

## THE MORALITY OF COMMERCE AND WEALTH

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Paul Krugman is identified with the quote "Economics is not a morality play." He said that a free market demonstrates no particular moral principles and workers need not suffer because of bankers' mistakes. Presumably, he would know how to adjust the economic machinery to distribute the suffering more properly, or perhaps even eliminate all suffering. Not clear whether he thinks his preferred distribution of suffering would be more moral than what would otherwise ensue, or whether he thinks morality has no part in the mechanical science of economics. President Obama says that it's not "fair" for the rich to pay so little tax. He refers to the top 1% income earners, but he seems to include anyone enjoying over \$250,000 income per year. He repeatedly used the word "fair". He didn't say what would be a fair level of tax on the rich. His has used the expression "share the wealth" which suggests he would favor a tax policy to redistribute wealth -- take from the rich, give to the poor. He considers "growing inequality" to be "the defining challenge of our time". I may be wrong but it's my impression Pres. Obama thinks not only that the tax is unfair, but that a large income is itself unfair -- that the huge fortunes now enjoyed by the very rich flow from some systemic unfairness of which the decent "working people" and "the least fortunate among us" are innocent victims. By this view, one could not have become so rich without having taken unfair advantage of the rest: "It is easier for a camel to go through the eye of a needle than for a rich person to enter the kingdom of God."

If it's not fair for the rich to be so rich, then how rich would it be fair for the rich to be? And, if it's not fair for the rich to pay so little tax, then what would be a fair tax? More important, what are the principles by which "fairness" in each case is determined and is there a connection between fairness and morality in respect of wealth and tax?

Here are four scenarios that illustrate four different principles by which fairness is determined, and there may be more:

1. My parents have brought candies for their children. As the oldest and biggest and strongest, I think I'm entitled to a larger share than the others (as happens with normal food at meals),

- but my parents insist that we be fair and share the candies equally. I know my parents love us siblings equally and I get the vague notion that the candies are an expression of their equal love. I'm persuaded. The equal share seems fair enough in that context, and we're all happy with the outcome. Call this "parental fairness".
2. We've discovered a mountain higher than Everest and I've organized some guys to attempt to climb it. I'm the only one who can afford it so I'm paying for everything – all the supplies, the permits, the travel costs, everything. The attempt will be a team effort to get all of us to the summit but we all appreciate that the challenge is so arduous that it's unlikely that every team member will get to the top even if every team member makes his best effort. Any one of us may lose strength, or get sick or injured, or the weather may intervene. I have priority, then my oldest friends, then the newest etc., but we leave it to the team leader (the guy with the most experience, not me) to exercise his best judgment at each stage who may advance to the next stage. In the result, neither I nor any of my oldest friends may reach the summit, but the expedition will nevertheless be considered a success if anyone summits. If the newest guy were the only one to summit, we would all consider that result to be fair and no one (including me who will pay for the whole thing) could complain that, in the outcome, he didn't get an equal share of glory even though everyone makes his best effort. Call this type "fairness between friends or allies engaged in a common purpose".
  3. I'm in the starting blocks for the Olympic 100m sprint finals. On either side of me my competitors are Jamaicans. All the other competitors are blacks of West African ancestry. Each of them is bigger and stronger and younger than me. They've had better training, more experience. Probably more fast-twitch muscle fibers and better sprint genes. I am outclassed in every respect. But we're each motionless when the starting gun goes off. It goes off at the same time for all of us. The distance we all run is the same. And the camera that shoots each competitor when he crosses the finish line is in the same position for us all. In the result, Usain Bolt wins in a world record time and I'm dead last. This is neither his first world record nor his first Olympic gold. I've won nothing but humiliation. An unequal outcome but perfectly fair. Call this "cooperative competitive fairness".
  4. It's July 1969 and I'm part of the Salvadoran infantry advancing into Honduras in the soccer war. Hondurans committed genocide against Salvadorans (so I'm told) and I proudly intend to avenge the insult to my nation. In the course of battle, I kill a Honduran soldier. I know he would kill me if he could. I live and he dies as a direct consequence of my intentional action – a very unequal outcome, but fair as between enemies. Call this "enemy fairness".

These four scenarios illustrate that there is no one definition of fairness. Instead, the social context determines what is considered fair or not. When Pres. Obama identifies growing inequality as the defining challenge of our time, he might be referring to the type of fairness illustrated by the first scenario, parental fairness, but it's not clear what he means by the term "fair". I want to be clear that, in matters of wealth and tax, the type of fairness that I consider appropriate is illustrated by the third scenario, cooperative competitive fairness, not parental fairness. In affluent liberal democracies, wealth derives from commercial activity consisting of the creation, transfer, and consumption of wealth by and between commercial counterparties who simultaneously cooperate in following rules while competing for individual benefit. The principles that determine fairness in commerce are the same principles that determine fairness in sports. In both sports and commerce, "fairness" is understood to be the equal application of the rules to all competitors, and whether or not the rules are equally applied can be objectively determined, at least in theory.

There is a direct connection between fairness and morality. Intentionally taking unfair advantage of someone is an immorality. If the term "fairness" has multiple meanings, then the term "morality" is even

less precise. Immorality (or the ascription of immorality to somebody's behavior) is in the eye of the beholder, not objectively determinable even in theory. Nevertheless, the object of this essay is to try to bring clarity to the morality of the economic activity that consists primarily of commercial transactions between individuals and secondarily of the activity of government both as a direct actor in commerce and as maker of laws governing commerce.

Many of the affluent liberal democracies can point to canonical statements which identify freedom and equality as their highest values. In the US, the national pledge cites "liberty and justice for all" which I take to be the same as freedom and equality. France includes "fraternity" as a third value which perhaps opens the door for freedom and equality to be overridden by national or social concerns. Here is a quote from the opening paragraph of the Universal Declaration of Human Rights of the United Nations: "All human beings are born free and equal in dignity and rights." Nobody would argue with this statement; freedom and equality are paramount, but the statement is so abstract that it's not clear how it would apply in any practical case. I think it safe to say that there is now as much disagreement about the meaning of those canonical statements as when they were first pronounced. Most participants in the current public debate claim to be in favor of democracy and equality and freedom, but each of those words has multiple and imprecise meanings, and while each side claims the moral high ground, there is little analysis of the moral basis underlying those canons. Nevertheless, it is my view that in the affluent liberal democracies there is an unarticulated moral system based on freedom and equality that forms the basis underlying prevailing attitudes concerning fairness in general, including commerce and wealth but also much more besides. Pace Mr. Krugman, economics is indeed a morality play. Even though Pres. Obama does not explain what he means by fairness or what part fairness should play in economic activity, he is appealing to a vague unarticulated moral system that most of us recognize without it being articulated or analyzed. This essay attempts to articulate that tacit moral system.

### **Freedom and Responsibility: Two Sides of the Same Coin**

When I was in grade seven, at Dalewood School in Hamilton, Ontario, Canada, my teacher was Miss Black. She taught every subject and we students sat at our assigned desks all day, every day. One day, Miss Black introduced a guest teacher, a man wearing a clerical collar. I don't remember religion in the public schools being an issue in those days. I was Jewish but I understood that I lived in a Christian country and it was normal for Christianity to be taught as the accepted wisdom. I expected the guest teacher to deliver some platitudes about right and wrong, charity and goodwill among men etc. and I more-or-less tuned out to what he was saying. But I do remember him saying something to the effect that freedom and responsibility were opposite sides of the same coin. A society couldn't have equal individual freedom without each individual being responsible for his own actions. Otherwise, if a person escaped responsibility for the bad consequences of his actions, then the burden fell on someone else and that other person's freedom was lessened, thereby violating equal freedom. On the other hand, if a person did not get the full benefit of the good consequences of his actions and some of the benefit was appropriated by someone else, then the freedom of the former is lessened, again violating equality. I had no particular interest in social philosophy then. As an energetic twelve year old kid, I felt vaguely imprisoned at my desk and I was always looking for adventure, fun, mischief – normal stuff: the goody-goody principles of proper behavior did not really hold my attention. At some point while he was talking, I remember thinking that the one-coin-with-two-sides metaphor for equal freedom and responsibility that he offered (the "coin metaphor") seemed just about right. I thought then that, yes, it seemed right and proper for individuals to be equally free, and therefore individuals had to be fully responsible for the consequences of their individual exercise of that freedom. This did not come to me at the time as a great epiphany. I remember being relieved that he hadn't said anything that embarrassed me as a Jew, but the

equal freedom/self-responsibility coin metaphor that he articulated seemed just the type of obvious goody-goody platitude that one would expect from a cleric in public school in the naïve 1950's.

Since then, I've reconsidered this subject many times and, each time, I am confirmed that the principal of equal freedom with commensurate self-responsibility is the foundation of civilized society. It ties together our highest values (freedom and equality) and I suggest that it is the unspoken foundation of the posture that most folks in our society adopt toward one another. Maybe five years after he visited my grade seven class, I was introduced to our guest teacher. Fortuitously, he was the father of a friend of mine at the time, Brian Sheen, with whom I've long since lost contact. I'm guessing I was seventeen the second time I met Sheen pere. There was a Christmas party at Brian's house, and when I went in, he introduced me to his parents as I'm sure he did all the kids. Purely perfunctory. It didn't occur to me to mention that I remembered his lesson, and at the time, I didn't realize that his lesson was particularly important. I imagine he was in his mid-thirties or early forties when he spoke to my grade seven class. What importance would the young cleric attach to a lesson given to some anonymous, bored adolescents – even on a subject he considered important? He did not, of course, invent the concept of freedom or of responsibility. Presumably, he was not the first to recognize that equal freedom for individuals required the commensurate responsibility of individuals for the consequences of their actions. But his simple presentation of that requirement to a grade seven class was so clear that it rang true for me at the time and leaves me disappointed with every other articulation of that principle that I've come across ever since. If his coin metaphor was the bare bones (to use another metaphor) of his social philosophy, then this essay is an attempt to put some flesh on the bones, at least as it applies to commerce and wealth, and that requires a reexamination of the most fundamental aspects of social philosophy. In what respect are we free and in what equal? Do freedom and equality conflict? Do freedom and equality imply any particular principles of fairness or morality?

### **Arm's length relations and common courtesy**

The most common dictionary definition of freedom is the "absence of restraint", and this is the definition I use. Philosophers call this the negative definition because it defines freedom in terms of what freedom is not – "absence" and "restraint" are not themselves attributes of freedom. Philosophers also have a concept of positive freedom, which is not just a different definition for the same thing; rather, it's a different concept that I do not adopt. A full discussion of the differences between positive and negative freedom is for another day, but even the common negative definition has issues: what constitutes a restraint? For the purpose of this essay, questions of freedom arise only in the context of relationships between individual people. The only restraints on one's freedom that I consider relevant to social philosophy and economic morality are restrictions imposed by other individuals, not by one's own nature or by nature itself. Within this approach, in the absence of other people, one is utterly free because there are no relations with other people that might restrict one's freedom.

The basic social element consists of two individuals, and the effect that one person has on another, and vice versa, defines what I consider to be their "relationship". The relationship between two individuals may be part of a larger structure of relationships. For example, a baseball team has nine players and the team is organized to serve the overall purpose of winning baseball games, but each of the players has a relationship with each of the other players. One might regard the team as the basic organizational unit and that the relationships between the individual players derive from the team organization. I can see how one might reasonably have that view, but for the purpose of this essay, I take the opposite view. Individual persons, whether members of baseball teams or not, are the basic irreducible autonomous entities and the baseball team has no independent significance apart from the relationships between its

individual members; therefore, the overall larger structure of the team organization derives from the basic relationships that each player has with each of the other players, and also with each of the players on the other team, and each of the officials, etc. There is, of course, efficiency in thinking of the team as the basic unit and that the team defines the relationships between individual team members, not the other way around; however, the freedom, responsibility and morality of baseball (or any other social phenomenon) exists at the level of basic relationships between individuals. The morality of baseball can only be understood as a feature of the relationships between individual participants. Similarly, government is the biggest “team”, and the morality of government activity also can only be understood at the level of individual members of government whose actions, however remotely, affect other individuals.

Any individual in our society has numerous relationships with other individuals and numerous different types of relationships. A person can be a family member, an employee or employer, a religious official, a member of government, a member of an orchestra, a policeman, etc. In each of these roles, there are numerous relationships with different people which involve quite different freedoms and responsibilities. For example, the relationship of parent to newborn involves a completely different profile of freedom and responsibility than does the relationship between competing athletes. An infant has no choice about being born and is born dependent and subservient, not free; but an infant has no responsibilities. For the most part, the parent of a newborn is likewise not free but has a heavy responsibility. It is in the nature of the parent/child relationship that if the parent is irresponsible, the burden falls on the child. Quite apart from law, there is a general understanding/expectation about the freedoms and responsibilities that appertain to the parent/child relationship. The coin metaphor of equal individual freedom requiring commensurate individual responsibility does not apply to the parent/child relationship. Nor does the coin metaphor apply to many relationships. But the coin metaphor does apply to what is called the “arm’s length” relationship.

The concept of arm’s length relationships is commonly used to describe commercial transactions and particularly the tax implications of commercial transactions. For example, if an American company first sells its products to a foreign subsidiary domiciled in a tax haven (say Ireland) at a very low price and then that subsidiary resells the same product at a high price to another subsidiary in a high tax country (say France), then the US tax authorities would say that the low price of the first sale was set artificially low purely to minimize US tax and that the tax should properly be calculated based on a sale price that one would expect if the parties had been at arm’s length. A vendor tries to get the highest price he can when selling his products to an arm’s length stranger with whom he has no other relationship. And so the sale price between parties at arm’s length is considered to be the “fair market price”. While the term “arm’s length” is used to describe commercial transactions, I see no reason why the term should not also be used to describe similar relations apart from commerce. It is the thesis of this essay that arm’s length relationships have a much larger domain than commerce and most arm’s length relations may not be commercial at all. I am not aware that the concept of arm’s length relations has been used to describe the fully expanded domain that I intend in this essay. It is primarily in its arm’s length relations (giving that term its full domain) that a society is identified as civil or not and where freedom and equality (our highest social values) are manifest.

Arm’s length relationships are cooperative and competitive whereby each person seeks his own personal benefit in a way that does not interfere with any other person doing likewise. Before any two strangers in a large, modern, affluent, liberal, democratic civil society encounter each other, they are at arm’s length; they owe each other nothing except common courtesy and each is free to engage in a consensual interaction with the other, or not – each person makes his own choice in his arbitrary unfettered discretion. And unless the consensual interaction involves a change of the relationship to some other type of relationship, throughout the completion of the consensual interaction and thereafter, they remain

at arm's length and free of obligation to each other except (1) for common courtesy (2) for what they mutually agree. That is the character of arm's length relationships. Here are some examples: the relationship between one adult and any other adult stranger whether sharing a sidewalk or waiting in line at a movie or living miles apart and never making direct contact; the relationship between competing athletes; the relationship between commercial counterparties; the relationship between a member of government and members of the public at large who are affected by laws he enacts. All these and most others in our affluent liberal societies are arm's length relationships. Other types of relationships are important of course, but for the purpose of social philosophy and understanding freedom and equality, and for the purpose of understanding the morality of commercial transactions and the wealth that results from commerce, it is arm's length relationships that are most important. I emphasize that I am referring only to large, modern, affluent, liberal democratic societies. A nomadic kin group in which everyone knows everyone else intimately would not have any arm's length relations.

Here are four different types of relationships with quite different expectations and obligations: (1) relationships between parents and their children, (2) relationships between friends and allies, (3) relationships between individuals at arm's length, and (4) relationships between enemies. These four different types of relationships correspond to the four different types of "fairness" described above. One might reasonably regard one's own family, friends, and enemies as far more important to oneself than arm's length strangers, but a little contemplation leads to the recognition that, at least in terms of pure quantity, in a large advanced society one has orders of magnitude more relationships at arm's length than with family, friends or enemies. And even though family, friends and enemies may seem far more important to oneself than strangers, if one stands back and looks at society as a whole, then it is apparent that the overwhelming majority of interactions between all individuals consists of arm's length interactions. Other types of relationships are, in a sense, elective. In particular circumstances, the law imposes some parental or spousal support obligations, but to large extent, one can abdicate family, friends, or enemies and form new ones, or not – one's own choice. But one cannot realistically be part of an advanced affluent society and avoid arm's length relationships. Psychologically, the parent/child relationship may be the first relationship one learns to understand and it may form the basis upon which other relationships come to be understood, but socially, arm's length relationships determine the character of any large society – certainly, its economic character. When we use the terms "freedom" and "equality" to describe the character of an advanced society, we are talking about the character of its arm's length relations.

Folks at arm's length in our society are expected to behave towards one another with what is called "common courtesy" or "common decency" or "common consideration". These are vernacular idioms and mean the same thing. In common usage, those terms may seem to have a small domain; for example, common courtesy might be thought to apply only within the domain of politeness and manners, i.e., the form of an interaction between individuals as opposed to its substance. I am not aware that the term "common courtesy" has been used outside the domain of etiquette, or that there has been any linkage drawn between common courtesy and arm's length relations. Nevertheless, just as I suggest that the domain of arm's length relations is greater than its normal usage confined to commerce, equally so I consider the domain of common courtesy to be greater than its normal usage confined to etiquette. In affluent liberal societies, all interactions between individuals are presumed to be arm's length unless the individuals have some prior family, friend, or enemy relationship. And every arm's length interaction is governed by the rules of common courtesy. Arm's length relations and common courtesy are not opposite sides of the same coin: they are the same side. The one includes the other.

Common courtesy does involve etiquette, what I would call the "form" of an interaction, but common courtesy also implies matters of substance. As to form, each society has its own peculiar politeness and etiquette and nuance as, for example, New York etiquette differs subtly from that of New Orleans or

Seattle and drastically from Mogadishu. But as to substance, common courtesies everywhere share a universal substance. In every example of common courtesy between individuals standing at arm's length, each individual respects the other's equal freedom to go about his own business for his own benefit and each takes responsibility for himself. In their freedom from each other and responsibility to each other, they are equal. To say that each stranger takes responsibility for himself means that neither party owes any obligation to the other except to respect their equal freedom, and that implies that neither has the right to impose any burden on the other in addition to the requirements of common courtesy – the coin metaphor. (Hereafter in this essay, when I use the expression “equal freedom”, I intend also to include the equal self-responsibility that equal freedom of each individual necessarily implies.)

