have argued that all participants, via their participation, perpetuate. Here, participant merely means an agent or group of agents that are involved in an unjust system but are not the primary victims of that injustice and have not directly caused it.

¹³ See the critics referenced in footnote 7, as well as Iris Marion Young. "Responsibility and Global Justice: A Social Connection Model." *Social Philosophy And Policy* 23, no. 1: 102-130 (2006). *Philosopher's Index*, EBSCOhost (accessed April 27, 2014).

poor better off, it does not necessarily follow that we ought to allow them to be exploited. All claims of this nature more or less ascribe a moral obligation on participants to rectify the “structural injustices” that motivated them to take part in the first place.

Empirical evidence is highly relevant in sweatshop ethics because there are innumerable different cases that could be considered spanning the complex history of low-wage manufacturing and labor outsourcing. These complexities can cause arguments in the sweatshop debate to become convoluted and hinge on disagreements over marginal differences in the data or economic theory itself.¹⁴ Further, there is contention over the truth and moral relevancy of that data, which makes it difficult to appeal to some overarching ethical framework to assess the moral permissibility of sweatshop labor. Instead of evaluating every possible scenario, philosophers have sought to assess the libertarian view from a variety of different angles, incorporating varying amounts of empirical data.

In this paper, I will be focusing mainly on arguments grounded in normative ethical theory, not empirical data. However, I cannot disregard relevant empirical evidence because it affects the normative claims I would like to address. To account for this, I will make a number of descriptive assumptions that set the stage in order to arrive at my point of interest in the ethical debate.

¹⁴ For an example of a contemporary debate in this vein, see the critics mentioned in footnote 6 the discussion between Ari Kohen, Jeff Miller and Zwolinski in a blog post by Zwolinski. Matt Zwolinski, “Shouldn’t Sweatshops Do More?” *Bleeding Heart Libertarians: Free Markets and Social Justice*. November 3, 2011, accessed March 10, 2014, <http://bleedingheartlibertarians.com/2011/11/shouldnt-sweatshops-do-more/>.

In section one I survey some of the contemporary literature on the classic libertarian argument to provide background for the situational assumptions I will be making. I eventually conclude that the classical libertarian perspective does maximize overall social utility given the restrictions and parameters in the situations I am concerned with. The question then will be whether policies in alignment with that view are morally permissible. Should we require that sweatshop employers compensate workers above the market rate, or otherwise rectify the background structural injustices that perpetuate sweatshop exploitation, even if doing so may have negative consequences? Section two will address this by evaluating some of the most successful attacks on the implicit assumptions necessary to reach the libertarian's conclusion that sweatshop labor is permissible. In the final section I will offer my own opinions on the arguments of both sides, and synthesize a suggestion that I think satisfies most of the morally relevant factors in the instances I aim to address.¹⁵

The Descriptive Claims of the Classical Libertarian Argument

The classical libertarian argument in favor of sweatshops looks something like this:

Premise 1: One of the best ways to fight global poverty is through the use of low-wage labor. To require that participants or employers compensate workers above the market rate, or do anything else to rectify the structural injustices that enable

¹⁵ This is an ambitious task but I should remind my readers that the cases I will be considering are specific. My conclusion will not be applicable to all cases of sweatshop labor. It is necessary for proponents of either position to evaluate the varying empirical data in each circumstance. Nevertheless, I think we can make significant contribution to the discussion without stipulating every relevant detail.

their exploitation, would be to shift the cost of doing so to the workers themselves due to the relationship between price and demand. Therefore, the best way to increase the welfare of the global impoverished is to allow sweatshops to operate freely within competitive markets. Everybody is better off and nobody is worse off [descriptive claim].

Premise 2: In a situation like this, it is morally permissible to pursue acts that make everybody better off without making anybody worse off [intuitive normative assumption].

Conclusion: It is morally permissible for employers not to take costly actions to rectify structural injustice or compensate workers above the market rate [conclusion from 1, 2].

Critics have argued that to draw the final conclusion from Premise 1 would be to ignore the very moral grounds that make sweatshop labor wrong to begin with. One of the historically dominant moral arguments against Premise 2 is that even if transactions are mutually beneficial and utility-maximizing they can still be wrongfully exploitative and morally impermissible due to inherent unfairness in the transaction.¹⁶ Sweatshop proponents have criticized this claim. In the following section I will briefly summarize the debate.

¹⁶ See of these early accounts were described in Meyers “Wrongful Beneficence” and Mayer “Sweatshops, Exploitation and Moral Responsibility.”

Unfairness as Wrongful Exploitation

Claims that sweatshops and the MNEs that contract them are unfair are usually two pronged. One component is that the allocation of costs and benefits are themselves unfair. Sweatshops and MNEs are wrongfully benefitting from their workers due to an objectionably disproportionately distribution of costs and benefits. Perhaps the sweatshops and MNEs are making objectionably more in revenues than the workers are getting in wages. The other component focuses on “discretionary exploitation.”¹⁷ The charge is that sweatshops capitalize on monopoly-like powers to compensate their workers at an unfair and morally objectionable level to maximize their own gains. The fact that workers agree to these terms does not necessarily absolve sweatshops of moral blame.¹⁸

Cost and benefit arguments necessarily depend on the empirical facts of each situation. Though some critics argue that MNE’s seem to intuitively profit unfairly in relation to the benefits gained by sweatshop workers, it is not necessarily true that this is the case, at least on a transactional level. The costs and benefits in transactions between sweatshops and individual workers are complicated, and it is sometimes difficult to argue that they are “unfair” in terms of fair distribution of costs and benefits. Matt Zwolinski, a contemporary champion of something resembling the classical libertarian view, makes the point that “the compensation sweatshop workers receive for their labor is generally no higher than the amount they contribute to the firm (their marginal revenue product), and

¹⁷ See Mayer “Sweatshops, Exploitation,” 605.

¹⁸ This claim is supported by Snyder in “Exploitation and Sweatshop Labor” and contested in Matt Zwolinski. “Sweatshops, Choice, and Exploitation.” *Business Ethics Quarterly* 17, no. 4: 689-727 (2007). *Philosopher's Index, EBSCOhost* (accessed April 27, 2014).

no lower than the value they place on their next base alternative employment.”¹⁹ Additionally, “the amount that actually accrues to [sweatshop utilizing MNEs] as profit is generally no greater as a percentage of their investment than the profits in any other competitive industry.”²⁰

Zwolinski thinks that part of the reason the charge of unfairness is difficult is because no one has offered a general principle of fair distribution.²¹ No one has sufficiently argued, beyond an appeal to some arbitrary and intuitive degree, precisely when a transaction is unfair and thus wrongfully exploitative. Further, it is not immediately clear that a disproportionate distribution of costs and benefits in a trade is inherently unfair or wrong.²² Zwolinski puts the nail in the coffin by pointing out that even Denis Arnold, one of the most adamant sweatshop critics, now agrees that a

¹⁹ Again, this claim is heavily reliant upon empirical data that may be controversial. Powell and Zwolinski do not seem to think this data is controversial. In several of his papers Zwolinski cites studies examined by both critics and proponents that suggest that many individual transactions between sweatshop and worker cannot legitimately be considered unfair when unfairness is determined via analysis of a distribution of costs and benefits. Powell and Zwolinski, “The Ethical and Economic Case,” 466-67.

²⁰ Zwolinski here asserts that the intuition that sweatshops or the MNEs that contract them are benefiting disproportionately is often misguided. He provides an example. Say “a sweatshop worker who produces a pair of Reebok shoes is paid only one US dollar to make a shoe that sells for around \$100 does not mean that [Reebok] is walking away from the exchange with \$99 and the worker with only \$1.” Instead, much of the \$99 goes to other costs such as advertising, retailer markup, raw materials, transportation, taxes, etc. For this reason, he finds that it is difficult to argue that MNEs are earning “unusually high profits off the backs of sweatshop workers.” *Ibid.*, 467

²¹ *Ibid.*, 466

²² Though there are certainly some cases where sweatshops act as discretionary exploiters and compensate at morally reprehensible levels, as in Meyers’ rescue example that we will see shortly, it is more difficult to quantify unfairness for non-discretionary sweatshops that operate within competitive markets. For this reason even Snyder admits that “while Meyers is able to give voice to the common intuition that MNEs profit unfairly when compared to the benefits gained by unskilled workers in sweatshops, more would need to be said about the standard of proportionality in measuring fairness. It is not self-evident why disproportionate benefit is a matter of moral concern, particularly when we consider that well-off persons might benefit disproportionately from one another without raising the same concerns of exploitation.” Snyder offers an example in which two well-off persons benefit disproportionately while exchanging money for art without raising concerns of exploitation. He finds that this suggests “that it is the desperate situation of the workers alone and not the fairness of the exchange that motivates concerns of exploitation.” Snyder, “Needs Exploitation,” 391.

transactional account of sweatshop exploitation is thin.²³ It might still be the case that sweatshops are benefitting unfairly overall, but focusing on the marginal costs and benefits in sweatshop to employee transactions will not be especially fruitful in proving this.²⁴ If sweatshops are not necessarily wrongfully exploiting individual workers via unfair distribution, perhaps we are looking for unfairness in the wrong place. Maybe an account of monopolistic exploitation will be more successful.

