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How to Trade Fairly in an Unjust Society: The Problem of Gender Discrimination in the Labor Market

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Abstract: Social scientists disagree about the causes of the "wage gap" between male and female workers and, in particular, how much of the gap is due to differences in workers' productivity. Understanding the underlying causes is important, insofar as this helps identify who is responsible for closing the gap. This information is particularly relevant for specifying the responsibilities of employers, who have dual social roles as economic actors and as citizens. In this paper, I begin with the assumption that many employers underestimate the qualifications of female job applicants in hiring and promotion decisions. The paper then describes a form of discrimination that occurs when many economic actors make this kind of correlated error in their judgments. The paper argues that an individual employer has responsibilities not to make these errors in judgment about female workers, due to the harmful impact on women's opportunities. An employer also has duties not to exploit female employees, which occurs when he pays them lower wages than he would if other employers did not discriminate against them.

Keywords: discrimination; exploitation; gender; economic justice; responsibility

The difference between the mean earnings of female workers and male workers is known as the "wage gap," and it is often taken as evidence that women receive "unequal pay for equal work." A direct comparison of men and women's wages can be misleading, however, due to the fact that male and female workers tend to hold different kinds of jobs. Male and female workers tend to be segregated according to occupational categories, organizations, and their roles within organizations.[1] Social scientists disagree about the reasons why female workers tend to be concentrated in the lower-paying segments of the labor market.[2] Some argue that employers allocate positions primarily on the basis of workers' productivity, while others argue that workers' productivity does not provide a full explanation for employers' decisions.

On the first view, female workers on average have less relevant education, experience, and other aspects of "human capital."[3] Some proponents of this view argue that women tend to prefer occupations that permit workers to take intermittent leave, so that women can raise children without suffering setbacks to their earnings and career trajectories. For this reason, women tend to educate and train themselves to specialize in

[1] When sociologists and labor economists adjust for these and other differences between male and female workers, they can reduce the estimated wage gap to a smaller "residual." For an overview of these estimates, see Doris Weichselbaumer and Rudolf Winter-Ebmer, "A Meta-Analysis of the International Gender Wage Gap," *Journal of Economic Surveys* 19 (2005): 479-511.

[2] On patterns of segregation in the labor market, see William T Bielby and James N Baron, "Sex Segregation Within Occupations," *The American Economic Review* 76 (1986): 43-47, and Trond Petersen and Laurie Morgan, "Separate and Unequal: Occupation-Establishment Sex Segregation and the Gender Wage Gap," *American Journal of Sociology* 101 (1995): 329–365.

[3] See, for instance, Victor R. Fuchs, "Women's Quest for Economic Equality," *Journal of Economic Perspectives* 3 (1989): 25–41.

these occupations, and employers allocate positions accordingly.[4] A second group of scholars argue that the patterns of segregation suggest stereotyping and employers' enforcement of workplace social norms.[5] In support of this second view, some scholars cite "audit" studies, in which identical curriculum vitae with male and female names are given to employers, and employers have been shown to respond more favorably to the CVs with male names.[6] In short, some researchers attribute the wage gap entirely to social inequalities outside the labor market, whilst others attribute it partially to decision-making within the labor market.

This disagreement about the causes of the wage gap is normatively significant, insofar as it affects the division of social responsibilities for closing the wage gap. In particular, it is important for specifying the responsibilities of employers, who have dual social roles as economic actors and as citizens. As an economic actor, an employer enjoys a restricted domain of social permission to pursue his interests through exchanges and joint enterprises with other economic actors. In his role as a citizen, the same individual has broader responsibilities that may also have implications for his decisions as an employer. This paper will distinguish between employers' responsibilities for the wage

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[4] Solomon William Polachek writes, "Put simply, it is not occupation per se that causes lower wages, but sex differences in lifetime human capital investment brought about primarily by the division of labor within the home." "Occupational Segregation and the Gender Wage Gap," *Population Research and Policy Review* 6 (1987): 47–67, 63.

[5] William Bielby and James Baron, "Men and Women at Work: Sex Segregation and Statistical Discrimination," *American Journal of Sociology* 91 (1986): 759–799. Their argument that male and female workers have similar skills is meant to show that employers are not engaging in a rational form of "statistical discrimination," in which gender is employed as a useful proxy for unobserved productivity.

[6] David Neumark et al., "Sex Discrimination in Restaurant Hiring: An Audit Study," *Quarterly Journal of Economics* 111 (1996): 915–41. See also Claudia Goldin and Cecilia Rouse, "Orchestrating Impartiality: the Effect of Blind Auditions on Female Musicians" *The American Economic Review* 90 (2000): 715–741.

gap in both of these roles. If social inequalities outside the labor market are the primary cause of the wage gap, an individual has responsibilities to address these inequalities as a citizen, but not specifically as an employer.[7] However, if decision-making within the labor market is a significant cause of the wage gap, then employers have responsibilities specifically in their roles as economic actors.

In this paper, I assume that some employers discriminate against female workers, and that this discrimination explains a significant portion of the wage gap.[8] I specifically assume that employers discriminate against female workers in the sense that they make correlated errors in their judgment of women's qualifications, which restricts women's access to opportunities. This restriction, in turn, is argued to reduce women's bargaining power with their own employers and to enable employers to exploit their female workers, through reduced wages in exchange for their work. This paper describes these labor market dynamics, and illustrates them with a case originally described in Alan Greenspan's memoirs. In his memoirs, Greenspan explains how he was able to hire female employees for his firm at a relatively low cost, due to his competitors' biases against female job candidates.

[7] Many political theorists believe that society ought not to impose economic penalties on women's choices to train for and seek out occupations that are compatible with their caregiving responsibilities. Anne Phillips has argued that women's "choice" of low-paying and low-status occupations should be taken as *prima facie* evidence of women's accommodation to unequal circumstances, "Defending Equality of Outcome" *Journal of Political Philosophy* 12 (2004): 1-19, pp. 12. Ann Cudd has argued that women's greater caretaking burdens, and their shorter tenure in paid employment, are a joint byproduct of women's unequal treatment within the family and the labor market, "Oppression by Choice," *Journal of Social Philosophy* 25 (1994): 22–44.

[8] In particular, I find that the audit studies provide convincing evidence in support of the paper's assumption (see footnote 6).

The paper aims to describe two particular wrongs that employers can be engaged in when hiring and promoting employees in a gender-segregated labor market, and their corresponding duties to avoid committing these wrongs. The paper proceeds as follows. Part 1 provides an account of discrimination that is suitable for assessment of economic decision-making: economic actors discriminate when they make correlated errors in their judgments, which causes harms in expectation. Part 2 explains how the practice of discrimination among some employers can have an unfavorable impact on prices for women's labor. Part 3 details my conception of exploitative trade, and argues that market actors have duties to refrain from engaging in trade on exploitative terms. Part 4 describes what Alan Greenspan should have done in the 1970s, when the wage gap was larger than today and the effects of discrimination were more easily observable,[9] and what contemporary employers and citizens should do.

