

IWM Junior Visiting Fellows' Conferences, Vol. XXXV

© 2016 by the author

Readers may redistribute this article to other individuals for noncommercial use, provided that the text and this note remain intact. This article may not be reprinted or redistributed for commercial use without prior written permission from the author. If you have any questions about permissions, please contact Paweł Marczewski at IWM.

*Preferred citation:* Jenkins, David. 2016. Exceptions as Possibilities. In: *The Power of the Norm. Fragile rules and significant exceptions*, ed. E. Betti, K. Miller, Vienna: IWM Junior Visiting Fellows' Conferences, Vol. 35.



## Exceptions as Possibilities

*David Jenkins*

### Abstract

The world is an unjust place. What sustain these injustices are the norms people follow in their day to day interactions, especially – but by no means exclusively – as these relate to consumption and production. Therefore, if justice – and morality more widely – are things with more than merely aesthetic or theoretical value the *exceptions to these norms*, as and when they occur, are the moments by which justice/morality are to be enacted. I attempt a survey of this thought via the work of the American political scientist/activist Frances Fox Piven.

Key words: Exception, Norms, Injustice, Frances Fox Piven, disruption.

The world is an unjust place. At this point I could offer a cacophony of examples ranging from the most distressful of situations it is possible for human beings to confront, to the still horrible but relatively easeful existence of other sets of poor people, before going on to make a short aside to comment on the devastating environmental degradation currently quickening the world's demise – which is undoubtedly doubling the distress suffered by the members of at least that first group. But I won't: I shall take it for granted that the world is in a pretty poor state, we know it is, and that we, readers, writer and most everyone we know alike, are in not just *relatively* good positions, but objectively, i.e. over and above any comparative advantage, have a pretty sweet deal.

In what follows, I shall tend at times – controversially perhaps – toward offering a particular diagnosis and prognosis of these problems. However, the

general and underlying points I shall make are ultimately separable from any 'treatments' I might dare to offer, and are grounded in a very basic, borderline banal point: in a world of sufficient injustice, the 'normativity of norms' lacks sufficient moral content. Whatever action-guiding force norms retain must be described using different vocabulary. Morality in such a context can only be approximated through the destruction and replacement of such norms which depend, in turn, on there being sufficient vulnerability within the political, economic and social organisation of resources and interaction to allow for it. The effective precipitation and exploitation of certain kinds of crises are that by which norms can gain some minimal moral force. Though, to anticipate a conclusion, even this comes with sombre caveats.

The poor state of things alluded to above is not merely an imposition, a one-shot organisational deal that went south, leaving some in great distress, others at middling levels, still others getting by and a few others amongst the milk, honey and fleshpots. Nor is it a situation that can be described as being consistent with some version of libertarianism, i.e. the fallout of an initially just situation that has deteriorated as a consequence of free exchange. No. It is rather a state of affairs that started off with genocide, super-exploitation and violent mass appropriation of people and land and resources, has carried on in that vein and has been daily sustained and maintained by our ongoing, collective actions right down into the minutiae of our everyday lives, both in how we work and consume. We all of us use goods soaked in exploitation and super-exploitation, walk and picnic in spaces that exist because of their being violently defended and in general benefit from the untold misery of untold millions.

These are all obvious, perhaps more or less accepted/regretted parts of contemporary reality. Whatever preachiness resides in the above provocations is familiar to all of us. Nor do I believe that the overarching illegitimacy – which I argue below properly describes this situation – of this system precludes all possibilities for moral behaviour. In such circumstances a plethora of moral questions remain in force: 'should I stop eating meat' or 'should I cheat on my wife?' or 'should I become a maths teacher rather than a finance-guy?' or 'should I take the train or fly?' My only real contribution is to suggest that such individual actions though morally motivated and with moral content and import, are nevertheless performed in the midst of lives

fundamentally immoral. I can be faithful to my wife, become a vegan, sign every petition that ends up in my email inbox, join demonstrations, do work I consider public service, and do a whole host of other things but I will never become a sufficiently moral person. I can't be: It is unattainable, precisely because the foundational set of practices and interactions which touch deeply on other people's lives fails to cross a necessary threshold. Morality, viewed in this way, does not describe a set of relations or actions it is within my grasp to affect. Below I will make this point more concrete my reference to the status of norms in (more traditional) slave societies.