The philosophical basis for the argument that sweatshops take unfair advantage of their workers is the idea that for party A to wrongfully exploit party B, party A must take unfair advantage of B.²⁵ Critics argue that sweatshops are clearly taking unfair advantage of workers and thus wrongfully exploiting them. Sweatshop proponents then pointed out that sweatshop-worker transactions may not be wrongfully exploitative, regardless of the issues with “fairness,” because the agreements were both mutually accepted (even highly desired) and mutually beneficial.²⁶ At first, this seemed enticing. If asked whether a mutually beneficial and mutually accepted transaction between two well-informed and free agents could possibly be unfair, most would probably say “no” because no one would agree to terms that harm them. For example, if Jonathan has some product or

²³ Zwolinski, “Structural Exploitation,” 166. Zwolinski references Arnold, “Exploitation and the Sweatshop Quandry,” 252-53, and Arnold, “Working Conditions: Safety and Sweatshops,” 643. Snyder, also recognizing that a fairness account is problematic, finds that a dignity account grounded in Kantian respect for persons would be more promising. Snyder, “Needs Exploitation,” 393.

²⁴ Insert citation from Snyder about micro and macro unfairness

²⁵ The concept of exploitation is itself widely debated. Many philosophers have pointed out that exploitation is not necessarily pejorative in itself. Consider a tennis player who exploits his opponent’s weakness or a venture capitalist who takes advantage of an investment opportunity. There is debate over *wrongful* exploitation versus other kinds of exploitation, but for the purposes of this paper, exploitation will be viewed pejoratively. For further considerations of what constitutes wrongful exploitation, see Alan Wertheimer, *Exploitation* (Princeton University Press, 1996); Zwolinski, “Structural Exploitation,” 156-61; Powell and Zwolinski, “The Ethical and Economic Case,” 466-70; Snyder, “Exploitation and Sweatshop Labor;” Meyers, “Wrongful Beneficence;” Mayer, “Sweatshops, Exploitation and Moral Responsibility;” and Miller, “Why Economists are Wrong.”

²⁶ Maitland, “The Great Non-Debate,” 434.

service and sells it to Andrew, assuming that Andrew wants the product and Jonathan wants to sell it, and both parties agree to the terms, it seems safe to conclude that no wrong deed has been committed. Despite these inclinations, mutually advantageous and consensual transactions can still appear to be wrongfully exploitative.

Consider this example offered by Chris Meyers. Some motorist (A) stumbles across someone stranded in the desert (B). A capitalizes on his monopolistic position by charging B an exorbitant sum, say, sodomy, or the entirety of B's net worth for the next ten years. We can conclude that by accepting A's offer, B values his life more than A's demands, and A is rewarded for his services. The transaction is therefore both mutually accepted and mutually beneficial, but still seems wrong. This example might sound ridiculous and even offensive but the point Meyers is trying to make here is that there is clearly some point at which we can all agree an exchange is wrongfully exploitative, even if both parties agree to the terms. Perhaps sweatshops are acting as A did in deliberately compensating workers significantly below what they could be paying. Perhaps sweatshops, like A, are freely exploiting workers to their discretion, solely to maximize their own gains. The fact that both parties benefit and agreed to the terms does not necessarily mean that sweatshops have not acted wrongly. Because this concept is described particularly well by Robert Mayer, I too will refer to sweatshops that operate in this way as "discretionary exploiters."²⁷

²⁷ Mayer, "Sweatshops, Exploitation and Moral Responsibility," 605.

But sweatshop proponents have pointed out that rescue examples like these are not particularly useful in analyzing sweatshop cases.²⁸ In some cases, sweatshops are operating within a competitive environment that influences and restricts the level at which they can compensate workers without negative consequences. Discretionarily exploitative desert rescuers are free to charge the stranded *to their discretion*, while sweatshops offering wages in competitive markets cannot do the same. If they compensate workers above the market rate they will reduce their own demand for labor or sacrifice the competitive viability of their business.²⁹ Almost everyone agrees that charges of unfairness might be legitimate if the MNEs or sweatshops in question choose to operate as discretionary exploiters, leveraging their monopolistic powers to compensate workers less than what is morally permissible. But critics on both sides have recognized that competitive restrictions exist and, some cases, limit an employer's ability to compensate at a higher level without negative externalities.

If critics cannot easily argue that a sweatshop is exploiting its workers on a micro-transactional level, and it is not acting as a discretionary exploiter, perhaps it is the larger system, or the unjust background and structural circumstances responsible for allowing the global poor to be exploited in the first place that is truly unfair. In the following section I will describe what structural injustice is and how it typically manifests.

²⁸ For claims supporting the notion that discretionary exploitation is wrong, and that rescue cases are disanalogous, see Mayer, "Sweatshops, Exploitation, and Moral Responsibility;" Powell and Zwolinski, "The Ethical and Economic Case;" and Zwolinski, "Structural Exploitation," 178.

²⁹ This claim has not only been argued by Zwolinski, Maitland and Krugman but even recognized as a legitimate concern by Snyder. Snyder offers a scenario in which a widget manufacturing firm experiences a substantial amount of market pressure that restricts the firm from raising employees' wages, even if it wanted to. To raise wages would be to negatively affect the viability of the business, and ultimately shift costs onto the employees by forcing them back into the labor market. Snyder, "Needs Exploitation," 400.

Background Structural Injustice

Iris Marion Young defines background structural injustice as existing “when social processes put large categories of persons under a systematic threat of domination or deprivation of the means to develop and exercise their capacities.”³⁰ This usually occurs in the form of stifling competition, suppressing workers’ unions, directly or indirectly reducing overall employment opportunities on a macro-level, or consolidating land holdings that abolish historically effective means of subsistence.³¹ Young and others argue that structural injustices limit workers’ employment options, inspire them to waive their rights to adequate benefits, and drive them to the doorstep of otherwise highly undesirable and exploitative sweatshops.³²

Structural injustice generally originates from one of three places: (1) governments or their agents have generated it to incentivize foreign investment or further their own self-interest. (2) Sweatshops or MNEs have collaborated, coerced or incentivized foreign governments to perpetuate structural injustice to further their own self-interest. (3) The nature of international trade, political institutions, history or some combination of guns, germs and steel³³ has played the only role in creating the injustice, and no person(s) living or dead can be shown to be causally linked to it.

³⁰ Iris Marion Young. "Responsibility and Global Justice: A Social Connection Model." *Social Philosophy And Policy* 23, no. 1: 102-130 (2006): 114. Accessed April 27, 2014. Philosopher's Index, EBSCOhost.

³¹ Ibid., 113. Zwolinski details other forms of structural injustices including protectionism, land seizure, and even considers the West’s “ruthless enforcement of intellectual property rights or perhaps even the system of global capitalism itself.” Zwolinski, “Structural Exploitation,” 169-70.

³² Ibid.

³³ Jared Diamond. *Guns, Germs and Steel: The Fates of Human Societies*. (Norton & Company, 1999).

I would like to pause here to make two brief statements. For the purposes of this paper, I will not be considering origins of the third kind. I am only concerned with structural injustice that has been perpetuated via the direct actions of some party capable of legitimately receiving blame and responsibility for rectification. Second, I agree with Zwolinski, Mayer, and the arguments and intuitions of many others, that structural injustice of the second origin is morally impermissible. In Zwolinski's words, MNEs that work with foreign governments to suppress workers or competition "are guilty of not only *benefiting* from structural injustice but also *perpetuating* it for their own gain. This is wrongful exploitation of the clearest sort."³⁴ These kinds of actions do parallel those of Meyers' discretionary exploitative rescuers discussed above. These MNEs are not only to blame for blatant and deliberate injustice, but are responsible for rectifying it under a standard model of liability.³⁵ The wrongness of their actions seems fairly uncontroversial.

All arguments that I am considering agree that structural injustice exists and it is generally the cause of one of the origins described above. Though discretionary exploitation cases seem clear, assigning blame or responsibility becomes more difficult when the MNE or sweatshop did not directly animate the structural injustice but simply chose to play within a system that existed independently. It is here that we begin to see one of the fundamental normative disagreements between sweatshop proponents and critics. The debate focuses on whether mere participants in structural injustice have any special obligation to rectify it, or compensate for its unfairness. In the following section, I

³⁴ Zwolinski, "Structural Exploitation," 178.

³⁵ The standard form of liability will be discussed in the following section.

will outline some of the more convincing arguments for a duty to rectify and then present some of the practical problems with such an obligation.

Background Structural Injustice: The Responsibility to Rectify

Some have argued that though structural injustice exists independently of direct actions taken on behalf of sweatshops or the MNEs that contract them, participants in the injustice nevertheless have some obligation to rectify it. The origin of this obligation, and the ways in which participants are required to ‘right the wrongs,’ varies from critic to critic. Young and Jeremy Snyder offer two particularly influential arguments for rectifying structural injustice and provide corresponding prescriptions for participants.

