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**Exploitation and the Ethics of Clinical Research Participation in
Nigeria: A Kantian Perspective**

By

Victor Chidi Wolemonwu

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Department of Philosophy**

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Abstract

Involving human subjects in clinical research exposes them to exploitation. Some philosophers see exposure to excessive risk, lack of informed consent and unfair distribution of benefits relative to harm as the essential features of exploitation. To examine the plausibility of this claim, I explore three transactional accounts of exploitation espoused by Matt Zwolinski, Jeremy Snyder, and Alan Wertheimer. For Zwolinski, exploitation occurs in nonconsensual interaction that leaves one of the interacting parties worse off, violates their rights, or both. Snyder's account is on the duty of beneficence, while Wertheimer's account is on the nature of the fairness of distribution of benefits of transactions. I contend that the accounts of exploitation offered by Zwolinski, Snyder and Wertheimer are inadequate to sufficiently explain the moral wrongness in clinical research like the Lilly and AstraZeneca clinical trials. Interactions can be exploitative even when consensual, beneficial, not excessively risky, and not worsen the interacting parties. More importantly, exploitation also occurs in relationships that are not transactional, like in clinical research cases. I argue that key to an adequate notion of exploitation, thus, is the Kantian idea of treating someone as a mere means. I argue that an adequate view would be based on the principle that exploitation involves an objectionable relationship of servility between exploiter and exploited.

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Introduction

Medical research is indispensable for advancing scientific knowledge about human biology and enhancement of health and well-being of people through the development of safe and effective preventive, therapeutic and diagnostic interventions. Many governments worldwide invest hugely in medical research to discover novel treatments for diseases of all kinds like HIV, Ebola, COVID 19, etc.¹ However, medical research is a risky enterprise, which requires the participation of human subjects. Some medical research activities are morally problematic because they expose participants to exploitation (Lemmens and Elliott 1999; Reverby 2012; Den Boer and Davies, 2016).

Some bioethicists and policymakers believe addressing the issue of exploitation requires we pay attention to three main ethical issues, namely, lack of consent, unfair distribution of benefit and exposure of research participants to excessive risks (De Castro 1995; Miller and Brody 2002; NCHRE 2007; Emanuel et al., 2008; CIOMS 2016). One of the ways a research participant's voluntary, informed consent can be vitiated is through deception or coercion. Leonardo D. De Castro, for instance, argues that a researcher deceives a prospective research participant and thus, exploits them when the researcher exaggerates the possible benefits of a study or suppresses information about the nature and magnitude of risks and disadvantages of the study to lure the participant into the study for some scientific ends (De Castro 1995, 261). Ezekiel J. Emanuel et al. contend that "enrolling individuals in clinical research without their authorisation (by deceiving or coercing them) is to treat them merely as a means to purposes and ends they may not endorse or even know about, denying them the opportunity to choose what projects they will pursue and subjecting them to Kantian-type exploitation" (Emanuel 2008, 130). Other bioethicists think that the only time the charge of exploitation against any clinical study is tenable is when researchers act in a way

¹ According to Robert Shalett, the United States invested over \$194.2 billion on medical and health research and development, outpacing the total investment in healthcare (Shalett 2019). Another statistic shows that each year, the Canadian government invests huge resources to fund over 900 clinical trials in the country (Ferri 2017). In 2016, some African countries like Nigeria, South Africa and Egypt spent a total sum of US\$22.3 billion on medical research and development (Simpkin et al. 2019).

that makes it difficult for participants to give informed and rational consent (Carse and Little 2008, 207).

But Franklin Miller and Howard Brody contend that lack of informed, voluntary and rational consent is just one of the conditions for exploitation in clinical research. They affirm that prospective research participants can also be exploited when researchers expose them to excessive risks for the sake of scientific investigation (Miller and Brody 2002, 5). Matt Lamkin and Carl Elliott corroborate this view. According to them, "research subjects may be exploited not just by inadequate pay, but by being exposed to excessive risks" (Lamkin and Elliott 2018, 54). So, Lamkin and Elliot allude to the view that in addition to lack of informed, voluntary and rational consent and exposure to excessive risks, a participant can also be exploited if the benefit they received from participating in the study is unjust or unfair. Alan Wertheimer has championed this later condition of exploitation. According to him, a person is exploited when the other interacting party's benefit is excessive relative to the benefit accrued to the exploited victim (Wertheimer 2008, 68-69).²

The central issue this thesis attempts to address is whether the problem of exploitation in medical research can be adequately addressed whenever the three conditions of exploitation outlined above are avoided. I argue that some medical research cases like the Lilly, AstraZeneca and Tenofovir clinical trial cases, which I discuss in Chapter One, indicate that one can be exploited in consensual, beneficial, and non-excessively risky medical research. In other words, the above criteria do not cover all exploitation cases in medical research. Since Nigeria's Code of Health and Research Ethics (NCHRE) is grounded on these three conditions to determine exploitative medical research, a further account of exploitation is needed to show why dependence on the elements of lack of consent, unfair distribution of benefit and exposure of research participants to excessive risks, is inadequate. I offer a Kantian account of exploitation based on the idea of servility to explain why some cases of exploitation like the Lilly, AstraZeneca and Tenofovir

² I will discuss these conditions of exploitation in details in chapters Two and Three. I will argue in later chapters that these conditions are inadequate to explain why some medical research cases like the Lilly, AstraZeneca and Tenofovir studies are morally objectionable and exploitative.

clinical trial cases, which the NCHRE does not cover, are morally problematic and exploitative. I also discuss two principles for non-exploitative medical research that should be applied to ensure that all research participants' dignity and well-being are adequately protected.

To defend my Kantian servility account of exploitation and explain the nature of the normative framework that should guide medical research, I divide this thesis into six chapters. Section 1.2 of Chapter One explores some thought experiments like the uncompassionate rescuer, vicious robber, lecherous Millionaire, and the money doubler. These cases help to give an initial understanding of what an idea of exploitation entails.

Section 1.3 discusses some clinical research cases, namely, Pfizer, Tuskegee Syphilis, Synflorix. I argue that these are similar cases of horrific medical research that caused the death and incapacitation of the research participants. These medical research cases are exploitative because they involve involuntariness (lack of valid consent), exposure to unreasonable risks of harm and unfair distribution of benefits. I also explore less malevolent cases like the Lilly, AstraZeneca and Tenofovir clinical research cases. I show that these medical research cases are morally problematic and exploitative even though they lack the elements of exploitation highlighted in the malevolent cases like the Pfizer, Tuskegee Syphilis and the Synflorix experiments.

I defend the above claim by appealing to some thought experiments like the Lecherous Millionaire and the Uncompassionate Rescuer. For example, in the Lecherous Millionaire case, the woman who was desperate to save her dying child voluntarily agreed to become the Millionaire's mistress. So, legally speaking, the Millionaire cannot be sued for rape. The Millionaire did not threaten her; besides, she benefitted in some way from the interaction – she got the money she needed to save her child. Yet, this is a paradigm exploitation case because the Millionaire took advantage of her desperate situation to treat her as a mere opportunity to satisfy his sexual lust. Similarly, the homeless alcoholics and the poor sex workers, for instance, voluntarily enrolled in the study (they were neither coerced nor deceived to enter the studies). However, the research is still exploitative

because the researchers took advantage of the desperate circumstance of the participants to persuade them through incentives to enrol in the studies because they know the participants cannot refuse the offers due to the vulnerable situations.

Chapter Two discusses some conditions of exploitation in-depth, namely, involuntariness (lack of valid consent), unfair distribution of benefits, and exposure to unjustifiable risks of harm highlighted in Chapter One. These conditions of exploitation help to explain the moral problems in medical research cases like the Pfizer, Tuskegee Syphilis and Sunflorix experiments. The Pfizer experiment is an obvious case of exploitation because the researchers deceived the parents of the meningitis children who enrolled for the experiment that their children were being administered anti-biotics. Unknown to them, their children were being used to test the safety and efficacy of Trovan, an antibiotics trial drug that was not approved by the FDA to be tested on sick children. Tuskegee Syphilis and Sunflorix experiments are similar cases of horrendous clinical research that resulted in the death and incapacitation of the participants. However, I argue that some morally problematic and exploitative clinical research cases like the Lilly, AstraZeneca and Tenofovir clinical trials lack the above elements. In other words, interactions may be exploitative even though one of the interacting parties voluntarily enters the interaction without being exposed to excessive risks and receives benefits from the interaction based on agreed terms.

To explain why Lilly, AstraZeneca and Tenofovir clinical trials are morally problematic and exploitative, we require a Kantian servility account of exploitation. Before examining the account, I explore some accounts of exploitation offered by Matt Zwolinski, Jeremy Snyder, and Alan Wertheimer in Chapter Three. Zwolinski's account shows that exploitation only occurs when an agent enters an interaction that that is nonconsensual, makes them worse off, or in which their rights are violated (Zwolinski 2012). For Snyder, to exploit an agent is to gain an advantage from them without providing them with adequate benefits they need. For instance, an employer exploits their employee if they fail to fulfil their moral demands by giving their employee a salary that would help them achieve a decent standard of living (Snyder 2008).

Wertheimer views exploitation from the point of view of unfair distribution of benefits. He believes that interaction can be exploitative, if harmful or nonconsensual (Wertheimer 2008; 2010). Agents can consent to exploitative interactions, and however, consent is not sufficient to make an interaction non-exploitative. Besides, some consensual exploitative interactions are mutually beneficial. The Lumber example is a case in point.³ Though the lumber retailer got a huge profit from the sales, the customers also got the quantity of lumber they needed to fix their broken houses. According to Wertheimer, explaining the exploitative nature of mutually beneficially consensual interactions requires measuring the benefits gained by each transacting party based on a normative standard. A normative standard is a standard of transactions accepted by transacting parties based on some objective, fair market mechanism.

I characterise the accounts of Zwolinski, Snyder and Wertheimer as transactional accounts. They are considered transactional accounts because they assume a model of two or more parties involved in a transaction oriented around an exchange of benefits. However, I argue that none of these transactional exploitation accounts sufficiently cover some paradigm exploitation cases in medical research like the Lilly experiment on homeless alcoholics. Zwolinski, for instance, claims that a transaction may be exploitative if it is not consensual and if it violates an agent's right or makes them worse off. However, the Lilly example shows that interactions can be exploitative even where the above conditions listed by Zwolinski are absent. For Snyder, an agent exploits another if they fail to act based on the duty of beneficence. An agent fails to act based on the duty of beneficence if they fail to provide benefits that would be reasonable to meet the basic need of the other interacting party. A few cases of sweatshop labour⁴ show that an agent can be exploited even though their basic needs are met. One of the problems of Wertheimer's account of exploitation is that market mechanism will not always be the right way to fix what the normative standard is, particularly in cases like clinical trials.

³ The example Wertheimer offers is as follows: There has been a hurricane in Florida. A, a lumber retailer, triples his price for lumber. B, who needs lumber to rebuild, pays A's price. This is a case in which an exploitee seems to gain from an exploitative transaction (Wertheimer 2008, 65-67).

⁴ I highlighted these cases under Zwolinski's account of exploitation in Chapter Three.

Since the transactional accounts offered by Zwolinski, Snyder and Wertheimer are inadequate to explain why some clinical research cases like the Lilly, AstraZeneca and Tenofovir trial cases are exploitative, I turn to a Kantian account of exploitation. The Kantian account sees exploitation in terms of taking advantage of a person's vulnerability, treating the person as mere means by putting them in a situation of servility to further the exploiter's ends. To explain what mere means involve, I explore Onora O'Neill's possible consent account of mere means. O'Neill argues that we treat a person merely as a means when we act on the maxim of coercion or deception that makes it impossible for them to consent. These narrow interpretations of mere means are inadequate for a Kantian account of exploitation. Some medical research cases like the Lilly clinical trial and some non-medical research cases like the Lecherous Millionaire show that exploitees can freely assent or possibly consent to exploitative interactions and even contribute to the ends of their exploiters. I also discuss O'Neill's account of the coercive offer. The Lilly, AstraZeneca and the Tenofovir clinical trials do not involve coercive offers. The researchers did not threaten the prospective participants, nor did they contribute to the vulnerable situations of the participants. However, I note that her ideas of complicity and unrefusable offers are helpful to explain the wrongness in the above medical research cases.

I also discuss Allen Wood's vulnerability account of exploitation. Wood's account improves the transactional accounts offered by Zwolinski, Snyder and Wertheimer. He acknowledges that exploitation is not essentially a wrongful concept. For instance, there is nothing wrong or unethical when a player exploits the weak defence of their opponents to win a game. However, exploitation is morally objectionable when an exploiter takes advantage of the vulnerable situation of an exploiter and treats it as an opportunity to further the exploiter's end or project. I argue that exploitation involves taking advantage of a person's vulnerability, but it is insufficient to account for exploitation. Besides, Arneson's heating company indicates that we could profit from a person's vulnerable situation based on a fair exchange without wronging them.

So, I argue that a standard Kantian account of exploitation requires three necessary and jointly sufficient conditions, namely: a) taking advantage of

vulnerability for the sake of some gain; b) treating someone as mere means, or a mere opportunity; c) making the exploited person enter servile relations. In Chapter Five, I defend the view that *A exploits B if and only if A takes advantage of B and degrades B by treating B as a mere means by making B enter a servile relationship with A to further A's ends or interest.* I refer to this account of exploitation as Kantian servility account of exploitation because it suggests that all exploitative exchanges involve servile relations between the exploiter and the exploitee. I also show that exploitees act servilely when they are exploited; they are not blameworthy, just as a coerced in O'Neill's account is complicit in the wrong done to them but is not morally culpable. Furthermore, I defend the servility account against possible criticisms. For instance, I argue that the servility account is not committed to the claim that exploitation only exists where the exploited person feels degraded. Moreover, the feeling of an exploitee does not make the interaction more or less exploitative.

Chapter Six discusses some practical implications of the servility account for Nigeria's Code of Health and Research Ethics (NCHRE). The servility account raises moral concerns about using coercion or deception to recruit sick participants, especially in studies where physicians also perform the duty of researchers. The account also raises concerns about using financial and material incentives to induce medical research participation. I argue that inducing prospective research participants is morally problematic because it increases the likelihood of exploitation. The moral problem is not because it could undermine the capacity of participants to make voluntary, informed decisions. Of course, incentives could vitiate an offeree's capacity to act voluntarily if the offeror incorporates deception – that is, if the offeror lies about the purpose of the exchange or fails to provide sufficient information that would help the offeree make an informed decision. However, the central issue is that inducing participants with incentives promotes a disproportionate enrolment of research participants - those who are socially and economically disadvantaged are targeted to bear the brunt of research favouring the well-off.

So, based on the servility account of exploitation, I contend that the NCHRE faces some challenges. First, it fails to spell out the relevance of the provision on

inclusion and exclusion for research participants who may be recruited for non-therapeutic studies. Second, it hinges ethical permissibility of clinical research on the informed consent of research participants. Although consent is necessary for clinical research, it is not sufficient to make it non-exploitative. This point is evident in the Lilly experiment and the Lecherous Millionaire case. Third, even if the potential risk of research is minimal while the benefits that participants receive are adequate for them, such research can still be exploitative. The Lilly, AstraZeneca and Tenofovir clinical research cases show that one can receive benefits they believe are sufficient to address urgent economic needs and still be exploited. Finally, involving host communities in ethical decision making in medical research could be vital (NCHRE 2007; CIOMS 2016). However, the over-dependence on community authorisation raises fundamental moral issues about protecting the dignity and well-being of the research subjects. This concern is fundamental because, given the high poverty rate in some Nigerian communities, many leaders are prone to reduce clinical research participation to mere opportunities for financial gain.

Based on the preceding observations, I conclude with a few recommendations. I note that research participants must be adequately protected from exploitation for medical research based on appropriate ethical standards. Fundamentally, I suggest that researchers adopt a reimbursement method in place of financial incentives – where only verifiable costs like transportation, parking or feeding are reimbursed. This method would encourage altruism in research participation and also enhance fair selections. However, I emphasise that besides altruism, Ethics Committee must ensure that the selected participants are eligible for the research and that their dignity and well-being are prioritised and adequately protected.

Chapter One: Moral Problems of Human Participation in Clinical Research: Is a Theory of Exploitation Necessary?

1.1 Introduction

In this chapter, I explore the problem that motivates this thesis to show that a theory of exploitation is necessary to address the issue. Clinical research involves research on human subjects⁵. The overarching purpose of clinical research is to develop new therapeutic, preventive, and diagnostic interventions. It requires data generation, the advancement of knowledge and improvement of professional skills of physicians, medical scientists, and other healthcare professionals (Levine 2008, 211); and to apply this knowledge to treat illnesses, improve human health and enhance the general understanding of human biology. Clinical research, however, is a risky project. Involving human subjects in such a venture exposes them to various moral risks, including exploitation. In section 1.2, I explore some thought experiments like the rescue case, robbery example, the case of a lecherous millionaire, and the money doubler example to understand what exploitation involves.

I explore in section 1.3 some cases of clinical research in Nigeria like the Pfizer experiment and the Tenofovir trial (as well as the AstraZeneca experiment in South Africa, Synflorix clinical trial in Argentina Tuskegee Syphilis Experiment and the Lilly Drug Trials in the United States). I argue that the Pfizer experiment and the Tuskegee Syphilis and Synflorix experiments are similar cases of horrendous clinical research that resulted in the death and incapacitation of the participants, and they involve lack of valid consent (involuntariness), exposure to unreasonable risks of harm and unfair distribution of benefits. I will argue that cases like the Lilly, AstraZeneca and Tenofovir clinical trials, on the other hand, are also paradigm morally problematic and exploitative clinical research cases even though they lack the above elements of lack of valid consent (involuntariness), exposure to unreasonable risks of harm and unfair distribution of benefits.

⁵ Throughout this thesis, research participants and human subjects would be used interchangeably.

As we shall see in the next chapter, some bioethicists argue that medical research cases like the Tenofovir, AstraZeneca and Lilly clinical trials are not exploitative if (i) the participants offer well-informed consent; (ii) the incentives offered to them are fair enough or not so much as to induce them; (iii) the research does not expose them to excessive risks (Grady 2001; Beauchamp et al. 2002; Dickert 2009). According to APNews.com, Ed West, Lilly's spokesman, argued that Lilly's use of the homeless alcoholics was ethical because they *accepted the incentives* and *signed the informed consent form*. They were also screened before being recruited in case any of them had severe medical conditions due to alcoholism. But "even if volunteers with 'mild liver dysfunction' made it through the screening process, they would not taint data."⁶ In this thesis, I argue that there is something morally wrong with the involvement of participants in medical research like Tenofovir, AstraZeneca and Lilly clinical trials. To explain moral wrongness fully requires an understanding of the notion of exploitation.

