

Exploitation and the Vulnerability Clause

Hallie Liberto

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Abstract What conditions of vulnerability must an individual face in order that we might ever correctly say that she or he has been wrongfully exploited? Mikhail Valdman has recently argued that wrongful exploitation is the extraction of excessive benefits from someone who cannot reasonably refuse one's offer. So, 'being unable to reasonably refuse an offer' is Valdman's answer to this question. I will argue that this answer is too narrow, but that other competing answers, like Alan Wertheimer's, are too broad. I propose a new answer, a "vulnerability clause" to partially comprise a theory of wrongful exploitation. In so doing, I appeal to Marilyn Frye's account of oppression and take guidance from her inclusion and exclusion criteria.

Keywords Exploitation · Vulnerability · Oppression · Alan Wertheimer · Mikhail Valdman · Marilyn Frye

Exploitation theorists usually stipulate two necessary and jointly sufficient conditions for an act being one of wrongful exploitation. There must be something morally problematic about the gain that the exploiter achieves (e.g. the gain is unfair or is motivated by opportunism). One might call this the "Advantage Clause." In addition, there is some predicament that must characterize the circumstances of the exploited persons (e.g. a condition of desperation or a state of being without options). I will call this the "Vulnerability Clause." The scope of this paper is limited to the second of these clauses; I am concerned with the conditions of vulnerability an individual must confront in order that we might ever correctly say that she or he has been wrongfully exploited. Such a condition will only be a necessary and not a sufficient condition of wrongful exploitation. I will say nothing about the particular "Advantage Clause" with which my account need be paired to result in a complete theory of wrongful exploitation. Mikhail Valdman has recently argued that wrongful exploitation is the extraction of excessive benefits from someone who cannot reasonably refuse one's offer. So, 'being without the ability to reasonably refuse an offer' is Valdman's Vulnerability Clause. I will argue that this clause is too narrow, but that other competing theories, like Alan Wertheimer's, are too broad. I appeal to Marilyn Frye's account of oppression and propose

H. Liberto (✉)
Department of Philosophy, University of Connecticut, 101 Manchester Hall, 344 Mansfield Road, Storrs,
CT 06269-1054, USA
e-mail: hallie.liberto@uconn.edu

that the inclusion and exclusion conditions she describes can serve as accurate boundaries for a vulnerability clause within a theory of wrongful exploitation.

In Section 1 I describe Valdman's argument from the best explanation for his theory of exploitation, an argument that reveals problems with a variety of popular competing accounts, such as those of Allen Wood and Ruth Sample. I then outline Wertheimer's account of exploitation, and describe the difference between what Wertheimer and Valdman take to be the unique wrong of exploitation. In Section 2 I argue that Valdman's Vulnerability Clause is too narrow and is not capable of including many cases of wrongful exploitation. However, I also concede that Wertheimer and Wood's vulnerability clauses allow cases to be ones of wrongful exploitation that, in fact, should be excluded. In Section 3 I present Frye's account of oppression and propose borrowing aspects of Frye's inclusion and exclusion criteria of oppression as a Vulnerability Clause for wrongful exploitation. I explain its flexibility in accounting for a broad range of wrongfully exploitative acts. In Section 4 I show how this Vulnerability Clause accurately handles the cases presented thus far. I explain certain scenarios that will, surprisingly, be excluded from counting as wrongful exploitation given my proposed necessary condition on wrongful exploitation. I will then explain why we should welcome such exclusion.

1 Exploitation and the Antidote Case

Mikhail Valdman presents a case that he believes to be unarguably an instance of wrongful exploitation: Hiker A carries with him an antidote for a deadly poison contained in the venom of a snake living in the woods. Hiker A encounters Hiker B who has just been bitten by such a snake and who has no antidote with him. The market value of the antidote is \$10. However, A knows that B is worth a million dollars and, so, charges him a million dollars for the antidote. B unhappily accepts the terms of the transaction, uses the antidote, and lives.