In contemporary Western thought and legal reasoning, we usually derive responsibility for rectifying the wrongness of some action or situation via what Young refers to as the standard liability model of responsibility. The standard liability model says if the actions of one party can be found to be causally connected to the circumstances for which responsibility is sought, and were done so voluntarily and undertaken knowingly, it is appropriate to blame that party for the harmful outcome. The result of this blame is almost always either punishment or a responsibility ascribed to the party to make right the wrong they have committed.³⁶

Young does not find the standard liability model sufficient for assigning blame or responsibility to MNEs who are “connected but removed from” structural injustice.³⁷ The inherent assumption in the standard liability model is that there must be a fairly direct

³⁶ Young, “Responsibility and Global Justice,” 116.

³⁷ *Ibid.*, 119.

interaction between the wrongdoer and the wronged party. The problem in assigning blame or responsibility to non-discretionary exploiting sweatshops is that they are not *directly* responsible for the structural injustice. They are merely choosing to *participate* in an unjust system that exists regardless of their involvement.

Where structural social processes constrain and enable many actions in complex relations, however, those with the greatest power in the system, or those who derive benefits from its operations, may well be removed from an interaction with those who are most harmed in it. While it is usually inappropriate to *blame* those agents who are connected to but removed from the harm, it is also inappropriate, I suggest, to allow them (us) to say that they (we) have nothing to do with it.³⁸

On Young's account, MNEs of this kind must take a "forward-looking" approach at rectification, as we will soon see, because of the MNE's "social connection" to its workers. She suggests this entails some kind of shared political responsibility of all those involved that includes "joining with others to organize collective action to reform unjust structures." Her exact conclusions are vague, but she is explicit in her statement that participants may fulfill this duty by "trying to persuade others that the treatment of these workers is unacceptable and that we collectively can alter social practices and institutional rules and priorities to prevent such treatment."³⁹

Young describes two distinct ways that we use the term "responsible." In one sense, "to be responsible is to be guilty or at fault for having caused a harm."⁴⁰ In the

³⁸ Young, "Responsibility and Global Justice," 118.

³⁹ *Ibid.*, 119

⁴⁰ *Ibid.*

another sense, “people have certain responsibilities by virtue of their social roles or positions, as when we say that a teacher has specific responsibilities, or when we appeal to our responsibilities as citizens.”⁴¹ Young draws more on the latter interpretation to establish a “social connection” model of responsibility. She gleans this idea from various theorists of global justice who argued for some version of the “widely accepted philosophical view” that “obligations of justice [to others] are defined by membership in a common political community.”⁴² Young finds this account wanting because obligations of justice can arise between people who are connected via various “social processes,” not only from being united under a common constitution.⁴³ The responsibility of justice to others therefore does not originate from being united under the same flag, but spans across political borders. It is derived from “belonging together with others in a system of independent processes of cooperation and competition through which we seek to benefit and aim to realize projects...within this scheme of social cooperation, each of us expects justice toward ourselves, and others can legitimately make claims on us.”⁴⁴

Young’s account becomes slightly unclear when she seems to intertwine these two interpretations of responsibility to assign a duty of rectification to sweatshops who are “connected to but removed from” structural injustice. She says:

The social connection model of responsibility says that individuals bear responsibility for structural injustice because they contribute by their actions to the processes that produce unjust outcomes. Our responsibility derives from

⁴¹ Ibid.

⁴² Ibid., 103.

⁴³ Ibid., 119

⁴⁴ Ibid.

belonging together with others in a system of interdependent processes of cooperation and competition through which we seek benefits and aim to realize projects.⁴⁵

Though Young does state that her social connection model shares “a reference to causes of wrongs” with the standard liability model, it seems like she has offered an account that incorporates both understandings of responsibility, rather than provided an independent supplement to the standard liability theory as she originally intended.⁴⁶ Regardless, Young argues that sweatshops bear a responsibility for rectifying structural injustice, even if they did not directly create it, because of a connection to their employees.

Snyder, an adamant sweatshop critic, offers an account of rectification that he refers to as “needs exploitation.” His argument is a variation on Young that derives responsibility from an inherent duty to respect human beings and their needs as such. Snyder argues that it is not just a social connection or standard liability that entails a responsibility to rectify structural injustice, but a “duty of beneficence” to the sweatshop workers by virtue of their humanity. The foundation of Snyder’s claim rests on “a core intuition that we all should have access to the basic goods necessary to live a distinctly human life.”⁴⁷ Because humans are uniquely distinct animals in their ability to “endorse ends beyond those of immediate use to survival or those proposed by instinct,” they require a set of basic needs to live the “good life” that they are able to conceive. The

⁴⁵ Ibid.

⁴⁶ Zwolinski also makes this observation. Zwolinski, “Structural Injustice,” 174.

⁴⁷ Snyder, “Needs Exploitation,” 395.

premise Snyder needs us to accept is that “actions that fail to respect this kind of life in others will not value humans appropriately.”⁴⁸

Snyder begins by stating that “a wide variety of moral theories can agree that others’ basic needs exert some sort of claim on us.”⁴⁹ He explains that one of these theories is a Kantian-based “duty of beneficence.”⁵⁰ A proper understanding of this duty, Snyder argues, “helps to ground and specify a set of constraints, over and above the constraints against coercion and manipulation, that wealthy employers face when setting the terms of interactions.”⁵¹ Snyder explains that this is an obligation to help others achieve the “decent minimum for living a distinctly human life.” The duty normally takes an “imperfect form,” which allows individuals flexibility in determining how to allocate their resources to help other people live a respectable life. However, when we enter into relationships with other people, as we do in the case of sweatshops, this obligation narrows into a strict, perfect form.

The perfect form of the duty of beneficence relies, I am claiming, on connections to particular others through our roles and relationships... in this way, the general duty to support the basic needs of others becomes more concrete through a process of specification, such that the once general duty is now owed, with specific content, to particular others.⁵²

⁴⁸ Snyder does recognize that some critics will not be able to accept constraints placed on our actions by this kind of “decent minimum” for all humans *because* they are humans, but disregards them and reminds his reader that “a great many other approaches will endorse some form of imperfect duty of aid, charity, or beneficence with this goal in mind.” *Ibid.*, 395.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*, 396.

For Snyder, supporting the basic needs of one's workers in perfect form mandates a duty to sacrifice "superfluous riches" in order to help employees achieve a decent minimum standard of living.⁵³

In the case of employment relationships, in short, employers do not simply have an imperfect duty to help some of their employees to achieve a decent minimum some of the time; rather, employers are required to cede as much of their benefit from the interaction to their employees as is reasonably possible toward the end of the employees achieving a decent minimum standard of living.⁵⁴

Recognizing that complying with these duties under certain restrictive market conditions might result in a reduction in profits for employers, Snyder argues that we can reduce an employer's duty by limiting how much we can reasonably ask them to sacrifice for their workers. The employer is not required "to cede all benefits down to [the threshold of well-being]. Rather, the various dimensions of well-being will admit of degrees between a deficit, flourishing, and excess, and [the employer] is required only to cede those shares of gain that would fund her access to the last."⁵⁵ Snyder argues that adding to one's own well-being at the expense of others is to be "inconsistent with an appropriate regard for others as moral equals."⁵⁶ It is not merely unfairness, connection or perpetuation of injustice that requires labor-exporting MNEs to combat background circumstances. Rather, Snyder's responsibility stems from a duty of beneficence that takes a strict form when MNEs have entered into relationships with others. For

⁵³ Snyder specifies but for the purposes of this paper flushing out Snyder's interpretation of basic needs or "living wage" is not necessary. Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid., 398.

⁵⁶ Ibid.

employers, this means refraining from opulent luxuries when employees' basic needs are not being met.⁵⁷

Young and Snyder's arguments have been covered quickly, but the point is not to evaluate them. Rather, the intent is to demonstrate that whether via social connection, Kantian-based duties, or simple liability from causal demonstration, Young and Snyder agree that sweatshops and the corporations that contract them have a duty to rectify the structural injustices that allow them to exploit their workers. In the following section I will present Zwolinski's response that even if we do have these duties, we are not always obligated to fulfill them.

Background Structural Injustice: The Implications of Rectification

In the previous section, I presented two arguments for why participants in structural injustice bear a responsibility for rectifying it. In this section I will explain why Zwolinski does not necessarily agree that they should. I would like to note that Zwolinski grants Snyder and Young's claim that entering into an employment relationship with needy workers does establish a strict duty of beneficence.⁵⁸ For the purposes of moving

⁵⁷ Snyder recognizes that it would obviously be ridiculous to require that "I provide health insurance, a pension plan, continuing education benefits and a bus voucher to the neighborhood kid I hire to wash my car." He limits our obligations in relationships of use to what is "reasonably possible" by a consideration of dependence and closeness. Snyder discusses the level of dependence and the obligation required in some detail, but refers us to several other authors for more specific explanations. He essentially argues that context is important in determining the specifications associated with the duty of beneficence, but, in most sweatshop cases, "employers have an obligation to offer the means for living a minimally decent human life for their full-time employees when it is reasonable to do so." *Ibid.*, 404.