1.2: What Exploitation Involves: Exploring Some Thought Experiments

Before we turn to look at some examples of morally problematic and exploitative medical research, let us start by having an initial look at what exploitation involves by exploring some non-medical thought experiments such as Uncompassionate Rescuer, Vicious Robber, Lecherous Millionaire and the money Doubling examples. Once we have examined these thought experiments and drawn out some key features, we can turn to the cases of medical research in the next section to show that the morally problematic and exploitative medical research cases are analogous in some vital way to the thought experiment cases. Let us now consider some thought experiment cases to highlight key exploitation features.

A. The Uncompassionate Rescuer⁷: Jim is on board a ship cruise across the Atlantic Ocean. On getting to the middle of the ocean, they meet a heavy storm.

⁶ Callahan, Rick, November 20, 1996, <https://apnews.com/article/0bb41278aa635d41581fe71cf11a3fe5>. Even though the underlying illness of a research participant does not taint the study data, it does not imply that the trial drug will not complicate the health of the participant later. Moreover, as Hayes reports, "absorption of drugs and distribution within the body may be disturbed in liver disease, leading to abnormal bioavailability" (Hayes, P. C. (1992). "Liver Disease and Drug Disposition", *British Journal of Anaesthesia*, Vol. 68, pp. 459-461.).

⁷ David Zimmerman appeals to this example to distinguish between coercive and non-coercive offers (Cf. Zimmerman 1981, 121-145).

The ship captain loses control, crashes into a giant iceberg, and wrecks the ship. There are no survivors except Jim, who finds himself hanging on a broken part of the wrecked ship. Let us assume that after a few hours of being stranded in the middle of the ocean, Jim finds Mark on a speed boat driving past the scene of the wreckage and beckons him for help to avoid drowning. Cashing in on Jim's desperate situation, Mark offers to help Jim on the condition that he agrees to bequeath half of his investments. Jim may have other options like hanging on the back of a shark, swimming to the shore (which may be very risky), or waiting for another rescuer who may be considerate (which may not likely happen before Jim drowns). None of these options seems realistic. However, he accepts Mark's condition to give half of his investments in exchange for rescue because it is undoubtedly better than his original options (hanging on the back of a shark, swimming across the ocean, or waiting for another rescuer). Jim agrees to Mark's offer without being forced to do so, while Mark keeps his word by rescuing him.

The uncompassionate rescuer case is a paradigm example of a morally wrong and exploitative interaction. Though the decision of Jim to accept the inconsiderate offer of Mark is voluntary, he is not threatened in any way – this subclause explains why Jim's acceptance is voluntary. Also, the interaction is beneficial to Jim (rescued from drowning). Nevertheless, the interaction is exploitative because Mark (the exploiter) takes advantage of Jim's desperate or vulnerable situation (the exploitee) by treating him as a mere opportunity to advance his economic ends.

B. The Vicious Robber: Let us assume that a robber breaks into a house and demand that the house owner discloses the password of a safe containing monies and valuables or be killed.⁸ This case is an example of coercive, harmful, and non-beneficial exploitative interaction. It is exploitative because the robber treats the house owner as a mere opportunity to advance their ends by forcing them to choose between two closed options.

⁸ Many philosophers have appealed to the robbery example as a paradigm case of coercion (Cf. Farrell and Marceau 2013, 1545-1612; Siegler 1968, 268-287; Colburn 2008, 101-111; Feinberg 1989, 199, 257, 268).

This vicious robber example is like the uncompassionate rescuer only in the aspect of how the exploiters in both cases perceive their victims - as a mere opportunity or mere object of exploitation. However, both examples are considerably different in that the vicious robber case is an example of coercive, harmful (psychological), and non-beneficial exploitation. However, in the uncompassionate rescuer case, the exploitee voluntarily consents and benefits from the interaction.

C. The Lecherous Millionaire: Another helpful thought experiment is the lecherous millionaire case⁹. A woman meets a lecherous millionaire for some financial help to take her child to the hospital for surgery (the child may die if the surgery is not performed on her). Seeing that the woman is desperate to save her child, the lecherous Millionaire tells the woman that the only condition to assist her is if she agrees to sleep with him. Let us say that the previous options available to the woman with the dying child are (i) to look for money for a child's surgery; (ii) to do nothing and allow her baby to die. The new option for the woman is the lecherous Millionaire's request for sex in exchange for money for her to treat her child. By making such a request, the lecherous Millionaire treats the woman as a mere object for lustful satisfaction even though he does not force the woman to accept his offer.

Like in the case of the uncompassionate rescuer, the lecherous Millionaire takes advantage of the vulnerable situation of the woman to make his proposal. However, he does not force the woman to accept the proposal, just as Mark (the uncompassionate rescuer) does not force Jim to accept his offer of bequeathing part of his investments as a condition for rescue. Both Jim and the woman voluntarily agree to the proposal of their exploiters because the consequence of refusing the proposals is worse than sticking to their original options. In other words, just as Jim agrees to bequeath part of his investments to Mark to be saved from drowning, it is also better for the woman to become the Millionaire's mistress to save her child from dying. These cases are morally wrong and exploitative because both the lecherous Millionaire and Mark take advantage of the

⁹ Joel Feinberg uses this example to explain his idea of coercive offer (Feinberg 1989). I argue that an offer can only be coercive if it involves threats, or if, as j Zimmerman explains, the offeror actively prevents the offeree from being in the alternative pre-proposal situation the offeree strongly prefers (Zimmerman 1981).

vulnerability of their victims by treating them as mere opportunities to advance their desires and interests.

Some theorists may contend that the lecherous Millionaire and the uncompassionate rescuer examples are cases of *coercive offers*¹⁰. In his account of coercive offers, Joel Feinberg, for instance, argues that proposals are *coercive* because "they rearrange a person's options in such a way that he '*has no choice*' but to comply or else suffer an unacceptable consequence. They are *offers* because the proposer does not threaten any harm beyond what would happen anyway without his gratuitous intervention" (Feinberg 1989, 231). In other words, the 'exploiters' proposals in both the lecherous Millionaire and the uncompassionate rescuer cases are offers because they do not threaten to hurt the victims beyond what would typically happen if they did not intervene. However, the interaction is coercive because the exploiters alter the victims' alternatives such that *they have no choice* but to agree or face the undesirable outcome (Feinberg 1989, 231 emphases added).

Feinberg's idea of coercion in the context of a proposed offer is in line with one of the conditions of coercion proposed by Wertheimer. According to Wertheimer, when we say that A coerced B, we mean that "B was *forced* to do X," "B *had no choice* but to do X," or "B did X *involuntarily*" (Wertheimer 1987, 185 emphasis mine). The phrase "*have no choice*" suggests a lack of acceptable alternatives. So, in a coercive offer, the proposal is made in such a way that the coercer allows the coercee to either comply or suffer the consequence of noncompliance. The vicious robber case meets the three conditions of coercion highlighted by Wertheimer, namely force, lack of choice, and involuntariness. The vicious robber *forces* the house owner to choose between two closed options (disclose the password of the safe or be killed). These are closed options because the house owner does not have

¹⁰ I will discuss another related idea – undue inducement in chapter two to explain whether the voluntariness of the participants in the Lilly, AstraZeneca and Tenofovir medical research cases were vitiated in any way. Note that some bioethicists seem to relate the coercive offer with undue inducement. Since ethical guides as well as some bioethicists argue that a person's voluntary consent can be vitiated if they are unduly induced to participate in an interaction. I will show that the idea of *undue* inducement does not apply to these medical research cases.

any other option or choice except those offered by the robber. Also, the house-owner complies with the demand of the robber *involuntarily* to avoid being killed.

The force and involuntary compliance conditions are lacking in the lecherous Millionaire and the uncompassionate rescuer cases. According to Feinberg,

In the examples of harmful or dangerous activities of A toward B, which on liberal grounds would be permitted if and only if B has voluntarily consented, *the voluntariness of B's consent seems not sufficiently reduced by A's coercive offer to be invalidated.* The lecherous Millionaire could hardly be convicted of rape. Since a lecherous gunman who forces his will on B by threatening to kill her child would (or should) be criminally liable for rape (among other things), it seems that it makes a great deal of difference whether coercive effects on B are produced by freedom-restricting threats or freedom-enhancing offers (Feinberg 1989, 243, emphasis added).

Feinberg's point is that in the lecherous Millionaire and uncompassionate rescuer cases, the choices made by the victims were voluntary. Just as the Millionaire cannot be convicted for rape, Mark cannot be convicted for extortion or robbery because the offer he made to Jim was not backed up by threat. But as Feinberg noted, there is something morally problematic and exploitative about these cases. The fact is that in these cases, the exploiters take advantage of the vulnerable situation of their victims to treat them as mere opportunity to advance some ends – "when A merely exploits circumstances that he finds ready-made, then frequently, though not always, B's consent, so produced, remains valid" (Feinberg 1989, 245).

I agree with Feinberg that these cases are exploitative and morally problematic because exploiters take advantage of the vulnerable situation of their victims to treat them as mere opportunities to attain some ends even though the victims' decisions to agree to the offers made by their exploiters is voluntary to some degree. I am, however, not at all convinced that the proposals made by the exploiters are coercive. They are not coercive because any threat does not back them up. Moreover, these cases would be coercive only if the exploiters are guilty of creating the vulnerable situation of their victims. Zimmerman explains this point nicely as follows:

If P throws Q into the water and then offers to save Q (where he can do so at relatively little cost to himself) only if Q promises to give him his life savings afterwards, the offer is coercive and the promise void. If P just happens upon the scene, sees Q drowning, and offers to rescue him on exactly the same terms, Q's promise is probably just as void, morally speaking anyway, since P's offer is so grossly exploitative. But it does not follow from just this that P has coerced Q (Zimmerman 1981, 134-35).

So, Zimmerman suggests that the only condition upon which the case of the uncompassionate rescuer would be coercive is if Mark had caused the wreck to trap Jim in the middle of the ocean so that he can give him half of his investments in exchange for his rescue. Similarly, the lecherous Millionaire's case would be coercive if the Millionaire caused the child's illness to use it as bait to make the woman his mistress in exchange for some financial support for the child's treatment. However, the analogies I made show that the exploiters in both cases did not cause the unfortunate situation of their victims but cashed in on their vulnerable and desperate situation to treat them as mere objects to further some end. Even though we wish to apply the concept of coercion in these cases, it cannot be applied to the offer but the victims' circumstances. In this sense, we can say that their vulnerable situations *compelled* them by stimulating in them *irresistible desires* to agree to the offers made by their exploiters.

D. The Money Doubler: Queenan needs an investment opportunity to generate an additional income. Queenan meets Jack, a money doubler. Jack tells her that he can help her double whatever money she has. Jack manipulates her to drink a concoction and makes her swear never to disclose the transaction to anyone because if she does, she will die. Queenan is excited about making extra income but is also scared of dying. So, she refuses to tell anyone about the transaction. She rushes to a cash machine, withdraws all the money in her account, and dashes back to Jack's house. Jack takes her money, does some incantations over a box covered with a red cloth. A few minutes later, he opens it. Queenan jumps in the excitement that she has made so much money with her small salary. She goes home with the box. Early in the morning the next day, she opens the box but finds only plain sheets of paper.

This money doubler example is also morally wrong and exploitative. Jack takes advantage of Queenan's desperation by deceiving her to believe that she will generate extra income if she gives him all her salaries. Then he employs threat to pressure Queenan to commit to the transaction. The money doubler case is like the robbery case because in both cases, the exploiters dictate unfavourable options to their victims and compel them to choose from the unfavourable options. Refusal to submit to the demands of the coercers may lead to an unpleasant consequence. In other words, the victims (Queenan and the house owner) do not voluntarily choose to enter the transaction, and the transaction is not beneficial to the victims. Queenan, for instance, loses her salary to Jack while she gets plain sheets of paper in return. Also, the transaction seems to expose the victims to unjustifiable harm (psychological harm).

Let us draw out some key features in the above cases of exploitative interactions. In the cases of the vicious robber and the money doubler, the exploiters coerced or deceived their victims into complying with their demands. On the other hand, their victims involuntarily agreed to the demand to avoid the unpleasant consequences of noncompliance – the threat of death. Also, the interaction was beneficial to the exploiters but not beneficial to the exploited victims. Finally, the victims were exposed to unreasonable risk. The threats in both cases may have caused the victims some psychological trauma.

The uncompassionate rescuer and the lecherous millionaire cases do not involve threat because the victims were allowed to compare the options available to them with the offers made by their exploiters (which are morally objectionable) and to either accept or refuse. So, the choice made in these cases were voluntary. Secondly, both the exploiters and the exploited victims gained from the interaction. The lecherous Millionaire satisfied his lustful desires, and the woman received the required money to take her child to the hospital for surgery. Similarly, whereas Mark got part of Jim's investments, Jim, on the other hand, was rescued from drowning. The moral issue in these cases is that the exploiters took advantage of the vulnerable situations of their victims to make audacious offers, which their victims were unable to refuse because the consequences of accepting the offers were better than refusing them.

In the next section, I will show that some morally problematic and exploitative medical research cases like the Pfizer, Tuskegee Syphilis, and the Synflorix experiments meet the exploitation requirements in the vicious robber the money doubler cases. As in the thought experiment cases, the medical research cases are morally problematic and exploitative because they involve involuntariness (lack of genuine consent), exposure to unjustifiable risk of harm, and unfair distribution of benefits. However, some medical research cases like the Lilly experiment, AstraZeneca and the Tenofovir clinical trials are also morally problematic and exploitative. But they are like the uncompassionate rescuer, and the lecherous Millionaire thought experiments because they are exploitative despite involving valid consent and benefit to the exploited. In these cases, the participants (just like the woman in the lecherous millionaire case and Jim in the uncompassionate rescuer case) voluntarily agree to be used as a mere experimental object to test the safety and efficacy of the trial drugs. In the Lilly case, for instance, the researchers took advantage of the vulnerable situation of the homeless alcoholics to treat them as mere objects of experimentation for some scientific ends. I will now introduce these medical cases to highlight these points.

1.3: Exploring Some Clinical Research Incidents

In this section, I explore some incidents of clinical research in Nigeria (and other related cases elsewhere) to highlight the risks and exploitation in clinical research. I show that in many clinical research cases, researchers' focus is on producing new medical remedies (to compete favourably in markets) and advancing their professional knowledge to the detriment of human subjects. I do not claim that all clinical research protocols are morally reprehensible. Of course, some clinical studies are valuable because they advance the health and well-being of beneficiaries (Foster 2001, 4). But it is also the case that, historically, some physicians and medical scientists do clinical research for the wrong reasons, in the wrong way, with consequences that are at the least not valuable, and at worst, positively harmful. A case in point is the inglorious and dangerous Nazi

experimentations, which took place during World War II (1933 to 1945)¹¹. Since the Nazi incidents, there are records of several other cases of unethical clinical experiments in America, Europe, and most notably, in Africa. One such example is the Pfizer experiment, which took place in 1996 in Nigeria.

To help the reader understand each of the clinical research cases, I group them into two broad categories – well-known clinical research cases, which are the Pfizer, Tuskegee Syphilis and Sunflorix clinical experiments; and less discussed exploitative clinical research cases, which include the AstraZeneca and Tenofovir, and Lilly clinical trials. The first category of clinical research cases is well-known because discussions about exploitation in clinical research are often centred on some conditions like excessive risk, involuntariness and unfair distribution of benefits, which also underpin these cases. The second category is less discussed because they seem less evident as paradigm exploitation cases. Participants in these cases voluntarily consented to the study, benefited from it, and there was no record of death or incapacitation in these cases. But they are nevertheless wrongful and exploitative in ways that call for further explanation. Let us now examine the well-known clinical research cases beginning with the Pfizer experiment.

A. Well-Known Clinical Research Cases

I. The Pfizer Experiment in Nigeria

The first known biomedical research in Nigeria dates back to the 1920s when the Rockefeller Foundation initiated the Rockefeller Foundation Yellow Fever Commission to the West Coast of Africa. In 1925, it built a research centre in Lagos, Nigeria. There were no records of the clinical studies carried out by the Yellow Fever Commission (YFC) (Nwabueze 2003, 91). Moreover, at the time of establishing the YFC, there was no ethical guideline to regulate the commission's

¹¹ In one of the many experiments carried out by the Nazi scientists, some prisoners were infected with typhus to test the efficacy of the typhus vaccine. The prisoners were treated as mere means or opportunity for the scientific interests of the researchers and Hitler's Nazi government. It is pertinent to note that prior to the Nazi experiment, there have been series of unethical clinical research (Sade 2003).

activities, nor was there any Medical Research Ethics Commission to monitor the research activities of the YFC.

To complement the activities of the YFC, Sir John Mcpherson (Governor-General of Nigeria at the time in review) established the University College Hospital Ibadan in 1952. One of the core mandates of the UCH was to engage in clinical research (although there was no accompanying ethical guideline to regulate the study). A few years later, after Nigeria's independence, subsequent administrations established other teaching hospitals (like the University of Port Harcourt teaching hospital, Lagos University Teaching Hospital, and so on) for clinical research purposes (Nwabueze 2003, 91). However, in 1972, General Yakubu Gowon-led Military Government established the Medical Research Council of Nigeria (MRCN) – the first Medical Research Commission, to oversee clinical research in Nigeria.

In 1977, General Olusegun Obasanjo repealed the Decree that established the MRCN and later established the National Science and Technology Development Agency (NSTDA) to advise the Government on issues relating to scientific research. He also created the National Institute of Medical Research (NIMR) under the NSTDA Decree of 1977 to conduct all biomedical research and support all the Teaching Hospitals across the country in the training of Nigerian medical researchers. Despite establishing NIMR and its complementary agency NSTDA, the country was still bedevilled by "weak administrative leadership and healthcare system, inadequate regulation of health research ethics, military dictatorship, and non-functional research ethics board/ committees"(Ewuoso 2016, 52). NIMR was so moribund that it could not provide ethical oversight to biomedical research protocols across the country. Over the years, these lapses and inadequacies led to the infamous Pfizer Trovan Research of 1996.