I have thus far been bandying about the word morality with fairly reckless abandon. If Kant is on to something when he suggests that a truly moral world is one constituted as a 'Kingdom of Ends' in which we do not treat others *primarily* or *exclusively* as means alone, but also as ends in themselves, then, when looked at as a description of conditions making life possible, we are not even approximating such a basic definition of morality. Or perhaps a Scanlonian formulation of morality, substantiated by figuring out how we create a system of rules 'for the general regulation of behaviour' which can be justified to all rational creatures in terms of principles that they could not reasonably reject. These thresholds are not even approached, something to which I can personally testify by the fact that I myself own 14 of the 35 million slaves populating our planet – whom I have never met, to be sure, but are nevertheless out there as flesh, blood and spirit.<sup>1</sup> My point is that whatever your view of morality, this, i.e. the world around us, isn't it.

Where are these thresholds or means of evaluation when we isolate specific moral problems to give our moral muscles to some exercise? When we think of the trolley problem – a train on course to kill 5/10/15 unless we flick a switch to slam it into just one – there is a clear sense of what is at stake. The answer might not be immediately clear, but something is asked of us, an action (taking action to include omissions) which can then be evaluated as either moral or immoral. Same goes for Jim and Chief Pedro: Pedro lines ten of his chaps up, then offers Jim an opportunity to kill one in order to save nine. Again, an event occurs that generates two possible outcomes (1 dead, 9 saved – Jim having killed; 10 dead – Jim having not killed). Action is taken, i.e. it is within the grasp of an individual to take, and a consequence

emerges which we are able to judge according to its morality. How do these pictures of morality-at-work map on to what I have been saying? They do not. Immorality as a description of what makes our lives possible is not something that can be affected by any single action nor described by any particular event. That doesn't make it any the less a problem of immorality, nor does it make any less correct the accusation that our lives are being lived in fundamentally immoral ways.

## **Norms**

To make this point clearer, consider the status of norms in a more traditional slave society. The general beneficiaries of slavery can include people who in fact abhor the ownership of human beings – perhaps even extended to the owners of slaves themselves. Moreover, they can be people who donate money to charities that have as their aim the abolition of the practice. Coupled with this they might be active members of their neighbourhood, helping out others when they can, being good workers, good husbands, wives, fathers and mothers. Nevertheless, assuming their involvement in the cause goes no further than the donation of money, i.e. does not amount to active, even total struggle, they succumb to the practice: As both accomplice and beneficiary.

Charles Mills' excoriation of social contract theory takes issue with precisely the problem presented by this kind of acquiescing agency on the issue of race: "By unquestioningly 'going along with things,' by accepting all the privileges of whiteness with concomitant complicity in the system of white supremacy, one can be said to have consented to Whiteness". Mills makes no bones about it – to become a 'race traitor' to whiteness is a damnably costly thing to attempt. However, the fact that people have done so, ranging from, for instance, Don Macleod in Australia who organised the first Aboriginal strike in Australia; participants in the Underground Railroad in the states; John Brown who sparked the Civil War; white anti-apartheid activists in South Africa, shows that however costly, such principled, ongoing resistance is possible – and effective (Mills, 1997, 108 – 109). It is possible – and my argument rests on the assumption in fact – that when the situation is grave enough, corrupt enough, such actions are the only ones by which sufficiently moral action can be performed. The crux of the matter is whether our current situation is that grave.

By challenging the norms structuring their societies, these individuals constructed exploited possibilities to push against racial injustice. They were able to punch holes in the normal running of things, find exceptions that ran against the grooves and patterns of activity established by norms, offering alternatives, precipitating crises, pushing against the inertia of the system, its practices and participants, or anyway providing means of escape and disruption. In so doing, morality – in some minimal way – was being exercised. The litany of ‘goods’ above (as description of worker, mother, community member, etc.) has no access to this kind of morality. They are, to all intents and purposes, irrelevant. Such people can lead “good” lives, but never moral ones.