Perhaps Hiker A wrongly exploits Hiker B because he treats him as a mere means to his own end. Ruth Sample suggests that we treat another as a mere means if we do not take his interests into account (Sample 2003, 70–81). However, Valdman points out that we can easily imagine a slightly different version of the antidote case in which Hiker A thinks to leave Hiker B with a little money so that Hiker B can continue living a decent life, rather than extracting the whole million in the exchange. Certainly, thinks Valdman, we would still call this modified Antidote case an instance of wrongful exploitation, even though Hiker A takes Hiker B's interests into account. So, "having one's ends ignored" is too strict of a Vulnerability Clause. There will be some cases of wrongful exploitation that it leaves out.

On Allen Wood's account of exploitation, wrongful exploitation occurs when one person takes opportunistic advantage of another person's vulnerabilities (1995, pp. 150–1; see also Valdman 2009, p. 5). On this account, the Vulnerability Clause is very broad; any vulnerability meets the criterion. Valdman suggests that, on Wood's account, Hiker A would be wrongfully exploiting Hiker B even if Hiker A did not demand any money for the antidote, but rescued Hiker B *only* for the sake of the pleasure that Hiker A takes in rescuing others. Valdman does not deny that there might be something problematic about Hiker A's character in such a case, but points out that we cannot say that Hiker A *wrongs* Hiker B, no matter his motivation in this rescue scenario.

Valdman offers the following theory of wrongful exploitation: one wrongly exploits another if and only if one extracts excessive benefits from someone who cannot, or cannot reasonably, refuse one's offer (2009, p. 9). Valdman believes that only his own account of wrongful exploitation picks out what is wrong in the Antidote Case. Hiker B cannot reasonably refuse

Hiker A's offer, as the poisonous venom is deadly. Hiker A extracts benefits from Hiker B in excess. If he had only asked for \$10, his extraction would not have been wrong. At one million dollars, the extraction is wrong.

Valdman recognizes that his account of the wrongness of exploitation is much like Alan Wertheimer's account. Unlike Valdman, Wertheimer makes exploitation a thick term, describing exploitation as, among other things, a kind of unfairness, which is always morally problematic.¹ However, what is wrongful exploitation for Valdman, and what is exploitation at all for Wertheimer, look much the same. After all, Valdman thinks that wrongful exploitation involves the extraction of "excessive benefits," and "excessive benefits" sound an awful lot like "unfair benefits." In what remains of this Section I will highlight what Valdman takes to be the important difference between his and Wertheimer's accounts.

According to Wertheimer, A exploits B when A transacts with B to A's advantage in a way that is unfair to B (1996, p. 16). Like with Valdman's theory, exploitation may be harmful, neutral, or beneficial to B. Mutually beneficial exploitation occurs when both A and B benefit from the transaction, compared to what they would have been left with if they did not transact, but A benefits *unfairly*. How is this unfairness measured?

Wertheimer thinks that there is a point or a range of points of agreement at which a transaction is fair. Exploitation, for Wertheimer, is measured by the distance between the point of fairness, otherwise called the "normative baseline," and the actual point of agreement. How is the normative baseline determined? Wertheimer considers and rejects a variety of possibilities.² He ultimately suggests that the best method for determining a normative baseline is to consider what two good friends would do if one was selling an item or service to the other, and neither was rushed or desperate for the sale.

The difference between Wertheimer and Valdman's accounts of exploitation is that Valdman thinks that in order for an agreement that diverges from the normative baseline of a fair transaction to be wrongful, it must be the case that the exploited party had no reasonable way of refusing the offer. Valdman thinks that for this condition to be met, one must have an urgent need that can only be satisfied by a monopolist. That is, the exploited person must have no other or better option for transacting, and it must be the case that she truly needs to transact at all. Valdman allows one other way in which someone might lack the ability to reasonably refuse an offer, and that is if one has some compulsion or addiction that internally controls his behavior: like that had by a compulsive gambler (2009, p. 10).

Valdman thinks that his proposed condition on wrongful exploitation sets his theory apart from Wertheimer's in an important way. On Wertheimer's account, an individual might *let* himself be exploited even though he has no urgent need to enter into the transaction. Valdman

¹ Goodin (1987) does the same as Wertheimer in this regard.

² For instance, some might be tempted to say that the normative baseline for a fair agreement is at some half-way point between people's reservation prices. The idea here is that people should benefit equally in a fair transaction. However, this cannot be right, since there are all sorts of clearly exploitative cases in which the exploited party actually benefits more than his or her exploiter. Consider the Antidote Case itself. Hiker A takes unfair advantage of Hiker B, even though Hiker B benefits more from the transaction than Hiker A, that is, A merely gets money, B gets his life.