Part 1: Discrimination as Correlated Errors in Judgments

This section will provide an account explaining how an employer discriminates when he allocates a job, or an opportunity for promotion, to a man instead of a woman who would perform better in the position. This account of discrimination is not intended to be comprehensive. The employer's action can be discriminatory in a different descriptive sense, and it can be morally wrong for different reasons, than I will describe here. For instance, the employer's selection of a male worker over a more qualified female worker may be discriminatory in the sense that it is degrading to women,[10] or

[9] Francine D. Blau et al., "Continuing Progress? Trends in Occupational Segregation in the United States Over the 1970s and 1980s," *Feminist Economics* 4 (1998): 29–71.
[10] Deborah Hellman, *When is Discrimination Wrong?* (Harvard University Press, 2011)

because it reflects the employer's prejudices about the moral worth of female workers.[11] However, the employer's decision need not be degrading to women, or prejudicial about the moral worth of female workers, in order for the decision to be discriminatory on the account I will describe.

My account of discrimination is a "harm" based account.[12] The "harm" occurs when a person (or persons) experiences a worse outcome, by comparison to the outcome that the person (or persons) can be expected to have experienced if discrimination had not taken place. It is essential to set a baseline standard of non-discriminatory behavior, in order to identity when a person's actions cause harm. As indicated in the paper's introduction, the empirical scholarship on discrimination in labor markets assumes that non-discriminatory employers will hire on the basis of workers' expected productivity. On a strict view of this baseline, employers discriminate against prospective hires whenever they allocate positions to less productive workers.[13]

To illustrate this, consider if employers routinely fail to detect slight differences in productivity among the top candidates for a position. Due to this routine failure of judgment, employers often allocate the position at random to one of the top candidates, whilst believing that they have selected the very best. From the perspective of the first-

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[11] Larry Alexander, "What Makes Wrongful Discrimination Wrong?" *University of Pennsylvania Law Review* 141 (1992): 149–219.

[12] On harm-based accounts of discrimination, as alternatives to "mental state" accounts and "objective meaning" accounts, see Kasper Lippert-Rasmussen, *Born Free and Equal? A Philosophical Inquiry into the Nature of Discrimination* (Oxford University Press, 2013) pp. 153-192. His own harm-based account is desert-accommodating prioritarianism, and welfarist. By contrast, I will endorse an equality of opportunity account in which the value of an opportunity is not reducible to its effects on welfare.

[13] It is possible to understand this as a "meritocratic" selection principle. David Miller argues that meritocracy is compatible with a central role for market-based decision-making in "Two Cheers for Meritocracy," *The Journal of Political Philosophy* 4 (1996): 277–301.

best candidate who has not been offered a particular position, it may appear that this decision-making procedure has harmed her. She does not receive the job for which she is the very best candidate, and thus the employer's misjudgment of her qualifications has made her worse off. According to the baseline of optimally rational decision-making, an employer causes harm to this candidate by making an ordinary, random mistake. While one purpose of describing a harm is to register when a person has taken an action that makes another person worse off, another important purpose is to make a claim that the causing agent has deviated from a reasonable standard of behavior. I reject the standard of optimally rational decision-making, because it fails to fulfill the second purpose of describing the harm of discrimination.

I will propose a revised version of the principle that provides a more plausible baseline standard for employers' behavior, which permits routine, independent misjudgments of the kind I have described in my example above. The reason to be permissive about decision-procedures that include routine, independent misjudgments is that they are not *expected* to cause worse outcomes for any candidate. In the example above, one employer's mistake happened to fall to the job seeker's disadvantage when she was the first-best candidate. However, the mistakes of other employers could be advantageous for her. The next employer may make a mistaken judgment that the job seeker is the first-best candidate, when in fact she is merely the second-best for that position. If, as I have stipulated for my example, employers routinely make independent random selections among the top candidates, then it is equally likely that the job candidate will experience favor and disfavor from any particular employer. The overall effects of employers' independent errors will be neutral for that candidate in expectation, as she continues to seek out employment.

The candidate can expect to experience a worse outcome if the employer's errors in judgment about her are non-independent, that is to say, correlated with the errors in judgment of other employers. To illustrate the difference between independent and correlated errors, consider an employer who uses her private gut feelings as a proxy for judgment about the trustworthiness of job candidates (these feelings depend on what the employer ate for breakfast). Her gut feelings lead her to make a false judgment of a particular job candidate, and for this reason she does not hire him. The employer's error in judgment is unique to herself, since no other employers share her gut feelings or take their cues from her. Her error in judgment is independent of errors in judgment that other employers might make.

Now we can consider a different explanation for why the employer misjudges the candidate. The employer distrusts the candidate because a false rumor is circulating about the applicant's honesty. Due to the rumor, many employers will make the same error in judgment about the applicant's suitability for employment.[14] When employers determine that the candidate is unsuitable on the basis of this false rumor, they are making correlated errors in judgment. Their decision-making procedure can be expected to cause a worse outcome for the candidate. While it is true that the employer who follows her gut feelings has actually caused the candidate to be denied a job, her decision-making

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[14] We could imagine that there are two false rumors circulating about the candidate, one concerning his honesty and the other concerning his work ethic. Thus, employers can have different mistaken reasons for forming their judgments about the candidate's unsuitability. What matters on my view is that there is a correlation in their mistaken judgments, and not that the employers all have precisely the same reasons for making their mistakes.

procedure is not expected to cause the candidate to suffer a worse outcome. It is admittedly possible, although unlikely, that many employers who decide to follow their own idiosyncratic gut feelings could form the same false judgments about the suitability of an amply qualified job candidate. However, this would occur purely due to chance. There would be no reason to *expect* this run of bad luck to continue as the candidate continues to seek a job.

It is appropriate to evaluate how employers' routine practices of decision-making will affect a job candidate in expectation, when there are many employers allocating similar kinds of jobs and opportunities for advancement. Sometimes employers make decisions about how to allocate unique positions and opportunities, and these decisions are beyond the scope of my theory of discrimination. Workers may feel that their current positions of employment cannot be substituted for positions elsewhere, particularly when they have formed personal relationships and attachments at their place of work. When workers correctly (or even possibly incorrectly) believe their current positions are unique, employers may have duties of fair and non-discriminatory treatment in the allocation of opportunities for workers' advancement. I do not take a position on these duties here, except to say that they are different from the duties of non-discrimination defended in the paper and they may be more demanding.

I have stated my assumption in the paper's introduction that employers discriminate against female workers and this has significant negative effects on them. At this point in the argument, I can provide a definition that describes what employers are doing when they discriminate against female workers. I propose this baseline standard for individual economic decision-makers' behavior: an economic decision-maker acts rationally in pursuit of his interests and, in so doing, he is entitled to make errors, subject to the constraint that his errors are not correlated with the errors of other decision-makers.[15] When an employer makes an error in judgment about the qualifications of female workers, and therefore fails to pursue his own interests in hiring or promoting women, the employer's decision-making is discriminatory.[16] It is discriminatory because other employers are making this same error in their judgment of female workers, thereby causing harms to the female workers in expectation.