Do we escape the force of such charges? Certainly our ownership of slavery is not of the kind that daily finds us with whip in hand, sipping ice-tea atop faux-Georgian terraces overlooking vistas of cotton and bloodshed. Nevertheless, we are beneficiaries. Does our distance – or the absence of the view – excuse us in any substantial way? Does it contain ethical import? This is a separate, though related point to the one Peter Singer famously made in his 1971 essay, ‘Famine, Affluence and Morality’ (Singer, 1971). Here the imperative was to end suffering – if we would save the child in the pond before us from drowning, why not the child in Africa? If we really would divert the oncoming train from Bob toward our own Bugatti, why not also do the same for individuals elsewhere in the world, i.e. not buy the Bugatti in the first place and donate the money to some suffering-reducing cause? Here another problem is not merely to reduce suffering, but to tend to our *complicity* in that suffering.

My argument is not, *a la* Singer that we should tend to these problems with donated money (Singer, 1993, 218 – 246; Honderich, 2003). On such a view because they donate (a lot of) the consequences of what they do to worthy causes, the Warren Buffets of the world, having made billions with trade-union-murdering, worker-exploiting, environment-polluting, diet-ruining, culture-homogenising companies like Coca-Cola become examples to emulate rather than objects worthy of scorn.<sup>2</sup> Moreover, I take seriously – though here do not go into them – the issues of agent-centred prerogative and constitutive features of agency identified by thinkers like Bernard Williams who suggest that this kind of maximising utilitarian behaviour –

treating one's life as well-being-producing machines - runs up against deep problems of how we tend to live *qua* human beings. Moreover, there is a sense in which such a view of charitable donation, if we allow that relatively wealthy individuals nevertheless retain some minimal claim to the proceeds of their labour, means that certain individuals in the west will be *excused* from participating in this moral activity. In other words, stated boldly, poorer people are no longer able to really behave in truly moral ways, restricted to the minimal - what I have called irrelevant - opportunities at morality. I would neither let them off the hook - so to speak - nor excuse them from the possibility of engagement with differently conceived forms of moral activity. (At least not yet in the argument.)

When the norms of a society are guilty of carrying on hugely immoral business-as-usual, pursuit of the exception is not only a moral cause - it is the *only* moral cause. This overstates the case. But only slightly. For example, to not break a promise is, all other things equal, better than breaking one. Not stiffing a colleague might also be a moral imperative. Helping an old lady across the road is also a good thing, in certain circumstances even an obligation. However, these pale into comparison next to the 'crimes' which make our lives as they are being lived possible: We can do moral things without being moral. (Danny De Vito has height even though he is not tall; morally suspect people can perform admirably at trolley problems while being out and out bastards the rest of the time.) In the same way that anarchists like Chandran Kukathas can reject the possibility that a state can ever be a legitimate agent, they can nonetheless - without pain of inconsistency - prefer Norway to the United States and the US to North Korea (Kukathas, UM). Minimal legitimacy is not at stake, but a threshold of minimal legitimacy need not be reached before we can start making comparisons between states of affairs and preferable action.

I want now to draw on an example that always brings home with force, i.e. to me, how fundamentally inescapable immorality is at the level of structural relations between (often distantly) different people. The government is Harold Wilson's Labour administration. The year is 1964. The following is from John Pilger's expose of the crime against the people of Diego Garcia in *The Guardian*, and was the subject

of the first chapter of his *Freedom Next Time*. I shall quote it at length to make sure the major details are not missed.

“During the 1960s, in high secrecy, the Labour government of Harold Wilson conspired with two American administrations to "sweep" and "sanitise" the islands: the words used in American documents....To get rid of the population, the Foreign Office invented the fiction that the islanders were merely transient contract workers who could be "returned" to Mauritius, 1,000 miles away. In fact, many islanders traced their ancestry back five generations, as their cemeteries bore witness. The aim, wrote a Foreign Office official in January 1966, "is to convert all the existing residents ... into short-term, temporary residents."... In August 1966, Sir Paul Gore-Booth, permanent under-secretary at the Foreign Office, wrote: "We must surely be very tough about this. The object of the exercise was to get some rocks that will remain ours. There will be no indigenous population except seagulls." At the end of this is a handwritten note by DH Greenhill, later Baron Greenhill: "Along with the Birds go some Tarzans or Men Fridays ..." Under the heading, "Maintaining the fiction", another official urges his colleagues to reclassify the islanders as "a floating population" and to "make up the rules as we go along". (Pilger, 2004).