Perhaps the normative baseline for a fair transaction is some function of the background conditions, or starting points of the agents in the trade? Wertheimer points out that this account is also implausible. An exploited person might be much wealthier and more privileged than the person who exploits him. Imagine a case in which a poor shop owner raises his price exorbitantly for snow shovels on the day of a storm on which customers' cars are stuck in the snow bank on the shop owner's block. The customers might be wealthy, and paying ten times the normal amount for a snow shovel might not hurt their budgets in any significant way. However, these customers are, nonetheless, exploited by the poor shop owner.

thinks that we cannot call such exploitation wrongful when the exploited party “lets himself be used.”

To wrongly exploit someone is to *extract* excessive benefits from him—it is to use the fact that his back is to the wall, so to speak, to get him to accept lopsided and outrageous terms of exchange. The special wrongness of doing so is not captured by a view that considers all instances of excessive gain to involve wrongful exploitation. (2009, p. 10)

For instance, imagine a car seller who knows that he could get a better deal for his car than what the buyer is offering, but is lazy and doesn’t want to hunt around. Robert Goodin agrees; he says, “We would not, I think, want to say that absolutely everyone who has ever driven a bad bargain is thereby necessarily [wrongfully] exploited. Some people just cannot be bothered to shop around for the best price available, and therefore end up paying more than is strictly necessary for their goods and services.”³ Valdman thinks that it is a disadvantage of Wertheimer’s account of exploitation that such a case would be considered *wrongful* exploitation. So, in summary, Valdman proposes a Vulnerability Clause, and Wertheimer does not.

2 Exploitation and Reasonable Alternatives

Both Goodin and Valdman’s complaint against calling the lazy person, unwilling to investigate his options, a victim of wrongful exploitation is very reasonable. Yet, sometimes agreements are made between individuals such that a person is exploited even though he can reasonably refuse an offer, and that exploitation may still be wrongful exploitation. Before I launch into a short series of counterexamples to Valdman’s Vulnerability Clause, it is important that I make the best case for Valdman possible, ensuring that I am not leveraging an attack against a straw man.

What does it mean to have “reasonable” alternatives? Obviously, Hiker B in the Antidote Case has no reasonable alternatives; his only alternative to paying Hiker A is to face death. We could interpret “reasonably” very narrowly and assume Valdman means alternatives that *no* reasonable person would accept over the terms of an offer (e.g. death, bodily injury, or large-scale material loss). However, it would be more fair to Valdman to assume that an alternative might be rendered unreasonable in virtue of a strongly held conviction on the part of the exploited person that his or her options were unreasonable. Consider the following case that I have presented elsewhere in which an exploited person holds the belief that his exploiter must be giving him a fair price.

Perhaps the stranger is a religious minister, and the individual is a lay person of that religion, though not in the minister’s own congregation (hence, the status of a stranger). If the minister is selling a piece of property and offers a price to the lay person, the lay person will assume that the minister is attempting to be good and fair, and is not just attempting to maximize his own gains... Any advantage that the minister attempts to secure in the transaction over the lay person is exploitative. (Liberto 2013, p. 282)

Imagine that the minister in this scenario sells a house to the lay-person for an exorbitant price. The lay-person certainly has alternatives. Namely, he could buy a different house of a similar size in a similar neighborhood at a fair price. Let us even say that he knows of available houses and knows that they cost less. However, he holds the conviction that the price proposed by the minister is the fair price. Hence, he believes that buying an alternative house for less

³ Goodin (1987, p. 175). See footnote 1.

money would be unfair to the seller of that house. He does not think that it is reasonable to treat someone unfairly.

Either Valdman must say that the minister/lay-person case is not one of wrongful exploitation, or he must say that what counts as a reasonable option depends, to some degree, on the convictions of the exploited person. Since the minister/lay-person case seems so clearly to be a case of wrongful exploitation, I will assume the latter. “Reasonable” alternatives can be constrained by the convictions held by the exploited. Even on this charitable reading of the clause, there are still cases in which wrongful exploitation occurs wherein the exploited person has reasonable alternatives.