These discriminatory harms are wrongful in virtue of the fact that they undermine women's equality of opportunity.[17] I assume that women are entitled to equality of opportunity and to receive fair terms of compensation from their employers, an assumption shared by many critics of the "wage gap." The paper will argue that the primary role of employers in fulfilling these entitlements is not to discriminate against female job candidates and, as will be argued in the next sections, not to exploit their female workers. If employers discriminate against female job candidates, and exploit their female workers, then it will be very difficult (if not impossible) for a society to

[15] There is a difference between the employer's interests as an individual within an organization and the interests of his firm as a whole. For the purposes of this paper, I am assuming the employer rationally pursues his firm's interests.

[16] Implicit bias is pervasive, and it may explain how employers can make these mistakes in judgment without having any consciously prejudicial attitudes towards women. On implicit bias in philosophy, see Jennifer Saul, "Ranking Exercises in Philosophy and Implicit Bias," *Journal of Social Philosophy* 43 (2012): 256–73.

[17] I follow Shlomi Segall in viewing discrimination as bad because it undermines equality of opportunity, "What's So Bad About Discrimination?" *Utilitas* 24 (2012): 82–100. However, there are several important differences between our views. Segall seeks to provide a comprehensive explanation of the badness of discrimination, whereas this paper merely describes one form of discrimination. I view the experience of discrimination as a "harm" suffered by a person who therefore enjoys less than equal opportunities, whereas Segall argues that discrimination is a "disadvantage." Finally, Segall describes the value of an opportunity in terms of a person's welfare, whilst I value opportunities as such.

achieve equality of opportunity and to close the wage gap. In non-ideal cases where equality of opportunity does not presently exist, employers' discrimination and exploitation of women will worsen inequalities in many (but not all) cases.[18]

My argument is that employers have primary responsibilities *as economic actors* not to cause wrongful discriminatory harms, and not to exploit female workers who experience wrongful discrimination (or other kinds of harmful wrongs). These are distinguished from the more general responsibilities employers may have *as citizens* to help remedy social inequalities, including inequalities they have neither caused nor unfairly benefited from. Consider again the argument that sources of the wage gap are primarily outside the economic sphere, as well as the argument that discriminatory decision-making is an important source. Many political theorists argue that women enjoy unequal opportunities because they are socialized to be less ambitious, and often have greater caretaking burdens. If it is true that female workers are less productive for these reasons, employers may have duties as *citizens* to extend additional opportunities to women to seek to redress these broader social inequalities.[19] By contrast, this paper has assumed that a major source of inequality is that employers make erroneous judgments about women's productivity. If employers do not hire women when it *is* in their interest to do so, then employers have failed to fulfill responsibilities that are specific to their social role as *economic actors*.

[18] Some women may enjoy greater than equal opportunities as a result of practices of discrimination that are perpetuated against other disadvantaged groups. Under these non-ideal conditions, it is not necessarily true that all cases of employer discrimination against women are wrongful harms.
[19] I do not affirm here that there are indeed these duties of citizenship, but merely that this is the best way to characterize the argument in favor of employers taking these actions.

Economic actors enjoy limited social entitlements to engage in rational pursuit of their interests. The underlying justification of this social role is that economic actors will help secure benefits for society as a whole, including equality of opportunity for all citizens (so this paper has assumed). Engaging in non-discriminatory decision-making, according to the standard described above, is properly understood as a responsibility of economic actors. Indeed, employers may find it demanding to fulfill the responsibilities I have specified for their roles as economic actors. This paper will defend the view that economic actors, including employers, have significant responsibilities, due to the non-ideal circumstances in which they find themselves.

Non-ideal theorizing often makes significant epistemic demands, precisely because it requires actors to take account of the factual details of their non-ideal circumstances.[20] I will briefly sketch the informational demands on employers in order to avoid engaging in discrimination against female workers.[21] An economic actor needs to engage in self-reflection and gain insight into his/her own decision making-processes, to determine whether they tend to produce erroneous judgments. Then, the economic actor requires knowledge about *other* actors' decision-making processes, in order to determine whether his/her own erroneous judgments are correlated. In addition, economic actors will need to judge whether the harmful effects of their discriminatory practices are also morally wrong. On a harm-based account of discrimination, the wrongfulness of discrimination is contingent upon its effects. Discriminatory practices are often

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[20] Lisa Herzog, "Ideal and Non-Ideal Theory and the Problem of Knowledge," *Journal of Applied Philosophy* 29 (2012): 271–288.

[21] For an important analysis and set of practical suggestions for employers, see Geert Demuijnck, "Non-Discrimination in Human Resources Management as a Moral Obligation," *Journal of Business Ethics* 88 (2009): 83–101.

overlapping and intersecting, which can produce non-obvious patterns of advantage and disadvantage in non-ideal societies.[22] It may not be wrong for employers to inflict discriminatory harms upon a group that is socially *advantaged,* particularly in favor of other groups who are otherwise socially disadvantaged.

I do not mean to suggest that economic actors have responsibilities to act on the basis of information they could not possibly obtain. Rather, I think it is fitting that economic actors should bear some responsibility for collecting and analyzing information about their own judgments, the patterns of their competitors' judgments, and the overall effects of discriminatory decision-making on workers' opportunities. This kind of information is not merely useful for morally responsible decision-making. It is also useful for economic actors to better pursue their own interests, and thereby promote the broader social goods that justify economic actors' entitlements.

The next part of the paper will explain how gender-based discrimination in the labor market can have additional undesirable consequences for women, through its unfavorable impact on prices for women's labor. In a case described in Alan Greenspan's memoirs, an employer observes a pattern of qualified female workers' exclusion from economic opportunities. This section will describe this case in detail, and the following section will argue that even non-discriminatory employers have good moral reasons to take note of gender-based discrimination in the labor market.

Part 2: The Effects of Discrimination on Market Rates for Women's Work

[22] Kimberlé Crenshaw, "A Black Feminist Critique of Antidiscrimination Law and Politics," in *The Politics of Law* (Pantheon Books, NY: 1990), pp. 195-218.

In his memoirs, Alan Greenspan describes his hiring policy for the economics firm he owned and managed in the 1970s. Greenspan explains his policy of hiring women, and how it benefited his firm:

> "Townsend-Greenspan was unusual for an economics firm in that the men worked for the women (we had about twenty-five employees in all). My hiring of women economists was not motivated by women's liberation. It just made great business sense. I valued men and women equally, and found that because other employers did not, good women economists were less expensive than men. Hiring women did two things: it gave Townsend-Greenspan higher-quality work for the same money, and it marginally raised the market value of women."[23]

In the 1970s U.S., gender segregation within the labor market was more prevalent and readily observable than today.[24] The excerpt from Alan Greenspan's memoirs helps to illustrate labor market dynamics that, as this paper assumes, are still present today in diminished form. This section will explain how employers' discriminatory practices reduced the efficiency of the labor market, directly reduced women's opportunities, and indirectly reduced their rates of compensation.