In 1996, an epidemic of meningococcal meningitis struck the Northern region of Nigeria, with a record of over thirty thousand casualties, mostly children. The disease outbreak occurred during the same period when Pfizer was undergoing the process of registering their antibiotic drug -Trovaflaxacin (also known as Trovan) with the United States Food and Drug Administration (FDA) for the treatment of infections, including bacterial meningitis. The disease outbreak

allowed them the opportunity to conduct Phase II clinical trials¹². They tested the drug on about two hundred children with paediatric cerebrospinal meningitis (CSM) (Ewuoso 2016, 52).

Before Pfizer arrived in Nigeria to commence the Trovan drug trial, Doctors Without Borders¹³ had arrived weeks earlier with chloramphenicol, an antibiotic, to treat the meningitis children. There was no evidence that chloramphenicol caused an adverse reaction in meningitis children. World Health Organization (WHO) report showed that the interventions of the Doctors Without Borders "helped bring the outbreaks under control."¹⁴ However, some Pfizer doctors claimed that chloramphenicol was ineffective to treat meningitis. For instance, Scott Hopkins, one of the Pfizer doctors, said he would never administer chloramphenicol to anyone, *not even to his dog*, because of *its low potency and serious side effects*¹⁵. To justify this claim, they divided the children into two trial groups. They gave one of the clinical trial groups the Trovan test drug orally and administered the other with chloramphenicol.

The Pfizer study did not meet the ethical requirement of *clinical equipoise*¹⁶. There was no indication that Trovan was as beneficial as chloramphenicol. More so, it was risky to administer Trovan on the meningitis children. "Trovan had never previously been tested on children in the form being used and animal tests showed that Trovan had life-threatening side effects, including joint disease, abnormal cartilage growth, liver damage, and a degenerative bone condition" (Rabi Abdullahi v. Pfizer, 2006). So, the group that took the chloramphenicol did not record any fatality. The meningitis children that took the Trovan trial drug, on the other hand,

¹² The company was desperate to get their new drug registered. Since they were not allowed to test the drug in the United States because the drug was certified unsafe to be tested on children, they preferred Nigeria.

¹³ Doctors Without Borders is a charity that provides medical aids to sick people all over the world, especially, in Africa. <https://www.doctorswithoutborders.org>

¹⁴ WHO 1996 Report, "1996 - Meningococcal meningitis in Nigeria", https://www.who.int/csr/don/1996_03_06b/en/

¹⁵ Stephen, Joe, "Where Profits and Lives Hang in Balance", <https://www.washingtonpost.com/archive/politics/2000/12/17/where-profits-and-lives-hang-in-balance/90b0c003-99ed-4fed-bb22-4944c1a98443/>

¹⁶ Clinical equipoise is a fundamental aspect of research ethics. It is the idea that research trials should compare potential new treatments to currently available ones, where there is a good chance that the new treatment is at least as beneficial as the existing one used as a comparator. For more on clinical equipoise, cf. Freedman 1987; Miller and Brody 2007).

had adverse events. Some children died, while others became paralysed or suffered seizures (Shah 2003; Onyemelukwe 2008).

Moreover, there was no evidence that Pfizer got an ethics clearance before conducting the research. They did not inform the participants' parents that Trovan was an experimental drug. The parents of the children recruited for the trial were poor, illiterate, and in a desperate situation to find treatment for their ailing children (Okonta 2014, 189). This point suggests that the children's parents did not make a fully informed decision to allow their children to participate in the Pfizer Trovan experiment. By doing these, the researchers took advantage of the vulnerability of the meningitis children and their parents for some ends. This case, therefore, is a paradigm example of exploitative medical research.

II. *Synflorix Clinical Trial in Argentina*

A clinical study like the Pfizer experiment is the Synflorix clinical trial conducted in Buenos Aires, Argentina. GlaxoSmithKline, a drug firm based in the United Kingdom, carried out the clinical trial in Argentina between 2007 and 2012. It involved some Argentine children of poor and illiterate parents, and the clinical trial was to test a pneumonia vaccine. According to an article published by *The Telegraph* on January 11, 2012, GlaxoSmithKline (GSK) injected the children with Synflorix without adequate informed consent from their parents. Some of the parents were underaged, while others were illiterate and aged.¹⁷

In September 2013, Berne Declaration, a non-governmental organisation based in Switzerland, corroborated the above incident. The report revealed that the lead researcher in the clinical trial, Dr Miguel Tregnaghi (known for engaging in unethical medical research), took the study to Santiago del Estero, Mendoza and San Juan, areas predominantly inhabited by poor Argentines. The research team provided a consent form without explaining its content. They introduced some scary terms like death, deafness, for instance, into the informed consent form to persuade the participants' parents. None of the parents of the children enrolled in the study made sense of the thirteen-page informed consent form. "The aunt of

¹⁷<http://www.telegraph.co.uk/news/science/sciencenews/9006614/GlaxoSmithKline-fined-over-trials-on-the-babies-of-Argentinian-poor.html>.

one of the babies who died in Santiago del Estero due to the trial revealed that many people wanted to leave the protocol, but they were not allowed" when it was evident that the physical and mental state of the children could no longer sustain the protocol. (The Berne Declaration 2013, 17).

The researchers focused on the commercial value of the research rather than the life and dignity of the children. So, like the case of the Pfizer experiment, the researchers did not care enough about the risks of harm the research posed to the vulnerable participants. They exploited the ignorance of the parents of the participants. For instance, "babies presented with antecedents of acute respiratory infections were recruited, as well as HIV-positive newborns" (Berne Declaration 2013, 16). The researchers manipulated the parents of the participating children into involving their children in the protocols because they believed that failure to include their children might cause them to develop adverse ill-health, which may even lead to death. Fourteen of the children who participated in the research died, while others were disabled. The researchers did this for financial gain and took advantage of the vulnerability of those used as subjects. Thus, this appears to be a case of exploitation of the subjects by the researchers.

III. The Tuskegee Syphilis Experiment

Another horrible and exploitative case of clinical research is the Tuskegee Syphilis experiment. The United States Public Health Service (USPHS) in Macon County, Alabama, carried out the Tuskegee Syphilis Experiment between 1932 and 1972. The experiment involved 600 impoverished African-American men: 399 participants had syphilis while 201 participants (in the control group) did not have the disease. The experiment investigated how untreated syphilis naturally progresses in human bodies for an extended period (McCallum et al. 2006, 717). The Tuskegee Syphilis Experiment was like the Synflorix clinical trial in Buenos Aires, Argentina and the Pfizer Experiment in Nigeria. The researchers also employed a deceptive strategy to recruit participants – they offered them financial incentives and promised to treat their ailments. The researchers refused to disclose the purpose of the research.

According to the Washington Post, the flyers circulated widely around Macon County in Alabama promised male Black Americans that they would receive free treatment and a free blood test from Government Doctors working at the County Health Department. The black and white sign on the fliers read: ["YOU MAY FEEL WELL AND STILL HAVE BAD BLOOD. COME AND BRING ALL YOUR FAMILY"].¹⁸ As part of the incentives for participation, the participants received free medical check-ups, feeding, and even free rides throughout the clinic period. This strategy was used to persuade the potential participants to enrol in the programme. The participants believed that they would receive treatment for their ailments. This recruitment strategy was deceitful. Like the Pfizer and the Synflorix clinical trials, the researchers did not inform the participants about the experiment.

The research participants infected with syphilis were unaware that they would not be treated. Note that when the experiment started in the 1930s, "the arsenic and bismuth compounds (metal therapy) used for treatment at the time were not offered to the men. When penicillin became available in the 1940s and 1950s, this was also withheld" (Paul and Brookes 2015, 13)¹⁹. The intent of the researchers not offering treatment to the syphilis-infected participants was to ensure that the participants died of the syphilis infection so that they could examine their bodies to ascertain the disease impact on those bodies²⁰. Some participants eventually died of the disease, while those who survived were incapacitated. The unjustifiable exposure to the risk of harm, involuntariness (lack of consent) and unfair distribution of benefits show that this is a paradigm example of morally problematic and exploitative medical research.

¹⁸ (Brown 2017, par 1, <https://www.washingtonpost.com/news/retropolis/wp/2017/05/16/youve-got-bad-blood-the-horror-of-the-tuskegee-syphilis-experiment/>)

¹⁹ In therapeutic research (as the name implies), protocols ought to be beneficial to the health and well-being of the participants. Some scholars believe that this sort of reasoning constitute therapeutic misconception- "Therapeutic misconception occurs when research participants mistakenly attribute therapeutic intent to study drugs or procedures" (Grieselhuber et al. 2017, 184). Therapeutic misconception often arises when researchers refuse to give participants adequate information on the purpose of their research. It is the duty of a researcher to disclose to a participant whether the research is geared towards treating her illness or merely for knowledge acquisition for the benefit of the science world, with or without direct benefit to her health.

²⁰ Since the participants believed that they were receiving treatment, and there were no precautionary measures in place, the syphilis-infected participants transmitted the disease to their partners, thereby, making them give birth to congenital-syphilis children (Anne Manton et al. 2014, 93).

The above morally problematic and exploitative medical research cases like the Pfizer, Tuskegee Syphilis and the Synflorix experiments show that some instances of exploitation involve involuntariness (lack of consent), unfair distribution of benefits and exposure to unjustifiable risk of harm. However, the following category of clinical research cases like the Tenofovir, AstraZeneca and the Lilly clinical trials show that some medical research cases can be morally problematic and exploitative even though they lack the elements of involuntariness, unfair distribution of benefits and exposure to the unjustifiable risk of harm found in the well-known clinical research cases.

B. Less Discussed Clinical Research Cases

IV. The 2004 Tenofovir Clinical Trial

One of the less-discussed exploitative clinical research incidents is the tenofovir drug test launched in 2004 in Nigeria by Family Health International (FHI360)²¹ through the Bill and Melinda Gates Foundation sponsorship. This study was less horrific compared to the Pfizer case. At least, no participant died from the study. The study ended one year and nine months after its commencement because the team of researchers failed "to meet (operational and laboratory) standards critical for ensuring the safety of participants and the quality of the data from the study" (Singh and Mills 2005, 234). Besides failing to adhere to laboratory and operational procedures, there is something morally problematic and exploitative about the research.

Nigeria is one of the African countries with a high prevalence of HIV. Between 1990 and 2005, about 3 million Nigerians were living with HIV. But HIV prevalence is not peculiar to Low- and Middle-Income Countries (LMICs). HIV was also prevalent in High-income countries like the United Kingdom, Germany, the United States, and so on. For instance, in the United States, more than 1 million persons were living with HIV between 1990 and 2005.²² FHI chose to conduct the tenofovir trial in Nigeria not to mitigate the prevalence of HIV in the country but because medical research in the country is cheaper and not strictly monitored compared to the

²¹ FHI 360 is a non-profit organization, which engages in clinical research and human development activities.

²² <https://ourworldindata.org/hiv-aids>

United States.²³ It is easier to recruit potential participants in Nigeria because of poverty and their inability to access adequate healthcare (Rowland and McMahon 2004; Rai 2005). The class of participants in the tenofovir drug trial exemplifies the preceding points.

One hundred thirty-five poor and illiterate sex workers from several brothels in Ibadan, Nigeria, who were HIV negative, were enrolled for the study. The sex workers were "women from the surrounding countryside looking for a way to finance schooling, assist struggling families or save money to start a business."²⁴ The women were selected not because they were indispensable to the scientific goal of the research. Note that there are many ethically permissible studies in which the participation of sex workers is indispensable to their scientific goals and social values. For instance, there is nothing wrong with enrolling sex workers in a study that attempts to evaluate the prevalence of drugs among street sex workers. Failure to enrol any sex worker in such a study could affect the result of the research design. Besides, such studies offer some interventions to the participants.²⁵

The Tenofovir clinical study was not interventional – that is, there was no indication that the Tenofovir under investigation will likely provide direct benefits to research participants health needs and priorities of the participants and their community. The study's goal was to test the safety of the Tenofovir drug on healthy participants ascertain its capacity to evoke resistant reactions in users. So, the issue is who should be enrolled in the study and why should they be enrolled. The standard procedure is that "a pre-exposure prophylaxis (PrEP) should be tested in countries where access to antiretroviral therapy existed" (Peterson and Folayan 2019, 39). Since antiretroviral therapy is generally lacking in Nigeria, it was

²³ This is not to say that pharmaceutical companies do not conduct unethical research in developed countries. It is interesting to note since the horrific and infamous Nazi experiment in Nuremberg, Germany, there has been numerous unethical medical research incidents in Europe and America. The Tuskegee Syphilis experiment discussed earlier is one of such examples. Another unethical study is the Lilly case (although it is less horrific compared to the Tuskegee experiment). I discuss this case later in this section to explain why it is morally problematic and paradigmatically exploitative.

²⁴ Timberg, Craig, <https://www.washingtonpost.com/archive/politics/2004/12/22/dose-of-prevention-where-hiv-thrives/027c5834-dbba-4558-bf33-b545aa9a640d/>

²⁵ <https://arc-w.nihr.ac.uk/research/projects/reducing-drug-use-female-street-sex-workers-feasibility-study/>.

expected that FHI360 would test the safety of the Tenofovir trial drug in the United States before launching it in Nigeria. But this was never the case. This point, therefore, raises a question about the moral justification for the tenofovir drug trial.

Besides the lack of pre-testing of the drug for safety, another critical issue is whether it is indispensable to conduct pre-exposure prophylaxis (PrEP) study in LMICs like Nigeria since there are over one million persons in the UK and the US living with HIV/AIDS. Some scholars contend that for researchers to ensure that the data from testing the safety and efficacy of study drugs or vaccines are statistically significant, they need a population at high risk for infection but diverse in gender and age. "The length of the trial is dependent on all of these variables. That is why researchers, who want to conduct sound trial expeditiously, are looking toward developing countries, where HIV infection is spreading rapidly through the general population" (Cohen 1991, 1312). Assuming that the above claim is valid, why did the researchers select only female sex workers, most of whom are poor and illiterate? Some studies show that "on average, sex workers are 13 times more likely to become infected with HIV than adults in the general population."²⁶ Yet, according to another study, gay men are 25 times more likely to contract HIV while people who inject drugs are 35 times likely to be infected with HIV.²⁷ So, if gay men and drug users (some of whom are non-sex workers) are also at high risk for contracting HIV, why were they not included in the study? No reason was provided for their exclusion.²⁸

Note that the tenofovir study was a non-interventional study, which required healthy participants. It means that those sex workers selected for the study were likely healthy. Despite the lack of safety precautions from the researchers, the

²⁶ <https://www.avert.org/professionals/hiv-social-issues/key-affected-populations/sex-workers>. Also Cf. <https://www.cdc.gov/hiv/group/sexworkers.html>

²⁷ <https://www.unaids.org/en/resources/fact-sheet>

²⁸ Note that some gay men are well educated and socio-economically well-off (<http://www.nigerianmonitor.com/i-have-regular-gay-sex-with-notable-nigerian-businessmen-and-politicians-nigerian-gay-man-confesses>). So, it would have been impossible for them to agree to such a study that could expose them to some unjustifiable risks. Besides, since they are well-off, it would be nearly impossible for the researchers to induce them in any way with condoms or money. So, the researchers went for the sex workers who are poor and are desperate for meet their economic needs to induce them to enrol in the study.

poor and illiterate female sex workers consented to take the risk to participate in the research in exchange for condoms, some pills and money.²⁹ Many of them believed that they would be safe from the dangers of HIV because of the condoms and pills provided by the researchers.³⁰ However, Peterson and Folayan affirm that Tenofovir was not safe for human subjects because of the adverse events on a similar tenofovir test on 26 primates (Peterson and Folayan 2019, 38-39). Yet, with disregard to their dignity and well-being, FHI360 enrolled the sex workers in a study that could expose them to a risk of harm. Despite not being highly risky like those experiments covered in 1.3A, this experiment is nevertheless morally problematic as a case of exploitation. The reason is that by selecting the poor and illiterate sex workers for such a study, the researchers cashed in their vulnerable situations to treat them as experimental objects for the sake of some scientific knowledge.

V. *AstraZeneca experiment in South Africa*

Another compelling case, which occurred outside Nigeria, is the AstraZeneca experiment in South Africa. AstraZeneca, a British research-based Biopharmaceutical company, conducted a clinical trial between 2010 and 2013 on asthmatic South African children between the ages of 6 and 12. When the research was being conducted, there was already an off-patent³¹ asthmatic drug called *budesonide*. It is a cheap, safe, and effective asthma drug, which is very accessible to asthmatic patients in South Africa, especially children. There was no indication that *budesonide* was less effective or caused any adverse event to its users, which

²⁹ There is a debate on the amount of incentives that researchers are required to give to prospective participations that would be morally justifiable and unexploitative. I will discuss the issue of incentives in chapter two, but it is important to note that some bioethicists think that it is exploitative to give participants very low incentives (Lemmens and Elliott 2001; CIOMS 2016). The issue here is not about the amount of incentives the sex workers received since the issue of whether financial or material incentive is enough to justify research participation depends on individual needs. As I noted, the sex workers were happy with the incentives they received and were willing to take the risk because of it. What is at issue, therefore, is why should the researchers recruit people who were desperate to meet their socio-economic needs? Would the data be compromised if people from different socio-economic background were enrolled to participate in the study? Again, why did the researchers insist on conducting the study even when studies showed that a similar study exposed the animals used for the study to a risk of harm?

³⁰ Timberg, Craig 2004

³¹ Off-patent drugs are drugs that are no longer restricted by patents.

might warrant the development of an improved version of the drug (Szafranski et al. 2003; WEMOS 2013).

Nevertheless, according to the WEMOS report, AstraZeneca needed to conduct a further clinical trial before FDA would consider approving their "combination inhaler Symbicort pMDI (pressurised Metered Dose Inhaler) – which contains budesonide and another drug, formoterol – for use in children between 6 and 12 with moderate/severe asthma in the US" (WEMOS 2013, 15-16). Even if there is a need to improve the asthmatic drug for American children between the ages of 6 and 12, is there any added scientific and social value of Symbicort pMDI compared to budesonide already in circulation? According to the WEMOS report, Dr Adrian Morris, an asthma specialist working in the UK and South Africa, observed that although it is plausible to conduct research to track the safety and efficacy of asthma drugs, there was no need for a new asthma drug because the ones in circulation in South Africa are remarkably effective if they are correctly used. In other words, according to Dr Morris, "the trials are all about the pharmaceutical industry wanting to develop new drugs that they can market under patent because all the old patents have run out and anyone can make them now, at a fraction of the cost. This is about their financial needs, not any huge clinical need" (WEMOS 2013, 18).