Common courtesy does not imply absolute freedom. It does impose the minimum burden of politeness and such, but those minimum burdens are usually matters of form and serve to keep people from bumping into, or otherwise interfering with each other as they exercise their equal freedom to go about their separate businesses. Each person's separate business includes consensual interactions that he might choose to undertake with anyone else, as for example, commercial interactions. If one should decide to engage in a consensual interaction with another person with whom one stands at arm's length, then common courtesy imposes conventional rules that govern that particular type of interaction. Those conventional rules are in addition to the required minimum politeness and constitute what I would call the substantive burdens of common courtesy, as opposed to the minimum burdens of form. In every case, the substantive rules also respect the equality of the parties -- the rules are the same for everyone, they do not favor one party over another and would not change if the parties switched positions. But these substantive burdens arise only if one chooses to undertake a consensual interaction. For example, driving on public roads involves consensual interactions with other drivers using the same roads at the same time. The traffic rules that apply to drivers sharing the road constitute an aspect of common courtesy codified in legislation, but obeying those rules does not prevent any driver from driving to whatever destination he wants; moreover, drivers arrive at their separate destinations sooner and safer precisely when all drivers cooperate by following the rules. In the result, even though common courtesy can be thought of as a restriction on behavioural freedom, when everyone adopts common courtesy, the range of individual freedom is actually increased. That is the definition of common courtesy in our society, and it applies equally between any two individuals at arm's length regardless of differences of wealth or status or height or sex or whatever -- regardless of their peculiar personal features.

In the English tradition, drivers drive on the left side of the road but most countries use the right side. It doesn't matter which side is used, but it is important that everyone sharing the same road stays to the same side. Either side can serve to respect for the equal freedom of all drivers to drive to their separate destinations. Maximizing equal freedom to travel is the object of the rules of the road and that object can be achieved by driving either on the left or the right. Whichever side a society chooses, that choice defines the common courtesy prevailing in that society. There are many possible common courtesies in different contexts, but they all serve the same goal of equal freedom.

A violation of equality of freedom constitutes a breach of common courtesy and vice versa. And every violation imposes a burden on the victim not borne by the perpetrator. There are cultural differences as to what constitutes a burden (for example, some cultures consider loud and vulgar talk in public to be burdensome to passersby, and others don't), but whatever the local etiquette, common courtesy requires that everyone be equally polite to everyone else with whom he stands at arm's length. Furthermore, we expect individuals at arm's length to respect the equal freedom and responsibility of others even (perhaps especially) if those individuals happen, for the time being, to be members of government who enact laws effecting others with whom they stand at arm's length. Common courtesy in our modern, liberal, affluent, democracies is universal (common), and without more, that implies respect for the equal freedom of all

individuals by all individuals. In other societies, different rules of courtesy or deference apply between members of different classes etc. – the courtesy is not common, and it would be incorrect to describe such a social organization as free and equal. The concept of arm's length relations governed by common courtesy is just a fleshed-out and more precise description of the coin metaphor to which I was introduced in grade seven.

The position I take in this essay is that respect for equality of individual freedom is the primary unspoken underlying principle according to which the morality of all arm's length relations is judged, and that includes the morality of commerce and wealth. (More on morality below.) I say "unspoken" because I would not expect people to be able to articulate general principles of morality of arm's length relations, not even people who are acutely sensitive to moral questions. I say "primary" because equality of freedom and responsibility is not the only paradigm for arm's length relations. There are a range of paradigms. At one extreme is the school of thought, by no means negligible in our society, that considers the highest morality to be a kind of self-sacrificing Christian saintliness whereby one should selflessly give one's wealth to the most wretched and suffering about whom otherwise one knows nothing. At the other extreme is the cynical law of the jungle whereby one expects the worst predatory villainy from every stranger and one is wise to be the first to behave in kind. Both of these extremes depart from equal freedom. Call this range of paradigms the "saint/villain spectrum" of which common courtesy is the midpoint. Stated in the abstract, these paradigms may seem starkly distinct, but in the messy real world sometimes one, sometimes another comes to the fore. The same person may be a saint in one situation and a villain in another, all the while thinking he is demonstrating common courtesy. The saint/villain spectrum is the range of paradigms by which people might describe arm's length relations. But quite apart from arm's length relations (which fall under the saint/villain description), there are genuine family relations in which saintliness is the norm, and there are genuine enemy relations in which villainy is the norm. Family relations and enemy relations are fundamentally different types of relations than arm's length relations. Those who favor the saintly view of arm's length relations wish that strangers behaved towards one another with consideration approaching the care one would show towards his own child – "each a brother and his brother's keeper". Those who favor the villain approach are suspicious that every stranger is a likely enemy, not someone who will respect equal freedom. Our cultural characteristics are not defined with precision or unanimity. Social scientists may someday be able to measure these attitudes. But for the present, my sense (without proof) is that the middle ground of the saint/villain spectrum (the middle ground being "common courtesy" which respects equality of freedom) is the paradigm by which most people would describe arm's length relations in our advanced, affluent, liberal democracies, both as those relations mostly are, and as they ought to be.

Common courtesy in arm's length relations gives rise to competitive meritocracy. People at arm's length go about their separate businesses unrestrained by each other in their freedom to engage in consensual arm's length interactions or not. If any two individuals should decide to engage each other in a consensual arm's length interaction, they understand that each of them is doing so for his own benefit. Most consensual interactions are conventional; that is to say, common courtesy recognizes an established protocol particular to that type of interaction and that protocol is known by the parties (e.g., the protocol of buying gas at a self-service gas station). But if there isn't an established protocol, common courtesy allows them write their own rules provided those rules respect their equal freedom. Often the quest for personal benefit of each of the parties to an arm's length interaction involves some type of competition between them (e.g., bargaining over price), and competition implies the possibility of differential outcome – some win and some lose. But common courtesy prevents either of them from having an unfair competitive advantage. Each party has his own attributes of character, his own peculiarities and skills that he can bring to bear in the competition – his own merits. And each party is free, before engaging in the interaction, to evaluate the other party's competitive skills and decide



whether he wants to engage in the competitive interaction. So long as the outcome derives from the competitive merits (the skills) of the competitors, the outcome is considered meritocratic or fair. The meritocratic competitive character of arm's length interactions is obvious in sport but perhaps less so in commerce even though they both share the identical meritocratic character.

Compare sport with commerce. Sport is the competitive effort by each athlete to earn as much athletic glory for himself as he wants by demonstrating athletic ability (e.g., sprinting speed) and each is free to engage in athletic competition with whoever consents to mutually engage with him. Commerce is the competitive effort by each participating individual to earn as much wealth for himself as he wants by demonstrating commercial skill (e.g. choosing advantageous exchanges) and again each is free to make commercial exchanges with whoever consents mutually to engage with him. The rules of athletic competition are designed to encourage the greatest athletic performances and the rules do that by serving two functions: (1) to define the athletic task so as to equally enable individual competitors to demonstrate their maximum athletic ability, and (2) to validate the competitive outcome. The rules of sport define the athletic tasks in such a way that the rules give no advantage to one athlete over another so that the differential outcome of the athletic competition derives from the different peculiar features or merits of the athletes and not from the rules themselves -- for that reason the sporting regime is said to be a meritocracy, and the differential outcome is said to be meritocratic. Similarly, the rules of commerce are designed to encourage the greatest wealth creation and the rules do that by serving two functions: (1) to define the different types of commercial exchanges in such a way that each participant is equally free to determine by his own criteria and before committing to a particular exchange, whether it will maximize value for him, and (2) to validate the exchange. In sports, the obvious athletic merits have to do with speed and strength and precision of movement but some sports also reward less obvious creative strategy; commerce has its counterparts in the form of bargaining skill and understanding complex contracts and such, but real wealth from commerce is earned mainly by strategic enterprise: identifying commercial opportunities to produce and sell commercial goods at a profit. Identifying commercial opportunity involves (1) conceiving that other arm's length individuals will see value in particular commercial goods (conceiving a market), (2) conceiving a way to acquire those goods, whether by inventing them or buying them or producing them or whatever and (3) conceiving a way to sell those goods. Each stage involves creative skill and effort and each stage may itself involve numerous exchanges but the whole exercise serves to create things that are valued by other individuals at arm's length. A sprinter succeeds by generating as much speed as he can in the least amount of time; an entrepreneur in commerce succeeds by offering as much value as he can to his counterparties at the lowest cost to himself. And again, the rules governing any particular exchange favor no participant over another. Everyone is equally free to devise and carry out his own strategy provided he respects his competitors' freedom to do likewise. The meritocratic outcome derives from the skill and effort of the participants and not on lopsided rules in commerce or sport. The rules are fair by the standards of arm's length cooperative competition and constitute commercial or athletic common courtesy, but they wouldn't be fair by the parental standard of fairness.

Of course there are plenty of examples of unfairness in sport and commerce but those involve breaches of common courtesy, violations of equal freedom and responsibility where the rules of sport and commerce are either broken (as by cheating) or are distorted (as by partisan sport officials or government). Were Usain Bolt and I to compete in an Olympic sprint, he would have many advantages: he's bigger, stronger, and younger than I am, etc. Those are his particular features (his merits) and I have mine: charm, osteoporosis, wisdom, joint inflammation. Our individual features, though quite different (unequal), are not considered unfair in sport or other arm's length interactions. However, if I had a shorter distance to run or if I could start running before him, then those would be considered unfair

advantages for me because they would derive from the rules and not from the peculiar merits of Mr. Bolt or me. Those advantages would violate common courtesy and the outcome would not be meritocratic.

The principles of meritocracy and equal freedom distinguish fairness from unfairness in both athletic and commercial competition. But here are two differences between commercial competition and athletic competition: in athletics, the glory of victory belongs only to the victor and cannot be exchanged; whereas in commerce (1) both parties to a commercial exchange are victors because each has gained value from every individual exchange and (2) some commercial goods can be exchanged many times.

Commercial meritocracy seems suited for the creative self-reliance that characterizes optimistic pioneering and enterprise, where it always seems possible to increase one's affluence through effort and without harm to anyone else. Freedom in arm's length relations is valued where, say, if I can't improve my position by a voluntary interaction with you, then no problem, I'll deal with someone else or go off on my own and improve myself that way. If there is no perceived opportunity for personal advancement, then individual freedom does not have the same upside appeal and we should not expect freedom to be so highly valued. It is the individual potential upside that gives freedom its appeal, but equal individual freedom gives no guarantee of success either to individuals or to society at large. Nor does any other principle of social organization.

It's possible that our society would be more commercially successful (affluent) if arm's length relations were more parental (saintly) or more predatory (villainous) in character. I doubt it. What is important for this essay is to recognize that those two characterizations (saintly and villainous) are departures from equality of individual freedom – the saint bears the unrequited burden of care for the unfortunate and the villain violates the victim's freedom to enjoy his property. It is my sense that the Christian self-sacrificing saintly paradigm, while shown rhetorical respect in the public debate, is actually tacitly derided by many and adopted by very few; by contrast, the villainous predatory paradigm, which is generally rhetorically derided, is adopted (if only episodically) by very many. It is also important to recognize that my description of common courtesy and arm's length relations applies only to what we now consider to be normal circumstances in affluent liberal democracies. War, famine, pestilence, economic collapse, climate change – i.e., circumstances involving great hardship and rapid change – those types of extreme circumstances may be the real norm and our current civilized affluence might be the more unusual. Who knows? In such extreme circumstances, there may be no arm's length relations – the only relations may be allies and enemies. This essay is intended only as a description of our present society which may or may not be the inevitable outcome of our human character.

I identified four different types of relations: parental, friendship, arm's length, enemy. This essay focuses on arm's length relations and, more particularly, on the subset of arm's length relations that constitute commerce. The relationship between an athlete and his competitor is an arm's length relationship, but occasionally athletic competitors may also be family members, or friends, or enemies. The Williams sisters in tennis and the Brownlee brothers in triathlon come to mind. Whilst in competition with each other, each tries to defeat his sibling following the rules of the sport in the quest for victory and personal glory -- exactly the same as any other athletic competitors who are not siblings. They may compete in different sports, and each sport (for example, tennis and golf) has different rules of common courtesy. The siblings may also make commercial exchanges with one another with yet different common courtesies. In all these arm's length interactions, the different social contexts involve different rules, but in every case, respect for equal individual freedom is the principle governing the different common courtesies and the fairness (and morality) that applies in each context. But apart from athletic competition and other arm's length type interactions, they remain siblings who have interactions of a parental/family type as well as other interactions with the characteristics of friendship. One hopes they aren't enemies too often. When the Williams sisters step onto center court at Wimbledon or the Brownlees line up for the

start of the Olympic triathlon, they know unambiguously that they are about to engage in athletic competition and the fairness of their behavior will be judged according to arm's length criteria. In other social contexts, say when their parents are distributing candies to their children, they would reasonably expect criteria of family fairness to apply. The social context determines which type of fairness applies. The same two people relate to one another as family in one social context, as friends in another, at arm's length in yet others, and as enemies in yet others. The overall relationship between any two people in the totality of interactions over the duration of the relationship may at different times and different social contexts demonstrate all four different types of basic relationships, and the resulting complexity may be very difficult neatly to parse into these different aspects. Nevertheless, it is my suggestion that however complex any particular relationship may appear (and every long-term relationship is fully complex), the morality of the relationship is understandable by analysis in terms of these four discrete basic types within particular social contexts. For the athletic siblings, it should be simple to distinguish episodes of athletic competition from the rest of their lives, but interpreting the social context in normal life is rarely so clear – hence social complexity. I have heard it said that understanding personal relations in a social context is the supreme intellectual achievement for all individuals – comparable to the most complex physics although we all do it every day. Who knows? I identified four different basic types of relationships each with its own criteria of fairness, and I have tried to illustrate how any particular relationship between individuals can have characteristics of all these different types depending on the social context. When I introduced these four types of unfairness, I said there may be other types. My own view is that there are not. Explaining why I don't think there are other basic types of fairness, or other basic types of relationships, is not essential for this essay and I leave that for another day. What is important is to recognize that arm's length relations are one basic type with its own particular type of meritocratic fairness.

I describe four different types of fairness, each corresponding to a type of relationship, but the word "fairness" is used in each case and that invites the question why is the same word used. Is there a principle that unifies these different types of fairness? The answer to that question is, again, not essential to this essay which focuses only on the fairness associated with arm's length relations, but notwithstanding, here's my conjecture as to why the same word is used to describe four different sets of principles: the four different types of fairness derive from four different types of equality. (1) In parental fairness, the children are equal in the love of their parents. That equal love and the presumed superior wisdom of the parents authorize the parents to distribute candy in whatever way they consider best for them all. The equal parental love and superior parental wisdom is the answer to any child complaining of unfair treatment: next time, the same parental love and wisdom may work to his advantage. In the parental context, equal parental love throughout makes the outcome (whether equal or not) meritocratic. (2) In friendship or alliances, the friends are equal in the effort they make for the common purpose. Each friend undertakes to make an equal effort for the common purpose knowing that some friends may benefit more than others. Provided they make equal effort, each friend can take satisfaction to the extent the common purpose is achieved and that is the answer to any friend complaining that it was unfair for another to garner more glory than him. In the friendship context, equal effort throughout makes the outcome (unequal or not) meritocratic. (3) In arm's length relations, the parties are equal in their freedom to choose whether or not consensually to compete cooperatively for personal benefit. They remain equally free throughout and it is perfectly fair for them to engage in further commercial interactions yet again. Neither can complain that, in the outcome of multiple consensual interactions, one became rich and another poor. In the arm's length context, it is the equal freedom throughout that makes the outcome (equal or not) meritocratic. (4) Enemies are equal in their intention to harm one another. Hence it is perfectly fair and neither can complain if he suffers harm caused by the other regardless of what harm the other suffers. In enemy context, it is the equal malicious intention that makes the outcome (equal or not) meritocratic. In each of the four cases, there is an equality sustained throughout the interaction that

renders a meritocratic (though perhaps unequal) outcome; but in each case, it is a different feature that is equal.

This section begins with a definition of freedom: absence of restraints. There are other definitions and I chose that one because it's the one most people use and also because it fits so neatly with the coin metaphor. I have not used the term "rights". The word "rights" itself has a number of different meanings and usages, but none of them dominates the way "absence of restraints" dominates the usage of "freedom"; furthermore, some usages of "right" overlap the usage of "freedom". For example, "free speech" is sometimes described as the "right to free speech" which to me is redundant and confusing. Similarly, the terms "civil rights" or "human rights", in my view, are better described as freedoms than as rights. In this essay, I am concerned to identify the freedom which everyone enjoys equally (or should), and I do not use the term "right" to describe that freedom. Nevertheless, the term "right" has a different meaning which is important to understand and to distinguish from the term "freedom". To illustrate, I have a right to use my car as I wish, and nobody else has any right to use my car without my permission. Nobody shares with me an equal right to use my car. My right to my car is exclusive, although everyone has equal freedom to engage in commerce and accumulate enough wealth to purchase his own car the use of which will then be his exclusively. Remember the Universal Declaration of Human Rights of the United Nations: "All human beings are born free and equal in dignity and rights." Removing words irrelevant to this point leaves: All human beings...are...equal...in...rights. Surely this does not intend that everyone ought to have an equal right to use anyone else's car or to exclude private property rights altogether. This declaration makes reasonable sense only if the word "rights" is intended to connote the equal freedom to acquire exclusive rights. To avoid that type of ambiguity in this essay, when I use the term "right", I am referring to unequal and unshared personal rights as, for example, the right of an individual exclusively to use his own property, or the right of way of an individual driver in his proper lane following the rules of the road. In my usage, rights are enjoyed by individuals to the exclusion of others; freedoms are enjoyed equally by everyone.

### **Definition of Morality**

There is no authoritative definition of proper moral principles. What follows is my own take. Before describing what morality is, I want to be clear what it is not: it is not a universal set of rules of proper behavior. Different cultures have different codes of behavior – they can't all be right. Every individual makes judgments about right and wrong. Whether or not he can articulate it, each person creates his own system of principles by which he judges behavior to be immoral or not. What is universal about morality is not any particular rules of behavior, but rather what is universal is the inclination and capacity of every individual to identify some behaviors as morally wrong. That inclination and capacity inhere in human character.