The mass expulsion of these people led to them living in abject poverty in Mauritius and refused the right to return. If I had been living and of voting age in 1964, I would have very likely voted, given my background and whatever else, for Wilson's government. Moreover, the Wilson government is one of those post-war British administrations celebrated for having enacted important social reforms in tax (top end earners paying 83%) education, penal reform, health, housing, gender equality, price controls, pensions, provisions for disabled people and child poverty. What becomes of the status of these provisions and achievements in light of crimes against humanity?

Certainly, this act of expulsion was performed with culpable, anti-democratic secrecy. Nevertheless, *my* government committed this crime. Indeed, let's say I would not have voted for Wilson, whatever my objection to the acts of such a government I remain a resident of a nation, a beneficiary of a system, founded on crimes such as these. My attendance at protests of Iraq notwithstanding, I also took the Dole (unemployment benefit) of a "Labour" government guilty of war crimes. If the state was a gangster from whom I received kick-backs, knowing at some point that these were the fruits of not just illegal but immoral acts, and I continued to receive such gifts – with whatever level of guilt – I become an accomplice.

Now it is true that the costs of exiting this situation are enormous. It is also clear that there is nowhere else to go where such problems wouldn't touch us. Moreover, we might not be wanted in such places – visas are not always easy things to come by. But the deeper point is that the route of the reclusive mountain poet, he who severs contact with an irredeemable world to better meditate and dig on dandelions, involves a huge abandonment of our most cherished projects, people and places. This is not to say that morality might not demand such or similarly huge moves, but demands in this form do seem to run up against basic constitutive facts of agency, i.e. that a large part of what we are as people is our having things we cherish and value over and above tasks of massively reducing the suffering of others. An equation Complicity plus Impotence plus Hard Facts of Agency seem to sum up, in crude form, the basic bind.

Moreover, if we arrive at the Han Shan route post-use of electronic products, an education within the violently controlled boundaries of a state, benefits extracted from historical exploitation, then we have still benefited and been constituted by mass injustice. Han Shan is walking away from that fact, but it remains a fact and his slate is still marked. Finally, it is not a move that seeks to do anything about injustice. It is to exercise exit over voice, the rejection of *further* complicity rather than to attempt the mitigation of the effects of *complicity*, the positive flip-side of which, i.e. a (distant) hope of which, is *mutually beneficial reciprocal involvement*.

Non-complicity as things stand is impossible. The enormous retreat from any more complicity *a la* Han Shan is a gesture, but not one guided by substantial concern with changing things. The result is what to do from *within* complicity. As an aside, it should be noted that complicity with 'bad behaviours' is not equally inevitable across all forms of mutual involvement. For an alternative example, consider the issue of compliance with swimming pool regulations. When one enters a swimming pool, one is confronted with a list of the forbidden: bombing, urinating, heavy petting. This kind of compliance is easily accessible because it does not rely on anybody else doing anything in particular – literally everyone else could be breaking those rules and one could still comply with the rules. Being consistent with the demands of veganism might be another example: one can be a consistent environmentalist so far as the consumption of meat and meat-related products goes,

without relying on similar actions performed by others (though of course the difficulties/costs of veganism might increase unless sufficient numbers of others take up the cause).

Political and economic institutions work in obviously radically different ways: The kind of activity one can engage with has to make sense both against the background rules that constrain and enable certain behaviours, and to what other people are doing in complying or not complying with those rules. The vegan, for example, by paying her taxes might inadvertently be contributing to subsidies for certain kinds of meat production. Her otherwise well-intentioned, consistent and high-cost actions are thus undermined by the background against which she makes her decisions and in which she is obliged to participate. Even she, then, is complicit in reproducing practices that she both considers profoundly unjust and takes steps to confront.

## **Complicity**

The issue of work, of productively contributing to one's community, is also problematic. Where and how to make a productive contribution is always from within an already existing set of institutions and practices, from a particular location in space and time. When we engage in productive efforts we are not only contributing to the commonweal. We are also contributing to the *sustaining* of collective practices which are currently considered – however imperfectly – productive of a community's 'shared good(s)'. How we produce and consume in the world is always from within an on-going set of practices which are connected in myriad ways with the performance of similar acts by others, some (if not most) of whom will assume considerable, even debilitating costs as a result of their participation. The buying of electronics is a simple case in point: the low wages paid to retail staff and the even lower wages and worse working conditions borne by the producers making the things in the Majoritarian World are all preserved by purchases of said good.