The following case I will call *Poor Student Renter*: Imagine that a poor college student moves to his college town and seeks an apartment to rent for the academic year. The college student comes from a bad neighborhood—perhaps he is paying for school with a scholarship. His landlord, who has learned to recruit scholarship student renters for these reasons, guesses that the student is used to living in rather rough conditions, and so does not put the sort of money and upkeep into the apartment that he normally would. The poor student has many reasonable options available to him, he could do his due diligence and compare apartments, but he does not have the background to know that he is getting a bad deal. Once lodged in the apartment, he could demand better treatment. However, he doesn’t have experience calling a landlord to demand better treatment, because his mother was always so far behind on paying rent that neither she nor he would have ever dreamed of calling and making demands of their landlord. He knows this is one way of solving the problem, but due to this lack of experience, he is shy about making such a phone call. Despite being terribly bright in school, he is terribly uninformed as to what options are available to him. He could, with a little embarrassment, ask his friends how they have come by their superior housing, and so become informed. But he already feels a little insecure about his social status among his friends, does not want to betray his more modest budget, and so wants to avoid this embarrassment. The landlord continues to charge him too much for a bad apartment with bad upkeep, and the student continues to pay at this rate.

Now, in this case, the obstacles preventing the student from “shopping around” are not so great that we would want to call them *unreasonable* options. He could even be described as being somewhat negligent about doing his homework on housing. The student certainly holds no conviction that his alternatives are unreasonable. However, something about his circumstances, that he is accustomed to bad apartments, that he is shy about negotiating with a landlord, that it would involve a little bit of embarrassment to ask for advice from his better informed friends, that the landlord seeks out student renters with just such backgrounds, these are aspects of vulnerability that make his landlord’s exploitation of him seem wrongful.

Next, consider the following case which I will call *Lewd Promotion*: Employer, A, must make a decision about which of his equally qualified employees he will promote to a job with more pay and more responsibility. He does not have any reason relevant to the job at hand to prefer one candidate to any other. However, he does find Employee, B, very attractive, and tells her that she may have the promotion if she engages in sexual activity with him, but may keep her current position otherwise. Let us imagine that life will be very awkward for B in her current position after such an offer is refused. However, if she accepts the promotion, she will work from a different office, and will not have to see her employer except on the occasions of their sexual encounters. B could also find another job. However, the discomfort of her work environment should she refuse the offer, combined with the hassle of looking for new work, in addition to the extra money involved in the promotion, together motivates employee B to accept the conditions of this promotion.

This case certainly meets the conditions of Valdman's Advantage Clause. The benefits A extracts are excessive because A is securing sexual favors from B on top of the benefits that promoting an employee would ordinarily provide to him and the company. Also, B is vulnerable because she stands on the lower end of a power relationship with her employer. He has this sexual access to her because of their relative roles in the power structure. But it is also clear that B is, to a certain degree, letting herself be used. After all, she *does* have reasonable alternatives to the agreement; for one, she could stick with her current position and deal with the resulting awkwardness. Dealing with this sort of awkwardness is no *unreasonable* alternative. Most of us deal with some awkwardness at our work places from day to day. Also, she could look for another job. Assuming that the economy is not completely crummy, looking for a new job is not an unreasonable alternative. Despite these the other reasonable options available to B, A uses his power advantage to wrongfully exploit B by creating this condition for B's promotion.

Valdman might argue that this action wrongs Employee B, but not *in virtue of* the exploitative component of the agreement. Maybe the arrangement between the employer, A, and employee, B, is wrongful because it is coercive of B. Certainly, the case that I have described is very like other cases that would, doubtless, be coercive. For instance, if A had told B that she would be fired and black-listed from similar agencies if she did not have sex with him, then the proposal would be coercive. Even if A had made B's promotion conditional on sex, but knew that B was in desperate need of the higher pay, we might be tempted to call the scenario coercive. However, neither A's proposal nor the desperation of B's circumstances restricts B's choices in the case that I have described. A is not himself manipulating B's alternatives to his preferred scenario to make them worse.