In the course of growing up, each person develops a concept that he is one member of a society of other individuals. It is an essential achievement of a lifetime for each person to develop an understanding of the structure of his society (the relations between people) including an abstract image of what he considers to be a successful person within society, i.e., someone he would respect. That image is based on a set of principles that each person creates for himself to define respectability and also disrespectability (contemptibility). This is not to say that each society articulates its own principles of respectability/contemptibility with any precision or that individuals within any society share the identical understanding of what those principles are, but it is to say that each person develops his own concept

(however flawed or incomplete it may be) of what deserves respect and what contempt within society as he experiences it. For each person, social life consists of the continuing effort to achieve his concept of personal respectability within his society. (Social respectability is only one of many personal goals.) Immorality involves a breach of the principles of respectability, i.e., the commission of a contemptible act. Not all contemptible acts are immoral. Immorality requires two additional elements: (1) the contemptible act must have been intended to cause harm to someone else (or the likelihood of harm must have been recklessly disregarded), and (2) the contemptible act must actually have caused harm. Immorality involves intentional (or recklessly caused) harm to another person in consequence of a failure to behave respectably.

This section is titled "Definition of Morality", but offers instead a definition of "immorality". By this definition, the greater the intended harm, the greater the immorality – there are degrees of immorality. There is a distinction between what is moral and what is immoral; one is not just the opposite of the other. Any conduct that is not immoral can properly be said to be moral, but there are no degrees of morality comparable to degrees of immorality. Only immorality can be said to have degrees. The analogy is to crimes: there are minor crimes and serious crimes which cause minor or serious harm and which entail commensurate punishments, but all conduct not prohibited by criminal law is equally legal with no punishment or reward. Immorality is a multipart phenomenon consisting of (1) the act of one person (2) in violation of a standard of respectability (3) with the intention of causing harm (or intentionally disregarding the likelihood of causing harm) to another person and (4) actual harm to another person. Immorality occurs at the most basic social level: an interaction between two individuals. In a complex social situation, say, a war between great empires, the morality of that complex interaction can only be understood at the most basic level in terms of the behavior of one individual at a time causing harm to another individual – the complexity arises from the complex interconnections of individual immoralities, not from a change of the features of immorality at its basic level.

That's my take on what morality is. I have adopted the terms "arm's length" and "common courtesy" to a larger domain than their common usage but it's my impression that the underlying concepts are generally accepted even though my descriptive words may be new; similarly, the words I use to describe morality may be somewhat new, but it's also my impression that the underlying concepts are generally accepted. That said, I recognize that some may not regard actual harm as an essential element of immorality and that an action intending to cause harm in breach of a standard of respectability may be considered immoral even if no actual harm results. Resolving that issue is not important for this essay.

The point at which one has, or is expected to have, a clear understanding of respectability, the basis of morality, is the point separating childhood from adulthood: only after passing that point is one considered capable of taking responsibility for oneself and then one is free to enter arm's length commercial relations.

By this definition of morality, it is understandable that different societies have different moralities. In a society consisting of a small kin group living a nomadic life in a very harsh and hostile environment, a workable adaptation to that environment might involve an "alpha male" being the only permitted sexual partner for all the females. Fratricide and patricide might be respectable succession strategies. The divine right of kings might be understandable in circumstances like those prevailing in Pharaonic Egypt or Ancien Regime France. In each of those circumstances, one would expect a system of respectability and morality to suit the peculiar social circumstances. Whatever the moral system one might adopt, to the person who adopts it, it always defines what seems right and proper and also what is abhorrent, and those definitions seem permanent and universal and beyond question -- that is the nature of the personal subjective experience of one's own morality. But notwithstanding the character of the subjective experience of morality, my position is that morality should be understood as an adaptation to a particular

social environment and that no particular set of moral principles has a universal or objective correctness. Once an individual has developed his own concept of respectability and morality, it's not clear how much change an individual can make if the social environment changes. One of the most extreme social changes imaginable is the change some Jews experienced when they moved from very sophisticated civilized German urban affluence, to the most uncivilized society of the Nazi concentration camps, and then back again to civilized society. The literature is full of examples of Jews who maintained their moral civility throughout, but alongside those are other examples of the most uncivilized predation in the camps. Moral culture can change between generations, but there sometimes seems to be cultural momentum over many generations.

I want to emphasize that each individual forms his own definition of respectability and there may be great variation amongst individuals even with similar backgrounds. Within any established stable society, one would expect a paradigm of respectability to prevail in some majority or plurality and that paradigm will determine the moral character of the society – at least to the extent that any society can be said to have one moral character. In any society, there are always outliers and individuals who miss the prevailing boat completely for whatever reason. In the affluent liberal democracies, prevailing laws and practices, particularly in commerce, demonstrate a morality based on a paradigm of respect for the equal freedom of individuals – a paradigm that to me seems widely accepted, though not universally.

### **Freedom and Equality in Arm's Length Relations**

Freedom is the absence of restraints. Freedom in arm's length relations is absence of restraints on an individual imposed by others with whom he stands at arm's length. Equal freedom in arm's length relations is equality of restraints imposed on every individual by others with whom he stands at arm's length. The coin metaphor suggests that individuals cannot be equally free unless each individual is responsible for himself (i.e., each individual bears the burdens of his exercise of his freedom). Unless each is responsible for himself, some individuals (the victims) bear burdens imposed by others with whom they stand at arm's length (the privileged) and this violates the equal freedom of the victims and the equal responsibility of the privileged. As I said above, it's my sense, without proof, that the coin metaphor of equal freedom and self-responsibility that common courtesy entails is the prevailing paradigm governing arm's length relations in affluent liberal democracies. It's not universally accepted, and even where it is accepted, it's not articulated or understood with any precision. Nevertheless, here is my take on some of the features of that paradigm.

What are the features of "freedom" in liberal democracies? There is an undisputed recognition that individuals are inherently and absolutely free to think whatever they want, and freedom of thought is something we value and encourage. Thought is to be distinguished from behavior. Society imposes all kinds of restraints on the behavior of individuals, but we nevertheless feel free and one reason is that our freedom is "residual". In their relations with adult strangers in our society, individuals consider themselves free to do whatever they want except (1) what interferes with another person's equal freedom and (2) what is specifically prohibited. This is not trite. There are specific articulated behavioural prohibitions, and the unarticulated residue, everything that is not prohibited, is the unlimited domain of individual behavioural freedom. There is a general understanding that government should be reticent to impose additional behavioural restraints on all individuals and then only for compelling reasons. This general understanding is not in serious dispute; rather, the disputes concern the reasons that might justify a behavioural restriction imposed by government on individuals that reduces their domain of freedom and whether the restraints apply equally to all individuals, or do they privilege some and burden others. Individuals have the impression that the domain of freedom (the domain in which their behavior is

unrestrained) is vast, and they accept the particular restraints that are in place on the understanding that the restraints (1) serve some larger social purpose of which all individuals are the ultimate beneficiaries, and (2) the restraints are applied equally to all individuals.

In its largest meaning, economics concerns the flow among people of things they value (goods). The most valuable stuff is said to be worth more than money, but this essay is concerned only with those less valuable things that are measured in money and are called “commercial goods”. In this smaller meaning, economic activity consists of finding and claiming ownership of goods, creating, owning and exchanging goods (by gift, sale, loan or whatever) and consuming them. Commercial freedom is the extent to which an individual is not prevented by others to whom he stands at arm’s length from finding, creating, owning, exchanging, or consuming commercial goods. Exchanges of money-value goods between individuals at arm’s length constitute commerce; therefore, commerce is one part of the much larger totality of interactions between individuals at arm’s length but is governed by the same principles of equal freedom and the same morality as all other arm’s length interactions. Government is a legal entity, but government is not an independent moral entity. Morally, government is just a group of individuals whose relations with other individuals (the public) have the same moral dimension as any other relations between individuals at arm’s length. As a legal entity, government does actually engage in some commercial exchanges, but its greatest commercial significance is in regulating the behavior of other commercial actors. In this essay, when I use the term “commerce” I include government activity of both types. Government requires some types of commercial exchanges to follow specified regulation and government altogether prohibits a few particular types of exchanges, but for the most part, property rights in the huge majority of exchangeable goods are respected and people are free to exchange goods in an open-ended variety of ways of their own devising.

What are the features of “equality” in a liberal democracy? First, consider again the expressions (1) “liberty and justice for all” and (2) “all human beings are born free and equal in dignity and rights.” The word “all” in the first expression, and “all human beings” in the second, both refer to individual humans. Not groups of humans, not some form of collective, not ideologies; rather, individual humans. No group has any necessary equality with any other group or individual. It is the equality of each individual that is valued. Each individual human (and only each individual) has equality with other individuals. Individuals may be members of groups of individuals, but by being a member of a group, an individual remains equal to every other individual in our society and does not have some greater or lesser value or right or privilege than any other individual who is not a group member. When I describe individuals as members of groups, I refer not only to groups which an individual can join or not according to his preference, but I include all subdivisions or classifications into which society can be divided, e.g., one may be a member of a family, or race, or religious organization, or hereditary ranking, and each person has his own height, or color, or income or education etc. – his peculiar features or merits. Individuals voluntarily join groups precisely to gain some personal benefit and they may succeed in that, but whatever benefit or detriment an individual derives from being a member of a group ought not to violate the equality that individual group members share with non-members. We are so comfortable with the notion of individual equality that it almost seems wrong to say that individuals are not equal. In almost every respect, individuals are peculiar and particular and recognizably different from everyone else. Individuals in arm’s length relations recognize individual differences (inequalities) but nevertheless treat one another with equal respect. Individuals are equal only in an abstract characteristic attributed to each individual by other individuals (including individual members of government): their equal freedom in arm’s length relations.

I don’t want to be overly repetitive but I want to emphasize this point. To say that individual equality of those at arms’ length is a feature of our society does not contradict the obvious inequalities that do characterize individuals. It is trite that individuals are, in most respects, not equal. They have different

physical features and mental attributes, different histories, different wealths and different licks – those are their particular, peculiar, personal features or merits. In their peculiar personal features, individuals are unique, unequal. But whatever their personal peculiarities and inequalities, individuals at arm's length treat one another as equals by respecting their equal individual freedom to go about their own business without restraint except for common courtesy.

The equality that individuals share in our society is blind to the group or classification of which an individual might be considered a member, or to unique individual attributes. Think of the courthouse statues of Lady Justice holding balance scales in one hand and a sword in the other. She wears a blindfold signifying her indifference to "identity, money, power, or weakness" (Wikipedia). The determination of justice in any legal dispute takes no account of (is blind to) the peculiar features or merits of the individual parties to the dispute and the same is true of the fairness of an athletic competition or commercial interaction. What is the connection between fairness and justice? Both those terms have such common usage that the definitions are fuzzy around the edges; nevertheless, here's my take. I've described four different types of fairness (parental, friendship, arm's length, and enemy). Justice is the fairness that applies between individuals at arm's length. A parental distribution of candies among children would not be described by the word "just", nor the fun shared between friends, nor the harm caused by enemies, but you would call them fair. On the other hand, when one person interacts with another with whom he stands at arm's length, provided each respects the equal freedom of the other to participate in the interaction by demonstrating common courtesy, then the interaction is considered fair and just. Fairness and justice are synonyms in the arm's length context.

We recognize freedom and equality to be our highest social values, but it is important to recognize that freedom is not one value and equality another separate and conflicting value; rather, in our society, freedom and equality are joined into one value: equal freedom. And since equal individual freedom implies equal self-responsibility for the consequences of an individual's exercise of that freedom (the coin metaphor), our governing social value in arm's length relations is a composite of equal freedom and equal self-responsibility. The particular area of freedom that this essay addresses is the freedom of individuals to create, own, exchange and consume things of money value unrestricted by other individuals with whom they stand at arm's length: the freedom to engage in commerce. Equal freedom, and particularly equal freedom to engage in commerce, is to be distinguished from equal wealth. An individual's wealth (or poverty) is a peculiar feature of that individual just like his height or his history or his luck, and it does not affect his equal freedom to engage in arm's length relations with other individuals or the common courtesy he is entitled to expect. Equal commercial freedom includes the possibility that some individuals may fail in the exercise of their commercial freedom and become poor while others succeed and become wealthy – this even though every individual commercial interaction is fair. Of course, the wealthy competitors may also have taken an unfair advantage of the poor, or vice versa. There is a philosophical possibility that, in the spontaneous exercise of their commercial freedom, all individuals in an affluent liberal democracy may be equally successful and become equally wealthy – a philosophical possibility and maybe even a desirable one but as unlikely as a tie between Usain Bolt and me in the Olympic sprint finals. Realistically, unequal commercial skill will result in wealth disparity and that suggests that wealth equality will only obtain where less talented commercial competitors are given an unfair advantage over more talented, i.e., a harmful violation of the equal freedom of the more talented. More on this below.

There are two possible exceptions to the strict equality of freedom and self-responsibility of individuals that come to mind: First is the classification of mental incompetence. A person who is not considered mentally responsible for his actions is not considered an individual member of society equal to all others, and is not entitled to behavioural freedom. No responsibility, no freedom. Second, individuals are divided into two sexes with inherent differences. The previous



sentence may not be strictly true as there are a very few individuals who have characteristics of both sexes -- so far as I know, there are no individuals who have no sex or a third sex. The numbers of individuals who cannot be unambiguously classified as to physical sex is so small that I do not address it here – not because it's unimportant to them. Nor do I address questions of erotic preferences. Where genuine differences of sex operate (e.g., athletic capability or pregnancy), arm's length relations differ from strict equality. The common courtesy owed to a heavily pregnant woman at arm's length may differ in some circumstances from what is owed to a woman at arm's length who's not pregnant, and of course, in many sports, men compete against men and women against women.

### **Morality of Common Courtesy**

If one accepts the coin metaphor of equal individual freedom and common courtesy (and I know that acceptance is not unanimous), then a certain morality is implied. All competent adults are expected to recognize the equal freedom of others with whom they stand at arm's length. Violating another person's equal freedom breaches our standard of respectability and every violation of another person's equal freedom imposes some harmful burden, whether great or small. Therefore, the intentional violation by anyone of the equal freedom of anyone else with whom he stands at arm's length is immoral by the standard of common courtesy. By a different standard of morality, it might be perfectly proper and respectable and moral for the strong to prey on the weak and the savvy to prey on the unsuspecting. In the following sections, when I use the term "morality", unless I say otherwise, I'm referring to the specific morality of common courtesy which respects the equal freedom and self-responsibility of individuals standing at arm's length.

An arm's length interaction begins when two parties going about their separate businesses encounter one another and separately recognize that they might each benefit by an interaction (for example, two drivers enter an intersection simultaneously and one driver waits for the other to proceed first), and ends when the interaction is completed (the other enters first and the second follows). When the interaction ends, they continue with their separate businesses and neither owes anything to the other except common courtesy.

Consider another traffic interaction. All drivers have an equal freedom to drive their cars on public roads for the purpose of going to whatever destinations they want (or just to enjoy driving) provided they follow the rules of the road which implement common courtesy. That equal freedom applies regardless of the personal peculiar features of any particular car or driver, e.g., a more powerful or expensive or newer or shinier car does not have any privileged priority (ambulances or police vehicles do have priority because, in relation to normal drivers, they have a protective parental relationship – not arm's length). If one driver enters an intersection first, he has right of way over a second driver entering later regardless of the personal attributes of the drivers or their cars. If the second driver nevertheless accelerates into intersection in front of the first, then the second intentionally violates the equal freedom of the first and causes harm to the first. The minimum harm is that the second driver forces the first to wait, but the second driver might have caused a vehicle collision which would be a more serious harm. By the standard of equal freedom and common courtesy, jumping in front of another driver in violation of his right of way violates his equal freedom and is an immorality – a minimum immorality to be sure but an immorality nonetheless. A driver in a powerful car faces continuous opportunities to jump in front of slower drivers who have the right of way. By the standard of common courtesy, these opportunities constitute temptations to gain an advantage by committing an immorality. And if one yields to that temptation, then one feels some level of guilt and the victim also feels shame for having been

disrespected. And the interaction might not immediately end: the relationship might change from arm's length to enemy (villain/victim) and the victim may seek retribution. In another society with a different morality, a powerful car is understood to confer privileges of priority and the driver would feel no guilt about forcing another car to wait or creating the hazard of collision.

Drivers in traffic relate to one another at arm's length. Competitors in sports also relate to one another at arm's length. Equal freedom and common courtesy apply to all arm's length relations including both athletes in competition and drivers in traffic. But the rules of common courtesy in some sports are different from the rules of common courtesy between drivers in normal traffic even though both sets of rules respect the equal freedom of all the participants. Compare driving in traffic on public roads to driving in an automobile race on a closed track. The common courtesy governing normal traffic on public roads set out in traffic legislation is intended to respect the equal freedom of all public drivers to drive to their individual destinations as fast and as safe as possible. By contrast, the rules governing automobile races respect the equal freedom of all the competitors to win the race by using the differential capabilities of their cars to the full to drive as fast and aggressively as they are able. A racecar driver is encouraged to use the power of his car to jump in front of a competitor – the race is a test to see who is best at doing precisely that. What is permitted on the race track may be prohibited in normal traffic. For the most part, drivers have no difficulty understanding that the different rules both serve equal freedom. I say, for the most part because it's very common for young men to regard driving on public roads as a competitive athletic adventure. I certainly did. Apparently there is a neurological explanation.

The right of way in traffic is no different from the right of property in commerce. No one is entitled to steal from anyone else regardless of the wealth or poverty of the victim or the thief. In other societies, it is entirely respectable for the street savvy to fleece the hicks. In such a society, instead of equal freedom regardless of personal attributes, strength is considered a full justification for predation on the weak and cunning is a justification for predation on the naïve. By contrast, here, in the huge variety of different situations in which strangers make contact, all the different sets of rules that apply are properly called "common courtesy" because in each case the rules respect the equal freedom of each party. The fundamental principle of common courtesy is that it is blind to the particular peculiarities or features of individuals and the rules would remain the same if the parties changed position. One is not a respectable success in a civilized liberal democracy without understanding the basic principles of common courtesy and treating strangers accordingly. Intentionally breaching the principles of common courtesy violates of another person's equal freedom and causes harm (however minimal) and is a failure to behave respectably – intentionally violating common courtesy is therefore considered an immorality in our civilized society. So long as each party respects the equal freedom of the other, there is no harmful consequence and no immorality.

This description of the morality of equal freedom may seem facile and oversimplified for at least two reasons: (1) the imprecision of the concept "consequences" (2) imprecision of the concept "harm/benefit". The first point raises the whole philosophical question of causation and consequence; e.g., if a butterfly on one side of the world can cause a hurricane on the other, is that consequence direct, proximate, or remote, inherent or contingent and for what consequences is the butterfly morally responsible. The second point raises the philosophical question of subjective evaluation: what one person considers to be a harm, another may consider a benefit. Those are legitimate philosophical points that require analysis in complex social situations. However, I am not addressing those points in this essay because the voluntary exchanges between strangers that constitute commerce are simple enough that these imprecisions are not significant.