But such practices are not inevitable or intractable elements of our reality. As Iris Marion Young puts it: "The accumulated effects of past actions and decisions have left their mark on the physical world, opening some possibilities for present

and future action and foreclosing others, or at least making them difficult” (Young, 2011, p 53). We experience ‘passively’ what were in fact past actions and decisions and which have been marked by human projects and culture. We reify them, considering the constraints they produce and sustain as objective parts of reality which “continue to condition contemporary possibilities for action even as we (or whoever) try to transform them” (Ibid, p 55). As already argued, by making our contributions from within these reified practices we also preserve their imperfection and injustices: letting business ‘go on as usual’ is to implicitly accept those constraints, the actions they make possible and the relations they establish.

In so preserving and reifying these practices and the ways they shape our interactions with one another we preserve their inadequacies and injustices. Breaking through the crust of such practices before altering them is unlikely to be an easy task. It will require (potentially enormous) changes at the institutional level, a great deal of which will be without ready-to-hand roadmaps or blueprints to effectively organise the imagination, strategies and intentions of its participants. In other words, such attempts are likely to be largely experimental involving trial and error, missteps and retreats, demanding hard-fought changes in public perception and constant efforts aimed at retention of these changes. When John Rawls says ‘unjust social arrangements are themselves a kind of extortion, even violence, and consent to them does not bind’ he seems to be allowing for just some kind of experimental refusal to sustain (Rawls, 1999, 302). If current arrangements fail to bind we must find some that do: agitation, specifically with reference to the ‘exception’, is part of this discovery.

Tamar Shapiro’s notion of *subversive* non-compliance is interesting on this issue of the (im)possibility of compliance with just practices against a background of injustice (Shapiro, 2003). Shapiro imagines a negotiation between two people, one of whom is committed to the practices and intentions associated with negotiation. This includes a willingness to comport oneself in good faith, providing reasons acceptable to the other side and listening to them informed by a spirit of impartiality. However, the person on the other side of the negotiation lacks such good faith. He treats the negotiations as a means of stalling for time and the other side as an obstacle to get around. Given the others’ total lack of interest in negotiation is it still possible to

accurately describe the good-faith party accurately as 'negotiating'? There is, Shapiro suggests, a threshold beyond which the others' non-compliance can undermine the basic integrity of the practice such that compliance with it is rendered impossible, whatever the intentions of the properly motivated individual might be (*Ibid.* p 337 – 338). The practice is rendered a sham: The attempt to continue on 'to the letter of the law' as defined by the rules of that practice is to be complicit in that sham.

However, there is something in the examples Shapiro uses that tends to implicitly obfuscate differences between the practices he considers and the wider issue of complicity with injustice as it confronts most people in the ordinary run of their lives. For instance, a collapse in the negotiations above is a practice from which the parties can pretty costlessly extricate themselves. Other means will have to be found to promote one's ends, but unsatisfactory negotiations can be walked away from. The other example (taken from the film *LA Confidential*) Shapiro provides is of a corrupt cop, the killing of whom will have, it is assumed, powerful consequences for the internal justice of the LAPD and thus the city generally. Here extrication is a little more difficult – it involves killing someone after all – but again, what is needed as part of the extrication from complicity is a relatively straight-forward and clear cut action which an agent can take. In certain, arguably most circumstances, it is impossible to extricate oneself from a practice in which adherence to the rules produces injustice and one's complicity is a bedrock given – there is no space beyond those practices into which one can extricate oneself. The question becomes, when the analogy between simplistic, dualistic notion of interaction is recognised, what one should do about that inescapable complicity-with-shamness.