We can infer much about employers' decision-making processes from Greenspan's observation that "good women economists were less expensive than men." The observation indicates that many employers were not optimizing their firms' interests, specifically, their interests in paying less for the work of "good economists." To optimize the firm's interest, an employer should hire female economists until the point at which

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[23] Alan Greenspan, *The Age of Turbulence: Adventures in a New World* (Penguin Press, 2008), pg. 74.
[24] Francine D. Blau et al., "Continuing Progress? Trends in Occupational Segregation in the United States Over the 1970s and 1980s."

good female economists cost as much as males.[25] Nevertheless, many employers continued to hire male economists at their firms' greater expense. Either the employers were making similar errors in their efforts to hire good economists for lesser expense, or they were not actually trying to optimize their firms' interests. I will continue to presume that employers are seeking to optimize their firm's interests.

Greenspan's observations do not illuminate *why* employers make errors in judgment about women's qualifications. Greenspan's view is that employers did not "value" men and women equally. By this, Greenspan could mean that employers had biased beliefs about the economic value of female employees, or that employers failed to assign women's interests the same moral value as men's. Without the benefit of psychological insight, it is impossible to establish that employers acted on the basis of unconscious bias or deliberate misogyny. On my view, it is only necessary to identify the underlying *reason* for these errors if we are seeking to assess the employers' blameworthiness. Either ill-will towards women or implicit bias could be the explanation for employers made the same errors in judgment about women, and of course the former is much more blameworthy than the latter. On my account, however, what is essential is that many employers make these correlated errors and thereby produce harms. Employers discriminate against women because they make non-independent errors in judgment that have harmful effects, undermining women's equality of opportunity for employment. As

[25] It is rational to hire women because a good female economist is no less productive for her firm in virtue of being female, and she costs less than a male economist. This presumes that other firms face the same conditions as Greenspan's, in which female employers are not hindered in their productivity through customers' or colleagues' negative "reactions" to women.

I will now argue, discrimination also can be problematic due to its knock-on effects on women's rates of compensation for their work.

The female economist's experience of discrimination is a constraint that impedes her in her economic interactions. This constraint has a negative effect on her bargaining power with her employer, Alan Greenspan. Since discrimination restricts her opportunities to work within her profession, she becomes more willing to accept Greenspan's terms of employment. In the figure below, I depict the price of women's labor and compare it to the price under counter-factual conditions. There is necessarily some indeterminacy in the specification of counter-factual market prices, since we cannot fully predict how actors will react in accordance with their changed circumstances. While it is not possible to predict the precise terms of negotiated agreements, it is possible to model the range of agreements that it would be rational for economic actors to accept under these altered conditions. It is expected that a person with restricted opportunities has less negotiating power, and thus will rationally accept lower wages from an employer who offers an opportunity. I represent competitive market prices for women's labor, in the figure below, by depicting a range of possible prices.

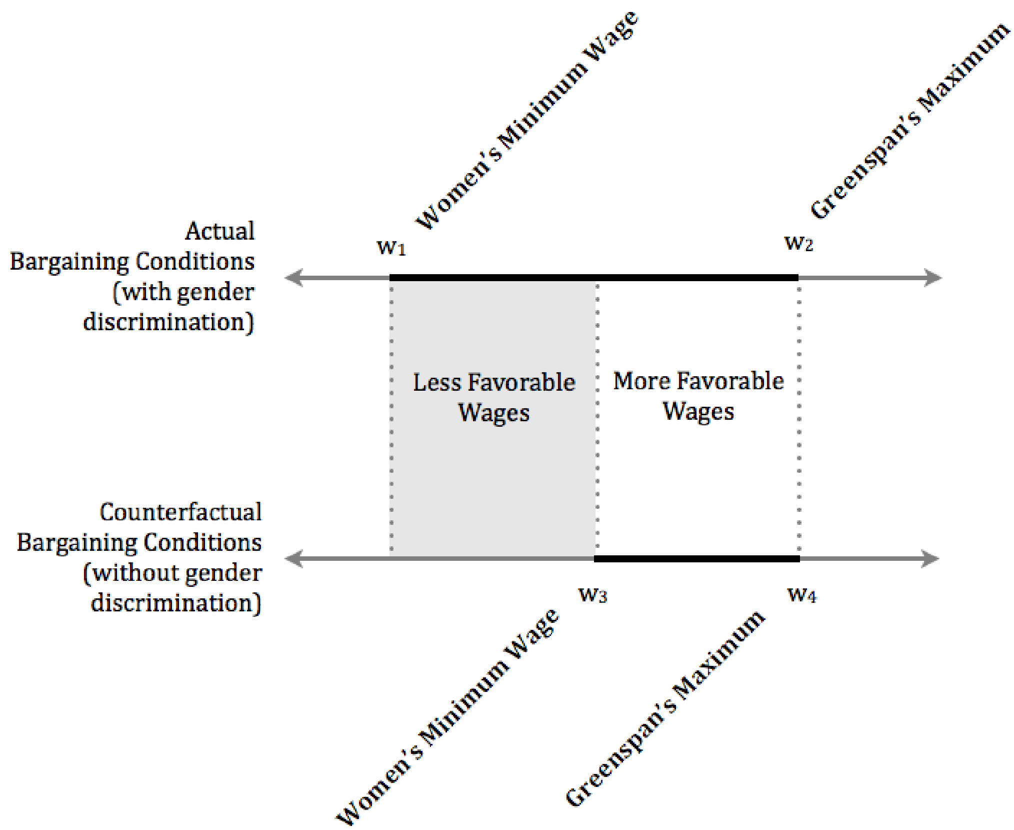
1) In the actual 1970s U.S. labor market, the minimum wage that would have made the female economists better off is equal to w1, where w1 is the opportunity cost of an employee's time (which includes foregone alternative employment options).

2) In the actual 1970s U.S. labor market, the maximum wage that would have made Townsend-Greenspan better off is equal to w2, where w2 is the marginal value to the firm provided by the female economist.

3) In a counter-factual 1970s U.S. society without gender discrimination, the minimum wage that would have made the female economists better off is equal to w3, where w3 is the opportunity cost of an employee's time. W1 is less than w3, because female economists have fewer alternative options in a society with gender discrimination. For this reason, they are willing to accept a lower wage from Townsend-Greenspan.

4) In a counter-factual 1970s U.S. society without gender discrimination, the maximum wage that would have made Townsend-Greenspan better off is equal to w4, where w4 is the marginal value to the firm provided by the female economist. I will assume that w4 is the same as w2, although this might not be the case if eliminating gender discrimination had large-scale effects on the broader economy.