## Democracy

Like the other fundamental terms considered in this essay, the term “democracy” also has multiple meanings. Any system of government in which individual citizens have equal participation in government comes within the narrowest definition of democracy. There are many different systems of equal participation in government. What is now called “direct democracy” requires a popular vote on every piece of legislation and every citizen has a vote. Individuals may be required to vote or may be free to vote or not. They may be required to hold office or they may be free to hold office, or run for office or not. By that narrowest definition, a government may be democratic regardless of the laws that it passes. But today, that strict definition is not the common usage. Today, the common usage seems closer to what is connoted by the term “liberal democracy” which seems to have originated in 18<sup>th</sup> century Enlightenment philosophical debate. Nowadays, the common usage of “democracy” loosely includes two additional characteristics. First, the laws enacted must affect individual citizens equally, i.e., the laws must not impose a burden on one individual for the benefit of another. Second, democracy now connotes individual, residual freedom, including particularly commercial freedom. One can imagine a system in which (1) individuals have an equal right to participate in government and (2) laws equally restrict all individuals, but (3) there is no economic freedom (say, everyone is required to be a farmer without modern machinery). That system would not be considered a democracy by today’s loose usage which seems to recognize equal individual residual freedom including commercial freedom.

Enlightenment debates concerned the relations between government and individuals. A government was liberal to the extent that it allowed individuals to be equally free and did not burden commoners with privileges benefitting the nobility or clergy. Those debates did not address the larger question of relations between individuals in general, and that contrasts with the broader perspective that I offer in this essay whereby equal freedom is a property of relations between all individuals at arm’s length and government is a relatively small temporary group of only some individuals. From this broader perspective, interactions between government and individuals amount to only a relatively small part of the totality of interactions between all individuals at arm’s length most of which do not involve government at all, but all are governed by the same principle of equal freedom.

In a liberal democracy, a person holding governmental office remains an ordinary individual equal to all others in the sense that he owes common courtesy to other individuals with whom he stands at arm’s length – he ought to respect the equal freedom of all individuals. The population at large consists of individuals to whom he stands at arm’s length even though he probably will never engage most of them face-to-face. When he is proposing and enacting laws that affect the population at large, our highest values require him to show the same respect to the equal freedom of the individuals whom he will never meet but are affected by his official actions as he owes to the individuals that he does meet in his personal capacity. A member of government who intentionally violates the equality of freedom of an individual thereby commits an immorality whether he does so in his personal capacity or in his official capacity. In this sense, the actions of government are judged by the same moral standards as are the actions of individuals, not because the government is itself a moral actor but because government is composed of individuals who are. Any moral attributes that we might ascribe to government derive purely from the moral capacity of the individual members of government. And so it is with corporations or unions or any group of individuals who assume the legal status of an independent entity. And so it also is with any group of individuals that has no special legal status, as for instance, a mob. Corporations and such may be given the legal status of an individual (and for good reason), but that legal fiction does not alter the moral dimension. A government may have the constitutional authority to enact laws that privilege

some individuals to the detriment of others, and that constitutional authority defines the legality of legislation, but legality and morality are different species.

One strand of opinion in the public debate at the moment considers it proper for government to reduce wealth and income inequality -- the defining challenge of our time according to Pres. Obama. I do not see how that might be achieved without burdening the rich to privilege the poor and thereby violating equal freedom of individuals at arm's length. Of course, it's well within the reasonable judgment of a parent to distribute candy to his children in any proportion he thinks best. The parent's moral authority to unequally distribute candy among his children derives from the parent/child relationship which presumes the superior knowledge of the parent and his equal love of all his children. The parent/child relationship is generically different from the arm's length relationship that prevails between most adults in our society including individual members of government. Does an individual who relates at arm's length to members of the public attain some higher status upon becoming a member of government that allows him now to pass laws which violate equal individual freedom for the purpose of achieving a vision of society that includes values higher than equal individual freedom? Or does the respect he owes to the equal freedom of all individuals apply not only to those he encounters directly, but also to the individuals remotely affected by his actions as a member of government? Does he acquire a wisdom superior to each of his arm's length compatriots and does he have equal concern for all of them that would justify a redistribution of wealth the way a parent is justified to exercise his judgment to determine the distribution of candy to children? I don't think so. First, an election to government office does not authorize a violation of fundamental values expressed in founding canons -- to institute new canons based on superior knowledge would require something in the nature of a constitutional amendment, a much larger consensus than is required to enact laws that merely implement those values. Second, elected members of government do not love all compatriots equally; rather, they are unashamedly partial to the partisan voting constituencies with which they identify. Third, their political adversaries would dispute their claims to superior wisdom and I would dispute any values superior to equal individual freedom in an affluent liberal democracy.

In the current public debate which pits left-wing Liberals against right-wing Conservatives, left-wing policies are called "liberal" but right-wing policies sometimes called "classic liberal" align more closely with the meaning of the word "liberal" as it was used in Enlightenment debate. How it happened that the meaning of the word "liberal" acquired such different meanings is interesting social history, but the word is now so ambiguous that I do not use it except in the expression "liberal democracy" which is an idiom separate from the individual words and by which I intend to connote the three part meaning described above. Similarly, the policies now identified as left-wing and right-wing owe more to the history of political rhetoric than to philosophical coherence.

### **Basic Unit of Commerce: The Commercial Bargain**

The elementary actors in commerce are individual humans. The elementary unit of commerce is the bargain -- a voluntary exchange whereby one individual gives (or promises to give) to a second something valued by the second, and the second gives (or promises to give) to the first something valued by the first. There are many different types of bargains, but this essay concerns only commercial bargains. Commercial bargains are exchanges between individuals at arm's length of commercial goods (things that have money value). Every element of the bargain (the voluntariness, the things valued, the giving or promising etc.) has been the subject of great scholarship and constitutes the law of contract.

The “something valued” that is exchanged in the bargain is called “consideration” and every bargain consists of two considerations, one given by the first party to the second and the other consideration given by the second to the first. The term “bargaining” refers to the process whereby the strangers negotiate the terms of the bargain (e.g., what consideration each requires to receive in return for the consideration to be given), but the end result of the bargaining is the bargain, the exchange. Each party makes the exchange for his own reasons and each has determined, by his own subjective evaluation not necessarily shared with the other, that what he is giving is not as valuable to him at that time as what he is getting – both gain in value. This is not a contradiction. At the time the bargain is struck, each of the two strangers thinks he will be better off after the exchange than before – this says nothing about which of them might benefit more than the other by some objective assessment. Each determines his own values. The strangers make the exchange on the understanding that once the bargain is struck, the parties are bound to conclude it and neither side is entitled to reverse or otherwise interfere with the finality of the bargain, particularly on grounds that he gave more than he got, or some such. And throughout, the parties are free to engage in any other commercial exchanges they wish.

Two tangential points: (1) I refer to the parties to a bargain as “strangers”, but they don’t have to be strangers – they could be close relatives like the Williams sisters. But an exchange between relatives would not be considered normal commerce unless they dealt with each other as though they were at arm’s length, i.e., as though they would make the same exchange with anyone else including strangers. (2) The word “bargain” is sometimes used to mean “good bargain” as in: It’s a bargain to buy when prices are reduced. In this essay, a bargain includes any voluntary exchange of commercial goods, whether the price seems expensive or cheap.

The bargain is the elementary unit of commerce. A bargain can be analyzed into its elements, such as offers and counter-offers, but in isolation those elements do not constitute economic exchanges. And just as numerous individual atoms can join to form molecules of great complexity, so too numerous individual bargains can, in the aggregate, result in complex economies. And just as complex molecules are best analyzed into their constituent atoms, so too a complex commercial economy is best understood by analysis into its individual bargains. Not all economic transactions are constituted from commercial bargains – a family of hunter/gatherers is an economic enterprise without commerce. Liberal affluent democracies also have families with their own intra-family non-commercial economic relations not necessarily based on bargaining, but those are not the type of economic exchanges addressed in this essay.

There are many reasons why our economy may not seem to be just a bunch of simple bargains. Here are a few. There is little bargaining. Filling your car with gas, going by subway to work in an office, or making a call on a cell phone, etc., these are common commercial exchanges that do not involve haggling over prices. Some major participants in the economy (giant corporations, government agencies etc.) don’t seem to fit the description of individuals equal to you and me and other regular folk. Government participates actively in the economy passing laws, inter alia, that restrict the economic freedom of individuals and not necessarily equally. Much of the domain of economic activity seems to exclude individuals – the terrain is divided between privileged licensees (telecommunications firms, mines, Fannie Mae, the central bank etc.). Much of our economic activity may seem far removed from simple bargains.

This is not to make the libertarian case whereby restrictions imposed by government should be eliminated or minimized. The bigger and more dense society becomes, the more important is government’s regulatory function. My own view is that government also has important creative functions. Society may be better off if laws restrict trade in body parts, or prohibit gambling, or protect patents, or regulate finance, or enable research. The wisdom of particular restrictions is a discussion for another day. Every

society will have different economic restrictions because each has its own tastes and preferences and circumstances. So long as individual freedom is residual and all individuals are equally restricted, then all are equally free and the morality of equal freedom is satisfied – only then does common courtesy rule and only then is commerce and affluence compatible with civility.

### **Morality of the Bargain**

Immorality involves a breach by one person of a social standard of respectability that intentionally or recklessly causes harm to someone else. Affluent liberal democracies respect the freedom of each individual to acquire property rights in commercial goods, and to exchange property or other goods with other individuals on whatever terms they choose, whether foolish or wise. A bargain respects that equal freedom of individuals to bargain for personal benefit. Each party to a bargain tries to maximize value for himself and understands that the other party is trying to do likewise. In barter exchanges, the considerations exchanged are not money – each party determines that he will be better off after the exchange, and there may be no objective measure to determine which of them got the better deal. But for most commercial exchanges, the considerations on each side are easily measurable in money and it is very clear to the parties at the bargaining stage that a better bargain for one party is a worse one for the other. In this respect, bargaining is a “zero sum game” in which the more one party gains in money value, the more the other loses in money value. While they are bargaining, the bargainers are competitors or rivals, each trying to maximize value for himself. Notwithstanding the competition whereby one’s gain is another’s loss, the parties cooperate – they play by the rules and each respects the other’s freedom to make the exchange or not. This does not contradict the principle that, at the time the bargain is struck, each party considers that he will have goods of higher value to him after the exchange than he had before. With freedom comes commensurate self-responsibility. Once the bargain is struck, neither party can claim the exchange should be reversed or modified on grounds that the other party succeeded in striking a better deal precisely because each party knew at the outset that each party was trying to get the best deal for himself. Neither party can claim that he suffered harm intentionally caused by the other party precisely because he was himself fully responsible for making the exchange – any “harm” was intentionally caused by the self-proclaimed victim himself by choosing to make the exchange. For the overwhelming majority of commercial transactions, each party does not concern himself with the wisdom of the other party’s bargain. Typically, the parties are strangers who know nothing about each other except that each is trying to strike the best bargain to maximize value for himself. Even if one party does hope to harm the other, the knowledge by the intended victim that his competitor intends to make the best deal for himself (as does the intended victim himself) vitiates any claim of immorality. On the contrary, the consensual exchange affirms both the equal freedom of each party to enter the transaction and the equal commensurate responsibility of each party for himself -- equal freedom and self-responsibility between those at arm’s length, our highest value. If it turns out, after the exchange, that one party thinks the exchange on his side was unwise, that he gave more than he got, and even if we would all agree that he gave more than he got, that would not amount to a harm intentionally caused by the other party because it would have been caused by the decision of the self-proclaimed victim himself. To attempt to strike the best bargain for oneself in a consensual commercial exchange is perfectly respectable and does not constitute an immorality. Rather, an attempt to force a modification of the terms of an exchange already concluded would violate the other party’s equality of freedom to make voluntary exchanges and that would be immoral.

And therein is the morality of commercial exchanges: A bargain struck at arm's length respects the equal freedom and self-responsibility of each of the bargainers to make the exchange to maximize value for himself. Just as freedom of speech necessarily includes the freedom to express objectionable ideas, equal commercial freedom necessarily includes the freedom to engage in exchanges that seem unwise to others ("T'aint nobody's business if I do."), or are regretted afterwards. It is immoral intentionally to violate another person's equal freedom to exchange his property because, say, he has poor judgment. The morality of the bargain is inherent in its nature: neither party can complain about the outcome because each party understood that his counterparty (his rival and competitor) was trying to strike the best bargain to maximize value for himself in a zero-sum game and each party is fully responsible to himself for the consequences of the exchange. The bargain respects the equal freedom of each party to enter the exchange or not. It is inherent in the arm's length relationship that each bargain stands on its own – once the exchange is concluded, each of the parties is fully free to go about his own independent business and to make whatever additional exchanges he considers to be in his best interest without reference to the preceding exchange. Consequently, the agglomeration of numerous bargains into great complex networks of bargains does not introduce any immorality even though, in the result, some people may become very rich and others very poor.

Any immorality involves an intentional harm caused by a violation of a standard of respectability. A commercial immorality involves an intentional harm to the victim by a violation of his equal freedom to exchange his commercial goods in return for other goods. The violation may be perpetrated by a commercial counterparty, or by an unrelated third party including government. Misleading inducements and frauds and some other thefts are examples of immoral violations committed by a counterparty to an otherwise normal moral commercial transaction. An agreement between competitive vendors to secretly set prices is an example of a violation committed by third parties against all their customers. An exclusive privilege given by government to some individuals to monopolize an area of commerce (like an exclusive taxi permit) is a violation committed by government against other would-be taxi entrepreneurs and all their potential clients. Commercial immoralities always involve an intention by the perpetrator to get an undeserved benefit by causing harm to the victim in violation of the of the victim's equal freedom to acquire and enjoy his own wealth. There are an infinite variety of motivations that explain immoralities outside the domain of commerce, but immoralities within commerce can always be characterized as predatory and extractive. The predator gains by extracting value properly belonging to his prey. In the simplest case, the predator steals the property of the victim – the predator's privilege is identical to the victim's burden. Contrast that simple case with a more complex one: a member of government votes to enact a law to subsidize, say, sugar producers. The motivation of the member of government is to gain personal political benefit, perhaps in the form of campaign contributions or the votes of the sugar farmers – an indirect benefit to the politician himself. The sugar farmers get a free subsidy from government and there might be other political constituencies that benefit as, for example, the sugar workers' union which may also reciprocate with campaign contributions and votes. The victims are the competitors of the subsidized producers: (1) the producers of non-subsidized sweeteners and (2) whoever ultimately has to pay for the subsidy in some form of tax when the government finally gets around to raising the money to pay for the subsidy. Some of the victims are individuals who, at the time the legislative vote is cast, are diffuse and may never be identified. The predators consist of the whole coalition of political actors who sought personal benefit through the predatory extraction from victims some of whom are oblivious to the immorality at the time of its commission.

No doubt there are many examples of immorality in business (like fraud or robbery which violate equality of commercial freedom) but immorality is not inherent in commerce. The fact that some individuals are very wealthy and some very poor does not imply immoral predation. The moral question in each case is whether there has been an intentional predatory violation of equality of freedom to make commercial

exchanges. Just as inequality of wealth may not be the result of immorality, so equality of wealth may be the result of immorality. In either case, it is the immorality that society abhors, not the amount of any individual's wealth. Wealth, like want, is morally neutral. This point deserves emphasis: the question I am addressing is the inherent morality or immorality of commerce. What do I mean by inherent? For the most part, parents try to do the best for their children and the species endures in consequence. But there have been some parents, sometimes, who try to do their children harm, for whatever twisted reason. It would be wrong to conclude that examples of parental immorality imply that parenthood is inherently, or inescapably, immoral -- one can easily imagine a society in which all parents intend the best for their children. And so it is with commerce. There may be numerous examples of predation in a commercial setting, but if all immoral commercial interactions in our society suddenly vanished, the remaining commercial world would be essentially the same as it is now. I am not addressing the prevalence of commercial predation in our society (I think it's uncommon); rather, I am addressing the morality of commerce without predation. Commerce without much theft is, I think, a fair description of the present affluent liberal economies. The idea that commercial enterprise (sometimes called "capitalism") can succeed and endure only by immoral predation is, in my view, mistaken. On the contrary, success in commercial enterprise requires sales to individuals at arm's length of commercial goods that they value at a price they can afford. The total availability of affordable commercial goods defines the standard of living, or level of affluence. A commercial enterprise succeeds only to the extent that it contributes to the standard of living. Each entrepreneur undertakes an enterprise for the purpose of increasing his own affluence (that's his purpose), but he succeeds only to the extent that he offers value to, and raises the affluence of, others with whom he stands at arm's length (that's the purpose of his counterparties who choose to interact with him by buying the commercial goods he offers).

While this essay addresses the particular area of commercial exchanges, there is a much broader principle involved. That broader principle concerns cooperation between competitors generally, not just commercial cooperation. A general respect among competitors for the equal residual freedom of all individuals at arm's length (and commensurate self-responsibility) is the definition of civility. My conjecture is that civility began with commerce as traders recognized that there was more value to be gained from cooperative commercial exchanges than from predation, and only then did cooperative competition spread to other areas of social interaction.

One cannot overstate the importance of the civility that characterizes arm's length relations in our advanced, affluent, liberal democracies. There may be some way for historians to determine how civility came to be the norm. For me, it's pure conjecture that arm's length civility developed first in commercial relations when traders recognized the greater value to be gained from civil commercial interactions across different cultures than from predation, and only then did civility spread to other arm's length relations within societies. Maybe civility had a different development. But it seems clear that civil commercial relations and the morality that inheres in the basic unit of commerce (the bargain) are very old -- much older than laws regulating commercial exchanges and older than legislatures. Legislatures and laws did not create commercial relations. There are more volumes of legislated regulations governing commercial exchanges than any one person can master. While laws can regulate some aspects of commerce, they cannot alter the fundamental character of the bargain; more particularly, laws enacted by legislatures cannot alter the moral character of basic bargains. An advanced economy consists of innumerable commercial exchanges, for the most part in accordance with law but sometimes outside the law. It would be a mistake to think people obey the law primarily because of legislation and punishments for breach etc. For the most part, people don't even know what the law is. What people do obey is their moral inclinations. And when morality derives from equality of freedom as the mark of respectability, then civility is the result. Morality is not a sideshow accompanying commerce, like the musical background that accompanies the video part of a movie as I understood Paul Krugman to suggest when he said



economics is not a morality play. The soundtrack of a movie can be changed without affecting the substance of the video (the dramatic impact, of course, might be seriously affected). By contrast, commerce would not exist without the moral aspect of arm's length relations. And herein is the importance of morality to commerce: morality (not law) governs commerce. Without equal freedom, there would be no commerce, and at worst, no civility, no affluence, no democracy. At least, that's my inclination, without proof.