And so this is where I see exceptions having a productive role to play. If the picture above is (more than triflingly) accurate, then moral action seems to be something we *can* perform in our lives, but it never really reaches a threshold whereby we can describe our lives as minimally moral. When we confront a moral conundrum as presented by something like the trolley problem, or the child drowning in the pool, or Jim confronting Pedro in the jungle, or the burning house with the cancer-curing-doctor and a beloved, we can act morally (though it is not always the *only* legitimate response to such problems) (Williams, 1981; 1993). It isn't, in other words, wholly precluded as a sphere of human activity. But post-decision,

assuming we act in moral ways it does not mean we are now moral. Slave owners (of the plantation owning variety) can be confronted with similar conundrums, but were they to turn to us for assessment we'd be likely to reply 'so what? You are a slave owner - tend to that first'. The *inescapability* of our complicity does not change this in any way I can see as relevant.

## Exceptions

From the practices that structure our societies, norms are generated which in turn keep those practices ticking over. But, if we take seriously the connection between these practices and the wider world it helps to prop up and sustain, where lies the normativity of the norms? What can justify them as action-guiding imperatives with a claim on our individual and collective efforts? The fact that there is *nothing else* with which to comply is certainly a reason, but not an especially strong one. Since establishing the status of those norms is not the topic I have proposed to address, I'll leave it open.

All this, I expect, is more or less accepted, more or less banal as a description. The question is what to do with it all: against such a picture of irremediably unjust norms and their irredeemably unjust consequences, where does the topic of this conference - exceptions - fit in? The role of exceptions against such a background offer, I'll now argue, qualified chances to buck against the fundamental immorality. This understanding of exceptions requires some unpacking. To fix a notion of what I am trying to explain, it is perhaps better described as a revolutionary moment. These are rare. Moreover, they are not often triggered by the demand for fairness per se. Rather they more often refer to the material interests of a given group of people. Justice is no doubt there in the background, but for life-and-limb risking type action, abstraction can only do so much work. Indeed, Eric Hobsbawm more or less dismissed the Parisian student activists of May '68 precisely because their interests were never material enough (Hobsbawm, 1973, 233 - 244). It was only when the workers joined in the cause with concrete material demands that anything like a potentially relevant revolutionary moment look to be on the cards.

However, while the causes are material the effects can be moral. This isn't like a side-effect. Rather there's something of an alignment between the self-interest of a

given group and more justice. Demands can be made at such moments that do affect change toward more just ways of doing business, i.e. fairer/more just norms: Expanding voting rights, freedoms of association, welfare reform, housing and working conditions, etc. can all get improved as a consequence of these moments of the exception.

These moves toward more moral practices and functionings do, however, have certain weird consequences. Justice because always incomplete has, in some ways, only ever been an expanding field of complicity. When African Americans gained the right to vote, for example, there nevertheless remained people in circumstances properly described as servitude over whom they could now, with expanding powers of consumption and additional freedoms, be said to exercise a certain degree of power. The gain for African Americans – notwithstanding its serious limitation and contemporary cut backs – was not accompanied by similar gains for others who remain implicated by deep and real interaction.

However, this is to jump the gun somewhat – though I shall return to the point below. To really nail what I mean by the possibilities presented by an exception a concrete example is needed. I can either go back in history for such an example, or play at prophecy. I'm going for the latter, specifically with reference to the group of people represented by the neologism Guy Standing has used to describe a those he believes are symptomatic of seismic happenings going on in the contemporary economy: The Precariat.

Standing argues that our current economic system is one that has become 'disembedded' from societies. International commitment to an open-market economy ushered in a period defined by the unlimited supply of low-cost labour offered by newly industrialising countries (NICs) like China and India. This commitment led inexorably towards a global production system of network enterprises, mobile capital, flexible labour practices and pressure on wages in the older industrialised economies (Standing, 2006, p26; Sennett, 2006). The situation is obviously complex – these processes led to enormous increases in the standard of living for NICs, China perhaps offering the most startling example, as well as exposing those same populations to serious exploitation, dangerous/poisonous working conditions, the violent quashing of moves to establish unions, etc. In addition, whatever pressures

are faced by worker-members of the older industrial economies, cheap goods of all kinds are readily available for their consumption.