Even though AstraZeneca was aware of an already existing asthma drug in South Africa that is effective and safe, they still conducted the research.³² The parents of the children selected for the research were poor, so they were offered financial incentives to allow their children to participate in the clinical trial. Like Nigeria, there is no gainsaying that "South Africa is plagued by chronic poverty and insufficient independent clinical trial monitoring" (WEMOS 2013, 33). So, when incentives are involved, participants from poor regions are easy and cheap. But without an inducement through financial incentives, those parents would have

³² Note that according to CIOMS guidelines, it is permissible to compare the effects of drugs or vaccines directly against an established effective intervention. An established vaccine may have been shown to be safe and effective against a particular strain, but there may be credible uncertainty about its effects against a different strain in a different geographical context. In this situation, it can be acceptable to use a placebo control because it is uncertain whether the established vaccine is effective in the local context (CIOMS 2016, 17). But this is not the case in the AstraZeneca asthmatic drug trial. There was already an affordable and effective asthmatic drug in circulation in South Africa for children.

had strong reason not to allow their children to participate in the trial. In fact, according to the WEMOS report, Dr Ahmed Ismail Manjir, a private paediatrician, confirmed that it was challenging to recruit participants at the commencement of the research: probably because it was not easy to justify the ethical grounds for the clinical trial. In fact, he thought that the clinical trial was "of dubious scientific value." His reason is that *budesonide*, used to treat asthma children between the ages of 6 and 12 in South Africa, has been remarkably effective for more than 20 years. (WEMOS 2013, 17).

Some asthmatic children enrolled in the trial were administered with placebo (or dummy) inhalers, while others were given inhalers with some micrograms of budesonide (a corticosteroid medication for treating asthma). But there was no need for the clinical trial because a proven treatment was already in existence. There are regulations on how and when placebo-controlled studies should be done. According to the Declaration of Helsinki, "the benefits, risks, burdens, and effectiveness of a new intervention must be tested against those of the best-proven intervention(s), except ... where no proven intervention exists" (DoH 2013 revised version). The AstraZeneca clinical trial violated this provision because they tested *corticosteroid* medication against a placebo inhaler even though they knew that *budesonide*, effective for treating asthma, was already in circulation in South Africa.

Interestingly, after six weeks of the clinical trial, there was no record of any incident of asthmatic attack among the children administered with placebos. The fact that there was no adverse event does not imply that the clinical trial was morally permissible or non-exploitative. This case is exploitative because the researchers took advantage of the vulnerable economic condition of the parents of the participants to persuade them through some financial incentives to allow their children to enrol in a scientifically dubious study for some personal gains. So, even though the AstraZeneca researchers reported that the parents of the children offered voluntary informed consent- "patients and their parents/carers were made aware of the study design and provide consent before the patient enrolling in the study" (WEMOS 2013, 37), their consents were motivated by the offer of financial incentives to meet their economic needs.

VI. *The Lilly Experiment on Homeless Alcoholics*

Another compelling case, which may seem less horrific than the Tuskegee syphilis experiment, the Synflorix clinical trial and the Pfizer incident in Nigeria, is nevertheless significant, is the experiment by Lilly Pharmaceutical Company Indianapolis. The pharmaceutical company recruited homeless alcoholics to test the safety of their untested and potentially dangerous drugs. To woo potential research subjects, "most companies have to advertise heavily and shell out \$125 or so a day, occasionally as much as \$250; SmithKline Beecham PLC even pays referral bonuses."³³ Lilly occasionally employs this recruitment strategy but often targets homeless people. It was further noted that Homeless alcoholics have been patronising the Lilly testing clinic for more than two decades. "Some mission directors privately express misgivings about this but say they are reluctant to speak up because they receive funding from a foundation built on Lilly stock, even though the foundation is independent of the company and its clinic."³⁴ So, by advertising their incentives to the public, Pharmaceutical companies like Lilly tend to target society's socially and economically disadvantaged group. They intend to ensure the recruitment process is quick and cheap and that possibility of litigation is limited in the event of harm (Elliott 2007).

Lilly pharmaceutical company argued that the homeless alcoholics signed consent forms before enrolling on the study. It is contestable whether signing a consent form is sufficient to vindicate some medical research as non-exploitative. For instance, Roger Williams, deputy director of the FDA's Center for Drug Evaluation, observes that the use of homeless alcoholics is not consistent with the FDA rules governing Phase I trials. According to the FDA rule, drugs can be tested only in people who can make voluntary, informed decisions.³⁵ In other words, "using the homeless creates the very situation the rules were designed to prevent. He says the regulatory intent was to discourage disadvantaged people from participating

³³ Cohen, Laurie P. (1996). "Lilly's 'Quick Cash' to Habitues Of Shelters Vanishes Quickly", *The Wall Street Journal*, Nov. 14, <https://www.wsj.com/articles/SB847923261820633500>

³⁴ *Ibid*

³⁵ <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-A/part-50>. I will show in the chapters that follow that there is nothing coercive about offers if they do not involve threats or if the offeror did not contribute to the vulnerable situation of the offeree before making the offer.

in studies simply to escape "the horrible situation of their daily lives."³⁶The fact that a person is socio-economically disadvantaged does not mean that they cannot make voluntary, informed decisions. Of course, there is something ethically concerning about the use of homeless alcoholics. Beauchamp et al. highlight some of these concerns as follows:

First, many have personality traits and a lack of coping skills that make it difficult to manage their lives. Their conditions may be related to substance or alcohol abuse, mental illness, or other causes. Second, the homeless lack economic and social power, especially the capacity to bring economic resources and social standing to bear on their behalf, to appeal to a network of contacts to intercede on their behalf, or *to resist or refuse situation that is potentially threatening or exploitative* (Beauchamp et al. 2002, 549, emphasis added).

The point is that the circumstances of the homeless persons may influence them to make trade-offs that persons who are economically and socially advantaged need not make. But the conditions highlighted above are not sufficient to suggest that the homeless alcoholics could not consent to the study voluntarily.

Moreover, as the CIOMS guidelines aptly state, "circumstances such as severe illness or poverty may threaten voluntariness, *but do not necessarily imply that participants cannot give voluntary informed consent in these situations*" (CIOMS 2016, 35). So, what is at stake in the Lilly case is not whether they voluntarily consented to the study since they were neither threatened by the researchers nor deceived to enrol in the study as in the cases in 1.3A. There is no indication that they failed to offer voluntary, informed consent even though their decision to enrol in the study was due to their desperation to address their socio-economic needs. Besides, some of them suggested that they will gladly receive more incentives if they have more opportunities to participate in similar trials (Dickert 2009, 56). Similarly, the fact that the woman in the Lecherous Millionaire agreed to become the Millionaire's due to her desperation to raise money for her child's surgery does not make her decision involuntary. The point is that circumstances can compel a

³⁶ Cohen, Laurie P. 1996.

person to enter exploitative interaction, but it does not necessarily vitiate the exploited person's voluntariness.

Like the Tenofovir and AstraZeneca clinical trials, the Lilly experiment is paradigmatically exploitative because the researchers took advantage of the homeless alcoholics' desperate situation and used them to test the safety and efficacy of the trial drug. In others, by recruiting homeless alcoholics, the researchers suggest that their vulnerable socio-economic situation conferred on them the duty to carry the burden of the clinical trial for the social and scientific good. Elliott and Abadie contend that the moral issue in many of the research involving the poor population is that they do not have any reasonable chance of benefiting from its outcome (Elliott and Abadie 2008, 2317). The point, however, is that even if the poor population were to benefit from the outcome of the trial, it is still morally problematic and exploitative to place the burden of clinical studies on them because of their social and economic circumstance.

The less discussed medical research cases like the Lilly, AstraZeneca and the Tenofovir clinical trials show that some interactions could be exploitative even though the interacting parties voluntarily consented to or benefited from them. Also, a person can be exploited even though they are not harmed due to the interactions. Note that in the Lecherous Millionaire case, the woman complied with the Millionaire's demand to become his mistress because her desperation to save her child compelled her to do so. Also, in the Uncompassionate Rescuer example, Jim agreed to Mark's demand because his desperation to be rescued from drowning compelled him to do so. Yet, these are cases of exploitation because Mark and the Millionaire cashed in on the desperate circumstances of Jim and the woman to make their offers to treat them as mere opportunities by putting them in situations of servility, respectively, to further their ends. The exploiters in these cases knew that their victims would not be able to refuse their offers due to their vulnerable situations, which is why they made the offers in the first place. In like manner, in the Lilly, AstraZeneca and the Tenofovir clinical trials, the researchers induced the participants with some financial and material incentives to agree to be used to test the safety and efficacy of the trial drugs. In other words, the participants agreed to enrol in the study, not because they lacked the capacity to

make voluntary, informed decisions, but because their desperate situation compelled them to decide. In other words, even though the researchers did not force or deceive the participants in any way, and even though they got some financial and material incentives, the clinical trials are still exploitative because they took advantage of the participants' vulnerability to further their scientific goals.

The clinical research cases I explored in the preceding section show that the issue of exploitation is critical to the ethics of clinical research. What makes exploitation distinctive as a type of moral wrong is that it involves taking advantage of a person's vulnerability, the relationship of servility, and individuals' treatment as mere means. In other words, when a person is exploited, the exploiter takes advantage of their vulnerability and treats them as a mere opportunity by putting in the situation of servility to further the exploiter's ends. However, In the chapters that follow, I will examine the concept of exploitation in detail. As a starting point, I show why the following conditions of exploitation, namely, (involuntariness) lack of consent, exposure to the unjustifiable risk of harm, and unfair distribution of benefits, might initially be thought relevant to explain the moral wrongness of the clinical research incidents explored above. I raise some initial doubts about their adequacy to capture the fundamental nature of exploitation.

Chapter Two: Exploitation and Moral Wrongness in Clinical Research

2.1 Introduction

The medical research incidents explored in the previous chapter, namely, the Pfizer, Tuskegee syphilis, Synflorix, Lily, AstraZeneca, and Tenofovir trials clinical trials, are morally wrong and exploitative. Explaining the moral wrongness in each of the clinical research cases requires an understanding of the concept of exploitation. But looking back at the cases I examined in chapter one, what does the concept of exploitation involve? Three key elements underlie the concept of exploitation in some of the cases I explored, namely involuntariness (lack of valid consent), exposure to unjustifiable risks, and unfair distribution of benefits. I identify these elements in some thought experiments like the vicious robber and the money doubler cases. In these cases, the victims were coerced or manipulated by their exploiters; as such, they involuntarily chose morally unacceptable options. For instance, in the vicious robber case, the robber used an incredible threat of harm to coerce the house owner to disclose his safe passcode or be killed. The choice made by the house owner is involuntary because the robber restrained their capacity to initiate and choose acceptable options freely. Secondly, the victims did not benefit from the interaction, and, finally, the interaction exposed them to the unjustifiable risk of harm – psychological harm due to anxiety caused by the threat.

Some bioethicists contend that the elements of involuntariness, exposure to the unjustifiable risk of harm and unfair distribution of benefits are also present in morally problematic and exploitative medical research. Jonas, for instance, argues that medical research participation is morally unjustifiable because the process of recruiting research subjects is morally questionable. According to him, some medical research experiments like the Tuskegee Syphilis experiments, for example, involve persons who are mainly of the less privileged class. Researchers enrol this class of persons for medical research even when they cannot express their voluntary, informed consent, a requirement that is essential for ethically permissible research (Jonas 1969, 223; Nuremberg Code 1947). The state

conscripts this class of persons because it treats them as mere experimental objects whose only usefulness is to save the lives of the privileged class.

Jonas notes that another moral challenge with some medical research is that they do not offer any medical benefit to the participants. According to him, medical research must directly benefit the patient-participant (in the case of therapeutic research) (Jonas 1969, 238). A patient who enrolls in the study because of their medical situation should be provided with adequate care while taking part in the experiment. In other words, researchers must prioritise the patient's medical needs over the intended scientific benefits of the research. This point is plausible because enrolling a sick patient in an experiment without addressing their medical needs reduces them to mere experimental objects. Jonas's point, therefore, can help us explain why the Pfizer, Tuskegee Synflorix clinical trials are morally repugnant. They are morally repugnant, following Jonas's view, because the researchers neglected the health and well-being of the ailing participants while they pursued their scientific interests. Jonas's view thus re-echoes the provision of the Declaration of Helsinki. In the eighth principle, the DoH provides that even if the generation of new knowledge is the primary goal of clinical research, "this goal can never take precedence over the rights and interests of individual research subjects" (World Medical Association 2013, 2191).

Jonas's view that a patient can only be enrolled for medical research if it offers some medical remedies to their ailment raises a question about the moral justification of Randomised Clinical Trials (RCTs). RCTs involve withholding treatments for some group of participants during a clinical trial and administering a placebo instead to test the efficacy of new medical interventions. Freedman et al., corroborating Jonas's point, contend that RCTs is morally problematic and exploitative. According to them, it is exploitative for a physician or investigator to enrol a patient for medical research and expose them to harm by giving them a treatment that does not meet the required professional standard, especially where conventional treatment is available (Freedman et al. 1996, 253-254). In other words, the principle of clinical equipoise reminds researchers "of the need to safeguard trial participants by ensuring that there is genuine uncertainty about which treatment, drug, or intervention is superior at the beginning of the research

and is intended to ensure genuine uncertainty exists about the outcome” (Schlichting 2010, 271).

Miller and Brody think it is persuasive to claim that researchers or physicians ought to adhere to the principle of non-maleficence and beneficence by ensuring that patients are protected from harm and are adequately cared for by offering them optimal medical care. But they think that this intuition is mistaken because Freedman et al.’s principle of clinical equipoise seems to “conflate the ethics of clinical research with the ethics of clinical medicine” (Miller and Brody 2002, 4). Whereas a physician’s obligation to treat a patient falls under clinical medicine, for medical research, therapeutic beneficence is not required. The reason is that for RCTs, “physician-investigators are not offering personalized medical therapy for individual patients. Rather, they seek to answer clinically relevant scientific questions by conducting experiments that test the safety and efficacy of treatments in groups of patients” (Miller and Brody 2002, 5).

The views of Miller and Brody and the principle of clinical equipoise espoused by Freedman et al. apply to medical research cases involving sick participants. These cases are exemplified in the medical research cases like Pfizer, Tuskegee Syphilis and Synflorix. Of course, Miller and Brody contend that the principle of clinical equipoise is not necessary to evaluate the moral permissibility of RCTs. To evaluate whether these medical research cases are exploitative and morally objectionable, the ethics committee must first ascertain whether the participants offered voluntary, informed consent and, second, whether they were exposed to excessive risks for the sake of the clinical investigation (Miller and Brody 2002, 5). If any of these conditions are lacking, the studies are exploitative and morally objectionable.

I do not wish to argue for or against Miller and Brody’s attack on clinical equipoise, but only to point out that the views of Freedman and those of Miller and Brody are not incompatible. Even though the responsibility of researchers is to generate valid scientific data that can be used for the good of society yet, this scientific and social goal can not be accomplished to the detriment of sick participants. So, in conducting RCTs, researchers are morally obligated to act in the best interests of

patients enrolled in the studies. For this reason, I think Miller and Brody, for instance, argue that patients should not be exposed to excessive risk just for the benefit of medical research. It is also for a similar reason that Freedman argues that where researchers are credibly uncertain about the superiority of an established effective drug or vaccine over an investigational drug, it is morally required for the researchers to compare the effects of the investigational drug directly against those that are in use but are very effective. By this, “the study design safeguards the welfare of participants by ensuring that they are not deprived of care or prevention that is believed to be an effective response to their health needs” (CIOMS 2016, 17). And failure to do so is to expose the patient to an unjustifiable risk of harm. This point is why the Pfizer clinical trial, for instance, is morally objectionable and exploitative. Whereas there was an effective intervention already in use to treat meningitis children, the Pfizer researchers deceptively introduced and administered the Trovan drug on sick children. Not because the medical research community agreed that there was a genuine uncertainty about the effectiveness of the chloramphenicol drug used by the Doctors without borders over the Trovan. Instead, they wanted to test the trial on the children to fulfil the FDA requirement for drug approval even though the drug has not been approved to be tested on sick children.

Moreover, David Resnik contends that Miller and Brody’s requirements for exploitation in medical research are inadequate because they seem to omit the principle of justice and fairness, which is essential for exploitation analysis. According to him, in addition to involuntariness (lack of valid consent) and unjustifiable risk of harm, exploitation can also occur if researchers take unfair advantage of the research participant's vulnerable socio-economic or psychological conditions (Resnik 2002, 28). In other words, a researcher exploits or takes unfair advantage of a research participant when they bear the medical research burden but does not obtain a fair share of the research benefits (Resnik 2002, 29). If, for instance, a researcher tests an antibiotics drug in Nigeria but goes back to the US to mass produce for the US population as in the case of the Pfizer trial, based on Resnik’s analysis, the researcher takes unfair advantage of the participants because they are denied the fair share of the research benefits.

Note that Resnik's additional condition for non-exploitative medical research is also compatible with the principle of equipoise. The idea is that if, for instance, a drug is being tested in Nigeria, it is morally required that the researchers ensure that the study risk/benefit ratio is not only favourable as a whole. More importantly, "the risk/benefit ratio confronted by each of the participants in the trial must not be severely unfavourable" (Jansen 2005, 32). Again, to ascertain that the risk/benefit is not severely unfavourable, the researchers must ensure that the sick participants are not being tested with placebo when there is already established effective intervention that could be used to compare the trial drug. Moreover, it is also expected that researchers demonstrate a sense of positive duty towards the participants at all times. London also corroborates this point. According to him, "for there to be a positive duty to provide a subject with a specific intervention, there must be evidence of sufficient weight to licence the judgment that it is likely to advance that person's interests" (London 2001, 314). Such a duty suggests that while the participants and their community share in the burden of the research, they also share the research benefits.

As I noted earlier, the views of Miller and Brody, Resnik as well as Freedman are helpful to explain why some medical research Pfizer, Synflorix or Tuskegee Syphilis, for instance, are morally objectionable and exploitative; the conditions raised to assess RCTs do not apply to medical research involving healthy participants like the Lilly or Tenofovir clinical trial. The point is that in the Pfizer case, for instance, the participants' parents did not offer voluntary, informed consent because the researchers intended to hide the purpose of the study. Also, the participants were exposed to severe harm as some died while others were disabled. More importantly, there was no indication that the study was likely to advance the interests of the sick participants since the children were being administered with a trial drug that was not meant to be used on sick children. However, the issue of clinical equipoise does not arise in studies involving healthy patients (Shamoo 2008). More importantly, the medical research cases that we have been evaluating, namely, Lilly, Tenofovir, or AstraZeneca, meet the conditions established by Miller and Brody and Resnik. As I noted in Chapter One, none of the participants in these cases was coerced or deceived to enter the study. There

was no indication that any of them was harmed. More importantly, the participants or parents received some financial and material benefits.