What is called "the economy" consists of the totality of innumerable commercial exchanges by which things of money value are created and consumed. We try to make sense of the huge complex totality of exchanges by understanding them as organized into different systems (the energy sector, transportation, finance, etc.), and different economists conceive of different systemic subdivisions. Regardless of whatever systemic organization one might find helpful for some purposes to understand a complex economy, it is a mistake to regard economic morality as something "emerging" out of complexity, or scale, or proportionality, or systemic subdivision, as for example, normal justice is no longer said to apply in our complex economies and unarticulated new principles called "social justice" are said to emerge from the complexity and pre-empt the normal principles of justice that blind Lady Justice represents. On the contrary, our commercial morality derives not from systemic complexity or some such, but rather morality derives from the inherent nature of the basic unit of commerce, the bargain between individuals at arm's length. When considering the morality of complex aggregates of exchanges, it is essential not to lose sight of the fundamental principle that only intentional actions by individuals affecting other individuals have a moral dimension. No matter how complex the economy might be in some respects, for the purpose of moral analysis, the economy is essentially just a bunch of individual bargains between individuals at arm's length guided by a moral system that is only vaguely articulated and has conflicting strands.

## **Prices and Wages**

By its broadest definition, the term "price" means simply the consideration given by one side of an economic exchange for what is received from the other, but by the most common usage, the term refers only to the money paid by one side of a transaction for whatever is received from the other. For example, by the broad definition, an oil company could describe a gallon of gas as the price it paid for the \$3.50 it received from the purchaser of gas, but by the common usage, only the money would be called the price.

For the huge majority of commercial transactions in our economy, money is the only consideration given by one side. For a huge majority of those, there is no haggling or bargaining over the price. Typically, the vendor of goods sets the price in a public offer to any member of the public in circumstances implying that he will not entertain offers at a different price, e.g., in the retail purchase of gas, there is no one at the gas station authorized to accept a different price. This might seem to violate my earlier description of a bargain, and the purchaser of gas might not feel that his freedom to strike bargains for the purchase of gas is equal to the freedom of the oil company. The purchaser might feel that prices are not the result of bargains between equals but, instead, that the price of gas is somehow set by some "official" process (or predatory conspiracy) in which he had no part. If a price is understood as the outcome of bargaining between equally free individuals at arm's length, then the inherent morality of the bargain implies that the price is "fair" whatever its amount and neither side can complain. But if the purchaser thinks the price is "officially set" by parties other than himself, then the morality and fairness of the price is not apparent and the purchaser can feel free to complain that the price is too high, and those complaints typically include

some description of the principles according to which prices ought to be set and which, if followed, would result in lower prices. Hard to imagine gas purchasers intentionally invoking principles that would result in higher prices. Nowadays, the claims typically invoke some higher “social purpose” that would be served by lower prices. Typically, the claim goes, vendors should be content with a modest civilized profit -- huge profits are unseemly and vulgar and indecent, maybe even immoral.

But the elimination of bargaining by vendors from so many commercial transactions is itself a bargaining strategy of theirs – no different from the strategy of a would-be purchaser of a rug in a Turkish bazaar when he makes what he says is his first and final and only offer. Of course the typical purchaser of gas is not the economic equal of a gas company in net worth, but what is morally important is the equality of their freedoms to enter the transactions or not, or to enter similar transactions with competitors, or to go into each other’s businesses, or buy an electric car, or ride a bicycle. The typical purchaser of gas may not consider going into the gas business in response to high prices – too much time and effort. But comparable time and effort went into the creation of the gas company that is now perceived to be making an indecent fortune. Of course the gas company may have some kind of government privilege that gives it an immoral advantage, and then it makes some sense to make a moral claim for lower prices, but the better response is to restore equality by eliminating the privilege. What keeps prices down is competition among vendors, and where there isn’t competition, high prices only invite competition. All dependant on equal freedom. The strategy of eliminating bargaining is itself a strategy to strike the best bargains. It may or may not work. If it does, there are efficiencies gained. Purchasers may not feel equal to vendors, but they feel equal to other purchasers, and that is an important aspect of the morality of equal freedom.

Some marketing strategies appear to violate essential features of the bargain in ways other than the apparent elimination of bargaining. For example, some vendors offer to allow purchasers to return the purchased items for any reason; i.e., to undo the bargain. Once again, that is itself a bargaining strategy the purpose of which is to strike the best bargain for the offeror. Part of the sales pitch might include the idea that the vendor has the best interests of the purchaser at heart and any other way of doing business is immoral. That type of marketing effort will be successful to the extent that the vendor makes profit, but a side effect of that success is that consumers’ attitudes might shift to the point that they actually believe civilized suppliers to be morally obliged to sell at the lowest prices and to reverse every exchange that the purchaser subsequently regrets. No matter how far removed such an exchange may superficially appear to be from the simplest competitive bargain, the essential character of a bargain cannot be changed. That essential character involves parties dealing at arm’s length, each trying to maximize value for himself, and each free to do the exchange or not. There may be circumstances where it makes profitable business sense for some vendors to adopt, as a marketing theme, the posture that they do not stand at arm’s length with their customers, but instead are tantamount to friends, or parents, or trustees who have their customers’ best interests as their goal. But it is a fundamental mistake to think that the morality of civilized arm’s length relations has changed or can change. Arm’s length relations can revert to suspicion and predation, but they will not morph into selfless brotherly love. In this respect, we are at the end of history -- where commerce began.

The idea that some prices are “officially set” allies with the idea that commercial goods have an objective worth. Whatever the present price of a gallon of gas, what’s it really worth? Economists have models to calculate what they consider would be the price for particular goods in a fully competitive economy of equally free individuals. They may call the result of that calculation the fair price, or the fair market price, or the efficient market price or some such, and that theoretical calculation may be very important to help business people and consumers to make decisions. But where actual prices differ from that theoretical calculation, immoral predation is not necessarily the cause. There is no morally correct price where people are equally free. On the contrary, higher prices indicate an appetite in consumers for more of the

higher priced goods than are presently available for purchase, and that suggests a perfectly moral business opportunity for competitors to enter the market to supply those goods. Prices lower than the calculated level of efficient prices suggest that some suppliers will be leaving the business. Either way, the amount of the price itself is morally neutral. There is no moral component in the quantum of a price; rather, the morality inheres in the process by which the bargain is struck; i.e., if there has been an intentional violation of the equal freedom of the arm's length participants in the price setting process, then the intentional violation is morally objectionable. But in the absence of an intentional violation of equal freedom, there is no immorality.

There are innumerable examples of government restricting the freedom of arm's length individuals to determine prices by bargaining. The most obvious would be a price fixed by law. What is the morality of prices fixed by law? This question has nothing to do with the wisdom of fixing prices by law; rather, commercial morality concerns only whether violation of equality of commercial freedom intentionally harms one person to privilege someone else. By this principle, determining the morality of government intrusion into the bargaining process requires the identification of individuals who suffered damage in consequence of their commercial freedom having been reduced and other individuals who benefited. The amount of the price, whether determined by direct bargaining or by law, is morally neutral. Where there is an established regime of price controls for any commercial good, individuals deciding whether to be vendors or purchasers of that good are equally free and can't complain that somebody else has a privilege; however, price controls can cause a benefit/burden differential when they are abruptly introduced into an established functioning free market in which vendors have committed themselves to inventory etc. and purchasers are operating "just in time". When government abruptly introduces price controls into a functioning market for a particular commercial good, the price fixed by law is typically different from the previous or anticipated market price, and that implies a privilege for one side and a burden borne by the other at least to the extent that they had previously committed themselves to the previous market. In that circumstance, the price controls amount to a clear violation of equality of commercial freedom and resultant harm. But violation of equal freedom and harm are not sufficient for immorality. There must also be intention. The imposition of price controls is only immoral to the extent that it was intended, by individual members of government and their collaborating constituencies, to impose a burden on the victim and grant a privilege to another individual by the violation of equality. For every example of price control or intervention that differentially affects the bargaining positions of buyers and sellers, one cannot be too cynical to suspect an intention to privilege a constituency favoured by individual members of the government for reasons of their own political or commercial advantage.

Not all governmental intrusions constitute immoral predation. Some are genuinely well intended. Consider the many examples of important economic enterprise that properly require special government license; e.g., a land fill or waste disposal site. Any piece of land can be used as a garbage dump but a land fill site can have harmful effects long after it is filled and after the lifetimes of the individuals who planned it or used it or derived economic benefit from it; consequently, it seems to me only prudent to expect that a private owner of a landfill will try to avoid expenses that will benefit only future generations. Individuals engage in commerce for their own benefit and that implies a limited perspective. On the other hand, government properly has (ought to have) a longer and broader perspective – longer and broader than the lifetime or interest of any particular individual. One of government's important functions is to take the initiative in areas of long term and general significance where commercially-minded individuals are not likely or able to see a commercial benefit to themselves; e.g., basic research, or environmental preservation, or major highways, or landfills – a long list. And so it seems only reasonable to me that government should prohibit landfills unless designed and operated so as to avoid burdening unidentified others in the future. And so every landfill requires a special government permit with all kinds of operating conditions including dumping fees. In the result, there are few landfills and some are operated directly by

government because no individuals wanted the responsibility. For a person who wants to dump his garbage, the operating landfill is a government granted or government operated monopoly and the dumping fees may seem like extortion. What is the morality of this situation and particularly the morality of the fees? Any economic activity of government is, of course, an opportunity for corruption and incompetence. Economic corruption (as opposed to, say, electoral corruption) can be defined simply as a kind of theft by stealth whereby some individual members of government carry out what they intend to appear as a legitimate government function while intentionally concealing a benefit accruing to particular individuals (perhaps including themselves) in violation of the commercial freedom of other individuals including the public at large. All corruption is immoral in the sense that it intentionally unequally burdens some individuals for the benefit of others all of whom stand at arm's length. Incompetence is an economic "bad" (in comparison with economic goods) in that it imposes unnecessary burdens on members of the public even though the burdens might be equally shared by all and with the best intentions by members of government. Again, this essay does not concern itself with either corruption or incompetence except to identify them. The total of corruption and/or incompetence in our governments is no doubt high but the frequency is relatively low – at least low enough that most people abhor it and don't try to get in on the action. Again, that's just my impression. Perhaps I'm understating how pervasive is government immorality and incompetence. The concern of this essay and in this particular landfill example, is not whether government is wholesome and wise. Assuming government is wholesome and wise, is there inherent immoral predation in government monopoly landfill operations and particularly with the fees? My answer is no.

Notwithstanding, there are plenty of examples of government-granted exclusive commercial licenses that do seem unequivocally predatory to me. A good example would be taxi licenses. I consider it perfectly reasonable for government to give exclusive privileges to operate a landfill or a nuclear reactor to carefully selected individuals on strictly defined terms because those operations are inherently dangerous to individuals far removed from the operators, and, therefore, it seems of benefit to all individuals for government to prevent anyone, other than carefully qualified individuals, from undertaking that type of operation. Taxi licenses are rhetorically justified on a similar ground (public safety) but that's phony – there are really no special qualifications or skills required to operate a taxi and no greater danger than from any other driver on the road. The number of taxis is restricted only to maintain a privilege for the existing owners of licenses as part of a bargain between them and members of government whereby they both benefit at the expense of everyone else. Other would-be taxi operators have less commercial freedom than the privileged licensees and the taxi customers probably pay a higher fee because they are prevented from doing business with other would-be taxis. None of this is secret. Governments initiated the privileged taxi license regime because there was (at minimum) a political benefit to particular members of government and the privileged regime continues for reasons of political calculation. It intentionally violates equality of freedom and is immoral. Economists refer to restrictions such as taxi licenses as "economic rigidities" or "inefficiencies" – euphemisms with no apparent moral component. The taxi example is particularly egregious in the sense that the privilege/burden differential is blatant, but in the result, the taxi fees are not prohibitively high, there are plenty of taxis, and there are alternatives to taxis, and so the whole transportation system seems to have the flavor of a competitive free market. The rigidities or inefficiencies created by taxi privileges do not themselves constitute a gross economic distortion overall. The taxi regime is blatant but there are a million other examples where government interventions create intentional unequal privileges/burdens the subtlety and creativity of which are a wonder to behold. Nevertheless, it is still my impression that most folk are outraged at each revelation and that equality of freedom remains the prevailing moral paradigm.

Government is not the only actor that can intrude into the price setting process of bargaining. Economic equality implies that multiple vendors offering similar economic goods to the public ought to be natural

competitors, but sometimes they secretly collaborate (conspire) not to sell below an agreed price level. These types of agreements clearly violate the equality that the conspirators ought to share with purchasers and they constitute a commercial crime covered by the area of law known as “antitrust”, “anti-competition” or “restraint of trade”. The opposite type of collaboration, whereby purchasers agree to boycott certain vendors, is not recognized as equally immoral even when the collaborators prevent other would-be purchasers, who do not agree to the boycott, from purchasing goods from the boycotted vendors by picketing and such. Such coercive boycotts intentionally prevent commercial exchanges between boycottees and their would-be customers and clearly violate commercial equality but this type of boycott is a surprisingly common strategy by special interest groups (which posture as public interest groups) and particularly by unions in support of strikes. I’m not aware of any criminal laws that prohibit coercive boycotts but damages and injunctions are sometimes available civil remedies for such “wrongful interference with commercial relations” – a vague commercial tort. I see no moral difference between price fixing by cartels (to raise prices) and coercive boycotts (to lower prices or prevent sales altogether), but they are viewed differently by the public and treated differently by law.

The price of an economic good is the money that is paid in exchange for that good in a commercial exchange. Wages then are one type of price. Wages are the price paid by one person (an employer) in exchange for the time and effort of another person (an employee). Everything said above concerning prices applies also to wages. There may be reasons for setting some minimum wages by law just as there may be reasons for fixing prices of some other goods. Some economists calculate what they call a “living wage”, the minimum a person needs to maintain a decent living standard or some such, from which some commentators vaguely infer that wages lower than the living wage are an evil injustice committed by employers. But if equality of freedom is the basis of morality, there is no moral component to the quantum of any particular wage. Equal commercial freedom allows individuals to exchange their time and effort in return for whatever wage they want. Wages, like prices, are determined by bargaining between individuals at arm’s length. The market wage for any particular job is the amount someone at arm’s length to the employer is willing to accept in return for doing that job. The employer bargains for the lowest wage, and the employee bargains for the highest. And once the exchange is concluded, each is free of obligation to the other except for common courtesy. Throughout, each acts in his own interest to maximize value for himself. It is, of course, very common for employer-employee relations to last a long time, sometimes, an entire adult lifetime and the relationship may take on attributes of friendly or family relations. Continuity and loyalty may be valued (or not) and it may make commercial sense for an employer to pay more than market wage or for an employee to accept less. Like a strategy for marketing goods where the vendor holds himself out as having the best interests of the purchaser at heart, some employers offer medical and retirement and other benefits in addition to monetary consideration. Some employment arrangements may have features that seem more appropriate to parental or other types of relations such as identical wages for all employees. But none of that can change the essential arm’s length character of employer-employee relations whereby each person is free to strike the best bargain for himself. Immorality in employment relations, as in all commerce, involves a predatory violation of that equal freedom and harm. By that standard, unions are predators from top to bottom.

There may have been a time when an organization of downtrodden workers served as a counter-balance to oppressive privileged bosses; one thinks of Dickensian coal mines or Count Tolstoy’s serfs. At that time, workers may have been destitute and bosses an hereditary nobility, and so the caricature of unions as chivalrous knights sacrificing themselves for the least fortunate in society may not have been an entire fictional creation. But nowadays, unions only serve to restrain free commerce in the same way that does any cartel trying to corner a market by extortion. Assume for the moment that a union is a voluntary organization of workers whose members speak with one voice. What does that voice say? It says to an employer that he should not be free to make employment bargains with willing members of the public but

only with members of the union and then only on terms to which the union agrees. Clearly the intention is to violate the equal commercial freedom of the employer and of any would-be employee who is not a member of the union. The employer might be wealthy (or not), but the would-be employee is certainly no more so than the union members and probably less so. If the union doesn't get the deal it wants from the employer, it can go on strike. When the union strikes, in addition to the previous violations of the freedoms of employer and would-be employees, it says to the employer's customers that if they try to do business with the employer (cross the picket lines), the union will do its worst to stigmatize the would-be customers. Fill-in employees (who are just ordinary individuals the same as the union members, and maybe more in need) are rebuked as loathsome "scabs". Unions commonly commit violence and property damage and worse to enforce their strikes but then pretend the employer has provoked the uncontrolled outburst from union members who otherwise would have been restrained and polite. But a union is not a voluntary association, at least not for many of its members. Employees are often coerced, or required by law, to join the union. And the seniority hierarchy within unions exploits new members in favor of senior in ways the juniors would avoid if they could. Within its own membership, privileged members (those with seniority) violate the equal freedoms of the burdened members. Unions posture as knights for the poor and unfortunate, but it's plain greed masquerading as charity. Unmitigated hypocrisy, and by the standards of equal freedom, immoral. Where equal freedom is the standard, union members (many members are pressured to join but nevertheless are willing to share in any privilege) today constitute immoral commercial predators with whom government is a full collaborator.

Every employee bargains for the highest wage for himself and every employer tries to minimize all his costs including wages. That reflects the fundamental character of bargaining between equally free individuals. Equal individual freedom implies that there is no necessary immorality in different wages for different employees. An employer may be unwise to make different wage bargains with different employees just as an oil company may be unwise to haggle over the price of every gasoline sale, but there would be nothing immoral about different employees making different wage bargains or different purchasers of gas paying different prices. It follows that there can be no moral objection where an employer pays a different wage, on average, to employees of one sex or race in comparison to another. Though couched in the language of moral outrage, law suits based on race or sex discrimination in wages are more properly described as opportunistic predation by the claimants. Laws attempt to prevent race or sex discrimination by requiring average wages for members of all sexes and races to be equal even though each employee has a separate employment contract. The purpose of such laws may be honourable (I'm skeptical), but the effect is a violation of equal freedom. Our highest values are compromised to implement a dubious tactic. The contingent-fee lawyers who are the real protagonists in wage discrimination suits are like Sir Francis Drake and Sir Walter Raleigh, privateers authorized by Queen Elizabeth, their partner, to prey on the Spanish. Of course, the Spanish were themselves predators, but the victims of wage discrimination judgments offended only a simplistic statistical model of race or sex neutrality. Perhaps Somali pirates would be a better simile.