The case of the *Poor Student Renter* and the case of *Lewd Promotion* both involve excessive benefits being reaped from individuals who do have other reasonable options available to them. They are otherwise paradigm cases of wrongful exploitation, in that they cannot be explained in terms of any other wrong. However, wrongful exploitation can also arise in actions that can also be described as other kinds of wrongs. For instance, Wertheimer, Goodin, Sample, Wood, and Valdman's theories all allow that theft and rape are wrongfully exploitative, even if those actions are also rights violations and harms. Both incidents of theft and rape are ones in which a perpetrator benefits unfairly, opportunistically, and (when the benefit can be measured quantitatively) excessively. Typically, the victims of thieves and rapists are left with no other option but to be subject to these crimes.

Yet, consider a case of rape, I will call it *Date Rape* in which a male college student, A, lures a female college student, B, away from a living-room house party and into an adjacent room to have sex with her. A forces himself on B, who plainly refuses her consent, both verbally and through some physical resistance, but A does not prevent B from screaming for help. They are close enough to other party-goers that both A and B know that a scream would be heard. Imagine that A knows that B has only recently been admitted into the social group, is still quite unknown to his friends and housemates, and worries that she still might face rejection from the group. For these reasons, A feels confident that B will not scream for help or make any other sort of fuss after the fact. Additionally, B knows the following: that there is a college culture such that it is presumed that women who drink at house parties and wear outfits such as the one B is wearing are interested in engaging in sexual activity; also, that many popular college athletes, friends or esteemed acquaintances of A and his housemates, have been accused of sexual misconduct, so A and his housemates think particularly ill of women who make accusations of this sort. B does not scream for help, though there is ample time throughout the course of the rape.

In this case, A harms B, A violates B's rights against bodily integrity violations, and A wrongfully exploits B. A gains sexual and power-related advantages from raping B without suffering any social or legal costs. He counts on features of B's psychology and environment to keep B from accessing her other options both during and after the rape. However, these other options are not unreasonable alternatives. After all, exclusion from a (bad) social group is not an unreasonable option, and B knows this. It is a striking feature of Valdman's Vulnerability Clause for wrongful exploitation that it is *more* narrow than any plausible Vulnerability Clause for rape. (I am assuming that *Date Rape* counts as an instance of rape on any plausible account of rape.)

Wertheimer's account of exploitation allows that all of these scenarios are ones of wrongful exploitation. Valdman's account of exploitation allows that these scenarios are ones of exploitation, but of wrongful exploitation. I have argued that these cases are, indeed, wrongfully exploitative, which means that Wertheimer's theory has at least three advantages over Valdman's: it can accommodate the wrongful exploitation that occurs when an advantage is extracted from someone with reasonable alternatives, when the extraction is only possible because the victim has: an upbringing that has habitualized him to the receipt of bad treatment; a subordinate position in a work-related power relationship; or a vulnerable physique in a culture that tolerates rape. Of course, Wertheimer's theory has the disadvantage of calling every case in which one person extracts an unfair advantage from another an act of wrongful exploitation, rendering Wertheimer's theory too broad, as Valdman suggests. I have merely shown that Valdman's "no reasonable alternatives" Vulnerability Clause is too narrow.

3 Exploitation and Oppression

On one hand we have Valdman's Vulnerability Clause, which is too strict, since it excludes cases like *Poor Student Renter*, *Lewd Promotion*, and *Date Rape* from being categorized as wrongful exploitation. On the other hand, we have Wertheimer's theory of wrongful exploitation that has no Vulnerability Clause at all. On Wertheimer's account, one who truly did *let* oneself be used even in the midst of perfectly reasonable options might count as being wrongfully exploited. Consider the case of the car-buyer who doesn't take the time to research his various options, but takes the first sale priced offered to him out of laziness. What makes this scenario that involves reasonable alternatives so different from *Poor Student Renter*, *Lewd Promotion*, and *Date Rape*?

Often one's alternatives are attached to burdens or inconveniences that are not so great that they render these options unreasonable. However, sometimes these inconveniences, these hassles, or emotional hurtles, help preserve structural inequalities that disadvantage the exploited. What we might say is that it is unfair that these hassles, however minor, are attached to someone's set of alternatives.