Although this description is barely even a snapshot of a problem, providing in no way a comprehensive overview of the issues, it is nevertheless representative of a wider pattern of social and economic change: the growing class of interns, temps, the prevalence of zero-hour contracting, short-term/fixed contracts, and the malicious conditionality on benefits are all testament to the expanding climate of the precariat (Perlin, 2011; Sennett, 2009). However, stated bluntly, the precariat, as I understand that class, suffer injustices. In order to combat that injustice, Standing argues the precariat must become a class-for-itself: “with effective agency, and a force for forging a new ‘politics of paradise’, a mildly utopian agenda and strategy to be taken up by politicians and by what is euphemistically called ‘civil society’, including the multitude of non-governmental organisations that too often flirt with becoming quasi-government organisations” (Standing, 2011, p vii). It is here, in the becoming a class-for-itself, that recognising and exploiting opportunities offered by the exception becomes crucial.

Exploiting the exception amounts to the collective realisation of a relevantly affected group of people that the current ways of organising things are not fit for purpose *and* that enough and intense enough collective dissatisfaction exists for that discontent to be productive and disruptive *and* that the interests of states and other powerful agencies can be threatened in such a way by that disruptive discontent that concessions can be forced from them. In other words, ways of organising work – at least in this case of the precariat – can no longer be described as meeting certain minimum thresholds and the moment comes when the precariat, more often than not spontaneously, will (remember: prophecy) gather to resist. This resistance can take the form of applying negative sanctions to the current ways of doing things (Piven & Cloward, 1979; Cloward, 2006). Strikes, boycotts, occupations, (some) destruction of property, blockades – whatever prevents business and usual. To describe something as exceptional then is to describe a situation that lends itself to resistance: The affected group of people understand the norms by which activity is organised and refuse to acquiesce to the demands made on them by normality. By throwing a spanner in the works, preventing whatever usually gets done, forces the issue on

those in power to listen to the demands made on them by the exploited and marginalised. The precariat, for example, should – Standing has it – make the demand for a sufficiently high unconditional basic income (UBI) (Srnicek and Williams, 2015).

Here is another problem. Let's say the precariat of one nation, or even one continent gets their UBI. Let's assume it is a richer, less recently industrialised economy (so Europe). In order to make this feasible it is likely to require (even) strict(er) enforcement of national borders. To have it otherwise would be to encourage mass migration to the UBI-providing system, which will make the situation untenable – too many people demanding too much UBI will bankrupt the system. Closed borders, and rightly so, should leave us with a nasty taste in our mouth – especially when considering the urgent need of people (arguably way more urgent than whatever the precariat themselves are going through) to get access to these relative safe havens. Once again then, the increased position of one group affects nothing in the underlying immorality of the system as a whole. All that happens is one group is elevated in the degree of their complicity, and the benefits gained from that complicity, *with* that unjust system.

With the successful performance of refusals to engage with business-as-usual and the subsequent changes they bring about, the movements, campaigns and individual actions will have impacted on the world and brought about an objective shift to the ways in which everyday life is conducted. They will have reshaped and reconstituted that *practico-inertia* around different practices, habits and ways of doing things. Again, these are experienced as objective and reified and we will settle into experiencing them passively as constraints that cannot be usurped. Until, that is, the crust is once more removed for the next round of change that reveals the essential contingency of our situations. Without these attempts we get locked into unchanging, unjust interactions which nonetheless allow for and facilitate the productive contributions that it is our purported duty to fulfil.

In a world that is at any distance from even an approximation of justice, we cannot merely – as in *only* – continue to participate in institutions already existing since these are, in maintaining current practices, also part of the problem: At least, this is the case if morality is to be something like a concern relevant to our decisions

and our actions. Our 'dispositions' to support and be loyal to *just* institutions – as Rawls has it – require that we find ways out of current unjust arrangements and toward institutions worthier of our loyalty and support.

## **Conclusion**

A hard truth: We are going to be living in immorality for most of the time. The fractures that can be exploited in the name of greater justice and morality are rarely sufficiently attenuated or unstable to be of much use to drive change. I do not, however, root any of the above in a sense in which people themselves are basically shitty, and that this is all the fault of a repellently imperfect human nature with which we are all of us equally stuck. The systems with which we – and I refer to a 'we' far beyond the royal variant – are complicit, are also the systems over which others – some of whom are indeed royalty – have far more control and by which they accrue astronomically more benefit. There are innumerable people amongst the 'we' who, however implicated they are in injustice, do a great deal that contains moral content.