### **Taxes, Spending, Debt**

In my view, government has proper functions in addition to national defense and policing. Others may disagree but I am grateful that government builds roads and operates landfills and sponsors basic scientific research in addition to creating and enforcing vehicular traffic rules and drinking water standards. This essay is not the place to discuss the proper scope of government in general. Suffice it to say that even if government functions are minimal, imagine only defense and policing, those functions still cost money which government has to get somewhere. There are unusual examples where manna drops from heaven, where government acquires wealth without taking it from individuals -- the oil wealth of

Norway or the U.K. come to mind. Those examples are so unusual that I do not address them except to comment that manna comes with its own problems. Apart from such manna or other unusual sources of money, government can only spend money that it extracts from its individual citizens. The method of extraction is what I would call its “tax policy”. For example, if government prints the money it spends, then that printing may dilute the value of previously existing money which is equivalent to a tax on the prior owners of money. The important question is not whether such extraction is a tax but who bears the burden of the tax and whether it has a predatory character. Commercial predation is the intentional violation of the equal freedom of an individual to own and consume and exchange goods with others, with consequential harm to him, for the purpose of privileging someone else. (Immorality in general is breach of respectability with the intention of doing harm, but immorality in commerce is always for the purpose of creating a commercial privilege – a commercial burden for the victim intended to privilege someone else, predation.) Every tax violates an individual’s ownership of property to the amount of the tax and consequently eliminates his freedom to derive value by exchanging that money for other goods. The moral question then is not whether a tax is a harm, it is, but whether it serves a legitimate purpose or does it intentionally violate the taxpayer’s property right so as to privilege someone else. The obvious privileges derive not from taxing but from spending. Taxing is the instrument of the harm; spending is the instrument of the privilege. Neither taxing alone, nor spending alone, have separate moral components; rather, the morality of taxing and spending derives from them both conjoined by a predatory intention. If government taxes one person (a tax payer) and gives to another (a privileged beneficiary), the taxing and the spending are rarely directly connected in the same legislation but the moral determination nevertheless requires that both be considered in combination. If all taxing legislation specified the use of the proceeds of that tax, then it would be possible to determine the morality of that particular taxing/spending legislation in isolation. But if taxing legislation is separate from spending legislation, as it usually is, then the predatory connection between taxing and spending is obscured and one cannot determine the separate morality of any particular piece of tax or spending legislation by the text of the legislation alone. The fungibility of money and the separation of tax legislation from spending legislation permit only some very general statements about the morality of overall taxing/spending policy. Government affects commerce in numerous ways but I divide them into (1) regulations which, like traffic regulations, serve to prevent individuals from violating each other’s individual freedom as they each try build their own commercial fortunes according to their own individual visions, and (2) active involvement whereby government tries to influence individuals to achieve government’s own vision. These two categories are not precisely discrete but so long as regulations respect equality of individual freedom, they are not morally offensive. My general comments below address the morality of active involvement of government in the economy to achieve government’s own visions. (I don’t mean to suggest that government has coherent visions. Only individuals have visions, and when I refer to visions of government I intend only the vague consensus demonstrated by legislation supported a voting majority of individual legislators.)

The most conspicuous feature of active government involvement concerns spending: the profusion of what are called “entitlements”. Entitlements now amount to more than half of all government spending in the U. S. Most entitlements are payments directly to individuals in money (or benefits to individuals that have money value for which government has to pay somebody else) on the rationale that the beneficiary has a need that the individual would not himself be able to satisfy without hardship or indignity. I call these “dignity entitlements” but another expression is “social spending”. Dignity entitlement legislation doesn’t expressly state that its purpose is to mitigate hardship and indignity – that’s my own characterization that I draw from the public debate, from the common expressions like “the least fortunate among us” and such. The principle I’m addressing is the morality of government taxing some people to mitigate the hardship and indignity of someone else. Dignity entitlements pose as “charity” without using the word. The ostensible purpose of the payment is to help the individual beneficiary avoid hardship. It’s

called “entitlement” for two reasons. First, the beneficiary can claim the benefit as of right. If the beneficiary satisfies stipulated qualifications (e.g., income or asset maximums, or age) the government cannot refuse to make the payment. There was a time several generations ago when many individuals would not make claims for entitlements even if they qualified. There was a prevailing ethos that hand-outs from government constituted a personal failure of self-reliance, a piteous charity, and a theft from other taxpaying individuals. And so the term “entitlement” serves to persuade would-be beneficiaries that these benefits should not be regarded as charity because the beneficiaries were entitled to the benefits as of right, not of pity. That ethos of self-reliance derived directly from the responsibility side of equal freedom and self-responsibility, when the coin metaphor held greater sway. But that ethos of personal responsibility and self-reliance, at least as it applies to benefits coming (superficially) from government, no longer characterizes our societies. Most people in the U. S. receive some kind of entitlement – even involuntarily. Old age payments are made to every old individual whether or not he needs it or wants it. Many individuals object to entitlements in principle feeling, in some vague way, that entitlements are irresponsible and corrupting. Nevertheless, even an individual who knows better and is in no need will take the benefit because he knows everyone else is doing the same and his forbearance would be a drop in the ocean that would not significantly mitigate whatever harm will ultimately ensue. In a variation on the tragedy of the commons, even an individual opposed to entitlements would be foolish not to take the benefit. Windfalls occasionally happen in life. They are rare, but sometimes, as a matter of pure luck, an individual can acquire something of money value without any effort and without any harm to anyone else, e.g. by gift or inheritance. But no one honestly believes that a dignity entitlement that he receives from government comes with no one else having to bear the burden. The beneficiaries of entitlements are far removed from the individuals who actually bear the cost, and anyway much of the cost is deferred with government debt and, therefore, it is not yet known who ultimately will pay. In the result, entitlement beneficiaries don’t trouble themselves to analyze the flipside of their apparent good fortune. Nevertheless, it is my sense of things that most dignity entitlement beneficiaries suspect there is an unspoken, underlying immorality to their good fortune. Even though everybody else is doing it and it’s perfectly legal, entitlement beneficiaries suspect that they are parties to an immoral predation. They know in a vague way that they are taking money from a stranger who wouldn’t give it to them without compulsion, i.e., a theft. Morality prevents people from stealing directly from their fellow countrymen, but they seem willing to accept the benefit of immoral predation committed by government (rather, by individual members of government).

Then there is another category of entitlements that are better described as commercial subsidies even though they may have tenuous connection to hardship, as for example agricultural subsidies. There may be talk about helping farmers get through droughts or some such and that talk might contain a kernel of truth, but really it’s essentially phony. Agriculture and other industries that receive subsidies consist of sophisticated folks who know there is no free lunch and they take as much as they can legally get from government and regardless of who ultimately pays.

In the moral calculus, the tax is the harm even though the victims are not precisely identified and the entitlement benefits are the privilege, but is there a predatory intention that connects the privilege to the harm? First there is the intention of the beneficiaries. I do not regard the dignity entitlement beneficiaries as kindly, doddering old folks who can’t understand the complex finances of their good luck – some very small number do fit that description but the overwhelming proportion well understand the basic arithmetic and know precisely for whom to vote and why. The intention of the dignity beneficiaries is not innocent of predation. The beneficiaries of commercial subsidies are full predatory opportunists – they might not pull the trigger but they plan the crime and drive the getaway car. More important is the intention of individual legislators. Spending legislation is unashamedly partisan politics. Both the dignity entitlement legislation and the commercial subsidy legislation seek to benefit particular political constituencies at the expense of



others. The legislator's intend their action to privilege particular individuals from whom they hope to win gratitude, campaign contributions (a form of kickback) and ultimately votes, and they are reckless as to who will bear the cost. This is a predatory immoral intention even though it's now everyday politics.

The big entitlement programs are spun as compassion for beneficiaries who are in need. I've characterized that spin as charity camouflaged under the euphemism of entitlement. But it's important to be clear what real charity is. Real charity is voluntary self-sacrifice to benefit a poor wretch. It's not charity for a legislator to give away another person's money after stealing it. The legislator is acting out of greed, not compassion: taking property belonging to someone else and using it to buy political alliance. And the beneficiaries are also acting out of greed: taking property they know properly belongs to someone else. On both sides, greed hides under a thin hypocritical disguise of compassion. Legislators spin themselves as Robin Hoods. Steal from the rich and give to the poor. The character Robin Hood is a fictional myth. There are no Robin Hoods in our real world. There have been many career criminal thieves who, at some isolated point in their criminal history, have given a token of compassion to someone in need. In the Robin Hood myth, all the rich victims of his theft were greater criminals than he, and the beneficiaries were all wretched but saintly -- a neat set-piece fable that has no current analogy. There are no Robin Hoods in our world because there can't be -- career thieves act out of immoral greed for their own benefit, and that fundamentally contradicts the self-sacrifice necessary for charity. There is, of course, real charity. Some people give away their own money to help the poor. Certainly nothing immoral about real charity, but the givers get no bonus points for economic wisdom. Giving money to strangers in need in the hope that it will do good is a self-indulgence that a person is entitled to enjoy with his own money. Giving money to a family member in need is a much more realistic scenario for charity. ("Charity begins in the home.") When one brother helps another in need, it's not an entitlement. The recipient has to demonstrate gratitude. Real charity is assistance to someone who is suffering hardship but is making his best effort to deal with the hardship. The charity is to assist the beneficiary to continue to make his best effort, not to relieve him of the effort or to become the primary support. And then, if the beneficiary stops making his best effort or if he's not genuinely grateful, he can be cut off. In our society of equally free individuals, genuine charity comes with strings and is not an entitlement.

A second conspicuous feature of the active involvement of many governments in commerce is huge yearly deficits and accumulated debt. Government debt represents government spending in the absence of taxes. Taxes can have an immoral aspect but so too can the absence of taxes. The present US government debt is an example of reckless immorality. We know that some amount of government securities is an important part of a vibrant financial system, but there are serious dangers when the amount of debt is so high that government has trouble servicing it and the U.S. government debt right now is dangerously high. If debt represents spending by government in the absence of tax revenue, what is the explanation for the absence of tax revenue? The spending was largely for entitlements but why was the spending not paid for by taxes imposed immediately, and why instead was the debt allowed to build, year by year? What seems clear to me and, in my impression is generally accepted, is that individual legislators deferred (and continue to defer) raising tax revenues to serve their own political benefits. In today's climate of short term focus by voters, legislators derive immediate political benefit when they spend and they bear an immediate political burden when they tax. If voters will allow it (or even reward it), legislators can get the political benefit without the political burden by spending now without taxing now. And so they have done for the last generation or so, and so they continue to do. The career of any particular legislator is short in comparison with the build-up of the debt, and so political logic leads to the debt accumulation despite the danger to the public of the inevitable burden that will be borne

when the debt is ultimately resolved. (Today, that burden is called “austerity” and it implies a drop in the standard of living, lower affluence.) Legislators know full well the serious accumulating danger that this pattern of deferred taxation poses, but they continue to spend without commensurate taxation in reckless disregard of the harm it will likely cause to individuals. Even though the victims will remain anonymous until the debt is resolved one way or another, the vastness of the US debt represents reckless immorality on the part of the legislators for their own political benefit.

In a normal instance of commercial immorality, the perpetrator violates the equal commercial freedom of one individual with the intention to burden that individual and privilege another. Commercial immorality involves both a burden and a privilege. The separation of spending legislation from taxing legislation obscures the relationship between burden and privilege especially where the victims, the individuals who will bear the burden, will not be identified within the politically foreseeable future. The relationship between burden and privilege may be obscured by the debt, but it is certain that there will be a burden, and that certainty is intentionally and recklessly disregarded by legislators. This implies that in determining the morality of spending legislation that does not include provision for commensurate tax, it is sufficient to identify an intention to create a privilege for particular individuals – the absence of tax, without more, implies harm.

A third conspicuous feature of active government involvement is the number of deductions from taxable income. There are a million tax deductions (tax privileges) rationalized as an inducement to encourage particular types of activity, as for instance, home mortgage interest is deducted from taxable income in the U. S. to encourage home ownership. But whether or not home ownership should be encouraged and whether or not the interest deduction efficiently achieves that purpose are almost beside the point. No doubt, the legislators who enact these tax privileges do so for their own political purposes in response to their preferred lobbying constituencies, as they do with entitlement privileges and most other legislation. The morality of these tax privileges is the same as the morality of entitlements. The beneficiaries are the would-be taxpayers who claim the deductions, and the legislators who get whatever political benefit they can wrangle. There is no immediate burden of the government’s lost tax revenue but the increased debt implies that there will be a reckoning burden at some point, and the victims will be whoever ultimately pays the debt. The legislators well know this chain of relationships; ergo, the legislators are guilty of reckless immorality.

Most egregious are individual tax deals whereby a taxpayer bargains with a government for tax privileges that he alone will enjoy if he locates a business in a particular place or some such. A separate law governing each individual fundamentally contradicts the principle of rule of law by which general laws apply to all individuals. The individual tax deals can’t even pretend to maintain equality of individual freedom. It’s hard to imagine a more egregious violation of commercial equality.

These are some examples of predation in different types of active government involvement in commerce but there is larger and more insidious problem with active government involvement. Morality exists at the basic level of individual privileged beneficiaries and individual victims, but the totality of these individual immoralities reflects a yet greater and more insidious danger to which we may all fall victim. The legislation creating these commercial immoralities typically does not contain its own terms of expiry. All these privileges take on lives of their own and live longer than the political lives of legislators. They outlive their purposes but persist because of politically irresistible and economically counterproductive distortions. The old folks don’t just buy a cup of warm soup with their old age pension receipts; they commit to a higher standard of living in full reliance on continued entitlement receipts. They don’t save for retirement during the working-earning phase of their lives. Once they retire, they live alone in nicer apartments unprepared for the austerity of an old folks home and their children feel less responsibility and are unprepared to care for their parents. The mortgage interest deduction encourages an extravagant

housing standard. Fannie and Freddie insure sub-prime mortgages to fulfill the political vision of Pres. Clinton, and that enables a house price bubble many years later, and that feeds, in its turn, into a financial collapse. The economic distortions are largely founded on consumption higher than what consumers could otherwise afford in reliance on government-granted privileges. The distortions have been building now for several generations, and while there are clear dangers, no one knows how things will play out and who will suffer. The long term consequences aren't clearly foreseen by legislators primarily because their political perspective does not include the long term. They're elected on a platform which becomes a mandate. They're elected because they made public promises and therefore the electorate, not the legislators, is responsible for the consequences if the legislators merely fulfill their promises. I'm overstating the point which is that in today's climate of predation by political constituencies with no self-correcting incentives, the immoralities lead to ever greater and potentially disastrous systemic distortions. By contrast, if government had never created immoral privileges, people would have lived within their means and the dangerous distortions would never have arisen. Living standards would not have risen so fast but the rises would have been real and would continue; whereas now, we have to expect painful austerity and readjustment – we just don't know when. The idea that the debt can be slowly paid down without reduced living standards is, in my view, wishful thinking especially as yearly deficits roll merrily along. I've simplified of course. Government taxing/spending policies were not the sole cause of the recent crisis, but they did contribute significantly to the cause.

The purpose of this essay is to describe the morality of commerce including government involvement in commerce, and it is beyond that scope to describe principles of wise government policy in general. Morality is one thing and wisdom is another. A wise government in an affluent democracy will be moral; but perfectly moral government policies can still be foolish. The principles of morality are much easier to identify and describe than are the principles wisdom and this essay confines itself to that easier task. But when it comes to the danger of slowly developing economic distortions, the dividing line between the morality and the wisdom of government involvement in commerce is blurred. On the one hand, the dangers from gross distortions like huge entitlement spending and deficits are so great that I'm tempted to brand it as recklessly immoral for legislators to disregard it; on the other hand, the accumulations are so slow that it may be reasonable for legislators at any particular time to regard their own legislation as appropriate for their own circumstance so that the responsibility for correcting slowly developing distortions falls on subsequent generations of legislators. I'm always skeptical of legislators' claims of propriety but, in the absence of immorality, I offer no objective test for wise policy. Nevertheless, it is my view that the safest policy to avoid immorality and the danger of long term economic distortion, the economically cautious (prudent) policy, is a policy of commercial neutrality. By commercial neutrality, I mean government policy not intended, itself, to cause a change in the economy. For example, if the privileged taxi monopoly were eliminated, the transportation system may or may not change. It's possible that no new taxi entrepreneurs would appear and rates and usage might stay the same. But if there is change, then the change would be caused by normal commercial competition and not by the elimination of the privilege. I consider changes to the economy that are caused by economic competition between equally free individuals to be normal, and not distortions. On the spending side, the elimination of privileges (whether dignity entitlements, or commercial subsidies, or tax privileges etc.) would no doubt entail serious changes to the economy, but in my view, those changes would not be caused by the elimination of the privileges; rather, the real cause would be normal commerce. This is not to advocate the abrupt elimination of those privileges. I don't know how they should best be eliminated. But that they are immoral and hazardous and should be eliminated somehow and sometime, I am sure. If legislators intended not to privilege any constituency at the expense of another, then, for the most part, the spending would be commercially neutral and commercially neutral spending is moral.

Taxing policy is somewhat different. Affluent civility requires government, and government requires money, and government can only get money from individuals. By what principles should government identify from which individuals to take money, and how much from each? A commercially neutral tax policy would leave individuals after the tax in the same relative position they were in before the tax -- relative to one another. The rich would pay more tax than the poor but the rich would remain relatively and proportionately richer than the poor after the tax. No one would be better off or worse off in relation to other individuals as a consequence of the tax; therefore, there would be no victims or privileged beneficiaries. Government would get the money it needs for purposes that benefit all individuals, but government would not economically rearrange individuals within society. Some particular government spending (like for roads or landfills) can be paid for directly by the particular beneficiaries of that spending by road tolls and tipping fees and such. Where that can be done, the spending and taxing mimics normal commercial activity and doesn't distort commerce. Where that can't be done, a commercially neutral tax would be as broad as possible and without deduction-type privileges regardless of the justification (as, for instance, to encourage particular types of activity). If an extreme circumstance arose, say a war that required the entire wealth of the country, then a neutral policy would still allow all individual wealth to be taxed for the common purpose. In a commercially neutral tax/spend regime, the relative positions of individuals would be determined by their individual exercise of equal commercial freedom, not by government engineering or vision; nevertheless, government would still have an important creative role in basic research, national arts, infrastructure systems, sending men to the moon etc. Government would not be able to rearrange the relative positions of individuals by the differential impositions or burdens or granting of privileges for political purposes.