In the later part of this chapter and the chapters that follow, I will discuss why the Lilly, AstraZeneca and the Tenofovir clinical studies are morally objectionable and exploitative even though the participants voluntarily consented were not harmed, and shared some research burden as well as some financial and material benefits. However, for now, I show why the three elements of exploitation, namely involuntariness, exposure to the unjustifiable risk of harm and unfair distribution of benefits, might initially be thought relevant to explaining the moral wrongness of the clinical research incidents explored above. I raise some initial doubts about their adequacy to capture the fundamental nature of exploitation.

2.2. Exploitation and Some Key Elements

This section discusses the three elements of exploitation in-depth: involuntariness (lack of valid consent), exposure to unjustifiable risk of harm, and unfair distribution of benefits. I show that these elements are crucial in explaining the moral problems of exploitation in medical research cases like the Pfizer, Tuskegee Syphilis and Synflorix clinical trials. However, in section 2.3, I will show that these three elements do not cover all other instances of exploitative clinical research discussed in chapter one, like the Lilly, AstraZeneca and Tenofovir cases.

2.2.1 Consent, Involuntariness, and the Ethics of Incentivization in Medical Research

One of the essential claims of this thesis is that some cases of medical research like the Lilly, AstraZeneca or the Tenofovir clinical trials are morally wrong and exploitative even though the research participants voluntarily consent to the research. However, as a starting point, I acknowledge that some medical research cases, such as the Pfizer, Tuskegee Syphilis, and Synflorix experiments, are exploitative because the participants did not voluntarily consent to the studies. In this sub-section, I discuss the idea of involuntariness (lack of valid consent) in medical research. I argue that research participants involuntarily consent to studies if the researchers obtain their consent through coercion or deception.

I show that involuntariness may also occur through the offer of incentives. I explain the context in which incentives may vitiate a participant's voluntariness and render the research exploitative. I argue that an offer of incentives may vitiate a participant's voluntariness if it is backed by threats or if the offeror contributes to the vulnerable situation of the offeree and then uses the incentives to psychologically pressure a participant to enrol in a study, thereby distracting them from understanding the nature and purpose of the study and the risk of participating in the study. So, an account of voluntariness is required to explain what involuntariness consists of in medical research.

I. Involuntariness and the Ethics of Consenting

Consent is a fundamental ethical requirement for all clinical research. Several clinical research ethical guidelines provide that all research participants' voluntary and informed consent is essential for clinical research to be morally permissible (Nuremberg Code 1947; Belmont Report 1979; WHO-GCP 2002; CIOMS 2016). The Nuremberg Code, for instance, provides that a research participant must be in the position "to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior forms of constraint or coercion" (Nuremberg Code 1947). In addition, the participant ought to have "sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision" (Nuremberg Code 1947 emphasis added). This point is reiterated in the Belmont Report and the CIOMS guidelines. In the Belmont Report, the authors note that "an agreement to participate in research constitutes a valid consent only if voluntarily given. This element of informed consent requires conditions free of coercion and undue influence" (Belmont Report 1979, 14). The above provisions suggest that it is morally wrong to violate a participant's right to give voluntary informed consent (whether a patient or a healthy participant).

The main point deduced from the above ethical documents is that participants voluntarily consent to a study if their decision is not coerced or unduly influenced by a researcher or someone else. The ethical documents do not explain the

essential conditions for coercion or undue influence. The CIOMS guidelines, for instance, state that "voluntary consent can be undermined or compromised when researchers (or a family or a person in authority) pressure eligible participants to enrol for medical research (CIOMS 2016, 96). This provision suggests that action would be deemed involuntary whenever a person is pressured. But this is not always the case. Wertheimer, for instance, notes that a person may claim that their decision to donate blood is completely voluntary because no one asked them to give blood. But it does not follow that the person's consent to donate blood is involuntary if someone is consistently persuaded or pressured to donate the blood due to shortage (Wertheimer 2012, 231).

Similarly, my child may consistently request that I buy chocolate for her, and I may not be willing to buy the chocolate now, but for the pressure. However, conceding to my child's pressure does not undermine my voluntariness in any way. I assume that the idea of pressure implied in the CIOMS guidelines concern either coercion or undue inducement (or undue influence). The CIOMS guidelines corroborate this assumption as follows: "informed consent is voluntary if an individual's decision to participate is free from undue influence (and of course if it is not coerced)" (CIOMS 2016. 35). This point implies that a person's voluntary consent is undermined if pressured through coercion or undue inducement. However, some bioethics literature shows that there is no consensus as to what voluntariness involves. Let us examine some accounts of voluntariness.

Ruth Faden et al. use the term 'controlling influence' to explain when an action could be treated as involuntary. They contend that a person acts involuntarily if another controls their actions, either through coercion or manipulation, where manipulation may include deception, seduction, indoctrination, or undue influence (Faden et al. 1986, 259). A person is coerced "if one party intentionally and successfully influences another by presenting a credible threat of unwanted and avoidable harm so severe that the person is unable to resist acting to avoid it" (p. 261). Note that not all forms of threat constitute coercion. For instance, in the Synflorix experiment, the researchers used threats to manipulate the parents to retain the children in the study by making them believe that if they withdraw their children from the study, they will expose them to harm, which might lead to death.

So, a threat can be coercive if "either that both parties know that the person making the threat has the power and means to make it good or that the person threatened believes the other party to have the power, a belief of which other party is aware of" (Faden et al. 1986, 259).

Although coercion strips a person's of their capacity to act voluntarily, it is not the same with manipulation. "Manipulation is a catch-all category that includes any intentional and successful influence of a person by noncoercively altering the actual choices available to the person or by nonpersuasively altering the person's perceptions of those choices" (Faden et al. 1986, 354). In other words, "manipulation occurs if an influence an agent creates or otherwise brings about contingencies that subsequently come to function as reasons for another to act as he or she desires" (Faden 1986, 262). But some manipulations are substantive while others are subtle or minor. Manipulation is substantial if it shares a similar controlling influence as coercion, for instance, manipulation through threat (Cf. Synflorix case). According to Faden et al., "manipulation through threats is conceptually similar to coercion, in that both categories of influence involve attempts to affect choice and action by imposing or by threatening to impose harmful consequences" (Faden et al., 1986, 356). Minor or subtle manipulation is compatible with voluntary, informed consent (Faden et al., 1986). The manipulator appeals to the manipulated victim's needs or best interest to get them to act in a way that serves the manipulator's intended interest or agenda.

A person could be manipulated through an "intentional use of rewards and offers of rewards, to bring about the desired response" (Faden et al. 1986, 356). The Tuskegee Syphilis experiment exemplifies this point. Faden et al. affirm that the researchers in the Tuskegee Syphilis experiment used some methods to stimulate and sustain the interest of subjects to enrol and remain in the study. For example, "they were offered free burial assistance and insurance, free transportation to and from the examinations, and a free stop in town on the return trip; they were rewarded with free medicines and free hot meals on the days of the examination" (Faden et al. 1986, 356). It is important to remark here that the mere offer of incentives does not necessarily undermine a person's voluntary, informed consent. The issue in the Tuskegee Syphilis experiment is that the offers were made to

enrol the participants without providing them information about the nature or aim of the study. They also promised to treat sick participants of their ailment, which they did not keep.

Faden et al. emphasize that unlike manipulation through threat, the impact of manipulation on a person's capacity to make a voluntary, informed decision could be analyzed based on the criterion of resistibility. According to them, a manipulative strategy through an offer does not undermine a person's if the manipulatee welcomes the offer. "The manipulatee's act is entirely autonomous because it proceeds from the dictates of his or her own will" (Faden et al. 1986, 357). They provide interesting examples to explain this point. Assuming a researcher offers \$25 to Mary (a receptionist) to participate in an interview. Mary has no interest to refuse the offer because she desperately needs to earn extra cash to meet her needs. According to them, this offer is welcomed and does not undermine Mary's voluntary consent. It is true that her financial situation compelled her to will or want to accept the interview. "In this sense, she may not be free to say no to an opportunity to earn extra money. But this state of affairs is independent of the researcher's offer, and this particular offer—the researcher's manipulation—is not itself "controlling" Mary's decision to consent" (Faden et al. 1986, 358). In other words, how an agent sees an offer determines whether it is manipulatively welcoming or not.

So, a second example suffices. Assuming Mary is offered the same \$25 to enrol in a horrible and invasive medical procedure. Mary finds the idea of enrolling in such a procedure horrifying given her past experiences with very risky trial drugs. But since she desperately needs money to support her meagre salary, she still consents to the procedure. Faden et al. contend that Mary's consent is nonvoluntary in this second case because it is not substantially under her control (Faden et al. 1986, 359). I do not think that how an agent views interactions or offers would determine whether it is voluntary or not. As noted in the introduction, all medical research involves risks, although some may be excessively risky. Whereas there is no possible risk in participating in an interview, there are some considerable risks for studies that involve testing the safety and efficacy of a trial drug: mild liver dysfunction. Even though the homeless alcoholics understand that enrolling in

the study may negatively impact their health, they still accepted because their circumstances compelled them. But the consent of homeless alcoholics is still voluntary because they understood the risk of such a study but consented to it because of their vulnerable circumstances.

Similarly, the woman's decision in the Lecherous Millionaire case is still voluntary, even though she felt very uncomfortable becoming someone's mistress in exchange for money. So, Faden et al. may not be entirely correct to claim that a person's voluntariness is undermined because of the way about an offer. Moreover, as Lynn Jansen rightly points out, "some research subjects understand that participation in the trial is not in their medical best interests, but they want to participate anyway" (Jansen 2005, 32). The fact that they agreed to enrol in very risk research for the sake of incentives does not make their consent to the study involuntary. So, enrolling persons in a study under a therapeutic misconception or based on motivation for financial benefits may not violate the requirement of informed consent. "But it plausibly constitutes exploitation, if exploitation occurs when one person uses another for her own ends by playing on some weakness or vulnerability in that person" (Jansen 2005, 32). Coercion and manipulation through threat and deception undermine a person's voluntariness. However, based on Faden et al.'s account, it is not entirely clear why consenting to a bad deal due to a participant's desperate situation renders their consent nonvoluntary or undermines their autonomy.

Nelson et al. contend that "a person acts voluntarily if they will the action without being under the controlling influence of another person or condition. The primary notions here are influence, control, and intentional action" (Nelson et al. 2011, 7). They note that "intentional actions are not voluntary if they are controlled by causes the agent does not control" (Nelson et al. 2011, 10). In Faden et al.'s account, we can act voluntarily even if certain conditions influence us. For instance, in the first example, Mary agreed to participate in an interview due to her poor economic situation. Although Mary's vulnerable situation influenced her decision, Faden et al. think that Mary still acted voluntarily because she welcomed the offer as favourable and desirable (Faden et al. 1986, 357). But Nelson et al. contend that despite our perception of our circumstances, we act involuntarily if

our actions result from the controlling influence of the conditions or circumstances.

A person can exert a controlling influence on another through coercion. "Coercion occurs if and only if one person intentionally either forces another person or uses a credible and severe threat of harm to control another person" (Nelson et al., 2011, 7). They also contend that a person's voluntariness can be vitiated through manipulation. Like Faden et al., they argue that "manipulation encompasses several forms of influence that are neither persuasive nor coercive. It involves the use of nonpersuasive means to alter a person's understanding of a situation and motivate the person to do what the agent of influence intends" (Nelson et al., 2011, 8). A person can be manipulated when another lies or withholds information from them or makes misleading exaggeration (as in when advertisers make exaggerated claims about a product to make it attractive for customers to purchase). So, for an individual to act voluntarily, their choices must not be controlled "even if the person identifies with the choice and intends the actions" (Nelson et al. 2011,

Some scholars contend that a person's voluntariness can be vitiated if they lack preferred options. This condition is often included in discussions of coercion. As we shall see in Chapter Four, Wood's account of coercion captures this condition. According to him, a person is coerced (forced, compelled or constrained) if they have no choice or have no acceptable choice (Wood 2014, 276). But Nelson et al. contend that "a perceived absence of options does not render a choice nonvoluntary, but constraining situations can lead to deprivations of voluntariness that are morally problematic. The most significant of such problem is undue inducement (undue influence)" (Nelson et al. 2011, 9). The issue of undue inducement relates to the offer of payment (in the form of money or promise of free healthcare) for clinical research participation that is morally problematic. So, according to Nelson et al., an offer is an undue inducement if the risk of interacting with the offeror is increased to an elevated level; the offer is very attractive, and the offeree's economic disadvantage or lack of available alternatives or resources is increased. These conditions are individually necessary and jointly sufficient for undue inducement (Nelson 2011, 9).

Nelson et al. also note for a study to be exploitative, "risks, inducements, or disadvantage must be elevated beyond a morally acceptable threshold" (Nelson 2011, 9). They do not provide any specific explanation regarding what accounts as a morally acceptable threshold. In addition to the condition to irresistibly attractive offer, they argue that a research participant could be exploited if the study they are enrolled in involves "a risk of harm of sufficient seriousness that the person's welfare interest is negatively affected by assuming it. Further, it must be a risk the person would not ordinarily assume" (Nelson 2011, 9). In other words, "if an irresistibly attractive payment in the increased risk situation is involved, these offers most certainly should be categorized as manipulative, and probably as unjustifiable" (Nelson 2011, 9). Note that what counts as an irresistibly attractive offer depends on individuals needs and interests. For instance, £100 may be attractive to A but not B. For instance, the homeless alcoholics were attracted to the Lilly study because they were offered financial incentives of about \$3000. In the Tenofovir trials, the sex workers recruited for the study were given condoms and drugs, and they graciously accepted them. So, it is difficult to determine how much offer should be considered attractive to render it an undue inducement.

Another essential aspect of Nelson et al.'s account is their idea of constraining situations. Constraining situations, according to them, "are those in which nonintentional coercion-like conditions cause a person to feel controlled situationally, rather than controlled by the design of another person" (Nelson 2011, 9). Examples of constraining situations are severe illness or lack of essential resources. "Sometimes illness, powerlessness, and lack of resources are perceived as threats of harm. The prospect of another day fearing that a young son or daughter will die without treatment can powerfully constrain a parent to accept an offer of research involvement" (Nelson et al., 2011, 9). A constraining situation like poverty could make a research participant remain in a study because of their dependence on the benefits from clinical studies. In other words, by remaining in the study, they may be acting under duress since withdrawing from the study may result in outright forfeiture of further benefits from the study. So, Nelson et al.

argue that "these situations are momentous constraints on choice, though not ones that involve either threats or physical force by another" (Nelson 2011, 9). Constraining situations could also make

I do not think that a person's failure to withdraw from a study due to their dependence on incentives vitiates their voluntariness. Similarly, the woman in the Lecherous Millionaire case cannot call it a quit. But her dependence on the Millionaire's financial support does not mean that her voluntariness has been vitiated or undermined. The CIOMS guideline also plausibly affirms that "the fact that potential participants are under duress does not prevent them from making a voluntary decision" (CIOMS 2016, 78). This point, however, does not imply that if a person makes a voluntary decision under duress, the situation under which such the decision has been made is non-exploitative and or not morally problematic. The Lecherous Millionaire case exemplifies this point. The desperate woman voluntarily agreed to become the Millionaire's mistress, even though the condition under which the decision was made is exploitative and morally wrong.

Serena Olsaretti offers another account of voluntariness. She claims that "a choice is voluntary if and only if it is not made because there is no acceptable alternative to it" (Olsaretti 1998, 71). That is, if a research participant voluntarily consents to a study, the study is an acceptable option among many other acceptable alternatives. On the other hand, if one claims that they did not voluntarily consent to research, Olsaretti claims that their decision to participate in the study is due to a lack of an acceptable alternative. For instance, if a poor man decides to participate in a study for financial benefits or access to free medical care, their decision is involuntary because it is based on the fact that they do not have an acceptable alternative to their condition.

Some scholars think that the idea of freedom is fundamental for an account of voluntariness. In Wood's account of coercion and manipulation, which would be explored in Chapter Four, he argues that sometimes, we get people to do what we want. But there is nothing essentially wrong with that. There is nothing wrong with telling my wife to fetch a cup of water for me or telling a friend to buy some foodstuff for me on his way home. But he contends that getting others to do what

we want is morally objectionable when we mess with their freedom "by taking it away, limiting it *(as in the case of coercion), usurping it, or subverting it (as in the case of manipulation)" (Wood 2014, 274). By 'freedom', Wood means "the capacity of a rational human adult to govern his or her life, rather than having it subject to the will of someone else" (Wood 2014, 274). But Olsaretti contends that the discussion of voluntariness must exclude the notion of freedom. According to her, it is inappropriate to conflate the notion of voluntariness with the idea of freedom. That is, it is misleading to think that "given that the agent wants to act as he does, then, insofar as he is free to act as he does, it follows that he acts voluntarily" (Olsaretti 1998, 70).

Again, we are constrained to make decisions in certain situations because our choices are limited. For instance, in the case of the woman in the Lecherous Millionaire case, she is left with limited choices – become a mistress to the Millionaire so that you can have the money you need to treat your child, or refuse the Millionaire's offer and allow the child to die from lack of access to medical care. In this circumstance, she could still say – I don't have a choice but to concede to the demand because of my child's health and well-being. A person can also face a situation where the issue of limited choice is caused, not due to their social or economic situation but as a result of some constraining force like a person pointing a gun at you to demand your money or your life. The victim, in this case, is also faced with limited choices. They can, like the woman, also say, I had no choice but to give him all my life-savings to remain alive. As I noted in Chapter One, whereas the woman's decision in the Lecherous Millionaire's case is voluntary (though exploitative), the victim's decision of the gunman is involuntary.