But what "Vulnerability Clause" could accommodate both the wrongful exploitation that occurs when the exploited truly have no reasonable alternatives as well the wrongful exploitation that occurs when the exploited find themselves in unfair pickles—pickles being situations in which all of the reasonable alternatives come attached to a hassle or a significant inconvenience—but is restricted enough to exclude cases in which someone genuinely *lets* himself be used? There is one account of this sort of vulnerability, though it is an account unrelated to the literature on exploitation, which might be flexible enough to satisfy these desiderata.

In her 1983 work, *The Politics of Reality*, Marilyn Frye proposed a theory of oppression. The theory has been developed, expanded, critiqued, and used by many philosophers since

then. However, I am not appealing to the theory in order to engage with it or in order to run an analysis on it as a theory of oppression. Maybe Frye gets it right, maybe she doesn't. From here on out when I refer to oppression, I am simply referring to the concept that Frye put forward. Nothing about my argument hinges on this concept, so useful for my discussion of exploitation, actually being a correct analysis of oppression.

Before Frye tells us what oppression is, she tells us what it is not. Oppression is not a boundary because sometimes social boundaries that exclude us really benefit us. For instance, racism in our current society results in white people feeling uncomfortable crossing the boundary into certain racial ghettos. However, overall, these community boundaries support white privilege. So, white people are not oppressed by these boundaries. Similarly, men are not oppressed by social conventions that might make them uncomfortable, like going to Laundromats or parks with their kids during the day. Really, they benefit from living in a society where domestic work is expected to be done by women.

Oppression is not a restriction because sometimes restrictions are things we would have ultimately chosen for ourselves for the sake of preserving a system that works to our own benefit. For instance, we may be occasionally inconvenienced by traffic restrictions. However, we are better off living in a society that has such restrictions. Similarly, men are not oppressed by social restrictions that deter them from crying in front of other men. That restriction might at times be inconvenient, but in general it promotes a social belief about male emotional strength and stoicism that promotes male's social power.

Instead she says,

Consider a birdcage. If you look very closely at just one wire in the cage, you cannot see the other wires. If your conception of what is before you is determined by this myopic focus, you could look at that one wire, up and down the length of it, and be unable to see why a bird would not just fly around the wire any time it wanted to go somewhere... It is only when you step back, stop looking at the wires one by one, microscopically, and take a macroscopic view of the whole cage, that you can see why the bird does not go anywhere; and then you will see it in a moment. It will require no great subtlety of mental powers. It is perfectly obvious that the bird is surrounded by a network of systematically related barriers, no one of which would be the least hindrance to its flight, but which, by their relations to each other, are as confining as the solid walls of a dungeon. (1983, 5–6)

Frye goes on to apply her concept of oppression to a wide range of life circumstances. One is oppressed, of course, if one's options are all particularly devastating. Imagine woman who is being trafficked in a sex market who must perform ghastly services for clients, run away and risk being beaten or killed, or, if her escape is successful, return home to a community who would shun her for being tainted by these experiences. This woman is oppressed; one need not step back too far to see the cage that she is in.

However, Frye would also allow that a prostitute who was lured into the profession as a young run-away and now is not educated enough to find other, decent employment might be oppressed. Sure, she could go back to grade school, start applying for little jobs that would begin to fill her resume, etc. But where to start? And what if leaving her prostitution ring also meant leaving the place she calls home (perhaps the house our apartment where her pimp lives)? These are all reasonable alternatives, but she lives in a world so removed from these alternatives that pursuing any one of them is scary. Further, the various barriers (including her isolation from a world in which these alternatives would *feel* like live options) are systematically related. Her pimp knew what he was doing when he lured her into the profession at a young age, when he kept her uneducated and convinced her that the world, without his protection, is a scary place.

Finally, imagine a woman who, on her walk home from work, finds herself in a downpour and goes to a sheltered bus stop to wait for the bus instead. A man standing in the bus stop finds her attractive, and starts up a conversation with her. She doesn't want to have this conversation, especially after he gets flirty. However, she also doesn't feel like trudging home through the rain. She also doesn't want to deal with the confrontation that might result from her saying, "Sorry, could you just stop talking to me?" She would feel like a bitch, since women in our culture who are not gracious and accommodating to men are often called that, and so she patiently accepts his conversation until the bus finally arrives. The man knows that she would leave if it weren't for the rain, but he continues talking and flirting with her anyway. Frye allows that even situations like this might count as oppression, when someone is confronted with a "double bind," a situation in which the person is "damned if they do, damned if they don't." Either she must give up her time and energy to this man's flirtation, or she can risk feeling like and maybe being called a bitch, or she can get drenched in the rain. Sometimes alternatives that are not unreasonable, but merely hassles, when produced in a certain context of inequality, become the cages of oppression. In this way, Frye's concept of oppression can handle instances of severe subjugation, on one hand, and also cases of mere "double-binds."