Were government to be commercially neutral, shifts in the economy would derive from investment decisions made by individuals putting their own money at risk – a free market. The hope is that individuals risking their own money probably know better than legislators how to create value within their own areas of expertise. There is no guarantee of economic success with free markets or any other system; nevertheless, the less government tries to influence the direction of the economy, the less mischief legislators can do either in their immoral effort to win votes and alliances by granting privileges or by their inherent short-sighted perspective or plain incompetence or mistake.

Taxes are the necessary compliment to spending, but the morality of tax is quite different from the morality of spending. It is entirely moral for government to tax some individuals more than others provided the tax is neutral and doesn't change their relative positions. It is moral for government to spend for the general benefit even if some individuals incidentally benefit more than others, but it is immoral for government to spend with the specific intention of privileging some individuals. The difference between incidental differential benefits and intended differential benefits may seem like a fine point. It might be impossible to prove in a court of law that any particular member of government intended to benefit particular individuals when he says he intended a general benefit. Nevertheless, those fine distinctions of intent are ones that moral analysis requires and they are made necessary by the morality of equal freedom which we violate at our great peril. Members of government will always claim that their intention is to benefit society at large, but those claims often seem like transparent hypocritical veneers pretending to conceal predatory greed for personal political advantage.

Commercial privileges are a huge feature of relations between government and individuals and consequently of our social organization – not a minor anomaly. Individual equal freedom is our highest value and the morality of common courtesy prevails in most face-to-face arm's length relations, but greed, predation, and reckless irresponsibility characterize the morality of economic relations between individuals and government. I don't know how one might quantize this commercial immorality of government, but it is still my sense that the liberal democracies remain fundamentally civilized and people

are outraged at every revelation of predation. One might think that the advance of civility over the course of history is a consequence of governments continually adopting philosophical principles conceived by ever more civilized social philosophers – that laws enacted by enlightened governments required populations to be increasingly civil to one another, populations that otherwise would be predatory and barbaric. Maybe so. But if the economic relationship between the US government and its people is typical, it may be the individuals that are the moral leaders and governments that are as predatory and immoral as people will allow.

## **Wealth/Income Inequality and Redistribution**

When Pres. Obama identifies “growing inequality” as “the defining challenge of our time”, he’s referring to inequality of wealth and/or income which are fundamentally different from inequality of freedom. Economists cite a statistic called the Gini coefficient by which the aggregate inequality within a population is reduced to one number which (over)simplifies what is a complex phenomenon. Gini is only one of many descriptions of inequality, but it will serve for this essay. Gini derives from a mathematical calculation that can apply to income or wealth or any other measurable attribute and it allows one society to be compared to another or one society at a particular time to be compared to the same society at a different time. Unfortunately, economists have not quantified individual commercial freedom and therefore Gini cannot measure inequality of commercial freedom which would, if it could be quantified, measure aggregate national economic immorality. It is to reduce income and wealth Ginis that President Obama and many economists and social theorists consider our defining challenge. All statistics help to understand the subjects being measured, and the Ginis and the other descriptions of wealth and income inequality contain important information, but it is a mistake, in my view, to draw conclusions from them about the well-being of any segment of the population or about the morality of the factors giving rise to the coefficients at any particular time.

Consider several scenarios:

1. An ideal island society where everyone is happy with very modest but equal income and wealth. A Wall St. billionaire (an oil and gas man) retires to this society and tries to fit in. He’s friendly with the locals and adopts their lifestyle and standard of living. But otherwise, after he arrives, everything remains the same. Before the new immigrant enters the scenario, inequality, as measured by income and wealth Ginis, is low but after he arrives, income and wealth inequality abruptly increase dramatically. Is there any reason for the locals to identify this increased inequality as the defining challenge of their time? Is there anything about the situation that should upset anyone?
2. The same island society – no billionaire but this time oil is discovered off shore. The toughest island dude declares himself king and takes all the royalties for himself. The amount of royalties is fortuitously exactly the same as the income of the billionaire in the previous scenario and the value of the whole oil bonanza is valued by economists and geologists at exactly the same value as the stash of the Wall St. billionaire. The Gini coefficients before and after the oil discovery match the Ginis before and after in the previous scenario. Are the increased Ginis this time the defining social challenge and should anybody feel upset?
3. The same island society -- no billionaire and no oil, but this time the same tough dude has a religious epiphany and destroys everything of value on the island in the name of spiritual purity and against the wishes of the other islanders who think he’s gone crazy. The whole island is now impoverished. The Ginis, both before and after this catastrophe, remain unchanged. Before, every individual had modest but equal income and wealth; after, every individual has zero income

and wealth – equality of income and wealth, before and after. Should the islanders be content or even smug that their Ginis are so much lower (inequality so much lower) than the US?

4. The same island society – no billionaire and no oil, but this time the tough dude forsakes his toughness and dedicates his life to poverty, chastity, and meditation. His example of spiritual purity inspires all the other islanders and they forsake their selfish earthly concerns and join him in meditation. In the result, the island becomes impoverished. As in scenario 3, there was no income or wealth inequality before the religious fervor and none after.

In the first scenario, a rapid Gini increase is caused by no immorality; in the second, the same Gini movement is caused by gross immorality. The same increase of Gini with completely different moral implications. Were I an islander, I would be pleased with the first scenario and upset by the second, but in either, the Gini movement would be irrelevant. In scenarios 3 and 4, there is equality (the lowest Gini) throughout, but scenario 3 represents the greatest immorality and scenario 4 the least. As with the first two scenarios, scenarios 3 and 4 involve completely different moral significance accompanied by the same Gini. The Gini coefficient contains interesting information for academic economists, but these scenarios demonstrate that the wealth and income Gini coefficients (or their movements) say nothing by themselves about the morality of an economic situation or anything else that is important to the individuals involved.

These scenarios are ideal and don't present the messy complexity of the real world. In the U. S., some people (notably young tech entrepreneurs) are making fabulous fortunes whereas the incomes of the lower echelons are increasing only marginally, almost stagnating. Everyone's standard of living is improving, but income inequality is increasing. Does the success of the entrepreneurs represent fulfillment of the American dream whereby anyone can achieve great success through diligence and intelligence, or is their success a violation of the American dream of the majority of individuals who are succeeding to a lesser extent than the most successful. Pres. Obama seems to suggest there is something wrong, some immorality, with the rich earning so much in comparison to everyone else. As with the scenarios above, it is my view that the Gini level and its movement are irrelevant to the question of morality. Equality of wealth can result from immorality and high inequality of wealth can involve no immorality as the scenarios demonstrate. The proper question is whether anyone, rich or poor, committed an immorality in earning his income not how his income compares in quantity to someone else's. We know that the successful entrepreneurs made their fortunes by creating things that people valued enough to buy them in large quantities. And the purchase of all these newly-created commercial goods by definition has raised the general standard of living. The richest entrepreneurs are precisely the most successful in the meritocratic competition to provide the greatest value to other individuals. Would it be better if the software billionaires lived in Russia or India and paid taxes there? If that had happened, then there would be less wealth and income inequality in the U. S. but then most Americans would be marginally poorer. Surely that would not be better. If the rich made their fortunes by stealing, then there is legitimate moral outrage. Either way, it is immorality that society abhors, not the amount of anyone's wealth, large or small. Maybe the software billionaires did have an unfair advantage. Maybe copyright laws create a privilege. If so, the right response would be to eliminate the privilege instead of compounding the immorality with ham-fisted expropriations.

There's another reason why the present Gini doesn't have the moral implications that perhaps Pres. Obama attaches to it. If one thinks of a national economy as a system of production and consumption, it's easy to think that the less well-off work hard to produce things that are disproportionately consumed by the rich who don't suffer the same hardship. In a farming commune, that type of inequality of productive effort and consumption wouldn't be convivial. But in today's world, a high proportion of the goods consumed in the affluent democracies are produced someplace else, like Bangladesh. As a

picture of how hard workers here work to produce goods that are consumed by their bosses, the Gini of any one country paints a misleading picture since much consumption by all segments of the affluent democracies is of goods produced elsewhere. National economies do not stand alone; democratic affluent economies are in large measure economically integrated with other national economies, including less-affluent emerging economies. To make the picture more accurate, Gini inequality should be calculated using not only the wealths and incomes within any one country but should include the incomes and wealths of all the people who produced the things that are consumed in that country. That enlarged Gini would show yet greater inequality than the national Ginis of the affluent nations. The less well-off segments of the affluent liberal democracies (“the least fortunate among us”) would, in the larger picture, be seen as consuming goods produced by people much less fortunate than themselves. A quite different picture. And then, of course, much of the wealth of individuals residing in one country was earned in another. Wealth or income inequality within any one nation does not properly account for international economic integration. Were the wealths and incomes of individuals in the affluent democracies to be equalized across the larger set of all integrated economies (the wealthy economies equalized with Bangladesh, China, the Philippines, Indonesia, Viet Nam etc.), then the wealth/incomes of all segments of the affluent democracies, including the least fortunate among us, would drop drastically. The unstated purpose of the campaign to reduce inequalities of wealth and income in the liberal affluent democracies is to fulfill a vague vision of “democratic equality”. I say “unstated” because Pres. Obama doesn’t say why we should want to reduce wealth or income inequality. But I imagine if the result of reducing inequality were to lower the incomes of our poor even further (as it must if we include the Bangladeshis and such), then I cannot imagine that Messrs. Obama and Krugman would be consoled by the knowledge that the incomes of the poorer Bangladeshis had increased marginally. So much for “democratic equality”: just give me some money. To insist that redistribution shall be confined to individual nations for the purpose of reducing wealth and income inequality within each nation without reducing the inequalities between rich and poor in different nations is tantamount to insisting that our lower echelons shall have the exclusive right to prey on our rich folks. Let the Bangladeshi poor steal from their own rich folks. Besides, they’re not really civilized and liberal and democratic anyway, and so they wouldn’t really understand that when we in the affluent liberal democracies want to redistribute wealth and income to reduce our national inequalities, it serves a higher civilized social purpose. When they take from their rich, it’s just good old fashioned barbaric theft. When we do it, it demonstrates our higher nobility. I’m being sarcastic of course, but Friedrich Hayek would suggest that the combination of vague social purposes with vague national purposes is the road to national socialism – a failed social experiment that should be clearly remembered.

Here’s another aspect of US wealth Gini that paints a distorted picture: the government debt is not included. Of course we don’t know how the government debt will be paid off or who will ultimately bear the tax burden, but since the lower echelons don’t have much money to contribute, it’s a fair bet that the well-off will contribute more money than the less well-off. A person’s wealth is the value of his assets less the value of his liabilities. Government debt is real and the correct picture of a person’s wealth would include his liability for his share of that debt. We can’t precisely apportion the liability for the government debt among individuals, but it would be foolish to expect the wealth distribution to look the same after apportioning national debt than before.

These two complicating factors (the integration of many national economies and the national debts of each country) render myopic the Gini portrait of national wealth inequality. If wealth inequality were immoral and needed correction, it could not be achieved at a national level – it would be like trying to equalize the sea level of one nation’s shores without recognizing that the tides are part of a much larger system.

It is true that the richest individuals in the affluent democracies are wealthy beyond imaginable need, and it's also true that the standard of living of the large majority of individuals who constitute the least wealthy seventy-five percent has been almost stagnant for a generation. We also know the fundamental causes of that incongruity and those causes do not involve the rich preying on the poor. There are two fundamental causes: (1) the continuing international economic integration and (2) the advance of information and communication technology. Ordinary folk in the affluent liberal democracies are now competing with ordinary Bangladeshis and Chinese and can't expect to earn more than them for the same work. On the other hand, commercial enterprise now has a much bigger market and better marketing tools so that successful entrepreneurs can earn much more and much faster than they could previously in the smaller slower national world. Those two fundamental causes of differential growth between rich and poor in the affluent democracies are in the nature of tectonic economic shifts and we don't know how things will unfold, but there is no reason to think that redistributing national wealth will offset the overwhelming tectonic momentum. Nor is there reason to expect the great shifts will modify the basic fundamentals of commercial morality. It's important not to scapegoat successful entrepreneurs (or anyone else) in a populist frenzy without clearly identified immorality.

President Obama and Paul Krugman are not alone in advocating redistribution of wealth. A significant proportion of the public seems to accept that the current wealth disparity between the very rich and the lower echelons is, without more, an evil to be corrected. A recent book by Thomas Piketty entitled *Capital in the Twenty-First Century* is currently the center of gravity of the redistribution campaign. In his book, Piketty provides detailed descriptions of the evolution of the wealth and income of different echelons within a number of national economies over the last three hundred years. The echelons he identifies are the poorest fifty percent, the next richest forty percent (which he calls the middle class), the top richest ten percent, which he divides into the bottom richest nine percent (9.0%), the next richest point nine percent (0.9%) and the richest point one percent (0.1%) -- he sometimes makes even finer gradations. His descriptions allow a clear comparison between these different echelons within one nation, across different nations, and across a broad sweep of history. I cannot judge the correctness of the descriptions but they must reflect an admirable effort of scholarship. Even if his descriptions are incorrect in some respects, they nevertheless represent the type of description one would want in order to discuss the subject intelligently -- so much more detail than the simplistic Gini co-efficients. I knew before I read his book that Piketty advocated redistribution because reviews appeared even before the book was released, and then, after it was initially released, it immediately sold out. So by the time I was able to get a copy, the reviews and replies (and rejoinders and sur-rejoinders) had gone through several generations, and Piketty had been interviewed numerous times on TV and radio. The critical response to the book was mixed. Paul Krugman was unrestrained in adulation. Most reviews praised the scholarship but the only disputes that I saw in the reviews concerned possible errors in his data which seemed minor to me. For the purpose of this essay, I assume his data and his descriptions are correct. But neither his data nor his descriptions were primarily what interested me. I was interested in his take on the morality of any particular distribution of wealth in comparison to another. I didn't expect that he would necessarily use the word "morality", but I did expect he would explain why he favoured one distribution over another. I expected that he would identify what was "evil" in some distributions and what was "good" (or perhaps just "less evil") in another. I knew he advocated changing the present distributions of wealth in some affluent democracies, but I was looking for his explanation of why he thought wealth ought to be redistributed. If the present distributions were bad, then what were the features of a good distribution? Here are the types of questions I wanted his book to answer: What are the principles according to which any particular distribution should be judged good or bad? By what principles are expropriatees to be identified, by how much should they be expropriated, by what principles are beneficiaries to be identified, by what principles could the social result of the redistribution be predicted, and do the expropriation and redistribution themselves not have moral implications? To all these questions, his book offers no answers. He makes



an isolated and unsupported reference to “the violent political conflict that inequality inevitably instigates”. Referring to current America, he says: “It is hard to imagine an economy and society that can continue functioning indefinitely with such extreme divergence between social groups.” He may be right. Violent political conflict may be the consequence of inequality and US society may collapse. But I would like to know why he says that so that I can form my own opinion. There might be some history or some theory that leads him to these views, but not in his book.

It is apparently obvious to Piketty that there was something objectionable about the wealth distribution of Ancien Regime France that would justify, or perhaps require, redistribution. There were obvious features of Ancien Regime social organization that we would find objectionable if they were somehow instituted here and now. Ancien Regime France was not a regime based on equal individual freedom, and the extreme wealth of the nobility derived from what we would today consider immoral predation. We certainly abhor the immorality of the Ancien Regime system, but it does not follow that we would abhor the same wealth distribution if there had been no immorality. And it certainly does not follow that a similar distribution in a different society under completely different social circumstances would be abhorrent. By his statistical descriptions, the rich in some of the big affluent democracies now are proportionally about as rich (or are moving in the direction of being proportionately as rich) as the nobility in Ancien Regime France, and apparently that is obviously sufficient for Piketty to warrant expropriation and redistribution. I say “apparently” and “obviously” because he offered no reasons expressly, at least none that I could discern and I was looking for them carefully. He merely states his preference for redistribution as a bald fact that needs no elaboration. As admirable as are his statistical descriptions of the evolution of wealth inequalities, his statement of the reasons for his preference for redistribution is equally disappointing.

I’ve stated my view that equal individual freedom results in a meritocratic but potentially unequal distribution of wealth. Piketty himself refers to “meritocratic values on which democratic societies are based” -- I think that is his way of saying he approves of democracy and meritocracy. On the other hand, he clearly disapproves of what he calls “meritocratic extremism” (high salaries) and “hypermeritocratic society” (the very high compensation packages of today’s American CEOs). But he offers no set of principles by which desirable democratic meritocracy is distinguishable from abhorrent meritocratic extremism or hypermeritocracy.

I think the fundamental difference between Piketty’s view and mine is that we start with fundamentally different values. I’ve stated my view that the fundamental social value on which affluent liberal democracies are based is the equal freedom of individuals at arm’s length, and in support, I offer my grade seven lesson, the founding canons of the liberal democracies, and the common courtesy that prevails generally between individuals at arm’s length, not only in their commercial relations. The economic morality that I describe derives directly from that fundamental value which, I think, most people share. Wealth inequality that results from the exercise equal individual freedom is, by that moral standard, not objectionable. For Piketty, “social inequalities are not in themselves a problem as long as they are justified, that is ‘founded only upon common utility’”. He refers to “a more just and rational social order based on common utility”. He refers to “common goals such as ... inequality reduction...” He says: “no matter how justified inequalities of wealth may be initially, fortunes can grow and perpetuate themselves beyond all reasonable limits and beyond any possible rational justification in terms of social utility.” (My underlining.) Apparently, for Piketty, the fundamental social value is “common utility”, “common goals”, “social utility”. Again, I say “apparently” because he doesn’t explicitly say what are his fundamental values, and he offers no support. The reader of his book is left to infer his values from isolated quotations like those above. I’ve described the features of equal individual freedom and common courtesy between individuals at arm’s length, but what does Piketty mean by “common utility”, “common goals”, and “social utility”? He doesn’t say. But he does say they would justify wealth redistribution; i.e.,

they would justify a violation of equal individual commercial freedom. He describes inequality reduction as a “common goal” but that’s just false: it is certainly not a goal of the individuals whose wealth he thinks should be expropriated; on the contrary, it’s properly described as a garden-variety partisan goal to burden some political constituencies to the privilege of others. For Piketty, some kind of undefined collective abstract value overrides the value of equal individual freedom. That’s our fundamental difference. I think equal individual freedom ought to be paramount; Piketty thinks some undefined abstract collective value is paramount. Perhaps he has a clear vision of what that paramount value is, and perhaps it is based on a coherent fundamental philosophy, but neither appears anywhere in his book. My concern is that the terms he uses (common utility and such) can mean whatever an authorized elite says they mean – that those terms can serve as justification for whatever the authorized members of government arbitrarily decide they want to do -- as history has demonstrated so many times. In the terms “common utility”, “common goals”, “social utility”, I identify an Orwellian obfuscation. One can’t object to the morality of a goal that is genuinely intended for general benefit, but it is Orwellian Newspeak to use those terms to describe a privilege to one constituency (even if it’s a majority – perhaps especially) by theft from another.