Olsaretti, however, argues that "an account of voluntariness which can deal with cases of limited choice needs to ask whether the conditions under which this choice was carried out vitiate its voluntariness" (Olsaretti 1998, 70-71). In other words, the voluntariness of whether not to become a mistress or whether not to lose one's money "must be assessed by reference to the level of acceptability of the options in an individuals' option set" (Olsaretti 1998, 72). So, "if one of the options is very much liked (disregarding whether there are acceptable alternatives to it), or if, when none of the options is very much liked, but there is more than one

acceptable option to choose from, then the choice is a voluntary one" (Olsaretti 1998, 72). This view of voluntariness may work for the gunman case. For instance, none of the options available to the robbery victim is acceptable and very much liked. In this case, the decision of the robbery victim to give all their life savings to the robber is involuntary. Also, in the Lecherous Millionaire case, neither the option of becoming a mistress in exchange for money nor seeing one's child dying due to refusal to comply with the Millionaire's demand is acceptable or very much liked. So, based on this account, we may treat the Lecherous Millionaire case as a case of involuntariness. But that would be a mistaken assessment of the case. It is essential to note that there are times when the choices we make for moral reasons involve "recognising that only one course of action is acceptable. Suppose, for example, that I am a strong swimmer walking past a shallow pond when I see a baby drowning. Naturally, I choose to jump in and save the baby, and it seems that I do so because no other possible course of action is acceptable" (Colburn 2008, 103-104). So, in the case of the Lecherous Millionaire, the woman does not like the idea of seeing her dignity violated by being used as a mistress in exchange for money. She also does not like to see her child die due to a lack of money for her surgery. Yet, she thinks that the only acceptable option between these two disliked options is to be a mistress to raise some money to treat her child. The fact that only one option is acceptable does not mean that her action is involuntary. Her action is voluntary (even though the interaction is exploitative) because her choice is not motivated by lies or a threat of harm from the Millionaire.

However, a very significant aspect of Olsaretti's account of voluntariness is her distinction between freedom (or autonomy) and voluntariness.³⁷ According to her, "the idea of choosing voluntarily or acting freely is taken as equivalent to that of acting autonomously, where autonomy indicates the ability to act on one's preferences about preferences, or second-order preferences" (Olsaretti 1998, 73). But voluntariness and autonomy are not equivalent. Voluntariness of actions is

³⁷ Note that the distinction between freedom, autonomy and voluntariness is not always easy to determine. For instance, in Faden et al.'s account of coercion, they claim that when a person is coerced, both their freedom and autonomy are undermined because they person does not act freely and more importantly, the coercer imposes their will on the coerced agent (Faden et al. 1986, 344-345). But Olsaretti seems to treat freedom and autonomy as one and the same. What is important here is not whether they are truly the same or different but Olsaretti's argument on how voluntariness differs from the concepts.

first-order wishes and desire, while autonomy is a "second-order capacity to reflect critically over one's first-order preferences and desires and to decide which ones to act on" (Olsaretti 1998, Footnote 42). For instance, a person who prefers to smoke will not voluntarily stop the habit when the government introduces a prohibitive tax on tobacco. However, "being aware that the interruption of his habit is conducive to better health, he does not resent being unable to make this choice. In this case, the fact that he does not voluntarily choose to stop smoking does not diminish his autonomy" (Olsaretti 1998, 73). Similarly, though the robbery victim acted involuntarily, it does not follow that they also acted nonautonomously because their choice of life over money results from a critical reflection over their preferences and desires.

Having examined Faden et al., Nelson et al., and Olsaretti's accounts, I deduce what I think are the essential conditions of voluntariness. An individual acts voluntarily if their action is not due to coercion, deception or substantive manipulation, where substantive manipulation involves threats, withholding of information or misleading exaggeration. Furthermore, certain forms of manipulation are compatible with voluntariness. Nelson et al. also allude to this view. According to them, "many, but not all, forms of manipulation are incompatible with voluntary decision making, regardless of whether the person manipulated is aware of the influence" (Nelson et al. 2011, 8). Faden et al. also agree with this point. Although they think that a manipulative strategy is compatible with voluntariness if the manipulated agent finds the strategy welcoming (Cf. Mary's interview case). But a person can still be manipulated, and thus, their voluntariness vitiated even if one does consider the manipulative strategy welcoming. For instance, the participants in the Tuskegee Syphilis experiment and the parents of the meningitis patients in the Pfizer experiment considered the experiments welcoming even though the strategies in both cases were substantively manipulative and exploitative.

Furthermore, when agents are coerced or substantively manipulated, their voluntariness is vitiated, not their autonomy. So, I agree with Olsaretti that voluntariness is a first-order expression of desires and wishes. Autonomy is a second-order capacity because it critically reflects our first-order preferences and

desires. But Faden et al. think that in an actual situation of coercion (that is, coercion caused by another's action), the coerced agent's autonomy is vitiated. According to them, "in a true situation of coercion, what controls, and thus deprives one of autonomy, is the will of another person, substituted for one's own will or desire, where the presented option is avoidable, and the coerced wishes to avoid it" (Faden et al., 1986, 345). The only condition in which an individual's autonomy is not deprived is in the case of coercive situations. This situation happens, according to them, when "a person is tightly constrained by circumstances, without any viable alternative" (Faden et al., 1986, 344). But as the Lecherous Millionaire and the Lilly clinical trial indicate, agents can still make free, voluntary decisions even though their circumstances tightly constrain them.

Regarding the issue of undue inducement, I do not think the attractiveness of an offer is necessary to render it undue inducement based on the reason I have earlier given, which is that what is attractive depends on an individual's subjective needs. Also, the condition of an offeree is not necessary since people who are well-enough could still be unduly induced. So, one of the essential elements of undue inducement is deception or manipulation. In the following sub-section, I will explain why this should be considered an essential element for undue inducement. But what we should keep in mind as we go further is the role exploitation plays in medical research when we coerce, manipulate, deceive, or unduly induce prospective participants. A person is being exploited through coercion when they are threatened or forced to act on the preferred choices of their aggressor to achieve the aggressor's ends (Wertheimer 1987; Nelson et al. 2011). For instance, a doctor coerces a patient to enrol in a study when they threaten to stop providing medical care if they fail to participate in the study. A participant can also be exploited through deception or manipulation. A person is exploited through manipulation when they are unduly influenced in a way that alters their understanding of a situation and motivates them to choose the intended end of the agent of influence (Nelson et al., 2011; CIOMS, 2016). In research recruitment, a researcher may manipulate a potential participant to enrol in research by providing distorted or falsified information regarding the research risks and benefits. Some bioethicists think that the idea of undue inducement and coercive

offer are similar (Macklin 1981; McGregor 2005). We will see whether both concepts can be treated as the same.

2. Coercive Offer, Undue Inducement, and the Ethics of Incentivization

The use of incentives in clinical trials is common in medical research. The success of any clinical study depends on the availability of research participants. Some bioethicists and policymakers believe that incentives are essential for medical research because they are used as a motivation strategy to persuade volunteers to enrol and remain in clinical studies (Dickert and Grady 1999; CIOMS 2016; Parkinson et al. 2019). Some bioethicists, however, claim that the use of incentives like money or promise of medical care is morally problematic and exploitative because it coerces potential participants to enrol in medical research that they would not agree to enrol in if they were well or economically advantaged. Ruth Macklin, for instance, contends that it is ethically inappropriate to pay research subjects. The payment is likely to coerce the research subject, thereby violating the ethical requirement that provides that research participation should be fully voluntary (Macklin 1989, 3). Elsewhere, Macklin argues that some financial incentives are undue inducement and as such morally inappropriate if they are so much that they “prompt subjects to lie, deceive, or conceal information that, if known, would disqualify them as participants” (Macklin 1981, 2). Joan McGregor conflates undue inducement with coercive offer. According to her, undue inducements are “offers because they propose to make the person “better off” relative to his or her baseline, but they are coercive since, because of the recipient’s lack of options, the proposal is likely to present the only eligible choice” (McGregor 2005, 25).

Macklin and McGregor’s claim that incentives are coercive if they make the offeree better off or induce offerees to lie or conceal information is wrongheaded. There is nothing coercive about financial incentives or any other kind of incentives if they do not involve threats or if the offeror did not contribute to the vulnerable situation of the victim before making the offer. Financial incentives may indeed be morally problematic. Wertheimer and Miller contend that the wrongness of financial incentives could be explained within the context of undue inducement.

Wertheimer and Miller, for instance, note that “if a physician (A) has an obligation to provide a patient (B) with medical services free of charge, say, because The national health service employs A, then A actually does coerce B into paying a fee if A proposes not to provide such services unless B pays” (Wertheimer and Miller 2008, 390). This is coercive because the doctor’s unilateral decision to *deny* the patient free medical service violates the patient’s right to free medical care.

The view of coercion proposed by Wertheimer and Miller is interesting because it helps to explain when an offer is coercive and when an offer is not. Every coercive proposal is backed up by threats, no matter its degree of severity. This point does not mean that all forms of threats are coercive. Some threats are manipulative, as in the Synflorix case, in which the researchers claimed that the parents would expose their children to the risk of death if they withdrew them from the study. However, a paradigm case of coercion is the vicious robber case. We say that the vicious robber case is coercive because the robber’s threat to kill the house owner if they refuse to disclose the code of the safe violates the house owner’s rights and because the house owner does not have any other reasonable alternative but to comply. But when is an offer coercive? An offer is coercive when backed up by a threat to violate the victim's rights. For example, a doctor promises financial incentives to her patient if the patient enrolls in a study. Still, she threatens to withhold the patient’s treatment if she refuses to enroll. This is a case of coercive offer. It is an offer because it proposes to make the patient better off relative to their baseline. However, it is coercive because it violates the patient’s right to receive treatments from the doctor.

Coercive offer is clearly distinguished from undue inducement. A coercive offer is an offer made using threats of physical harm or other forms of harm like withholding services or promotion with the intent of violating the victim's rights to secure compliance. I have also noted that where threats are not present, an offer could also be coercive if the offeror contributes to the vulnerable situation of the victim and then cashes in on the vulnerable situation to make the offer. On the other hand, Undue inducement refers to offers intended to predictably stimulate a person to enter an exchange or perform an action they would not ordinarily consent to if they were well off or in an advantaged position.

The concept of undue inducement is often used to describe the wrongfulness of using financial and non-financial incentives to predictably stimulate prospective research subjects to enrol in a study against their better judgment, thereby vitiating the research subject's capacity to make voluntary, informed decisions about the study (Wertheimer and Miller 2008, 391; CIOMS 2016, 53-54). Some bioethicists who view undue inducement in terms of a motivation that impairs or distorts an offeree's rational judgment also think that the reason for this impairment stems from the size of the offer made. Macklin, for instance, notes that the larger the financial incentives, "the more potential subjects are unduly influenced to participate in studies that are not in their best interests" (Macklin 1989, 1). The CIOMS guidelines also corroborate Macklin's intuition about undue inducement. The guidelines state that "compensation must not be so large as to induce potential participants to consent to participate in the research against their better judgment" (CIOMS 2016, 53). In other words, the larger the compensation, the higher the risk of beclouding prospective participants' sense of better judgment and vitiating their capacity to make voluntary, informed decisions about enrolling in a study.³⁸ The point, therefore, is that for very needy people, "incentives" satisfy basic needs, and as such, those persons are barely in a position to refuse.

Undue inducement is morally objectionable and exposes an offeree to exploitation because the offeror uses it to secure compliance. However, in all cases, undue inducement impairs a victims' better judgment or vitiates their capacity to make voluntary, informed decisions. In the Lilly case, the financial incentives offered to the homeless alcoholics to make them enrol in the study constitutes undue inducement. The reason the incentive is undue inducement is not that the amount

³⁸ The issue of describing undue inducement based on the size of a compensation is controversial. It is controversial in the sense that an amount of compensation that would attract A to perform a task could be different from what would attract B to perform the same task. This suggests that what constitute large or little compensation depends on individual needs. Someone could quickly consent to a study merely with an offer of condoms and pills as in the case of the poor sex and illiterate sex worker in the Tenofovir clinical trial. A person of the middle class who has a job but urgently needs £5000 to meet some pressing needs like taking one's child for surgery would ignore the offers of condoms and pills because they would not serve their needs. So, the amount of financial incentives that would constitute undue inducement is relative. This is why ethics committees often struggle with defining an appropriate financial benchmark that researchers could meet that would not constitute undue inducement. So, I think that the size of a compensation is not necessary to explain the notion of undue inducement. Moreover, some research participants also enrol in research not for the sake of money but to secure adequate but free medical care. As Lee observes, the issue of undue inducement is not limited to money. People could also be unduly induced to enrol in study based on some promise to offer them free medical care (Lee 2019).

of the incentive is so large. The amount offered by Lilly is modest compared to other pharmaceutical companies. Cohen, for instance, observes that for most companies to woo prospective participants to enrol in studies, they "advertise heavily and shell out \$125 or so a day, occasionally as much as \$250. SmithKline Beecham PLC even pays referral bonuses. By contrast, Lilly advertises less frequently and, at \$85 a day, pays what competitors believe is the lowest per diem in the business." ³⁹

Also, the moral issue of undue inducement in the case of the Lilly clinical trial is not because it impaired their better judgment. There is nothing irrational about agreeing to participate in a study to meet one's economic needs, just as it is not irrational for the woman to become the Millionaire's mistress in exchange for money for her child's surgery. It is also not the case that the offer made the homeless alcoholics lose their capacity to make voluntary, informed decisions. Jansen rightly observes that due to therapeutic misconception, some participants could be irrationally optimistic about the benefits they will derive from participating in a study even when they have been informed about the benefits and risks of enrolling in the study.

However,

Enrolling persons in a study when they are under a therapeutic misconception-or some other kind of irrationality-may not violate the requirement of informed consent. But it plausibly constitutes exploitation if exploitation occurs when one person uses another for her ends by "playing on some weakness or vulnerability in that person." If an investigator is aware of the fact that many of the research subjects in his study suffer from the kind of irrationality present in therapeutic misconception, and if he nevertheless enrolls them in a bad deal trial, then he plays on weakness, they have to advance his research ends (Jansen 2005, 32).

Moreover, some participants voluntarily consent to studies even though they are unsure if it is in their best interest. For instance, the homeless alcoholics agreed to enrol in the Lilly trial, not because of any therapeutic misconception. The study involved only healthy participants, so there was no need of expecting direct

³⁹ Cohen, Laurie P., Nov. 14, 1996, <https://www.wsj.com/articles/SB847923261820633500>

therapeutic benefits from the study. They enrolled because of the financial incentives they were to receive. So, just as people voluntarily enrol in studies they know are not in their best medical interest, others enrol in studies for the sake of financial incentives irrespective of the risks involved in the study. For instance, in the Tenofovir clinical trial, the poor and illiterate sex workers agreed to enrol on the study because they received condoms and some pills. They believe that these incentives were enough to boost their opportunities to make more money. So, it would be absurd to suggest that the decisions of the sex workers were involuntary and uninformed even though the researchers notified them of the purpose of the study. However, what is fundamental about the offer made by the researchers in the above cases is that they constitute exploitation. The offers, strictly speaking, were intended to make the researchers submit demands they would usually reject if they were in an advantaged situation.

However, the condition that would make undue inducement to vitiate or inhibit a participant's capacity to make voluntary, informed decisions about a study is if the researcher uses deception or manipulative means to make the offer. For instance, in the Pfizer case, the parents of the meningitis children enrolled their children in the Pfizer clinical trial because the researchers informed them that the children were receiving adequate medical care. This case is an example of undue inducement because the parents ignorantly agreed to enrol in the trial. Their ignorance does not in any way suggest that the parents acted irrationally. However, it vitiated their capacity to make voluntary, informed decisions. If the parents had known that Pfizer was administering a trial drug that was not meant to be taken by sick children, possibly they would not allow their children to take it, especially when Doctors without Borders were also administering the sick children with Chloramphenicol, safe and effective antibiotics that WHO approved.

So, in sum, I note that coercive offer is different from undue inducement. The coercive offer involves threat while undue inducement does not. Financial or other forms of incentives (promise of therapeutic benefits) may constitute undue inducement when offered to induce the recipient to act in a way that furthers the offeror's interests. Also, The size of an offer does not count because what can unduly induce A may not induce B. Undue inducement does not essentially impair

an offeree's capacity to make voluntary, informed decisions. Undue inducement triggers involuntariness on the part of the offeree only when the offeror incorporates deception like lying to cover up facts about the exchange or manipulation like withholding some information that would have assisted the offeree in making an informed decision.

2.2.2 Risk and the Alleged Moral Irrelevance of Exploitation

In this sub-section, I explore another element of exploitation in clinical research: unjustifiable risk of harm. I argue that the Pfizer, Tuskegee Syphilis and the Synflorix experiments were morally wrong and exploitative because the participants were exposed to the unjustifiable risk of harm. Some theorists think that research is exploitative only when an unjustifiable risk of harm. According to the CIOMS ethical guideline, many studies expose participants to risks. Such risks may be physical, social, or psychological. Other forms of risks may not be significant, for example, the feeling of discomfort during a clinical trial. The ethical justification for exposing research participants to risks of lesser magnitude is 'the social and scientific values, namely the prospect of generating knowledge and means necessary to protect and promote people's health' (CIOMS 2016, 10). However, a risk that is of a high magnitude is ethically untenable. When this high level of risk is present, most bioethicists believe the case involves exploitation (Miller and Brody 2003; Lamkin and Elliot 2018).

Some theorists argue that investigators may exploit research subjects by exposing them to unjustifiable risks of harm (that is, the risk of the research exceeds its possible benefits) (Lamkin and Elliot 2018, 54). Miller and Brody also argue that it is morally untoward for investigators to enrol research subjects in studies that have a potential risk of harm. The non-exploitative duty of medical researchers is to ensure that research subjects do not suffer any severe injury because of their involvement in clinical research (Miller and Brody 2003, 339). Therefore, the Pfizer experiment, the Tuskegee syphilis experiment, and the Synflorix clinical trial meet the exploitation condition of the CIOMS ethical guidelines because they were highly risky. For instance, in the Tuskegee Syphilis experiment, some participants were injected with the virus that caused syphilis. However, they were

denied treatment even though Penicillin, a safe and effective cure for syphilis, became widely available. Some who survived passed the ailment to some members of their families.⁴⁰ In each of these cases, there were records of participants who died or were disabled because of adverse events of the trials.

The issue of risk is significant in medical research because it forms part of the ethical considerations for medical research justification. A certain degree of risks is permissible in medical research, especially when the social value of the research outweighs them. However, according to the CIOMS guidelines,

Some risks cannot be justified, even when the research has great social and scientific value and adults who are capable of giving informed consent would give their voluntary, informed consent to participate in the study. For example, a study that involves deliberately infecting healthy individuals with anthrax or Ebola - both of which pose a very high mortality risk due to the absence of effective treatments - would not be acceptable even if it could result in developing an effective vaccine against these diseases (CIOMS 2016, 10).