⁵⁸ Zwolinski expresses various concerns and problems with Young's account of grounding responsibility via her social connection model. He does not necessarily disagree with a standard liability model, but finds her argument weak in establishing a "universal or unique obligation on [participant's] part." Zwolinski, "Structural Injustice," 175. Zwolinski also takes issue with Snyder's account of narrow obligation from relationships. Either he predicts his own criticism may be refuted, or merely grants for the sake of argument, but he later accepts that Snyder's strict perfect duty can be adequately defended. For the

forward, I am now in agreement with Young, Snyder and Zwolinski that the sweatshop does owe a certain level of wages or compensation package to their workers.⁵⁹ Zwolinski's problem, as we will see, is that regardless of the strength or origin of this duty, it does not necessarily follow that MNEs and sweatshops ought to adhere to it, or that workers cannot waive their rights to that level of benefits in circumstances where it is advantageous for workers to do so. Zwolinski presents two arguments in support of this belief. The first is that rectification may effectively harm workers. The second is that to adhere to this duty anyway would be to interfere with the very purpose of the duty. Though they are to be understood together, I will summarize these claims independently, and then I will present Snyder's response.⁶⁰

1. Rectification Can Have Negative Externalities

In a recent blog post responding to a different sweatshop critic, Zwolinski explains that we often feel that sweatshops have an obligation to "do more" for their workers for two reasons: (1) their workers are in great need of help, and (2) sweatshops are in the position to give it. Zwolinski says that proponents of (2) are often misguided or overestimate the extent to which sweatshops actually can help.⁶¹ Though the arguments he raises in this paper do not address the arguments for duty and responsibility raised by Young and Snyder, the important takeaway is that "doing more," or compensating

purposes of this paper, I will set Zwolinski's problems with both accounts aside and instead assume that we all agree that participants do bear a responsibility to rectify the injustice, regardless of whether this duty stems from social connection, participation, needs, or from entering into relationships of use. Zwolinski, "The Ethical and Economic Case," 469.

⁵⁹ I have not specified what this is but for present purposes it is not important. What is relevant is that there is some level of wages or compensation that is required and some sweatshops are not meeting it. Later I will refer to this standard as compensation level "X."

⁶⁰ Moving forward we will only consider Snyder's response because Young does not provide one.

⁶¹ Zwolinski, "Shouldn't Sweatshops Do More?"

workers at above the market rate, might produce negative externalities that are then shifted to the workers. Zwolinski recapitulates the neoclassical theories I discussed in the introduction: “If economic agents demand less of a good the more that good costs, then any policies that raise the cost of sweatshop labor will result in less labor being demanded, i.e. unemployment.”⁶² Zwolinski’s fear is that if Young, Snyder, or anybody advocate for a strict duty to compensate workers (whether employers “compensate” via direct increase in wages, investing capital to improve conditions, incurring any kind of costs related to political action) above the market rate, the result would be to employ less workers.

Zwolinski believes that many of his opponents accept this basic and widely recognized neoclassical price theory, but “the dispute lies in determining the correct understanding and implications of that framework.”⁶³ There is debate, we will see, about which actions will produce negative externalities, but the important point for now is that we all accept that some rectification efforts will shift the cost of doing so to the workers because of the relationship between price and demand. In the next section I will explain why Zwolinski finds that shifting these costs to the workers is not only anti-utilitarian, but does not seem to be in alignment with the deontological values of his opponents.

2. Rectification Despite Negative Externalities Does not Maximize Utilitarianism, Welfare, or Autonomy

Zwolinski entertains the claim that entering into relationships with workers can establish some set of new duties to those workers, but argues that because fulfilling these

⁶² Powell and Zwolinski, “The Ethical and Economic Case,” 450.

⁶³ Ibid.

obligations can harm workers, the duties should be waivable by employees if they determine that doing so would make them better off.⁶⁴ He provides the following example. Suppose that compliance with Snyder's duty of beneficence requires that an MNE provide benefits of Y to an employee, but the employer is only willing to provide a benefit amount of X, where $X < Y$ (Assumedly, the employer is unwilling to grant Y because it would result in a reduction in the demand for labor or otherwise harm workers). Given that it is permissible for employers not to hire anyone at all can the employer make an offer contingent upon the employees willingness waive X and accept Y?

Zwolinski says that if employees can waive their claim to benefits Y when it is in their interest to do so, then employers are not necessarily acting wrongly in providing X. If employees cannot waive their claim to benefits Y, then, under Snyder's account, "employers are forbidden from entering into agreements with employees to hire them at wage level X...even if hiring them at level X is better for both workers and employers than not hiring them at all, and even if both workers and employers would prefer to enter into an employment relationship at wage level X than to not enter into any wage relationship at all."⁶⁵ Zwolinski argues that maintaining this view would be illogical.

The underlying assumption here is that the non-worseness claim (NWC) is true. The NWC was first considered by Alan Wertheimer but later adopted by Zwolinski to support the classic libertarian view.⁶⁶ In short, the NWC argues that it is impossible that a

⁶⁴ Ibid., 469.

⁶⁵ Zwolinski, "Structural Exploitation," 169.

⁶⁶ Wertheimer, *Exploitation*.

mutually beneficial, mutually accepted transaction can be morally worse than no transaction at all.⁶⁷ The trouble with rejecting the NWC is that it causes us to conclude that it is better for an MNE to avoid a mutually beneficial transaction (open a sweatshop) than to help lift the third world workers from poverty (provide a better alternative to all their present options). If the MNE would make a lower yield investing domestically than opening an international sweatshop, which seems obvious if they were deterred from international investment solely to avoid exploitative moral wrongness, then both the MNE and the global poor would be worse off.⁶⁸

I would like to interject briefly to note that there are significant problems with the NWC as a theory in general. Adhering to the NWC has a tendency to produce outcomes that many people would find morally impermissible.⁶⁹ However, Zwolinski does not advocate that we always act in accordance with the NWC. He argues that in this circumstance, under the restrictive parameters that we have described, accepting the risks of the NWC produces the best overall outcome and, as will see, rejecting it here is problematic.⁷⁰

⁶⁷ This brief summary was provided by Snyder. Snyder, "Needs Exploitation," 402. Further discussions can be found in Adam D. Bailey. "The Nonworseness Claim and the Moral Permissibility of Better-Than-Permissible Acts." *Philosophia: Philosophical Quarterly Of Israel* 39, no. 2: 237-250 (2011). *Philosopher's Index*, EBSCOhost (accessed April 27, 2014; Wetheimer, *Exploitation*; and Zwolinski "Which is Worse: A Sweatshop, or You?"

⁶⁸ "Worse off" here refers to it as I have implicitly suggested so far: so lose a best employment opportunity, I assume, would make someone "worse off." For an investor "worse off" would suggest a lower return. If the opener of a sweatshop is an impact investor or otherwise seeking charitable purposes over maximizing financial return then he may be intrinsically better off.

⁶⁹ Thank you to Alex Rajczi for raising these concerns and providing examples to solidify this point.

⁷⁰ Zwolinski explicitly states that "at the end of the day... we are prepared to bite the bullet with respect to the possibly counter-intuitive implications of the NWC. After all, we hope to have shown that the rejection of NWC entails strongly counter-intuitive implications as well. Moreover, we hope to have shown that rejection of the NWC is at odds with two core moral values that both consequentialists and Kantians must recognize: welfare and autonomy." Powell and Zwolinski, "The Ethical and Economic Case," 470.

Zwolinski raises the objection that if Snyder were to argue that employees cannot waive their moral claim on the benefits to which they are entitled, he is “committed to holding that failing to benefit needy workers at all is better than benefiting them at a level which is (significantly) greater than zero but less than the morally required amount – even if workers themselves would strongly prefer and would like to choose the latter over the former.”⁷¹ This claim would be in conflict with the principle of utility-maximization that Zwolinski finds should take precedent over deontological duties that may make workers worse off.

Additionally, holding this view would seem to be in conflict with two core moral values “that both consequentialists and Kantians must recognize: welfare and autonomy.”⁷² If the concern is welfare for the poor, then to ban rights-waving is to reject transactions that increase workers’ welfare. If the theory claims to value autonomy, then we are certainly not respecting theirs by banning their right to judge that the benefits they could gain by doing so are worth the cost. Essentially, the fundamental problem is that subscribing to a normative ethical view in the vein of Kant, Young or Snyder is to value that theory over the people that the theory is intended to protect. Zwolinski summarizes this idea well. “Not only is the rejection of NWC counterintuitive, then, it also seems to involve a kind of paternalistic substitution of the moral theorist’s own values for those of the workers themselves.”⁷³

⁷¹ Powell and Zwolinski, “The Ethical and Economic Case,” 469.

⁷² *Ibid.*, 470.

⁷³ *Ibid.*

The bottom line for Zwolinski and perhaps utilitarian proponents in general is that sweatshops may be taking advantage of the workers' antecedent circumstances, but it is hard to argue that this advantage is unfair or wrongfully exploitative. The participants are operating within a system that may be unjust but through their participation, MNEs and sweatshops are helping workers and benefitting themselves in the process – overall, everyone is better off and nobody is worse off. To deny the NWC and require that participants pursue actions that would shift costs to the workers would not make anybody better off, and would simultaneously be in conflict with the generally held values of welfare and autonomy.

Sweatshops, even if acting exploitatively, are at least doing something that provides substantial benefit to people in desperate need. By contrast, the vast majority of us – including companies that do not outsource their production overseas – do nothing to provide any comparable benefit. If this is exploitation, then how bad can exploitation be?⁷⁴

Background Structural Injustice: The Anti-Utilitarian Response

Snyder recognizes that some may find these issues to be problematic for his account of beneficence, but argues that they do not absolve MNEs and sweatshops of their duties to their workers. In this section I will detail Snyder's response to the criticisms offered above.