Figure: Competitive Market Prices in Women's Labor



The female economist would not accept any wage between w1 and w3, if the pool of potential employers had non-discriminatory hiring policies. Wages between w1 and w3 would not adequately compensate for foregoing the opportunities at competing firms. In the actual society in which they lived, Greenspan and a female economist would have found it in their mutual interest to agree on a wage anywhere in the range w1-w2. In the counter-factual version of their society, they would have found it in their mutual interest to agree on a wage anywhere in the narrower range of w3-w4. The range w1-w3 is in their bargaining range in the actual society, but not in the counter-factual society. We can see that this range, w1-w3 includes prices for the female economist's labor that are more favorable to Greenspan than any in the range w3-w4. Greenspan enjoyed relatively favorable terms of trade if the price of the female economist's labor was in the range w1-w3, which I call the range of "Less Favorable Wages."

This argument explains Greenspan's decision to make a low wage offer to female economists but not to males. It also explains the female economist's decision to accept Greenspan's offer, which otherwise would be quite puzzling. Why would she accept employment with Townsend-Greenspan, knowing that competing firms pay higher wages to her male peers? Female economists faced exactly this scenario, and some still accepted offers to work for Townsend-Greenspan. It seems implausible that these women accepted Greenspan's offer due to ignorance about the superior opportunities at competing firms (after all, they were excellent economists). More plausibly, it was a fully informed and rational decision for a female economist to accept Greenspan's offer because she was unlikely to receive offers at competing firms, due to their discriminatory hiring practices. It would *not* be an informed, rational decision for a similarly qualified male economist to accept a low-wage offer from Townsend-Greenspan, in light of the opportunities available for him at competing firms.

In sum, the analysis of the Greenspan case has illustrated several points about discrimination and its effects upon labor markets. From Greenspan's observations about this particular segment of the labor market, we can infer that his peer employers engaged in discriminatory decision-making against female workers. Discriminatory hiring was not in the interest of the employers' firms, and it created inefficiency in the labor market that Greenspan could use to the advantage of his own firm. The Greenspan case also illuminates the harms of discrimination. Employers' discrimination had directly harmful effects on women's opportunities for employment, and indirectly harmful effects on women's wages. However, the paper will further argue that it is inadequate to understand Greenspan's hiring policy, and the wage gap more generally, purely as a problem of discrimination. In the next part of the paper, I will argue that we should describe Greenspan's hiring policy as exploitative.

Part 3: A Conception of Exploitative Trade

Greenspan's story has a boastful tone as he touts the superiority of his hiring policy, both for his own firm and for his female employees. On the definition of discrimination I have provided, Greenspan's hiring policy of targeting women for low-paying positions is not discriminatory. Unlike his competitors' policies, Greenspan's hiring policy does not make a harmful error in judgment about women's qualifications. Indeed, his attentiveness to women's qualifications, and his strategic targeting of women in hiring decisions, results in more employment opportunities for female economists.[26] Nevertheless, his female employees still have an important moral complaint to press against Greenspan. This section provides a conception of exploitation that explains how

[26] Greenspan claims that his hiring policy "benefited" women, but he fails to specify his point of comparison. It is a weak argument that Greenspan's policy benefited women because he did not discriminate against them, because failing to harm is not a benefit. A stronger claim is that Greenspan's policy targeted women for low-paying positions, and thereby hired more women than he would have done using a "gender blind" hiring policy.

Greenspan wrongs his female employees: without harming them, but rather by treating them unfairly.

The Reasons for the Women's Agreement. Greenspan's female employees accepted positions at his firm because it was in their interests to do so, in light of their limited opportunities elsewhere. As argued in the section above, accepting Greenspan's low wage offer was in the women's best interests *because* of the fact that they experienced discrimination at other firms. If the women had not suffered discrimination, they would have had good reason either to insist upon a higher wage from Townsend-Greenspan (between w3-w4) or pursue opportunities elsewhere. Female economists' experience of discrimination is a necessary part of the explanation of why it was rational for them to accept Greenspan's low wage offer.

Of course, women's experience of discrimination is not the only reason they agree to accept Greenspan's offer. Among other reasons, the women were willing to accept an offer at Townsend-Greenspan because they had an inclination to work in the profession. Without this inclination, the women would not have good reasons to accept Greenspan's low wage over offer. For an individual with extreme distaste for the profession, however, even a high wage offer could be unacceptable. Our interest is in understanding why a person agrees to trade on *unfavorable terms* specifically. Discrimination is significant for understanding our case because it explains why a person would accept an unfavorable offer when she otherwise would insist upon a more favorable one.

As an explanatory reason, discrimination is also significant because individuals who suffer from it are experiencing a moral wrong. I argue that exploitation occurs when a person experiences wrongdoing that explains why he or she accepts unfavorable terms of trade (which would not be accepted otherwise). This argument joins a broader class of theories of exploitation that depend on a person's experience of wrongdoing. On Hillel Steiner's view, exploitation occurs when there is a violation of a person's rights, and the rights-violation affects the terms of a subsequent trade.[27] On Ruth Sample's view, exploitation occurs when there is background injustice. In the context of injustice, economic exchanges can be exploitative in virtue of being disrespectful to one of the participants.[28] If precisely the same trades were to take place within a fully just society, these trades could be non-exploitative in virtue of not being disrespectful.

There is a powerful objection to the class of theories of exploitation that depend upon an individual's experience of wrongdoing. The objection is that these theories fail to explain why an individual's prior experience of wrongdoing should have any bearing on whether a trade is unfair.[29] If we judge that a trade is non-exploitative on the basis of facts about its terms, the individuals' options, and other presently observable features of the trade, it is arguable that the revelation of further details about one participant's prior experiences ought not to affect our original judgment. Any new theory of exploitation within this broader class of theories must address the objection that an individual's experience of wrongdoing is irrelevant.

On my theory of exploitation, an individual's experience of wrongdoing is relevant under certain conditions. It is relevant insofar as the wrongdoing is ongoing, and insofar as the wrongdoing explains why the exploitee agrees to accept unfavorable terms

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[27] Hillel Steiner, "A Liberal Theory of Exploitation," *Ethics* 94 (1984): 225-241.

[28] Ruth Sample, *Exploitation: What It Is and Why It's Wrong* (Lanham, Md.: Rowman & Littlefield, 2003).

[29] Mikhail Valdman's suggestion that these views have a problematic feature of "history dependence" informs my discussion here, "Exploitation and Injustice," *Social Theory and Practice* 34 (2008): 551-572, pp. 571-2

of trade. Exploitation, on my theory, can only occur when there are persons bound to act in fulfillment of their *present* duties. If an individual has suffered a wrong, such as a past injustice, it is not always the case that there are duty-bearers bound to act in the present. For my theory of exploitation to apply, a wronged individual must have an active, unmet claim on others to fulfill their duties to her in the present day. In addition, this unmet claim must have relevance for explaining the difference between the actual terms of trade and the counter-factual term. That is, the exploitee's unmet claim must explain why the exploitee agrees to accept unfavorable terms of trade, when she otherwise would agree to trade on more favorable terms.