Emanuel also corroborates the above provision. He notes, for instance, that it is morally impermissible to enrol participants in excessively risky research regardless of whether the payment for participation is high or low. Even if there is no payment at all, there is no moral justification to enrol research subjects in studies that risk causing them severe harm (Emanuel 2005, 11). To consider whether a clinical study is exploitative, Emanuel thinks that the foremost thing to consider is whether the study exposes the participants to excessive or unreasonable risks (Emanuel 2005, 12).

Even though the idea of excessive risk is necessary to explain why certain medical research cases, like the Pfizer, Tuskegee Syphilis or the Synflorix experiments, are exploitative, it is essential to note that not every excessively risky interaction entails exploitation. For instance, a person may be exposed to excessive risk by engaging in risky stunts, like driving on a highway beyond speed limits or climbing a mountain without safety gear. I may expose myself or someone else to excessive

⁴⁰https://www.socialworker.com/featurearticles/ethicsarticles/The_Tuskegee_Syphilis_Study_and_Its_Implications_for_the_21st_Century/; [Tuskegee Experiment: The Infamous Syphilis Study - HISTORY](#); [Families Emerge as Silent Victims Of Tuskegee Syphilis Experiment - The New York Times \(nytimes.com\)](#)

or unreasonable risk by failing to take safety precautions. This does not mean that I exploit myself by that sheer failure.

Nevertheless, exposing someone to excessive risk for the sake of some benefits, on the other hand, entails exploitation because the individual exposed to excessive risk is used as mere means to some ends. So, regarding Emanuel's view on excessive risk, the wrongness of a study is not merely because a research participant is exposed to excessive risk but because the exposure is aimed at some benefits for the party imposing the risk. For instance, in the Pfizer, Tuskegee Syphilis, Synflorix clinical trials, the participants were exposed to excessive risks to attain some benefits. In the Tuskegee Syphilis and the Synflorix clinical trials, the participants were exposed to extreme risks merely to "salvage scientific data" (Thomas and Quinn 1991, 1501). In the Pfizer case, the researchers aimed to generate scientific data about the efficacy of their drug to secure US Food and Drug Administration (FDA) 's approval before taking it to the market for commercialisation. So, for a risky interaction or transaction to be exploitative, the exploiter must pursue some beneficial ends (which may or may not be attained).

It is also pertinent to note that not all exploitation cases involve exposure to an unjustifiable risk condition. Though the lecherous millionaire and the uncompassionate rescuer cases are exploitative, they do not involve the condition of exposure to the unjustifiable risk of harm. There is no indication that the uncompassionate rescuer exposes Jim to harm by requesting that Jim bequeaths part of his investments in exchange for rescue. Also, the lecherous millionaire case does not suggest that the woman is being exposed to the unjustifiable risk of harm by consenting to be the millionaire's mistress in exchange for some financial assistance. Similarly, there is no indication that the participants were exposed to excessive risks in the less discussed morally wrong and exploitative cases like the Lilly, AstraZeneca and Tenofovir trials.

2.2.3 Exploitation, Risks, and the Distribution of Benefits

This sub-section argues that the fair distribution of benefits is also crucial to explaining why some medical research cases like the Pfizer, Tuskegee Syphilis,

and the Synflorix experiments are morally problematic and exploitative. Some bioethicists argue that a more plausible way to determine whether a study is exploitative is to measure the ratio of risks and benefits. According to Emanuel et al., “A exploits B if, because of the interaction, B receives too little benefit or assumes too great a risk compared with the benefits A receives or the risks A assumes” (Emanuel 2005, 337). The WHO-GCP corroborates this point. The WHO-GCP states that a clinical investigation should be initiated if the anticipated benefits for the participants and their society outweigh the risks. More so, the research subjects' rights, safety, and well-being must be prioritised above societal and scientific benefits (WHO-GCP 2002, 42). CIOMS states that equitable distribution of research benefits requires that research proportionately focus on all socio-economic classes' health needs (CIOMS 2016, 8). The point, therefore, is that for every clinical research, there should be an intended benefit, which both participants and their societies should enjoy. Such benefits could involve providing medical remedies to the participants and other community members. It could also involve providing some facilities that may be lacking in society. The justification of benefits in clinical research is based on the degree of risks. If the benefits outweigh the risks of the investigation, then it is reasonable for a participant to be involved in such a study (Grady 2005; Emanuel et al. 2005; Rid and Wendler 2011; Malmqvist 2019).

Note that the idea of “benefit-sharing” or profit-sharing is standardly used to describe access to the tested drug (if found to be efficacious). According to the CIOMS guideline, before IRB or research ethics committees (REC) approve any study to be conducted in any community, it is required that the researchers and their sponsors identify “the relevance of the research for the community, its risks and potential individual benefits, and how any successful product and possible financial gain will be distributed, for example through a benefit-sharing agreement” (CIOMS 2016, 5). This provision aligns with the ethical principle of just distribution of benefits. This principle requires that members of the community where a particular study is conducted should also share in the benefit of the research (that is, access the tested drug) because they directly or indirectly shared in the risk of the research (Emanuel et al. 2008; DoH 2013; CIOMS 2016).

However, benefit-sharing is not limited to the community's access to the tested drug. Medical research ethics guidelines require that a person who participates in a study also share its benefits. If the participant is a patient, particularly for research interventions, the intervention must benefit the participant. "As a general rule- participants in the control group of a trial (in therapeutic research) must receive an established effective intervention" (CIOMS 2016, 9). According to Shamoo and Resnik,

Because the subjects may gain some medical benefits from participation, most commentators agree that the potential benefits to the subject, when combined with the potential benefits to society, such as increases in knowledge and improvements in therapy, provide sufficient ethical justification for such research (Shamoo and Resnik 2006, 3).

For a therapeutic study, researchers are ethically required to provide therapeutic interventions to the patient-participants and monitor the impact of the intervention on their health. Researchers in the Synflorix, Pfizer or the Tuskegee Syphilis studies failed to adhere to this ethical obligation. For example, in the Synflorix clinical trial, the researchers made the participants' parents believe that their children would be treated for their diseases if they could participate and that withdrawing them from the study would worsen their health situation. This was also the case in the Pfizer experiment. In the Tuskegee Syphilis case, the participants were refused treatment, even though syphilis drugs were available. The investigators deliberately allowed the health of the syphilis patients to worsen, even to the point of death. The researchers also conducted autopsies on some participants who died as a post-mortem study (Thomas and Quinn 1991, 1501). These cases, therefore, pass Emanuel et al.'s exploitation condition – that is, the participants assumed too significant a risk even though they received little or no benefits from the study.

Research subjects do not receive any direct medical benefits for studies involving healthy participants (non-therapeutic studies – phase one clinical trials). As I explained earlier, REC or IRB considers a study ethically justifiable when the benefits it offers to both participants (potential medical interventions) and society (valuable new therapeutic knowledge about diseases) outweigh the research risks.

I consider the medical interventions as *primary benefits* – they are primary benefits because of their direct impacts on the health and well-being of participants and society. They are used to evaluate the social value of the study in relation to its risks. In non-therapeutic research, participants receive some money or free accommodation and free medical screening as incentives for enrolling on the study. Note that these incentives are not considered when ethics committees weigh the risk of the study against its benefits. So, I refer to the incentives that volunteers receive for medical research participation, especially money, as *secondary benefits*⁴¹ – they are secondary benefits because ethics committees do not consider them when evaluating the study risk-benefit ratios before approval, although they are intended to promote the well-being of the participants (at least to meet their basic needs) (Also Cf. Emanuel et al. 2008).

Some bioethicists discuss the ethical issue of fair benefit distribution (or sharing) for non-therapeutic medical research based on how much incentives the participants should receive relative to the value of the participant's contribution to the research goal. The value of a participant's contribution may be understood in terms of the benefits of the research to the society – that is, the valuable and reliable scientific knowledge that may be derived from the research and the significance of the knowledge in promoting individual and public health (Emanuel et al. 2008; CIOMS 2016). It may also be understood in terms of the economic profits that the research will yield to the researcher and their sponsors. Trisha contends that when a participant is willing to exchange research participation for financial incentives, the ethics of fair distribution requires that the researcher pays the participant enough, or at least, a fair wage. “When researchers pay less than a fair wage, they exploit any and all subjects who participate in medical research” (Trisha 2011, 211).

⁴¹ According to Shamoo and Resnik, “although most people consider money to be a benefit, treating money as benefit for the purposes of reviewing research is usually considered to be inappropriate. According to the National Institutes of Health guidance for research subjects in its intramural program “remuneration should not be seen as a benefit to offset research risks in deciding whether a protocol should be approved. Risks that are otherwise unacceptable cannot be made acceptable by offering increasing amounts of money to subjects” (NIH 2004). The FDA has similar guidance for IRBs and researchers: ‘Payment to research subjects for participation in studies is not considered a benefit; it is a recruitment incentive’” (Shamoo and Resnik 2006, W3).

Suppose we concede to Trisha's view that exploitation occurs in medical research when participants receive less pay than a fair wage, then we cannot explain why studies like the Lilly, AstraZeneca and the Tenofovir clinical trials are considered wrong and exploitative. For instance, in the Lilly experiment, some homeless alcoholics earned more than £3000 after a few days in the Lilly facility. To prove this, Cohen explains that a 51-year-old ex-convict, who has lived on the streets of Indianapolis for more than 13 years, took about \$4,650 after five days of participating in the Lilly experiment.⁴² Note that during the period the experiment was conducted, the United States' minimum wage was \$4.75⁴³. So, it is a fair wage to earn more than \$1000 after a few days considering the minimum wage at the time.

The idea of fair wage raises a serious ethical issue in medical research participation, and it seems to conflict with what ethics committees may regard as morally acceptable payment. A morally acceptable payment implies an amount that is not beyond the threshold that can undermine a participant's voluntary consent (CIOMS 2016; FDA 2018). Even though we say that the homeless alcoholics may have been unduly induced with financial incentives to enrol for the studies, it is implausible that such inducement vitiates their capacity to make rational or better judgments. At least, we can agree that accepting a payment to meet our basic needs is rational.

In the AstraZeneca case, no amount was mentioned in the WEMOS report to help us evaluate whether the parents of the asthmatic children were paid a low wage, fair wage, or an amount that was huge to influence their rational decisions. But the fact is that no matter how much was paid to them, it was an offer they could not refuse. The parents of the children in the AstraZeneca clinical trial accepted the financial incentives because it could meet their basic needs (even if it was temporary). As for the Tenofovir case, there was no indication of the amount paid to the poor sex workers. However, what is well known is that they received condoms and drugs, which they believed would help protect them from STI's and

⁴² Cohen 1996

⁴³ <https://www.dol.gov/agencies/whd/minimum-wage/history/chart>

offer them the leverage to scout for more customers. In this regard, it is difficult to quantify the prostitutes' wages using the incentives offered. Even if we claim that the participants in each of the studies received fair wages, it does not make the studies less exploitative. So, I think that the view that medical research is exploitative unless it involves fair benefit to the subject is based on too narrow a view of what exploitation can involve. So, to explain why medical research cases like Lilly, AstraZeneca and Tenofovir clinical studies are exploitative, we must assess the relations of servility between the researchers and the research participants.

2.3 Evaluating the Three Elements of Exploitation

In the preceding section, we have been looking at the view that morally problematic exploitation in clinical research can be explained by the presence of one or more of three elements. A clinical investigation is exploitative, on this view, if the participants offered their consents by coercive, deceptive, or manipulative means, if there are excessive risks, or if the research benefits are unfairly distributed. In the Pfizer, Tuskegee Syphilis and Synflorix clinical trials, I have argued that these cases are exploitative and morally problematic because the recruitment process in each of these cases was dubious. At least, in the Synflorix clinical trial, there is no indication that participants received any benefits. Instead, the researchers made the participants' parents believe that their children would be treated for their diseases if they could participate and that withdrawing them from the study would worsen their health situation. The participants did not receive benefits in the Pfizer and Tuskegee Syphilis, and risks in those trials (like the Synflorix trial) were unjustifiable. At least, there were records of deaths and disabilities, which occurred because of the studies.

However, the main problem with these three criteria for exploitation, namely, involuntariness (invalid informed consent), exposure to unjustifiable risks of harm and unfair distribution of benefits, is that they do not cover all the examples of wrong medical research highlighted in Chapter One, particularly the less discussed cases like the Lilly, AstraZeneca and the Tenofovir clinical. If this is right, and if these examples are indeed exploitative, it would suggest that we have

not yet found a fully adequate account of exploitation. I suggest that an adequate account of exploitation should focus on the Kantian idea of treating a person as mere means. To treat a person as mere means is to take advantage of their vulnerability for the sake of furthering some ends.

Appealing to the Kantian idea of taking advantage of the vulnerability of a person to attain in some ends allows for a more inclusive account of exploitation that captures cases that involve involuntariness (invalid informed consent), exposure to unjustifiable risks of harm and unfair distribution of benefits like the Tuskegee Syphilis, Pfizer or Synflorix experiments (medical research cases) or the vicious robber case (non-medical case); as well as cases that lack these elements as in the Lilly, Tenofovir or the AstraZeneca clinical trials (medical cases) and the lecherous millionaire and the uncompassionate rescuer examples (non-medical cases). Although the woman in the lecherous millionaire case voluntarily consented to become the mistress of the lecherous millionaire, there was still something morally problematic and exploitative about this case. The lecherous millionaire case is exploitative because the millionaire took advantage of the vulnerable and desperate situation of the woman to treat her as a mere opportunity by putting her in a situation of servility to satisfy his lustful desires.

Similarly, in the Lilly case, even though the homeless alcoholics voluntarily consented to the medical research, the research was still morally wrong and exploitative because the researchers took advantage of the desperate conditions of the homeless alcoholics to treat them as a mere opportunity by making them subservient for the sake of medical. It is essential to explain why the Lilly, AstraZeneca, and Tenofovir cases involve voluntariness. The consent of the participants in these cases was '*voluntary*' in the sense that *their capacity to choose was not constrained* through the offer of incentives. In other words, they were not threatened, nor did the researchers contribute to their vulnerable situation before making the offers. Also, the researchers did not use deceptive means to manipulate them to enrol in the studies, as in the case of Pfizer or the Tuskegee Syphilis. So, even though the homeless alcoholics voluntarily consented to the medical research, the research was still morally wrong and exploitative because the researchers took advantage of the desperate conditions of the

homeless alcoholics to treat them as a mere opportunity by making them subservient for the sake of medical.

2.4 Exploring the Scope of Research

In these opening two chapters, I have explored some cases of exploitative clinical research. In the Pfizer experiment, the Tuskegee syphilis experiment, and the Synflorix clinical trial incidents, I argued that these cases revealed what many bioethicists might consider as the essential exploitation elements: lack of consent, unfair distribution of benefit and exposure to excessive risks. I explored other cases, like the Lilly experiment on homeless alcoholics, the AstraZeneca experiment, and the Tenofovir Clinical trial. There was no evidence that the outcome resulted in adverse events in these cases. Also, the participants and their parents (in the AstraZeneca experiment) enjoyed some incentives. Following the views of (Dickert 2009; Dickert and Brady 1999; Emanuel et al. 2008), it seems that there is no evidence of exploitation in those cases. However, this seems like the wrong result: as I have argued by reference to paradigm thought-experiments such as Lecherous Millionaire and Uncompassionate Rescuer, these cases are intuitively exploitative. My main aim in this thesis is to argue that understanding the nature of exploitation in clinical research requires developing a Kantian account of exploitation.

Developing an account of exploitation that would help prove that the Lilly experiment on the homeless alcoholics and the AstraZeneca experiment, and Tenofovir Clinical trial are all cases of exploitation would also require exploring some accounts exploitations. Three key accounts will be examined in the next chapter: (i) Matt Zwolinski's *Non-worse Off Thesis (NOT)* (2007, 2012); Jeremy Snyder's *Duty of Beneficence Theory (DBT)* (2008; 2013); and Alan Wertheimer's *Unfair Distribution of Benefits Account (UDBA)* (2008). In his Non-worse-off thesis, Zwolinski argues that exploitation may occur in a non-consensual interaction that leaves one of the interacting parties worse off. For Snyder, interaction is exploitative when one of the interacting parties (the exploiter) gains advantage from another (the exploitee) but neglects the basic needs of the exploitees, which they (the exploiter) are obligated to meet. For Wertheimer, exploitation occurs

based on two conditions: first, the outcome of such interaction or transaction is substantially unfair or harmful; second, the process is morally defective such that one of the interacting parties deceives, coerces, or withholds relevant information from another that makes it difficult to enter such interaction or transaction voluntarily. I argue that these accounts are inadequate to explain the moral wrongness of the cases identified (the Lilly experiment on the homeless alcoholics and the AstraZeneca experiment and Tenofovir Clinical trial). More so, the criteria identified in those accounts only work in commercial transaction cases (price gouging during a pandemic, sweatshop jobs, and so on) and some clinical research cases like the Pfizer experiment, the Tuskegee syphilis experiment and the Synflorix clinical trials.

In chapter four, I examine Onora O'Neill's account of mere means and the idea of coercive offer and Allen Wood's Kantian Vulnerability account of exploitation. O'Neill claims that we treat a person as mere means if we act on a maxim of coercion or deception such that the other person cannot possibly consent to the exchange. I will argue that this idea of mere means is inadequate because it does not cover cases where exploitees possibly consent to exploitative interactions. I examine her idea of coercive offer. I show that although the cases we are examining, namely, the Lilly, AstraZeneca and Tenofovir, as well as the thought experiments – the Uncompassionate Rescuer and the Lecherous Millionaire do not involve coercive offer, yet, her ideas of complicity and unrefusable offer are helpful to explain why these cases are morally objectionable and exploitative.

Later I explore Wood's Vulnerability account. Wood argues that not all cases of exploitation are morally objectionable. For instance, it is not morally objectionable to exploit some natural resources for personal or industrial use. He regards this idea as an innocent or morally neutral notion of exploitation. Wood contends that exploitation is morally objectionable when an exploiter takes advantage of an exploitee's vulnerability and treats it as an opportunity to further the exploiter's end. I argue that Wood's account of exploitation is incomplete because it excludes essential features of exploitation which are the conditions of mere means and relations of servility. In Chapter Five, I explain why these conditions, in addition

to the condition of vulnerability, are individually necessary and jointly sufficient for a Kantian account of exploitation.