Similarly, if the "Vulnerability Clause" of a theory of exploitation involved some aspect of this theory of oppression, then it could handle cases of complete subjugation, in which someone had no reasonable options, as well as the cases like *Poor Student Renter*, *Lewd Promotion*, and *Date Rape*, without having to also call the case of the lazy car buyer a case of wrongful exploitation. Maybe the employee in *Lewd Promotion* and the students in *Poor Student Renter* and *Date Rape* are only constrained by the inconvenience of their reasonable alternatives, and maybe the lazy car-buyer is similarly only constrained by the inconvenience of pursuing his reasonable alternatives. But the employee and the student are stuck in oppressive double-binds. The landlord, the lewd employer, and the rapist are contributing a bad option, a systematic barrier to the cage of bad options. Dissimilarly, the car salesman who benefits from the laziness of his patron is not adding a bar to a cage of systematically related barriers. He takes advantage of the patron, but he does not wrongfully exploit him. On my view, a necessary condition of being wrongfully exploited is that one is, in part, caged, and one's exploiter contributes a systematically related bar to that cage. The cage can be comprised of bars, each representing a bad option determined by physical/natural constraints (like the predicament that Hiker B faces in the Antidote Case), or the bars can represent bad options that are the product of oppressive social institutions or practices.

Might we say that a brothel owner or a sex tourist is wrongfully exploiting the woman who is a victim of sex trafficking? Of course, but this does not differentiate my Vulnerability Clause from anyone else's. Might we say that the client or pimp wrongfully exploits the prostitute living in America, who has options available to her in the legal realm? Valdman would hesitate to say yes. Are these alternatives ones that the prostitute cannot access because she has been brainwashed? If not, then it seems that, so long as it would be reasonable for her to refuse any client, the client does not wrongfully exploit her. However, given my Vulnerability Clause, the client does exploit her. After all, having sex with him is what she has to do to avoid entering a world that she fears, one that is filled with all kinds of little obstacles for a woman with her history. Further, having sex with the client comes at a cost. She doesn't *want* to have sex with him. In this way, the client is adding a bar to her cage by participating in her oppression. He steps into the role of being *another bad option* within a structural set of bad options, even though the option he provides is the option she chooses.

Finally, let us consider the woman who is stranded in the rain and who is subject to the aggressive flirting of the fellow at the bus stop. Does he wrongfully exploit her when he sees that she cannot easily leave the bus stop, knows that she will want to avoid being rude, and

takes advantage of the opportunity to engage her in a flirty and extended conversation? My Vulnerability Clause says yes, and I think that is the right answer. Note that it is an answer that Valdman's account cannot yield. In this way, the Cage Vulnerability Clause is flexible.

Of course, Valdman is correct when he suggests that any plausible account of exploitation must be capable of handling the Antidote Case. Given the rather nuanced Vulnerability Clause that I have proposed in this section, it might not be obvious how it includes a case as simple as the Antidote Case in its scope.

4 Inclusion and Exclusion Criteria

Before Hiker B is met by Hiker A in the woods, but after Hiker B has been bitten by the deadly poisonous snake, Hiker B is not oppressed. He is dying, but he is not oppressed. When Hiker A finds him and offers him the antidote for \$100,000, he is not adding a bar to a pre-existing cage, like the client is doing to the American prostitute, or the sex tourist is doing to the trafficked woman. However, in making the cheap, life-saving antidote conditional on the payment of this exorbitant amount, and in knowing that Hiker B is dying, Hiker A systematically relates his proposed option (one that involves a heavy burden) to the other option that Hiker B has available to him, that is, his certain demise. In so doing, he generates a double bind.