In the next section, I will present a hypothetical case to explain the relevance of these conditions. I will present a case in which a person has a claim for some individuals in a group to act, and there is widespread non-compliance with this duty among the group's members. This hypothetical case is modeled upon the situation of women who suffer from discrimination and who have claims for some individuals in society to act to end the practice. Adopting a hypothetical case allows me to explain my theory of exploitation, without assuming that readers have been fully convinced by the paper's theory of discrimination as a practice of harmful, correlated errors in judgment. The paper's theories of discrimination and exploitation are conceptually independent of one another, although both are necessary in order to understand the Greenspan case and the wage gap more generally.

Duties and Claims of Community Membership. A small town has an understaffed volunteer fire department, which means that there is a high risk of avoidable fire damage to the part of town farthest from the fire station. At a town meeting, some community members propose to raise taxes to pay for improved fire protection. The community members who live near the fire station successfully block these efforts and nothing else is done about the situation. When a major fire breaks out, many community members suffer damage to their homes. As the fire victims start rebuilding their homes, they buy building materials from their own town's hardware store and from the hardware stores in the broader region. In response to the spike in demand, hardware stores in neighboring towns raise prices.[30] The town's hardware storeowner considers whether he should raise his prices to the same levels. He asks himself, "What prices should I charge to the members of my community who are rebuilding their homes?"

One view is that he should not raise his prices for these particular customers, because he has a duty to restore distributional equality within his community. On this view, the fire victims have claims for full compensation, and the hardware store owner has a duty of justice to help meet their claims. If we follow this line of argument, then we conclude that the hardware store owner should, if anything, greatly *lower* his prices for the fire victims. This follows because the market is an important site of action for an individual to fulfill his duties of justice.

But this is an invalid conclusion for two reasons. First, lowering the price of building materials is a mechanism of transferring resources to the victims, and resource transfers alone are not an adequate response to the victims' claims. Even after the victims are financially compensated, there remains the underlying problem that the community continues to provide them with inadequate fire protection. This underlying problem can

[30] The region's hardware storeowners might raise prices due to immediate supply constraints. I presume they raise prices because the present group of customers seems willing to pay more.

be addressed only through decision-making at the community level. Second, even if resource transfers were an adequate form of response to the victims' claims, it is too quick to conclude that the hardware storeowner has a duty to make these transfers in virtue of his community membership. The community has a duty to the fire victims and this duty falls upon the community's members. However, it does not follow from this that the duty falls upon the storeowner in particular.

To answer the storeowner's question of what he should do, it is important to distinguish between his duties of community membership and his duties in virtue of trading with the fire victims. The former are discussed here, and the latter will be discussed in the paper's next sections. I propose that the storeowner's duties as a community member are to make suitable contributions towards important community-level responsibilities. He has a duty to make a contribution that is suitable to his abilities and talents as a community member. The kinds of actions that would fulfill his civic duties include volunteering with the fire department, paying taxes, and advocating for morally necessary reforms to town policy. To fulfill any community-level responsibility, some members will have to make contributions. However, it does not follow that any particular member has a duty to contribute to any specific community responsibility, such as procuring adequate fire protection for all community members or providing financial transfers to the fire victims.

For my purposes in this paper, it is not essential to precisely specify the reasons why the storeowner has civic duties and the fire victims have corresponding claims. To take one possibility, the town's founding charter could stipulate that the town's members have moral and legal rights to adequate fire protection. If a fire victim has suffered a violation of his rights, then he has an unmet claim for his society to do their duty in protecting his rights. But one instead might believe that the fire victims have unmet claims for beneficence or compassion from their fellow community members, rather than rights-claims or claims of justice. What matters here is that the fire victims have been wronged, and there are community members with corresponding duties to act in the present. The fire victims have claims for some members of the community to act on their duties to provide adequate fire protection and compensation for the fire damage. Nevertheless, the hardware storeowner does not necessarily have duties to the fire victims in virtue of his role as a community member. He still faces the question of how he should trade with the fire victims.

The Problem of Unfair Trade. In markets, prices change because many people agree to trade goods and services on new terms. Due to the spike in demand from the fire victims rebuilding their homes, the region's hardware stores have increased the market prices of home construction materials. The local hardware storeowners have made offers to sell home construction materials at new, higher prices, and the fire victims have agreed to pay them. Some other customers, who did not suffer from fire damage, might also agree to pay these new prices rather than put off their non-urgent building projects. This section will argue that the hardware storeowner's new prices constitute exploitative trade with the fire victims, but they are not exploitative of his other customers who do not have unmet claims.

I offer the following definition of exploitation. Exploitative trade occurs when Party B has an unmet claim, she exchanges goods or services with Party A on terms that both rationally accept, and Party B's unmet claim influences their agreed-upon terms of trade. Specifically, they agree to terms of trade that are more favorable to Party A and less favorable to Party B than they would be in the absence of Party A's unmet claim. To apply the definition to the case, we view the hardware storeowner as "Party A" and a fire victim as "Party B." After the fire, the victim has a powerful desire to start rebuilding her home and she agrees to trade at the new, higher prices that the storeowner offers. Prior to the fire, the victim would agree to purchase home construction materials at lower prices and she would decline to pay more. In short, the victim is ordinarily a price-sensitive consumer of home construction materials, but due to her experience of fire damages she is willing to pay more.

The fire victims are not the storeowner's only customers, and those other customers also have the choice to accept or decline the new higher prices in home construction materials. Some of the customers are willing to pay the higher market prices, although they would prefer to pay less. These other customers would have continued to pay the lower market prices, if not for the increased demand from the fire victims. Nevertheless, there is a moral difference between these two groups, the fire victims and the other customers, despite the fact that they both accept the same higher prices.

The fire victim's willingness to pay higher prices is explained by her urgent desire to rebuild her home. Having to rebuild one's home after damage is, understandably, a psychologically powerful motivation. She has a more urgent desire for home construction materials than she would have otherwise, and she experiences the urgency of her desire as a restriction upon her choices to trade. It restricts her choices because she will not decline to pay high prices for home construction materials, in the hope that prices eventually will fall to their original levels. However, it is important to note that it is only the urgency of her desire that explains her willingness to pay more: the fire victim has a place to live, and she is not otherwise badly off. Other customers also may have urgent desires for home construction materials, but they simply wish to get on with their home renovation projects regardless of the additional costs. Their personal tendency towards impatience might be a vulnerability, or a defect in their agency, but it is not a constraint for which others are morally responsible.

Recall that the community is morally responsible for the fire victim's unmet claim, because it failed to provide adequate protection against fire damage. The fire victim has more restricted choices than she ought to have, due to others' failure to do their duties by her. In my view, this is why her restricted choice amounts to a restriction upon her freedom.[31] The difference between the fire victims and the other customs is that the fire victims experience *their own* unmet claims as a restriction upon their freedom. By contrast, the fire victims' claims only have the effect of restricting the choices of the other customers, via the increased demand in home construction materials. These restrictions do not influence their freedom.