Another book that argues for wealth redistribution is *The Spirit Level: Why Equality is Better for Everyone* by Richard Wilkinson and Kate Pickett. As the subtitle suggests, it offers reasons for redistribution of wealth and those reasons are mostly contained in graphs that illustrate statistical data. For example, on one graph, the vertical axis represents the homicide rate in different countries and the horizontal axis is the wealth inequality of the different countries as measured by Gini. And so the graph has a number of points on it for each of which the vertical position represents the homicide rate of one country and the horizontal position represents the wealth inequality of that same country. The graph also shows a straight line drawn through the points, and the line represents a statistical determination of the best relationship between homicides and wealth inequality across these different countries. The line shows (roughly) that the Scandinavian countries and Japan have the lowest homicide rates and the lowest wealth inequalities; whereas, the English speaking democracies have greater wealth inequalities and higher homicide rates -- more generally, wealth inequality correlates with homicides across the whole range of different countries. The authors provide a similar graph showing the relationship between income inequality and homicides across individual American states, and once again wealth inequality correlates with homicides. They provide similar graphs showing correlations between wealth inequality and various other undesirable phenomena as, for example, the proportion of abortions, of births to teenage mothers, of illiteracy, high school dropout, obesity, life expectancy, infant deaths, and many others. These are relatively hard statistics, but the authors also draw statistics from responses to questionnaires that attempt to quantize abstract concepts like trust, and anxiety, which are (ahem) fuzzy. In every case, wealth inequality correlates with undesirable phenomena: the greater the wealth inequality, the more prevalent the undesirable phenomena. I assume, for purposes of this essay, that the graphs do represent the correlations they purport to. But correlation does not imply causation. The authors devote a section to causation and conclude in each case that wealth inequality is the cause and the undesirable phenomena are the effects. I do not consider that causal conclusion to be warranted; I think the reasoning in the book on this point is faulty, but for purposes of this essay, I assume it to be correct. Wealth inequality seems to cause all these undesirable social phenomena over a broad range of societies, and that is basically the case for redistribution set out in *The Spirit Level*. That’s it. That’s the full case. But to me, that case is fundamentally fallacious even if I accept all the correlations (causations) as statistically warranted. To all those correlations, I plead demurrer: a full “so what”. The advisability of redistribution does not follow.

Here are two fundamental fallacies to the case for redistribution set out in *The Spirit Level*. First, even if inequality does increase the prevalence of those undesirable social phenomena, it does not follow that the authors or anyone else would know how to intervene to reduce that prevalence or that it’s even

possible to reduce it. It might be that causation of those undesirable phenomena is a one way street like sun damaged wrinkled skin that, once established, can't be undone even by total avoidance of sun exposure. It might be that any redistribution would exacerbate the undesirable prevalence. And any such intervention might introduce much worse undesirable phenomena just as the total avoidance of sun reduces vitamin D and can lead to osteoporosis. Nobody can possibly know and the authors don't pretend to. If we were talking about the performance of a car engine, we could do multiple experiments to determine with precise subtlety specific modifications to engine parts to optimize the engine performance. We would destroy many engines in the course of that experimentation. But morality precludes similar social experiments (especially when history demonstrates the extreme danger of social experiments based on vaguely defined collective nationalist abstract values). We do not have multiple expendable societies on which to experiment the way auto designers have expendable engines. Such social experiments would be vivisection -- autovivisection. For the authors, it seems good enough to identify wealth inequality as the cause and that, without more, suffices to authorize a well-intentioned government to go about a cure without prior experimentation, as though the experiments have already been done and government technocrats know the precise surgical procedure to follow. I wouldn't mind the appointment of some well-intentioned individual to do his best at social reorganization, as long as that individual is me. I wouldn't trust anybody else to do invasive surgery blindfolded on the only society in which I live, and neither would any other reasonably cautious person.

The second fallacy is even more fundamental. I don't like homicides or teenage births etc., but they are the result of some individuals making unwise decisions affecting primarily themselves and we have criminal law where others are detrimentally affected. I would much rather risk a greater prevalence of those undesirable phenomena (obesity and anxiety and suicide and such) than risk a government that's free to violate anyone's equal economic freedom to serve some abstract goal. As a first approximation, I hold individuals responsible for their own anxiety and obesity, for the homicides they commit, or whether they drop out of high school or have children as teenagers. The freedom of all individuals to engage in commerce is far more important for society at large than the consequences of some unwise decisions by some individuals with whom most of society stands at arm's length. Those individuals would probably be outraged if government restrained their freedom to choose their own food or decide when they could have children. If individuals are to be free to drop out of school etc., then equal freedom requires that they (and not others with whom they stand at arm's length) should be individually responsible for their exercise of that freedom.

I can't pretend to have thoroughly researched the all arguments for wealth distribution in the whole public debate but I haven't seen any that are significantly different from the arguments set out in *Capital in the Twenty-First Century* and *The Spirit Level*. All the arguments for redistribution are strong in their dislike of wealth or income inequality; they become flakier when they blame inequality for essentially personal (or parental) failings; they are flights of fancy when they think reducing wealth or income inequality across the whole of society will reduce the prevalence of these personal failings; they are completely blank when they assume that someone might know how to reduce wealth or income inequality in such a way as to reduce the prevalence of these personal failures without causing a general disaster; and worst, they are oblivious to the immoral predation that redistribution would necessarily entail. Not merely are advocates of redistribution oblivious to the immorality they advocate, they adopt a posture of moral rectitude -- they presume to follow a higher morality. Not for them the greed of individuals seeking their own personal benefit; redistribution advocates pose as unselfish saints enlightened with a superior wisdom of a higher social value -- the interest of society is, to them, "higher" than the selfish interest of individuals. I'm again being sarcastic and exaggerating but I see the arguments for redistribution as just plain phony. They're phony and hollow, and do not challenge equality of freedom of individuals at arm's length as the highest social value for a large affluent liberal civilized society. Is there something more to the expressions

“common utility”, “common goals”, and “social utility” than the populist polemics of the words? Of course, an existential threat in wartime or a raging epidemic can define a common goal pretty clearly, but we’re not considering how society should respond to clear and extreme and common threats; rather, we’re considering the principles of commerce within an affluent society of competent individuals that’s basically functioning successfully. The levels of affluence and civility are higher than for any other large society in human history even though some people are unhappy. The least fortunate among us suffer obesity, not insufficiency of food.

How “common” would a goal or utility have to be to justify violating even one person’s equal commercial freedom – should 51% override 49% who disagree? How about 99%? Say everyone but him voted to expropriate Bill Gates of his fortune, would that be democratic? Really, only unanimity can define a common purpose sufficient to override the equal freedom of any individual, but then no one’s freedom would be violated if everyone (including the would-be victim) agreed. That addresses the “common” part; what about the “utility” part? What does social utility mean as distinct from utility to individuals? Who defines it? What are the principles that identify a social utility worthy enough to violate the utility to an individual of his own equal freedom? To these questions, I have not found even the vaguest hint of an answer in either of these books. There might be answers, and if they were somewhere presented, then I would hope to consider them with an open mind. But I am suspicious that expressions like “social utility” or “common utility” (like the expression “intelligent design”) are utterly hollow. They don’t explain or clarify anything. They don’t serve as a theory leading to predictions that can be tested by experiment or debated. Really, those expressions serve only as rhetorical devices that can support whatever position one might want. Piletty doesn’t have a copyright on those terms. My own view is that equal individual freedom is the highest common utility, the highest common goal and the highest social utility, but there are no principles by which to determine whether redistribution might be higher or lower as a social utility than equal freedom. And without supporting principles, they’re empty words. Nice sounding maybe, but ultimately empty.

I have another impression from my uneven reading of the arguments for redistribution. They seem to resent the successful commercial competitors and long for a simpler, friendlier, non-competitive social character. Why is there relentless and unbounded competition for wealth? The standard of living is so high that even modest income and wealth affords a very good life. Once basic needs are met, why doesn’t everybody act with a common purpose and for the common good instead of being selfish? Why (to quote Piketty again) must people seek personal wealth “beyond all reasonable limits and beyond any possible rational justification in terms of social utility”? There may be societies that do fulfill that longing, but they are necessarily small. A common purpose society (call it “communal” or “communitarian”, but one mustn’t call it “communist”) only works if everyone shares the purpose and everyone makes a serious effort to achieve it. I would say that the members of a common purpose society relate to one another as family and/or as friends. Such a society cannot tolerate free riders or predators. Parents will tolerate free riding children during their youths and maybe a bit longer; siblings are not so tolerant; strangers are not tolerant at all. Such a society has to be able to identify deviants to expel (purge) them and, therefore, it has to be small enough that everybody has a fair idea who shares the common purpose and who doesn’t. Dunbar’s number is a concept that there is a psychological limit to the number of people anyone can know with sufficient intimacy and detail to understand how they relate socially. There is debate as to precisely what that number might be, but the order of magnitude is about one hundred and fifty. A common purpose society cannot retain its common purpose with many more than a hundred and fifty members. Beyond that number, people don’t know each other well enough to identify their individual degrees of dedication to the common purpose (ideological purity), and then they can only relate to each other as strangers. History offers many examples of ideological purity and purges in large societies, and none of the examples fits the description of simple and non-competitive. In a large society that is

civilized, strangers relate to one another at arm's length and (at best) respect each other's equal freedom, and that implies that each person will be motivated to satisfy his own personal interest – in short, competition. In large societies that are uncivilized, strangers are allies or enemies, a much nastier form of competition. Better to have civilized competition than uncivilized predation. There have been a million experiments in non-competitive communitarian (utopian) social organization. To my knowledge (which is admittedly shallow), all have been small and none have lasted. To those longing for a simple, non-competitive social organization, I say: If you're lucky, your circle of friends will fit that description but no large affluent society ever will, even one in which strangers respect each other's equal freedom.

Wealth and incomes are the outcomes of commercial activity. Equal freedom, predation, saintliness -- these characterize different processes by which those commercial outcomes are realized. Morality exists in the process, not in the outcome. There is an important distinction between athletic competition and economic competition. Usain Bolt sets a world record, wins an Olympic medal, the deed is done, and his achievement is inscribed in the holy archives forever. But commercial competition never reaches a final outcome in the way that the final sprint in the Olympics is the final identification of the world's fastest sprinter; the commercial present is always in perpetual competitive process in which everyone participates. Individuals are always in the process of attempting to achieve a higher standard of living for themselves. Each commercial transaction stands alone morally and has its own beginning and conclusion as does an athletic event. But, unlike Olympic sports, there are untold millions of exchanges of commercial goods every day and they overlap and interweave in a continuous flow. There is no point at which to identify "the outcome" of the continuous and continuing flow, or to declare the outcome of the whole flow to be immoral or unfair when the morality inheres in the individual elementary exchanges. Any government attempt to redistribute wealth to reduce wealth inequality would necessarily involve an intrusion into an on-going economic process at some arbitrary point, and necessarily violate the equal freedom of some individuals to privilege other individuals. Of course that would be perfectly in keeping with the political character of our present system of government in which political success by legislators is achieved precisely by promising to privilege one constituency at the expense of another.

The rhetoric advocating wealth redistribution centers on a faulty understanding, or perhaps intentional Orwellian misuse, of the term "equality". I've tried to state clearly my conception that common courtesy and equal individual freedom recognize that individuals are in most respects not equal but nevertheless treat one another with equal respect. Equal freedom from restraints imposed by others at arm's length is the highest value – equal treatment, not equal wealth or equal height or equal intelligence etc. The term "equality" has canonic rhetorical status, but it is an Orwellian distortion to twist the equality we value (equal treatment, respect for equal freedom) into equality of wealth or income engineered by theft from some individuals for the benefit of others.

The argument for redistribution is appealing to individuals who hope to benefit. The direct beneficiaries get something for nothing and the advocates hope to be seen as saints, but my sense is that, not far below the surface, most people know it's morally wrong. It's also my sense that economists who advocate changing the economic "outcome" by redistribution are a species of moral eunuchs who consider the mechanics of the economy to be similar to the mechanics of a car engine. No problem to improve the performance of a car engine by changing a valve or adding a supercharger. The performance of a car engine can be improved by changing mechanical parts without any detrimental effect to the car. Similarly, economists advocate printing money here, subsidizing there, borrowing, taxing, and entitling all over the place -- oblivious to the moral significance of those interventions. They're trying to do what's "best for society" and that's good enough for them. (That's putting it at its best. Some are unrestrained partisan opportunists.) But economists only make recommendations -- it's politicians who actually implement the intrusions. Economists may be eunuchs but politicians know which side their

bread is buttered on, and the intrusions are tailored precisely to benefit preferred political constituencies at the expense of others.

Before being elected to government office, an individual stands at arm's length to all other individuals in society at large, and his moral obligation is to respect their equal individual freedom to behave as they choose provided they don't burden any other individual – freedom and equality, our canonic values. An individual does not, by being elected to government office, change that fundamental relationship with individuals at large to whom he stands at arm's length. We presume parents to know what's best for their children, and if a parent should appear to favor one child over another, we assume he's trying to do what's best for them all and we presume his wisdom to do so is superior to his children's wisdom. We acknowledge his authority to treat them unequally because his equal love of them gives rise to the parental standard of fairness. Similarly, we respect a coach's judgment to favor his best athletes for the benefit of the team, and we're not troubled that he does not treat his athletes as equals. The common purpose shared by the coach and the players gives rise to the common purpose standard of fairness applicable to friends and allies. But in normal circumstances, affluent liberal societies are neither families nor sports teams dedicated to a particular collective purpose; instead, our societies are composed of equally free independent individuals, each with his own purpose, and members of government are no different. An individual does not, by virtue of being elected to government office, acquire a superior wisdom that releases him from his obligation to treat individuals equally the way a parent or a coach may because of his superior wisdom. Nor do legislators equally love, or share a common purpose with expropriatees. Legislators stand at arm's length with members of the public and, consequently, the criteria of arm's length fairness applies. Legislators ought to respect the equal freedom of all members of the public and not presume a patronizing superior wisdom. It is an immorality for one individual intentionally to violate the equal freedom of any other with whom he stands at arm's length for the benefit of a third individual, and that immorality is not mitigated because it was committed by the process of casting a vote along with others as part of a legislative majority following proper legislative procedure.

There is a bigger point here than the predatory immorality of redistribution. Commercial exchanges are a big part of social life in our affluent liberal democracies, but not the whole and not necessarily the most important part of social life. Commercial exchanges are just a part of a much larger group of all interactions between individuals at arm's length, and those are part of the totality of all interactions between individuals of all different types of relationships. In my view, arm's length relations define the national character and, for the most part in affluent liberal democracies, arm's length relations are governed by the morality of equal individual freedom. In the land of the free, it's not only, or even primarily, laws or governments that determine how people behave toward one another. People behave according to their moral principles and the laws roughly reflect those principles rather than vice versa. History demonstrates that the morality of equal individual freedom leads to affluence and civility, an agreeable conviviality, and it's appealing for that reason. And freedom has its own independent inherent appeal, especially one's own freedom. But another important reason why equal freedom has pervaded is that it's very simple and offers a coherent moral philosophy. People can easily understand equality within arm's length relations without it having to be precisely articulated. And it has a huge breadth – all arm's length relations follow the same simple moral principle, not only commercial or athletic relations. I think it's fair to say that several generations ago, the morality of equal freedom with commensurate self-responsibility and the ethos of self-reliance had a larger following here than it does now. Government-created privileges (whether by entitlements or subsidies or tax loopholes or redistribution or whatever) have intruded into the economy and undermined the universality of equal freedom and introduced moral ambiguity and complexity – a philosophical incoherence. If one individual is entitled by right to the benefit of what government takes from another individual, why can't the entitled individual act on his own behalf and take directly from that other individual without the intermediation of government? Government can

provide legal justification but not moral justification. When individuals at arm's length directly interact with each other, common courtesy generally prevails, but when those same individuals deal with government (either as members of government or as beneficiaries), a different moral standard seems to be gaining credence, a standard that permits predation of remote and unidentified victims. That shift has to be regarded as a movement away from equal freedom, away from our highest canonical value. At minimum, it introduces a moral complexity where one standard applies in one situation and another in another without coherent differentiation, not as simple or easily understandable as the coin metaphor of universal equal freedom with commensurate self-responsibility. At worst, it introduces a cynicism that can only undermine equal individual freedom and common courtesy in general, the basis of our civility.

I couldn't find a fitting quotation about the fragility of liberal democracy. We remember Ben Franklin's "A republic... if you can keep it." And there's *The Road to Serfdom*. It's not the procedure of elections that's fragile, nor particularly is a federal organization of states. What's fragile is an ethos of universal equal freedom of individuals at arm's length – what, in the Enlightenment debates, was meant by "liberal". We easily recognize the threat to universal equal freedom in the person of a strong man dictator or an overbearing elite. But the road to serfdom described by Hayek is precisely the threat from any direction, including seemingly charitable government-created privileges on which ever greater numbers of modest individuals depend and the burdens of which are (will be) borne by unidentified others. The prevailing morality of universal equal freedom of individuals at arm's length is the fragile liberal institution upon which our civility and wealth are based. Systemic violations of that liberal equality in favor of the "honest working people" or "the least fortunate among us" or any other constituency can be just as disastrous ultimately as an evil dictator.

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