This might be a stretch of Frye's theory, it's true. I am not claiming that the Antidote Case is one of oppression. However, just as I do not appeal to her theory in order to analyze it or critique it, I also do not care much that I apply it exactly as she would. I'm borrowing the concept to do work in my own theory, and I can use that concept to the extent that my theory requires in order that the theory be accurate. The double bind faced by Hiker B need not constitute oppression. One need not be oppressed to be wrongfully exploited, just *caged* in the way that I have proposed.⁴

In turning back to the Frye, it is as important to remember that her account of oppression is as much an account of what is *not* oppression as it an account of what is. Those inconveniences, barriers, and restrictions that are part of a broader system that ultimately benefit us cannot count as oppressive. How does this exclusion criterion apply to cases of exploitation?

Consider *Antidote Case, Exploitative Society*: Hikers A and B live in a society in which people born rich regularly use their capital to create industries in which they employ people born poor, and by paying sustenance wages to those poor, generate profits that add to their existing wealth. Hiker B was born rich, has inherited his family's industry, and due to the continuous high demand of the product produced by the industry and the ready supply of poor workers, has reaped millions of dollars. Hiker B has *done* nothing to deserve this wealth. In the woods, Hiker B is bitten by a poisonous snake and would die without the \$10 bottle of antidote that Hiker A carries with him. Hiker A is a pauper and knows that Hiker B is rich. He charges Hiker A \$100,000 dollars for the antidote.

Now, living in a society in which exploitation is prevalent has, all in all, benefitted Hiker B. So, just as Frye says that we are not oppressed by the traffic rules that occasionally drive us crazy, or by the discomfort a wealthy white person might feel when he enters a poor, black ghetto, the events that unfold in the woods are not wrongfully exploitative in this case. Given the life circumstances of Hikers A and B, this does not seem like an unpalatable conclusion—

⁴ Even if my reader does not find the prospect of extending the Cage vulnerability clause to the Antidote Case, she should at least be content with the following modification, which is also welcome to me, which is a disjunction of Valdman's clause and my own: a necessary condition on being the victim of wrongful exploitation is: one has no reasonable alternative but to transact/agree/submit *or* all of the reasonable alternatives available are attached to unjust burdens or hassles. A simpler way of putting this is: all of the reasonable alternatives available to the victim are attached to unjust burdens or hassles, and so *cage* the exploitee.

though it is not one that Valdman could have reached. Even in this modified example, A extracted excessive benefits from someone who could not reasonably refuse his offer.

This exclusion criterion provides us with a good tool for distinguishing other cases of wrongful exploitation from cases that are not wrongfully exploitative. Consider an actor who wants to be wealthy and famous, wants attention from the media, is successful at getting these things, but is seriously bothered on today's trip to the grocery store by the cameramen from popular magazines who swarm to take his picture. He has no choice but to have his picture taken, no other reasonable options (he cannot live his whole life indoors). On Valdman's account, this man is wrongfully exploited, since the cameramen are extracting a benefit from him and he cannot reasonably choose otherwise. Yet, on the Oppression Vulnerability Clause, the actor would not be wrongfully exploited by these cameramen. He is merely suffering one bad aspect of a phenomenon (his fame and attraction of media attention) that is otherwise very much a boon to him. I think this matches our intuitions about cases like this. When a popular actor complains about photographers, we usually say, sarcastically: *Oh, poor you*. Whereas, when people who do not choose to be in the lime light are photographed in the same way, we feel genuinely bad for them.

5 Conclusions

In this paper I have examined one criterion for wrongful exploitation, what I have called the Vulnerability Clause. I have suggested that contemporary authors of exploitation advance theories that are either too broad or too narrow with respect to that criterion. I have drawn on Frye's account of oppression, insofar as I have adopted her inclusion and exclusion criteria, to generate a Vulnerability Clause nuanced enough to handle the breadth of cases that are wrongfully exploitative as well as to exclude certain cases from our analysis. That the excluded cases do not count as wrongful exploitation is, at first blush, surprising, but for the reasons that I've laid out, ultimately very palatable. In this paper I have not investigated the other criterion of wrongful exploitation, the Advantage Clause. Being that this is the case, I have not proposed a theory of exploitation here. I have only proposed the Vulnerability Clause that must be paired with the accurate Advantage Clause, whatever it might be, to render such a theory accurate.

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