1. Some Rectifying Acts May Have Negative Externalities, So Pursue Others

⁷⁴ Zwolinski, "Structural Exploitation," 155.

Snyder agrees with Zwolinski that the demand curve is downward sloping, and that some forms of rectification above the market rate can harm workers,⁷⁵ but argues that there are still things sweatshops and MNEs can do to make things better for their workers that would not bring about the negative externalities that Zwolinski fears.

He offers a hypothetical situation in which competition is stiff and market forces are restrictive. Compensating workers with a wage package “consistent with a decent minimum for living a distinctly human life” would be to “destroy the viability of [the] business, throwing [the] employees back into the labor pool.”⁷⁶ In these circumstances, “offering a living wage is not required” but rather, “when external constraints limit one’s ability to meet the ideal baseline for treatment of others, progress toward the ideal is morally acceptable.”⁷⁷ For Snyder, this progress manifests as a duty to “pursue as many lower cost options for improving employee welfare as are reasonable.”⁷⁸

Snyder presents a brief case study of Nike who instituted various education programs and microenterprise loan services for their employees. He reports that Adidas “increased fire escape routes, better access to first aid, safer use of hazardous materials, and changes in training for the use of potentially dangerous machinery.”⁷⁹ Sweatshops and MNEs could advocate politically, as Young suggests, or even target consumers who are willing to pay more for goods that offer workers a living wage. Snyder finds that

⁷⁵ Snyder, “Needs Exploitation,” 400.

⁷⁶ Ibid.

⁷⁷ Ibid., 400-01

⁷⁸ Taking this quotation out of context seems to imply that Snyder thinks that offering a total compensation package below the market is permissible. He doesn’t. He is simply saying that when there are problems with paying a living wage we ought to pursue cost free actions to help offset some of the duty. As we will see, his argument is that employers are responsible for compensating above the market when the market sets the price at a morally objectionable level.

⁷⁹ Ibid., 401.

these suggestions can help MNEs and sweatshops meet the duties to their employers “while remaining consistent with the market constraints” affecting them.⁸⁰ The empirical feasibility of these remedies is obviously contingent upon various circumstances such as the bargaining power of the MNE, and the resources available, but Snyder’s point is that there might be something participants can do that would not shift cost to workers.

I would like to briefly to consider an objection to this suggestion. Some might argue that any action done on behalf of participants, regardless of whether they are consistent with market restraints, could have the effect of harming workers when we consider the effects of spending ‘social capital.’⁸¹ Imagine a scenario in which the CEO of a multinational sweatshop contracting corporation, in accordance with his “forward-looking” political duty offered by Young and endorsed by Snyder, sent a letter to the home government of his sweatshops. The CEO strongly suggests that if the government wants to keep his business they need to take steps to alleviate some of the restrictive and unjust conditions under which the workers live. Perhaps the recommendation is that the government amends visa guidelines for nurses who wish to work in that country which would improve overall access to healthcare. Maybe he suggests that the government alter their tax structure to incentivize foreign venture capitalists or factoring funds to finance local entrepreneurial ventures in attempts to increase the workers’ employment options. Whatever the recommendation, the CEO is ‘spending’ social capital, or influence, by sending his letter. The CEO has essentially asked the government to trust him, to change their policy based on his recommendation. The CEO has staked the reputation of himself,

⁸⁰ Ibid.

⁸¹ Thanks to Dustin Locke for raising this point.

and his company, on that recommendation. If the government agrees and the result is not good for whatever reason, the government would have reason to be unhappy with the CEO and the MNE as a whole. I could imagine that government distrusting the entire corporation, or even taking some sort of retributive action against them. To incentivize, influence, strong-arm or coerce foreign governments to do anything is to take a risk and that risk is not cost free. If that risk turns out to be problematic, the effect could be that the sweatshop leaves the country, or something else happens that negatively impacts the workers in the same way that raising the price of the sweatshops goods would. This would be problematic for Young's prescription, or any rectification efforts that entail political action.

To foreshadow my final conclusion, I agree social capital risks are a legitimate concern. However, I agree with Snyder in that it would be naïve to argue that there is *nothing* that participants can do to make things, if only marginally so, better for their workers without shifting the cost to them.⁸² This is not a claim that is strongly contested. Even Zwolinski agrees that there are probably things that could be done without these risks but he seems to be more conservative than Snyder (and myself) in estimating how feasible and implementable these actions are.⁸³ We will call actions with no risk of negative externalities "safe acts." Moving forward, we will accept the idea that some rectifying acts may shift costs to the employees while others are safe.

⁸² Snyder offers some examples and, though I will not consider them here, I am confident that there are more. Snyder, "Needs Exploitation," 401.

⁸³ Zwolinski states that "it is important to stress that we do not believe that markets are always in equilibrium and that all information has been discovered. Rather, markets are a discovery procedure thus we do not believe that every advance that could improve worker welfare without harming firms or other workers has been discovered." Powell and Zwolinski, "The Ethical and Economic Case," 450.

2. *A) After Pursuing “Safe Acts,” We Still Have a Duty to Offer Certain Benefits*

After proposing that there may be some low cost high benefit actions that could supplement a participant’s duty to rectify structural injustice, Snyder eventually concludes that in addition to these, participants are still morally obligated to offer a set of benefits “even when the market does not require that they be met.”⁸⁴ For Snyder, “employers have an obligation to offer the means for living a minimally decent human life for their full-time employees when it is reasonable to do so.”⁸⁵

We might be tempted to interpret “reasonable to do so” as the point at which workers might be released back into the labor market but this does not seem to be the case. Snyder explains that the “criteria of reasonability” instead allows that employers “(a) may retain levels of well-being between the limits of deficiency and luxury; and (b) the goal of a decent minimum for all persons allows for deviations from the ideal forms of moral duties under non-ideal conditions.”⁸⁶ He explains his duties under non-ideal circumstances (circumstances in which MNEs are restricted by markets) most articulately in the conclusion:

Even employment at non-living wage rates, then, can be non-exploitative. By offering a wage or pursuing other steps (recall the vase of Debbie the widget market) greater than that which both persons would voluntarily arrive at in the open market, the employer can express the importance of a minimally decent human life for all, particularly if she is aware of the results of abandoning these

⁸⁴ Snyder, “Needs Exploitation,” 404.

⁸⁵ Ibid.

⁸⁶ Ibid., 402.

persons to set their wages on the open market. Should the employer offer a wage that allows as much progress toward this goal as is reasonable – understood as allowing the employer to retain the means for living a flourishing life short of luxuries and to maintain the competitiveness of her company – she promotes access to a threshold level of the goods necessary for living a minimally decent human life over the long term.⁸⁷

Essentially, Snyder seems to understand that the living wage he recommends can have negative externalities. In these circumstances, corporations should pursue as many of these low-cost rectification methods as possible. However, the duty still falls on the employer to strive for the moral ideal to cap their revenues before attaining the level of “luxury.” With that surplus capital, the employer is able to cede as many benefits to their employees as possible (while remaining competitive and living a flourishing life) in order to work towards meeting their basic human needs. This discussion may seem repetitive, but the implication is that employers are still responsible for compensating at an acceptable level, even if the market sets a lower price. The result then, according to the theories we have accepted, would be to produce some level of negative externality.

2. B) *We Do Not Always Need to Act as Utility-Maximizers*

Snyder directly addresses the criticism that rejecting the NWC results in an overall loss of utility. His response is somewhat short but powerful. He argues that as he is proposing a deontological account of exploitation, not a utilitarian one, he can simply reject that the NWC claim is true. He says that it is not the case that we must always

⁸⁷ Ibid., 404.

maximize utility, especially when we are discussing people with whom we have entered into a working relationship.⁸⁸ Just because an action is better for everyone does not make it right. He offers an example to illustrate this sentiment.

Just as it can be morally better for me to sit on my couch than to manipulate a friend into doing something that will be beneficial to him, it can be morally better for me to refrain from engaging in an exploitative interaction than to employ someone at subsistence wages when higher wages are possible.⁸⁹

Snyder finds that we ought not to derive moral value from those actions that produce the most optimal outcomes for everybody; instead, we ought to derive moral value from those actions which are in alignment with our basic duties of justice towards our fellow humans. Even though both utilitarianism and duties of beneficence rely upon moral judgments, Snyder essentially argues that his is better.

Snyder does not directly address Zwolinski's criticism that a denial of the NWC fails to maximize welfare and autonomy. I suspect Snyder would argue, in alignment with the position in the preceding paragraph, that welfare and autonomy are not the only important components of his needs-based duty of beneficence, and deontological accounts in general. There is a popular example in deontology that asks a moral agent whether it is permissible to shoot and kill one person to prevent the killing of five other people. Most deontologists argue that it is not permissible to kill the one person to save the five because we have a special responsibility for the things we do ourselves, not the things that we prevent. It may be the case that Snyder et al do in fact value welfare and

⁸⁸ Ibid., 403.