The new market prices represent terms of trade that are more favorable to the hardware storeowner, and less favorable to the customers purchasing building materials. The hardware storeowner can charge the fire victims more than the old market prices for building materials and, due to their reasons for rebuilding, they will accept those new terms. These unfavorable terms of trade are unfair to the fire victims, and I call this an instance of exploitative trade. The hardware storeowner should offer the terms of a counterfactual trade that he and she *would have agreed to*, if the community had met her

[31] Since I cannot defend this theory of freedom here, it is assumed for the purpose of this paper's argument.

claim. These are the terms she would have accepted if she, like many other purchasers of building materials, could pursue her projects without great urgency. The terms of this trade are the old market prices for building materials, before the fire caused avoidable damage to many people's homes.

Non-ideal Duties and Responsibility for Trade. I have argued that the new market prices represent an unfair trade, and the old market prices represent a non-exploitative trade. The hardware storeowner's trades with the fire victims are different from his trades with the other customers, even when all these trades all take place on the same terms. Trade with the fire victims requires special consideration, because trade with these individuals has the potential to be exploitative. I do not think it is wrong to trade with a person who merely has the *potential* to be exploited through trade. Rather, it is unfair to trade with her on terms that actually are exploitative. If the hardware storeowner were to engage in exploitative trade, he would enjoy greater value from its relatively favorable terms. This is greater value that the fire victim would have insisted upon for herself in their agreement to trade, were it not for a constraint she should not have experienced at all. Fair terms, specifically the old market prices, do not provide him with additional value from trade at the fire victims' expense.

An important objection emerges out of an altered case, in which there is a second hardware storeowner who regularly charges high prices to a small group of customers. There is nothing special about this store or its goods, but it has a small group of customers who do not mind paying more. His high prices become the general market conditions after the fire takes place, and new customers come into his store. As with the first storeowner, the paper's theory of exploitation produces the conclusion that these high prices are exploitative when offered to fire victims. The fire victims are only willing to agree to these terms because they have unmet claims. The difficulty for the theory comes from the fact that trade between the second hardware storeowner and the fire victims *would not occur* in the counter-factual. In the absence of the fire, the victims would not pay the higher prices and the storeowner would not offer the lower prices. These cases illustrate a limitation of the theory of exploitation, in terms of the normative guidance it can offer for some cases. It can recommend avoiding exploitative trade when there is a clear alternative of fair trade, but by itself it does not provide definitive guidance when this alternative is absent.[32]

Our first hardware storeowner might object to my argument by noting that there are other parties responsible for the fire victims' unmet claims. This is an important observation. Some members of the community resisted efforts to adequately staff the fire department, because they did not want to pay for the expense. These people are most responsible for the fire victims' unmet claims. The presence of other responsible parties indicates that, for any burdens the storeowner faces in fulfilling his duties to trade fairly, his burdens should be shared with others. These burdens ought to be shared between persons who have enabled the possibility of exploitative trade and persons who actually engage in exploitative trade.[33]

I have used a simplified case to present my conception of exploitation and to sketch a multi-layered account of individuals' duties and responsibilities. Often there are

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[32] This is not to say that a theory of exploitation cannot be useful in producing such guidance, but merely that it does not offer such advice on its own. I thank an anonymous reviewer for proposing the case.

[33] I cannot develop this point here, but the ideal burden-sharing arrangement depends upon the costs to the agents as well as the magnitude of the benefits the exploiter gains from unfair trade.

situations of widespread non-compliance with individuals' moral duties and, in these circumstances, the result is that some people will have unmet claims. In these situations, a market actor should ensure that he fulfills his duties of fairness to his trading partners. He ought to offer terms of trade that approximate what his trading partners would have chosen—offering the value of trade they would have enjoyed—if these trading partners had not had an unmet claim. Putting together the findings from Part 2 and 3: Alan Greenspan's unfavorable employment contracts are exploitative, and fair terms of trade are the terms the female workers would have accepted if they had not been wrongfully constrained by their experience of discrimination.

Part 4: What Should Alan Greenspan Have Done?

This paper has drawn a conceptual distinction between individuals' duties as economic actors, specifically their duties of non-discrimination and non-exploitation, and their duties as citizens. To illustrate how these duties fit together into a coherent set of normative recommendations, I propose ways that Alan Greenspan could have fulfilled his civic duties and his duties as an economic actor. To conclude the section, I will also defend my argument against two objections concerning the extent and grounding of Greenspan's duties to his female employees. These objections are 1) that merely extending opportunities to women is enough; and 2) that unequal pay is discriminatory and/or an injustice.

Greenspan's Duties and Responsibilities. First, I consider Greenspan's civic duties. Following from my definition of discrimination, Greenspan did not discriminate against female workers, because he did not make errors that were correlated with the errors of his peers. Indeed, Greenspan understood very well the errors in his peers' decision-making, and took care to avoid making them himself. However, this does not exhaust the scope of his duties with respect to the practice of discrimination within his society.

I believe that Greenspan also had positive duties as a citizen to help redress manifest injustices in his society, particularly to help redress the set of injustices that are perpetuated by his peers and that cannot be fully addressed by state regulation. Female workers' primary claims for non-discriminatory treatment are addressed to employers who discriminate against them, and Greenspan did not fall into this category. However, female employees also have secondary claims for assistance from citizens who are well-situated to help dismantle the practice. As a leader in the business community in the 1970s, Greenspan could have undertaken various attempts to make its beliefs and socially accepted patterns of behavior less prejudicial to women. He could have attempted to convince competing firms that their hiring practices were manifestly unjust. He could have pointed out that their hiring practices seemed to be economically inefficient, noting his own success in hiring highly qualified female workers. He could have publicly affirmed the qualifications of his female workers, setting them up as role models for the next generation of female economists. These are just a few possibilities.

It is not necessarily the case that Greenspan was obligated to direct his civic efforts towards gender discrimination, since the civic duty to undermine manifest injustice can be fulfilled in many different ways. Greenspan was similarly well situated to redress racial prejudice, class bias, and unaccommodating treatment of the disabled within his profession. There is no reason to believe that women should have taken priority over these other groups, who also suffer from manifest injustices in their society. If we view Greenspan's civic duties as limited, as I believe we must, then we could not fault him for choosing to meet other citizens' claims.

Consider if Greenspan had used his status in the business community to convince his colleagues to make greater accommodations for disabled employees. When confronted by a disabled person who still suffered from lack of accommodation within the business community, Greenspan would have had a compelling justification for not doing more to help: "It may be true that you continue to suffer from a manifest injustice, but I myself have performed my own limited duty as a citizen. Your complaint is with citizens who have been derelict in fulfilling their duties." Greenspan could have offered the same justification to other citizens, such as to women within the profession who suffered from discrimination: "It may be true that you suffer from discrimination, but I have already done my own civic duty." It is possible that Greenspan in fact made these contributions or similar contributions, although these efforts to redress manifest injustice were not reported in his memoirs. Presuming that Greenspan did not fulfill his civic duty in any of these possible ways, he has significant remedial responsibilities to compensate for his long-standing dereliction.