My focus has been, first, to describe the inescapable immorality of our collective circumstances and our inescapable complicity with that immorality. Second, I have tried to locate exceptions as partial, imperfect solutions to that problem. Exceptions are treated as moments when reified social practices can be radically reformed in such a way as to increase possibilities for justice, i.e. morality. The process, stated simply, goes like this: Exploiting the exception pushes against reified social space, specifically by threatening the interest of those in power with much to lose. Consequent to such threats, the crust gets ripped off our practices – production and reproduction are particularly, though by no means exclusively, crucial practices. Within that space change can now be introduced. After change, reification begins again. Diligence and vigilance are then needed to chart out possibilities for the next round of crust-tearing, exceptional action, as well as preserve the gains that were made within that space. Then the wait...

Finally, I have tried to sound a warning regarding exactly what these exceptions can achieve. Never do they (or rather have they) overturn(ed) the overarching system in such a way as to replace immoral norms with moral norms.

Indeed, in some respects, they merely increase the complicity of a previously harangued group of people by allocating new resources to that group. If our following of norms is to be anything more than simply acquiescence to the fact that there is nothing else with which we can comply, then a more fundamental revolution is needed at a global level. The extreme unlikeliness of that happening changes nothing.

---

**Notes:**

1 Take the survey @ <http://slaveryfootprint.org>. Using this talk of slavery misses the fact that a great deal of it is voluntarily entered into. How to pick apart what does and does not count as voluntary is not something I dwell on but I in no way restrict it to this 35 mil.

2 Buffet's new thing is investing in trailer parks - America's last vestige of affordable housing - where there is little regulation on rents and where they can be inflated exponentially, safe in the knowledge that residents have nowhere else to go other than a couch/hostel/gutter. <http://america.aljazeera.com/watch/shows/america-tonight/articles/2015/10/28/trailer-parks-price-gouging-texas.html>

## Works Cited:

- Chakraborty, Ranjani, *In Texas, trailer park fights mobile-home moguls for affordable housing*. October 28<sup>th</sup>, 2015. Available at <http://america.aljazeera.com/watch/shows/america-tonight/articles/2015/10/28/trailer-parks-price-gouging-texas.html>
- Honderich, Ted, *Terrorism for Humanity*, Pluto Press, London, 2003.
- Kukathas, Chandran. *Conscience of a Libertarian*, unpublished manuscript. Available at [https://www.academia.edu/12516687/The\\_conscience\\_of\\_a\\_libertarian](https://www.academia.edu/12516687/The_conscience_of_a_libertarian)
- Mills, Charles W, *The Racial Contract*, Cornell University Press, London, 1999.
- Perlin, Ross, *Intern Nation*, Verso, London, 2011.
- Pilger, John *Paradise Cleaned*, "The Guardian", October 2<sup>nd</sup> 2004. Available at <http://www.theguardian.com/politics/2004/oct/02/foreignpolicy.comment>.
- Piven, Frances Fox & Richard Cloward *Poor People's Movements*, Vintage, New York, 1978.
- Piven, Frances Fox, *Challenging Authority*, Rowman & Littlefield, New York, 2006.
- Rawls, John, *A Theory of Justice*, Harvard University Press, Cambridge Mass, 1999.
- Sennett, Richard, *The Culture of New Capitalism*, Yale University Press, London, 2006.
- Sennett, Richar, *The Craftsman*, Penguin, London, 2009.
- Shapiro, Tamar, *Compliance, Complicity and the Nature of Nonideal conditions*, "The Journal of Philosophy", 100, 7, 2003, pp. 329-355
- Singer, Peter, *Famine, Affluence, and Morality*, "Philosophy and Public Affairs", 1/1, 1972. pp. 229-243.
- Singer, Peter, *Practical Ethics* OUP, Oxford, 1993.
- Standing, Guy, *The Precariat*, Bloomsbury Academic, London, 2014.
- Srnicek, Nick & Alex Williams, *Inventing the Future: Postcapitalism and a world without work*, Verso, London, 2015.
- Williams, Bernard, *Moral Luck*, Cambridge University Press, Cambridge, 1981.
- Williams, Bernard, *Ethics and the Limits of Philosophy*, Harper Collins, London, 1993.
- Young, Iris Marion, *Responsibility for Justice*, Oxford University Press, Oxford, 2011.