⁸⁹ Ibid.

autonomy. However, they would likely say that it does not necessarily follow that we are allowed to pursue morally wrong actions just because they increase welfare and autonomy, similarly to how we are not allowed to shoot one person to save five. Maximizing utility in this way is in closer alignment with utilitarian or consequentialist views, not deontic ones.

Maximizing Overall Social Utility: The Necessary Assumptions

Before progressing, I would like to aggregate some of the descriptive assumptions that I have made so far. Up until now, this paper has sought to evaluate some of the moral charges against sweatshop exploitation. We accepted that sweatshop employment is often the best available option for sweatshop workers, but considered whether sweatshop exploitation could still be morally impermissible. We first considered whether sweatshop exploitation could be wrong on an account of fairness. We found that transactional accounts of unfairness were lacking and flimsy when applied to sweatshops, but concluded that discretionary exploitation is wrong. We then considered whether background structural injustice rendered sweatshop exploitation wrong. We concluded that directly causing structural injustice is wrong, but differentiated these from mere participants in structural injustice. We agreed that workers are morally entitled to a certain level of benefits, and then decided that employers have a duty to provide those benefits or rectify structural injustice in various ways. But we saw that acting on those duties is problematic in instances when the cost of the act or policy is shifted to the workers. Sometimes, the result is to make sweatshop employees even worse off. This seemed odd given that workers are the very group that duties of rectification are intended

to help. At this point, the descriptive premise of the classical libertarian argument held. Sweatshop exploitation, though perhaps unfortunate and wrong, maximizes overall utility, welfare and autonomy for some of the world's most desperate people while making everybody better off and nobody worse off.

The question we then explored was whether sweatshop exploitation could be morally impermissible despite the increase in utility, welfare and autonomy. Should the benefits of laissez faire economics permit laissez faire ethics? Or should sweatshops be morally obligated to adhere to their duties of justice regardless of whether doing so would produce a negative externality. Zwolinski argued that in some circumstances, employers ought to be able to compensate workers at a level below what they deserve because the outcome is to maximize utility, welfare and autonomy for sweatshop workers. He argued that this seemed to be in alignment with the intent of the employer's duty to his workers. The deontological response to this largely consequentialist claim was that sweatshops and MNEs bear a strict, narrow obligation of justice to their workers. Even in non-ideal restrictive circumstances, employers are morally obligated to promote access to a threshold level of goods necessary for respecting workers' humanity. Sweatshop exploitation is wrong, and just because it promotes utility does not necessarily permit sweatshops to compensate workers at morally objectionable levels.

In the following section, the task will be to give credence to one view over the other. I will then then synthesize a suggestion that I believe considers the most morally relevant factors in this circumstance. Before continuing, I would like to present two more

arguments that I have derived from the sections preceding. Their conclusions will serve as premises to support my final conclusion.

First: when markets are restrictive, employers ought to identify and pursue those actions that increase worker welfare but are not susceptible to the costs and risks of negative externalities. I agree with all of the views I have considered herein that employers have a duty of justice and beneficence to their workers. Regardless of whether we believe that employers ought to pursue those duties in spite of negative externalities, it is true that some actions can be taken to address those duties that have few or no negative externalities. Therefore, employees ought to pursue these actions that make workers' lives better, even if only marginally, in accordance with their duty of justice and beneficence.

Critics may find this claim weak because it is difficult (if not impossible) to determine which acts are risk free until they have already been implemented. As Zwolinski points out, markets are a "discovery process," and as such these safe acts are to be discovered.⁹⁰ Even so, I do not think this absolves employers of the duty to try to find them. Until a better method surfaces, an appeal to a combination of intuition, reason, and a well conducted data-driven analysis should provide enough information to conclude with reasonable accuracy whether an action would shift cost to workers in practical application. If employers have fairly good reason to believe that any given action to rectify injustice will *not* shift cost to the workers, they ought to adhere to their duty and pursue it. Whether or not we agree employers should compensate above the market rate,

⁹⁰ Powell and Zwolinski, "The Ethical and Economic Case," 450

they ought to make the easy save, do the quick fix, and pick the low hanging fruit. To fail to pursue risk free acts seems like wrongful neglect. I do not think this argument is controversial and I am sure the majority of sweatshop critics and proponents alike would agree.

Second: Snyder's recommendation that employers cap their revenue in accordance with the perfect form of their duty to their workers is controversial and inconsistent because it reduces the overall utility and welfare of one arbitrarily selected group in favor of another, when both groups have equal moral claim on that duty due to equal relationship proximity, need and dependence. In a discourse with Zwolinski and company, Ari Kohen questions why proponents and critics alike are so tied to this idea that "a corporation *must* (let alone *ought*) to take advantage of people in such a [desperate, exploitable] state."⁹¹ Maybe corporate and consumer greed is the problem and we ought to simply take less for ourselves.

I would take a smaller profit as a shareholder or pay more for a product as a consumer if it meant that those products weren't being made on the backs of labor that couldn't complain of their poor pay and poor conditions for fear of losing the only job that keeps them (and their families) from even worse conditions and/or death. And, even more obviously, if I was someone who lived in crushing poverty, I think it's clearly right that I'd be happy for the opportunity to work and improve my lot in life... but id also hope that wealthy people wouldn't take

⁹¹ I am moving through Ari's views rather quickly, but his overall argument is very vague and not largely important. I mainly present Ari to arrive at Miller's response. Ari Kohen, "Bleeding Heart Libertarians and Sweatshops," *Ari Kohen's Blog: Political Theory, Human Rights, Pop Culture*, accessed March 27, 2014, <http://kohenari.net/post/12241821951>

advantage of me just so that they could make a little bit more money than they already make.⁹²

Kohen assumes that corporations *are* inherently profit-maximizing entities, and to anticipate change from within would be counter-intuitive to their very purpose. Kohen believes that regulation is therefore the only way to ensure that workers are paid a morally acceptable wage.⁹³ In a sense, Kohen agrees with Snyder that corporations ought to take less profit and cede the benefit to those who need it most.

In response to Kohen, Jeff Miller again reminds us of the neoclassical implications of raising costs or prices. When prices increase, the demand for whatever good the corporation produces will fall. When demand for goods fall, the corporation requires fewer employees to maintain production, which in turn causes layoffs. Whereas Zwolinski argues that layoffs fail to maximize utility, autonomy and welfare, Miller makes a slightly different claim. Miller's argument is short, but we are to assume that Miller agrees that sweatshops are already doing all that they can do. They are not withholding another option that might be better for workers, but rather, going above and beyond what they are already doing would be to reduce the sweatshop's demand for labor. Given these assumptions, Miller argues that it is not better for a small number of people to be slightly better off via higher wages when another group of people are made worse off by losing employment. It would be wrong for sweatshops or MNEs, he says, to make this decision for other people. "We ought to let the workers in [global sweatshops] make their own choices. Depriving them of [sweatshop] jobs only forecloses a choice

⁹² Ibid.

⁹³ Ibid.

they can make; that's not likely to make their lives better."⁹⁴ I refer to this problem as Miller's Dilemma.

Snyder might believe that the actions he has suggested will never result in layoffs, but it seems that he would almost certainly be wrong. The duty on corporations to compensate workers above the market price by capping their net revenue just below the level of "luxury" will affect the demand for labor as corporate management decides to pursue other morally safe and more profitable options. Regardless of whether deciding against opening a sweatshop for this reason is free of moral repugnance,⁹⁵ adhering to Snyder's duty is to make the decision that it is morally permissible to make one group of workers better off while making another group of workers worse off. We might anticipate Snyder's deontic response already, but I think Miller's Dilemma poses another problem.

To pursue acts that make some better off and lay off others seems to be in direct conflict with Snyder's account of the origin of employer duty. Snyder's prescriptions stem from a strict, perfect duty of beneficence on employers due to their employees' needs, but also from their working relationship. In a situation where an already open sweatshop decides to adopt a rectification policy from Snyder that reduces its overall

⁹⁴ Miller's argument operates under the assumption that the demand curve for these products is elastic. There are some products where this may not necessarily be the case. Though I am aware, as I have stated, that some contest this point, for the sake of this discourse, I am going to assume that demand for sweatshop-produced goods are generally elastic, and that any increase in price will result in some reduction in overall demand for labor. Jeff Miller. *The Trunk*, November 2, 2011, accessed March 15, 2014, <http://jeffmiller.tumblr.com/post/12242875615/i-would-take-a-smaller-profit-as-a>.

⁹⁵ Snyder provides a somewhat confusing example in which three potential sweatshop investors make different decisions regarding whether or not to open a sweatshop. Snyder suggests that the investor who does not open a sweatshop because "he does not wish to be accused of exploitation, hopes to maximize his profits, and doesn't really like interacting with persons of a different skin color anyway" is committing a "morally worse" action than the investor that pays a living wage above the market rate. Regardless, nowhere does Snyder argue that it would be morally impermissible not to open a sweatshop for any reason. Snyder, "Needs Exploitation," 403.

demand for labor, the employer would be removing that benefit from one group and giving it to another when the employer had an equal duty of beneficence and justice to both parties prior. Consider the following example.