Second, Greenspan had duties that were specific to his role as an economic actor. As I argued in Part 2, Greenspan was engaged in trade on terms that were relatively favorable to him. His female employees had reasons to accept these relatively unfavorable terms, due to their experience of gender discrimination. Applying the conclusions from Part 3, we can see that Greenspan's trade with his female employees took place on exploitative terms, rather than the fair terms the women would have accepted if not for their unmet claims. What should Greenspan have done? Greenspan should have negotiated his female employees' employment contracts on more favorable terms, including higher wages and other benefits as well. Specifically, he should have provided his female employees with terms of employment that they would have chosen in a counter-factual market. In this counterfactual, women would not have suffered repeated exclusion from economic opportunities, and the market price of their labor would be higher. The prices in this counterfactual market are the fair price of the female economists' labor.

There are circumstances in which it is not economically feasible for an individual or business to pay above-market prices, such as in a market with intense competition on prices. In these kinds of circumstances constraining individuals' feasible choices, we can describe the duty to trade fairly with a disjunctive proposition. An individual can either trade on terms that are fair or he can trade unfairly and provide redress for his unavoidable wrongdoing. Redress might involve financial compensation at a later date, when it is more feasible for the individual to provide it. It might also involve non-financial contributions to try to lessen the burden on the exploited party, or public advocacy for others to help satisfy her unmet claim.

Greenspan's memoirs report that his firm was profitable, and so it seems feasible he could have paid his female employees higher wages. Since he did not pay fair wages, Greenspan had responsibilities to redress his unfair treatment of his employees. This duty of redress is owed *particularly* to the female employees he treated unfairly. He could have provided a lump sum payment to his former employees, as compensation for their unfair wages throughout their employment at Townsend-Greenspan. If this were infeasible, redress could have taken different forms. For instance, he could have personally mentored his female employees and instituted programs at his firm to provide support for their career advancement.

Objection 1: Merely Extending Opportunities to Women is Enough. One objection to my argument is that Alan Greenspan already did enough for women, through the pursuit of his own self-interest and through his superior understanding of the dynamics of the labor market. If Greenspan had attempted to "trade fairly," by paying more to each female employees, he would have hired fewer female employees and thereby achieved less good for women overall.

This objection puts a great deal of faith in the power of markets and savvy businesspeople to solve problems like discrimination in labor markets. In a perfectly competitive market, it would not be possible for employers to participate in a practice of discrimination against women, because the high costs of their correlated errors would drive their businesses out of the market. However, imperfect competition is the norm rather than the exception within labor markets, and imperfectly competitive markets permit much greater differentiation amongst economic actors in their decision-making, as well as much greater scope for correlated errors. Greenspan's actions should be evaluated in the context of others' non-compliance with their own duties as economic actors. In this context, there are dual dangers of participation in a practice of discrimination and of engagement in exploitative trade.

The objection could be pressed that Greenspan's hiring policy extended economic opportunities to women who otherwise might have had none. His policy had a beneficial effect for these women, and it might have contributed to broader social changes over time. However, it does not follow from this that Greenspan fulfilled his duties as a citizen or his duties of fairness as a market actor. Greenspan should have done more to fulfill his civic duty to undermine manifest injustices in his society, such as addressing the biases of his peers. As for Greenspan's duties as a market actor, Townsend-Greenspan appears to have had a sufficient profit margin to pay its female employees a higher wage, without reducing its staff (this is possible because the market is not perfectly competitive). While Greenspan may have had sufficient profit margins to trade fairly, it is not *always* feasible for an economic actor to fulfill his duties of fairness in trade, without suffering other losses. In these cases, we can view a market actor's duties as disjunctive: to trade fairly or to trade unfairly, while providing redress at the earliest opportunity.

Objection 2: Unequal Pay is Discriminatory and/or an Injustice. An alternative interpretation of Alan Greenspan's hiring policy is much more critical of his behavior. According to the standard of "equal pay for equal work," an employer who offers women unequal pay for equal work is engaged in a discriminatory act and/or an unjust act. Thus, Greenspan himself engaged in discrimination, because he paid men and women unequal amounts for the same work.

This paper does not offer a complete theory of discrimination, which would have scope over all possible cases. Rather, it takes the view that the term "discrimination" can have several meanings. Given plural meanings of the term "discrimination," however, the statement that Greenspan engaged in discrimination could be misleading. If Alan Greenspan discriminates against women, and his competitors also discriminate against women, the term "discrimination" fails to convey important differences in how they have acted. The same problem arises with the statement that Alan Greenspan has committed an "injustice," because this fails to convey that Greenspan's unjust act is different from his competitors' actions.

The paper has not provided a ranking of the moral wrongness of discrimination (as it understands the term), and other problematic acts undertaken by employers. However, it has illustrated an empirical relationship between Greenspan's success in offering a low wage to his female employees and his competitors' discriminatory hiring practices. As the paper has argued, Greenspan could not have successfully offered low wages to the female economists if they had not experienced a restriction of their opportunities elsewhere. His competitors' harmful, erroneous judgments, therefore, enabled Greenspan to discriminate according to the "unequal pay for equal work" standard. In sum, his competitors' form of discrimination is the root of other wrongs, including exploitation and the violation of the "equal pay for equal work" standard. I suggest that discrimination as a practice of harmful, mistaken judgments is a particularly bad form of discrimination, due to this empirical relationship, and it ought to be noted as such in our language.

Conclusion

This paper has described two important duties of economic actors: duties of non-discrimination and duties of non-exploitation. To fulfill both kinds of duties, an economic actor needs to take account of how his peers make decisions. It is acceptable for an economic actor to make random errors in the pursuit of his own interests, but he should make sure that his errors are not correlated with the errors of his peers. Economic actors should not participate in a practice of discrimination that harms individuals by repeatedly denying them opportunities to engage in mutually beneficial exchange. When a practice of discrimination exists, it creates opportunities for exploitative trade with persons who suffer the harmful effects of discrimination. Insofar as this form of discrimination restricts opportunities without directly affecting talents and skills, it is an important and likely route for exploitation to take hold within the labor market.

My analysis of the Greenspan case illustrates some of the practical difficulties associated with normative recommendations for individuals acting in non-ideal circumstances. Gender discrimination is a socially complex phenomenon that is difficult to understand at an empirical level. Individuals can unknowingly perpetuate women's repeated experience of economic exclusion, if they lack knowledge of other actors' decision-making processes. It is also difficult for an individual to recognize the diffuse effects of lingering social problems, such as gender discrimination, on his own economic choices. Finally, this paper has not resolved the question of the comparative significance of individuals' duties as economic actors and as civic actors, for closing the wage gap. However, this question will have to await resolution of empirical disagreements regarding the comparative significance of the wage gap's multiple causes.[34]

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