Expensive Machinery: A sweatshop manager Jack employs 100 workers. All of these workers perform low-skill labor, are in a relatively similar state of need, and are all equally depend on Jack for employment. The market for Jack's products is very competitive, and its forces dictate that he cannot raise his workers' wages without sending some of them back into the labor pool. Jack feels terrible that his workers live in such horrible conditions with inadequate pay and decides that, in accordance with Snyder's duty of beneficence, he needs to do something anyway. Sensing that raising wages may be risky, Jack decides to pursue a lower cost, high benefit option.⁹⁶ Jack takes out a loan to purchase a new and expensive piece of machinery that will drastically reduce injuries. Over time, the marginal increase on Jack's production costs unfortunately necessitates the release of 5 of his workers.

We might first consider whether Jack owes less of a duty to some workers than to others. Snyder's account of determining how much responsibility employers owe is somewhat vague, but he essentially argues that a combination of the duration of the relationship, the dependence of one party on the other, and the working relationship, or connection, permits partiality and generates greater demands for one's care on another. He states that "the degree to which this specification makes a person responsible for

⁹⁶ Snyder references "lower cost, high benefit" options in an example case similar to the one I have offered. *Ibid.*, 401.

another's well-being will be determined by the degree to which the relationship marks a dependence of one person on another."⁹⁷ He elaborates to explain that "connections and dependencies justify the partial treatment of those with whom we are in relationships... Specifically, longer and more intimate relationships generate greater demands on one's own resources for the care of and concern for these persons."

Snyder provides nothing for us to reasonably conclude that Jack might owe less to some workers than to others, especially if we assume that all workers are equal in relation to Jack. Snyder does say that "weaker relationships of dependency will coincide with less specification of the duty of beneficence for many members of the MNE."⁹⁸ One might interpret this to mean that some distant manager in the MNE could fly in to a foreign sweatshop and fire the five workers without compromising his duty of beneficence because he has no relationship to them and they do not rely specifically on him to meet their needs. This seems highly implausible.⁹⁹ Regardless of how we interpret the extent of Jack's duties, the important point is that according to Snyder's account, it seems that Jack has an identical duty of beneficence to all 100 of his workers.¹⁰⁰ Severing employment with 5 is not acting in accordance with his duty of beneficence and obligation to help them achieve a decent minimum standard of living.

⁹⁷ Ibid., 397.

⁹⁸ Ibid., 399.

⁹⁹ Snyder later says "but on aggregate, the actions of individuals spread throughout the structure of a very large MNE can have a significant impact on the welfare and working conditions of employees. Even these weaker responsibilities must be taken seriously given the importance of the actions of individual managers and small shareholders on the whole." This seems to imply that Snyder would have some issue with an outside manager, who has no relationship to the workers, terminating their employment. Ibid., 399.

¹⁰⁰ Ibid., 397.

Snyder would likely respond that, in accordance with the deontic nature of his views, this is again a fundamentally utilitarian argument. What matters is not that we have made 5 worse off and 95 better off, what matters is that Jack has worked towards his duty of beneficence for the 95. I am skeptical of this response. It seems that revoking a duty of justice to someone with whom you already owe that duty is to fail to adhere to the most basic component of Snyder's claim. This seems to be even more counterintuitive when we understand that the 5 employees are in great need, and equally dependent on Jack as are the other 95. Snyder has offered us nothing in the form of an argument to justify removing a duty from 5 in order to make (marginal) improvements in meeting that duty for 95. If he did, he would need to avoid arguing that working towards Jack's duty to the 95 permits the dismissal of 5. That would be utilitarian.

It is possible that Miller's Dilemma becomes the crux of the sweatshop debate. For the time being, the point has been to illustrate that sweatshops, as we have agreed, have a duty to provide a certain level of benefits to the workers that they have already employed. For these sweatshops to reduce the overall utility, welfare or autonomy of one arbitrarily selected group in favor of another, when both are equally needy and dependent, seems unjustifiable even on Snyder's account. Though this is admittedly a fundamentally utilitarian objection, to which Snyder may simply reject in favor of deontology, it is important to note the disconnect between the result of his recommended remedies and his argument for an employer's equal narrow duty.

Maximizing Overall Utility: Striving Towards Beneficence

Up until this point I have made some descriptive assumptions that brought us to the claim that allowing sweatshops to compensate at the market rate maximizes overall utility under the restrictive parameters of the world in which we live. I then presented arguments for and against permitting them to do so. The conclusion that I will offer shortly sides more with Zwolinski than the deontologists. Before I offer an argument favoring the utility-maximizing action, I would like to introduce a general objection to sweatshop exploitation that serves to reinforce my case.

Some critics might argue that we should just morally condemn, legally prohibit, or do whatever is necessary to shut down sweatshops. To successfully orchestrate, or even threaten, the simultaneous closing of every international sweatshop until a morally acceptable level of structural injustice was remedied might be an efficient and effective solution. Surely foreign governments would quickly determine how to make their workers better off when forcefully compelled. Perhaps the imposition of a global minimum wage would serve workers well.

Though both suggestions may have some validity, they are unfortunately unrealistic. To these critics I have three responses. (1) To pursue acts like this might have the same effect of spending social capital. It is difficult to discern the short and long-term implications of strong-arming foreign governments in this way. (2) I agree that there are almost certainly better ways to fight global poverty and someone should probably figure out what those are and execute. However, the reality is that for now, the utility-maximizing arguments in favor of low wage labor still stand, and we do not have many

better alternatives. Further, to remove something that is already having an impact in favor of something that may be harmful seems counter-intuitive and counter-productive. (3) Due to the highly empirical nature of sweatshop ethics, and applied ethical philosophy in general, it is necessary to focus on the reality of the situation and the corresponding descriptive claims. In some sense, “ethics is where the rubber meets the road in philosophy.”¹⁰¹ One of the most rewarding aspects of ethical theory is arriving at a conclusion that might have real-world implications. As nice as it would be to justify prescriptions like a one world government or a collective action effort, it would ultimately fall on deaf ears as policy makers, academics and pragmatic philosophers reject them on the grounds of zero feasibility.

I think my response to this suggestion highlights the fundamental reason that I side more with the utilitarian arguments of the libertarians. Utilitarian and deontological arguments both recognize that workers have a right to a certain level of benefits and compensation that enables them to live a distinctly human life. Call these benefits X. I side with both parties that employers are obligated to provide X for any of the reasons offered above. However, adhering to the duty to supply X in some circumstances is to work against meeting X because of consequential negative externalities. In these cases, the result of granting X anyway would be to bring some workers closer to X, while pushing others further away from X. The deontologists have not provided any reason for us to agree that choosing to bring some arbitrary group of workers closer to X at the expense of others is morally permissible. Rather, they have implicitly suggested that it is

¹⁰¹ Thanks to Mark Blumenfeld for this quote.

permissible because the duty to provide X is narrow and owed equally to all employees by virtue of their humanity, some working relationship, need or dependence.

I recognize the deontologists' response to this utilitarian-minded objection but I favor the economic truths and descriptive claims of the libertarians over adherence to the deontologists' normative views. Compensating at a level Y where $Y < X$, but Y does not result in layoffs, is most effective in progressing everyone towards X. We ought to pursue whatever actions are most effective in meeting the duties to which both camps ascribe. I cannot support many of Snyder's recommendations because their negative externalities do not promote equal opportunity for reaching X. It also seems that this would be in conflict with Snyder's own claim that we ought to regard others as "moral equals."¹⁰²

Even if Snyder were to successfully argue that it is permissible to bring some workers closer to X and push others away, it seems that increasing utility for more workers at level P is better than increasing utility for less workers at level Q even if $P > Q$. I say this because, again appealing to utility maximization, the result would be to make more people better off without making anybody worse off. Given the reality of the situation and the circumstances that I have described, the best way to strive towards X for all is to pursue acts that make everybody better off and nobody worse off. If I sided more with the deontologists, I would likely still conclude that striving to reach X has a higher moral value than refraining from exploitation because the needs of human beings are intuitively more important than our duty to not exploit them. Therefore, striving towards

¹⁰² Snyder, "Needs Exploitation," 398.

X, in this case, ought to take moral precedent over a duty of beneficence. Consequently, I offer this amendment to the classic libertarian argument.

The Argument

Premise 1: Sweatshops are often the best available option for impoverished workers to provide for themselves and their families. To reduce the demand for sweatshop labor is to remove that option from one or more sweatshop workers.
[Descriptive claim]

Premise 2: Sweatshop workers have a moral claim on a certain level of dignity and justice. To act in accordance with this moral claim is to provide workers with a certain standard of benefits in exchange for their labor [normative claim – moral intuition].

Premise 3: External factors sometimes limit the employer's ability to match those benefits without reducing the demand for labor. Allowing the market to determine worker compensation maximizes overall utility, welfare and autonomy by making everybody better off and nobody worse off. Offering market compensation is sometimes the best thing that corporations can do without negative externalities
[descriptive claim].

Premise 4: There are some actions that employers could take that would shift the cost of doing so to workers, and there are some actions that will not [descriptive claim].

Premise 5: It is wrong to engage in acts that make things marginally better for a one group of people while making things significantly worse for another group of people when the duty of justice is the same for both groups [normative claim – intuition from Miller’s Dilemma].

Conclusion: When external actors limit the employer’s ability to match the benefits of P2, the employer should strive to identify all improvements that they have reason to believe could promote welfare for the workers, and pursue them until any cost of doing so is shifted to the workers themselves [conclusion from 2-4].

This argument is not necessarily intended to support act-utilitarianism or moral particularism as an ethical theory in general but in this circumstance accepting the NWC in order to make everybody better off and nobody worse off is the strongest argument that I have found to support the libertarians. Given the intricate but relevant circumstances of this particular situation, appealing to a normative ethical theory in attempt to shoot down the implicit normative assumption that it is morally right to do what makes everybody better off and nobody worse off is weak because it simply does not make things better for the global poor. Sometimes utilitarianism is wrong, this is obvious. Sometimes adhering to deontic duties instead of committing a wrong to produce a right is morally justified and required. But in this instance acts that maximize utility are the best and most realistic options for sweatshop workers.

Conclusion

For both sides of the debate empirical evidence is hugely relevant. If, for example, we were to discover that capping corporate revenues somehow did not produce any negative externalities, perhaps we ought to do so. For the purposes of this paper, however, I have been satisfied with neglecting the implications of some of this evidence in favor of assumptions grounded in economic theory in order to reach the crux of the philosophical debate. Regardless, the reality is that nobody really knows what the outcome of various actions will be. This knowledge gap is part of the problem with consequentialism in general. What we do know is that we need to be extremely careful when considering actions that may eliminate a family's best (or only) source of income. Though we never know all the facts, we can guess, and I think our duty is to make the best one we can.

Despite the arguments presented to pursue utility-maximizing acts in certain circumstances, I am certain that some will still disagree that sweatshops should be allowed to exploit workers simply because it makes everyone better off. It seems to me that the moral permissibility of sweatshop exploitation fundamentally reduces to a debate between deontological and utilitarian judgments. Sweatshop proponents and critics are free to offer evidence, construct hypotheticals, and postulate over the impact of various policies to an endless degree, but these discussions ultimately hinge on two contradicting moral judgments or opinions:

- (1) Deontic duties are things that we have to do despite the fact that they are not utility maximizing. We must adhere to our ethical values, regardless of what we may achieve by compromising them.
- (2) Sacrificing those values can sometimes be justified and permissible if doing so produces a better outcome.

Even if I argue, as I believe I have, that maximizing utility in this circumstance in order to strive towards X for the most number of people ought to have a higher lexical order or be of greater moral worth than adhering to our deontic duties, some will simply disagree. We have consistently seen this to be the case, especially in the discourse between Zwolinski and Snyder. I think that for progress to be made on the sweatshop debate, all participants must understand that determining the moral permissibility of various policies, and their implications, largely hangs on this fundamental philosophical disagreement.

It is regrettable and saddening that such a large percentage of the population lives in crippling poverty. Whether the result of some combination of guns, germs and steel, or the result of somebody's direct instigation, a lot of people are in a very desperate position in which a little bit can go a long way. Given that this is the reality, I think the best thing to do is to help them in the best way that we can. Often times, sweatshops playing by the rules may offer less than we wish they could, but the most helpful thing to do is to allow them to do whatever makes their workers better off.

As unfortunate as it is, most people would rather support themselves and their families than not be exploited. Perhaps one day the structural injustices that drive wages

and compensation below the morally acceptable level will be eradicated or consumers will collectively decide to pay more while somehow maintaining (or increasing) demand for sweatshop goods. Until then, I think that the right thing to do is to assess each individual situation and critically evaluate what acts maximizes utility, welfare and autonomy in practical application. Because these kinds of acts best strive towards granting the quality of life that we all agree people deserve, we should pursue them. It is for these reasons that I assign moral value to the acts that effectively improve the lives of those who need it most.

Bibliography

- Adie, Douglas K. and Lowell Gallaway. Review of *Myth and Measurement: The New Economics of the Minimum Wage* by David Card and Alan B. Krueger. Princeton, N.J: Princeton University Press. 1995. Retrieved from: <http://www.cato.org/sites/cato.org/files/serials/files/cato-journal/1995/5/cj15n18.pdf> (Accessed April 20, 2014).
- Alexander, John. "Sweatshops, Context Differentiation, and the Rational Person Standard." *Philosophy In The Contemporary World* 18, no. 1 (March 1, 2011): 68-74. *Philosopher's Index*, EBSCOhost (accessed April 27, 2014).
- Arnold, Denis G, and Norman E Bowie. "Respect for Workers in Global Supply Chains: Advancing the Debate Over Sweatshops." *Business Ethics Quarterly* 17, no. 1 (January 1, 2007): 135-145. *Philosopher's Index*, EBSCOhost (accessed April 27, 2014).
- Bailey, Adam. "The Nonworseness Claim and the Moral Permissibility of Better-Than Permissible Acts." *Philosophia: Philosophical Quarterly Of Israel* 39, no. 2 (June 1, 2011): 237-250. *Philosopher's Index*, EBSCOhost (accessed April 27, 2014).
- Coakley, Mathew, and Michael Kates. "The Ethical and Economic Case for Sweatshop Regulation." *Journal Of Business Ethics* 117, no. 3 (October 1, 2013): 553-558. *Philosopher's Index*, EBSCOhost (accessed April 27, 2014).
- Diamond, Jared. *Guns, Germs and Steel: The Fates of Human Societies*. Norton & Company, 1999.
- Donaldson, Thomas. "Values in Tension: Ethics Away From Home." in *Honest Work A Business Ethics Reader, 2nd edition*. Joanne B. Ciulla and Clancy Martin and Robert C. Solomon, 428-38. USA: Oxford University Press, 2010.
- Kohen, Ari. "Bleeding Heart Libertarians and Sweatshops," *Ari Kohen's Blog: Political Theory, Human Rights, Pop Culture*, 2012, accessed March 27, 2014, <http://kohenari.net/post/12241821951>
- Maitland, Ian. "The Great Non-Debate Over International Sweatshops." in *Honest Work A Business Ethics Reader, 2nd edition*. Joanne B. Ciulla and Clancy Martin and Robert C. Solomon, 428-38. USA: Oxford University Press, 2010.

- Mayer, Robert. 2007. "Sweatshops, Exploitation, and Moral Responsibility." *Journal Of Social Philosophy* 38, no. 4: 605-619. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Meyers, Chris. "Wrongful Beneficence: Exploitation and Third World Sweatshops." *Journal of Social Philosophy* 35, no. 3 (September 1, 2004): 319-333. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Miller, Jeff. *The Trunk*, November 2, 2011, accessed March 15, 2014, <http://jeffmiller.tumblr.com/post/12242875615/i-would-take-a-smaller-profit-as-a>.
- Miller, John. "Why Economists are Wrong About the Sweatshops and the Antisweatshop Movement." *Challenge* 46:1 (February 2003): 93-122. Accessed February 6 2014. Iliad.
- Miller, Richard W. "Moral Closeness and World Community." In *The Ethics of Assistance: Morality and the Distance Needy*, Cambridge: Cambridge Univ Pr, 2004. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Powell, Benjamin, and Matt Zwolinski. "The Ethical and Economic Case against Sweatshop Labor: A Critical Assessment." *Journal Of Business Ethics* 107, no. 4 (June 1, 2012): 449-472. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Risse, Mathias. "Fairness in Trade I: Obligations from Trading and the Pauper-Labor Argument." *Politics, Philosophy And Economics* 6, no. 3 (October 1, 2007): 355-377. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Sollars, Gordon G. "Sweatshops: Kant and Consequences." *Business Ethics Quarterly* 17, no. 1 (January 1, 2007): 115-133. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Snyder, Jeremy. "Exploitation and Sweatshop Labor: Perspectives and Issues." *Business Ethics Quarterly* 20, no. 2 (April 1, 2010): 187-213. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Snyder, Jeremy C. "Needs Exploitation." *Ethical Theory And Moral Practice: An International Forum* 11, no. 4 (August 1, 2008): 389-405. Philosopher's Index, EBSCOhost (accessed April 27, 2014).

- Wertheimer, Alan. *Exploitation*. Princeton University Press, 1996.
- Young, Iris Marion. "Responsibility and Global Justice: A Social Connection Model." *Social Philosophy And Policy* 23, no. 1 (December 1, 2006): 102-130. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Zwolinski, Matt. "Sweatshops, Choice, and Exploitation." *Business Ethics Quarterly* 17, no. 4 (October 1, 2007): 689-727. Philosopher's Index, EBSCOhost (accessed April 27, 2014).
- Zwolinski, Matt. "Structural Exploitation." *Social Philosophy and Policy* 29 (1) (2012):154-179. Accessed February 14, 2014. Philpapers.org
- Zwolinski, Matt. "Shouldn't Sweatshops Do More?" *Bleeding Heart Libertarians: Free Markets and Social Justice*, November 3, 2011, accessed March 10, 2014, <http://bleedingheartlibertarians.com/2011/11/shouldnt-sweatshops-do-more/>.
- Zwolinski, Matt. "Which is Worse: A Sweatshop or You?" *Bleeding Heart Libertarians: Free Markets and Social Justice*, June 6, 2011, accessed April 4, 2014, <http://bleedingheartlibertarians.com/2011/06/which-is-worse-a-sweatshop-or-you/>