Chapter Three: A Critique of Three Accounts of Transactional Exploitation

3.1 Introduction

In Chapter Two, I showed that discussions about the notion of exploitation in clinical research often centre on three key elements, namely, lack of consent, excessive risks, and unfair distribution of benefits. Many bioethicists, clinical researchers, and policymakers agree that these elements are essential to provide an adequate explanation of what may be morally wrong about the involvement of human subjects in clinical research (Hans Jonas 1969; WHO-GCP 2002; Howard Brody 2012; CIOMS 2016). The Pfizer, Tuskegee syphilis and Synflorix trials, which we explored in the first chapter, vividly exemplify morally questionable and exploitative clinical research. In each of these cases, voluntary consent was absent; the studies were excessively risky. The benefits offered to the participants, mainly money, food, shelter, and transportation, were minimal relative to the benefits received by the investigators and the Pharmaceutical companies⁴⁴. For clinical research to be exploitative thus, at least one of the three elements *must* be present (CIOMS 2016).

Nevertheless, there are other clinical research cases like the Lily, AstraZeneca and Tenofovir trials which seem consensual, beneficial, and less risky but are also morally problematic and exploitative. This claim appears to undermine the assertion that for exploitation to occur, consent must be absent, benefits must be unfairly distributed, or the research must be extremely risky (Miller and Brody; NCHRE 2007; Emanuel et al. 2008; CIOMS 2016). In this chapter, I explore some transactional accounts of exploitation espoused by Matt Zwolinski, Jeremy Snyder, and Alan Wertheimer to explain the moral wrongness in the Lily, AstraZeneca and Tenofovir clinical trial cases. In section 3.2, I discuss Zwolinski's *Non-worse Off Thesis*. In his *Non-worse-off* thesis, Zwolinski argues that exploitation may occur in a nonconsensual interaction that leaves one of the interacting parties worse off. In section 3.3, I discuss Snyder's *Duty of Beneficence*

⁴⁴ For instance, a few years after FDA approved the Pfizer experiment drug, the market value of Pfizer Pharmaceutical Company soared from €45 billion to over €200 billion, which placed them at the top of the Pharmaceutical market value table (Goos *Spiegel International Online* 2007).

Theory, in which he argues that interaction is exploitative when one of the interacting parties (the exploiter) gains advantage from another (the exploitee) but neglects the basic needs of the exploitees, which they (the exploiters) are obligated to meet. Section 3.4 explores Wertheimer's *Unfair Distribution of Benefits Account*. This account focuses on the outcome of transactions (whether the interaction is unfair or harmful). It also explores the consensual nature of a transaction (that is, whether the exploiter coerced, deceived, or manipulated the other transacting party to enter a transaction for the sake of the exploiter's benefits). I argue that the criteria identified by the transactional accounts may be helpful to explain the moral wrongness in some cases of commercial transactions and some instances of unethical clinical research like Pfizer, Tuskegee syphilis and Synflorix. However, the accounts are inadequate to explain the moral wrongness in the Lilly experiment on the homeless alcoholics, as well as the AstraZeneca and Tenofovir clinical trial cases. Let us discuss the various theories in detail to explain their inadequacies and understand how a better theory might be constructed.

3.2 Matt Zwolinski's Non-Worse-Off Thesis

Zwolinski espouses his idea of exploitation to refute the claim that sweatshop labour is 'wrongfully' exploitative⁴⁵ (Zwolinski 2012, 154). My concern in this section is not about Zwolinski's views about sweatshop labour, and I do not intend to hold any. Besides, the issue of whether sweatshop labour is a paradigmatic case of exploitation has been argued for by many theorists (Meyers 2007; Mayer 2007; Kates 2015). What is of interest for this section are the essential features of exploitation, which Zwolinski outlines. Understanding these features of exploitation is necessary to explain the moral wrongness of clinical trial cases like

⁴⁵ Zwolinski thinks that the use of the phrase 'wrongfully exploitative' is necessary because it helps to distinguish between exploitative acts that connotes wrongdoing from those that do not. For instance, a shrewd entrepreneur may exploit a business opportunity; or a football coach may exploit his opponent's weakness to win a match (Zwolinski 2012, Footnote 6). However, I disagree. I argue that the phrase 'wrongful exploitation' is redundant because exploitation as used in the moral sense is a moral wrong. When an agent exploits another, they take advantage of the exploitee by treating them as mere means. For instance, a shrewd businessman may exploit the business crunch of his competitors to make more sales. He is not exploiting his business competitor in a moral sense. However, the issue of morality may set in if he hikes his price in time of disaster or pandemic because very few shops are opened for business. In this case, we can say he is exploiting his customer, and this idea of exploitation is morally significant, because it shows that the shrewd businessman treats his customer as mere means for the sake of profiteering.

the Lilly experiment on the homeless alcoholics, the AstraZeneca and Tenofovir clinical trials.

To start, Zwolinski believes that not all cases of exploitation are wrong. For instance, a football coach may exploit his opponent's weakness to win a match. He believes that the coach is exploitative in this regard. However, Zwolinski's view on this matter is problematic. Even though the coach had exploited his opponent's weakness to win a match, that does not make him exploitative, since the adjective 'exploitative' itself connotes a moral wrong. Be that as it may, Zwolinski believes that "to wrongfully exploit someone is to take advantage of him in a way that is unfair or degrading" (2012, 156). As used by Zwolinski, the idea of degrading is distinct from the Kantian meaning of the term. The term degrading or degradation underlies many Kantian accounts of exploitation (Sample 2003, 2016; mine inclusive⁴⁶), and it means treating an agent as a mere means for some ends. Sample, for instance, explains that when an agent exploits another, they take "advantage of another's vulnerability to gain unfairly in a way that degrades our interactor" (Sample 2016, 81). Other Kantian accounts prefer to use 'disrespect of persons' in place of degradation (Arnold and Bowie 2003; Meyers 2007).

Zwolinski does not appeal to a Kantian idea of exploitation because he believes that a Kantian account cannot successfully substantiate why sweatshops are exploitative (Zwolinski 2012, 166). For instance, he believes that it is difficult to see how compensations offered to sweatshop workers amount to disrespect or degradation, especially where it is already proven that such compensations are not unfair. The plausibility of Zwolinski's attack on the Kantian account of exploitation is contestable. Zwolinski may claim that such compensation may not be unfair, especially if it conforms to contract terms. But as Sample observes, "workers in sweatshops, for example, seem to gain very little from their labour relative to the profits of the large corporations that employ them" (Sample 2016, 68). This case is exploitative because those large corporations are taking advantage of the vulnerability of those workers and treating them as mere means

⁴⁶ My account views degradation as the second stage of exploitation. It is the link between mere means and servility. In my account, servility is the cornerstone of exploitation. It is a term that helps to explain why people engage in exploitative interactions.

to their benefit. However, a point to note here is that a well-articulated Kantian account of exploitation can explain the moral wrongness in all cases of exploitative interactions, including clinical research cases. This thesis aims to achieve this task – that is, to postulate an account of exploitation that could help to explain moral wrongness in all exploitative interactions, especially in those clinical research cases that are consensual, beneficial, and less risky like the Lilly, AstraZeneca and Tenofovir experiments.

Having said that, what then does Zwolinski mean by degrading? According to him, degrading implies unfair treatment. It involves using persons without their consent, violating their rights, or putting that person in such conditions that make them worse off than they were before they accepted to enter the transaction (Zwolinski 2007, 710-711, 714). Therefore, from Zwolinski's point of view, exploitation means using persons without their consent, violating their rights, and (or) making them worse off than they were before they entered the transaction⁴⁷. Zwolinski contends that lack of consent is necessary but not sufficient for exploitation. In addition to lack of informed consent, other conditions, namely, violation of rights and worse-offness, are individually necessary and jointly sufficient for exploitation. Understanding what each of these conditions entails would help explain what makes a transaction morally wrong and exploitative, and the discussion would also show how the conditions relate.

i. Consent, Autonomy, and the Inevitability of Preference

Zwolinski believes that it is morally wrong to coerce someone to enter a transaction even if it is beneficial to the coercee, especially if the coercee is competent to make a rational and informed decision⁴⁸. Coercion is morally wrong because it inhibits an agent's right to consent or choose a course of action. Allowing people to make choices, thus, is a fundamental aspect of human interaction because choices play a morally transformative role. Zwolinski believes they exercise their autonomy when an agent consents to a transaction. The exercise of autonomy makes a choice

⁴⁷ Both the conditions of violation of rights and worse-offness do not need to be present for a transaction to be exploitation. One of these conditions is sufficient to make a transaction exploitative. The rape example explains this.

⁴⁸ Zwolinski does not claim that if someone is incompetent or incapacitated that they should be coerced. His point is that respecting an individual's autonomy is important for social interaction.

or consent morally transformative (Zwolinski 2007, 691). Consent is morally transformative when a consentor permits a consentee to perform an action that may be impermissible if consent was absent. For example, a doctor tells a patient that she must undergo a medical examination for a breast lump before any prescription. If the patient consents to the doctor's expert advice, her consent is morally transformative. However, suppose the doctor proceeds with the medical examination without the patient's consent (even if it is in the patient's best interest). In that case, such an act will be considered morally inappropriate⁴⁹.

One basic argument against sweatshop labour is that sweatshops offer deplorable working conditions to the employees because they know that the workers do not have other options. Mayer, for instance, argues that what is morally wrong about sweatshop labour is that sweatshops owners exploit their workers by "failing to benefit their employees as much as they ought to do, for example by paying better wages or improving working conditions" (Mayer 2007, 142). But Zwolinski contends that a worker's wage or working condition is insufficient to determine whether a transaction is exploitative. The first thing to consider when assessing whether a transaction is exploitative is whether the agent consented to or chose the transaction. So, if a person voluntarily chooses to work in a sweatshop but is not made worse off or their rights are not violated in any way, their employer cannot be accused of being exploitative.

A worker's choice to accept sweatshop labour shows that she prefers that kind of labour to any other alternative. Sweatshop labour might not be the kind of thing for which she has any intrinsic desire. But when all things are considered—her poverty, the wages paid by the sweatshop and that paid by alternative sources of employment, etc.—she prefers working there to anything else she might do. And by expressing her preferences, her choice is morally transformative (Zwolinski 2007, 694).

Zwolinski's point is that when an agent reflects upon her condition relative to the expected benefit she will derive from a potential transaction, and she agrees to consent to the transaction, it suggests that she prefers the terms and conditions of that transaction over other alternatives. In other words, for a person to agree to

⁴⁹ The idea of moral transformation of consent can also apply to surrogate consent – that is, a consent made on behalf a third party (that is, on behalf a baby, a demented patient or a comatose patient).

work in a sweatshop implies that they prefer it to other job opportunities or not working at all.

It is pertinent to note that some people transact with others because they are motivated by their desperation to meet their basic needs. Meyers, for instance, notes that most sweatshop workers accept the terms and conditions of their sweatshop labour, not because that is a fair bargain, instead, it is because they are desperate to work to meet their basic needs. So, even though they prefer working in a harsh condition with a meagre wage to not working at all, it still does not make the transaction morally acceptable or non-exploitative. The point is that sweatshop workers' choices under desperate circumstances suggest they do not have other realistic options (Meyers 2007, 620). Zwolinski, however, thinks that even if a choice is made under a desperate circumstance, as far as it is not coerced, the choice is still morally transformative. Moral transformation occurs when the agent's choice provides the other transacting party with information about the agent's preferences (Zwolinski 2007, 694). In other words, by agreeing to the terms of the sweatshop labour, Zwolinski believes that the agent seems to inform the sweatshop owner that they freely prefer their offer to other alternatives. He, however, notes that sweatshop owners may be guilty of exploitation if they *force* the employee to accept the sweatshop labour and pay them meagre wages contrary to the terms of the contract (Zwolinski 2012, 160).

Zwolinski provides a valuable perspective on the concept of consent, mainly related to clinical research. Many bioethicists and policymakers agree that consent is fundamental to human interaction like clinical research. And, to determine whether a study is exploitative, the first thing to consider is whether a participant voluntarily consented to the study. So, for those who argue that incentives inhibit a participant's voluntary choice (Faden et al. 1986; Lemmens and Elliott, 1999), Zwolinski shows that such motivation does not in any way hinder a participant from expressing their choice or consent. Even if we concede that many participants who consent to studies do so because of their economic condition (Lemmens and Elliott 1999), the point is that their socioeconomic status does not excuse them from expressing their preferences. To be clear, Zwolinski does not say that an agent can express their voluntary choice where "procedural wrongdoing such as

deception or coercion" is present (Powell and Zwolinski 2012, 468). In other words, his account seems to support the view that clinical research cases like Tuskegee Syphilis, Pfizer and Synflorix experiments are morally wrong and exploitative because the participants were involved in the trials "without their free consent" (Zwolinski 2007, 710).

Zwolinski's account also shows that other clinical research cases like the Lilly, AstraZeneca and Tenofovir clinical trials are not wrong because they do not involve a lack of consent. Of course, these cases are paradigmatic cases of consensual clinical research. However, the challenge with Zwolinski's account is that it suggests that all consensual interactions are nonexploitative. In other words, interaction or transaction may not be exploitative if the agent freely consents to it. In fact, "consent makes sweatshop labour (and possibly all human interactions) morally justifiable" (Zwolinski 2007, 689).

However, Zwolinski notes that if there is any moral problem about a consensual interaction or transaction like sweatshop labour, what may be wrong about it is an issue of right-violation. Let us briefly explore the role right-violation plays in Zwolinski's account of exploitation.

ii Exploitation and Rights-Violation

Zwolinski argues that apart from consent, the concept of *right-violation* is necessary to account for exploitative interaction or transaction. When agents consent to a transaction, both consenting parties are legally and morally entitled to decide how the other may act towards them. However, such legal or moral entitlements are not absolute. For instance, in the case of sweatshop labour, some anti-sweatshop theorists argue that the problem with such a job is that it does not respect the *rights* of workers to unionize or the right to choose when to work overtime (Arnold and Bowie 2003, 227). Zwolinski believes the violation of a worker's rights to unionise or decide when to work overtime is evidence of their expression of choice and "not an objection to it" (Zwolinski 2007, 692). According to him, a worker who agrees to work in a sweatshop also agrees to waive certain rights, like the freedom to associate (that is, where this restriction is captured in the terms and conditions of work) (Zwolinski 2007, 692).

Nevertheless, Zwolinski contends that a worker does not waive the right to bodily autonomy or integrity⁵⁰, and this right cannot be violated irrespective of the working condition. Zwolinski did not explicitly mention the notion of the right to bodily integrity. However, his strong stance against rape seems to imply it⁵¹. For instance, he notes that a transaction may be exploitative if a worker is sexually violated: "a midlevel manager who raped a female employee and warned her to keep quiet about it or else she would lose her job would be violating that employee's rights in raping her and exploiting her by using his managerial power to cover up his crime" (Zwolinski 2007, 711). This case is exploitative because he uses his position as the firm's manager to violate the worker's right to bodily autonomy and her right to complain. Another wrongful treatment that could be exploitative is when an employer pays their worker less than the agreed wage. This exchange is exploitative because it violates the terms of the contracts, hence the right given to the employee by the contract. Zwolinski's point, therefore, is that "one can consistently hold that certain forms of treatment by sweatshops of their workers are exploitative while denying that low wages are" (Zwolinski 2007, 711). According to Zwolinski's account, the only condition when low wage will be exploitative is when it does not conform with the agreed term of the contract.

The challenge with the right-violation view of exploitation espoused by Zwolinski is that once an individual's right is waived through consent, no action resulting from such waiver of right could be exploitative. But as the Lilly, AstraZeneca and Tenofovir clinical trials, as well as the rescue case show, an interaction can still be exploitative even if the exploitee's right has been waived. The drowning man waived his right to own some of his investments when he accepted the rescuer's proposal. However, this is a classic example of an exploitative transaction. The decision to waive his right was conditioned on his survival rather than fair bargaining. This criticism can also be raised against sweatshop labour. Meyers,

⁵⁰ Zwolinski's point is that when an agent consents to a transaction, they do not necessarily waive their right to bodily integrity, that is, the right to have control over their own body. This right also includes the right to privacy. Of course, there are certain jobs that may require the waiver of this right. For instance, sex workers do waive this right by accepting money in change for sex. However, Zwolinski's point is that where the terms of contract do not involve the offer of one's body for sexual gratification, the employer cannot assume that by consenting to the transaction, the employee has waived their rights to control their own body. This is why he views rape as a form of exploitation.

⁵¹ Note that Zwolinski's claim that when a person is raped, their right to body integrity is violated appeals to the intuition that rape is a non-consensual assault.

for instance, argues that the exploitative nature of sweatshops is that "employers take advantage of unfair situations and drive hard bargains against desperate workers..." (Zwolinski 2007, 620). Even though Zwolinski may contend that there is no moral wrong since the waived worker's right has overridden such a hard bargain. Yet, it does not justify such a transaction as non-exploitation.

The reason is that the worker's dire need (like money, food, shelter, and so on), as with the rescue case, has already conditioned them to fall for such hard and unfair bargaining. We can say a similar thing about the Lilly, AstraZeneca and Tenofovir cases. Even though Zwolinski's view of right violation seems to excuse the Lilly, AstraZeneca and Tenofovir cases, they still pass as instances of exploitative clinical research. The fundamental reason is that the economic condition of the participants motivated them to consent or waive their rights to be used as experimental objects. Even though they voluntarily accepted to be treated as experimental objects, that does not excuse the studies as nonexploitative. My account of exploitation will further show why these cases are morally problematic.

Nevertheless, the final aspect of Zwolinski's account of exploitation is the role of an agent's condition in an exploitative transaction. In this aspect, Zwolinski claims that a transaction is exploitative if the transaction makes an agent worse off than they were before entering the transaction. In other words, if an agent enters a consensual transaction that makes them better off, their rights are not violated, then the transaction is non-exploitative. What does Zwolinski mean by this?

iii Exploitation and the Worse Off Condition

We have seen two essential conditions under which exploitation can occur in Zwolinski's account. The first is lack of free consent, while the second is the violation of the agent's right. The third element involves the condition of the agent. According to Zwolinski, exploitation can occur when an agent knowingly acts in a way that leaves another worse off (Zwolinski 2007, 694). An agent is worse off if their condition during or after a transaction is worse than before the exchange. For example, a person may enter a contract that requires them to pay to work. Even if the worker consented, they would be worse off at the end of the month than if they were at the start of the month. However, Zwolinski's defence of

sweatshops as being nonexploitative is that it improves the workers' economic situation rather than worsens it (Zwolinski 2007, 702). For him, available empirical data show that sweatshops provide their workers with significant benefits (Zwolinski 2012,167). In others, sweatshops make the workers better off than when they were unemployed.

From Zwolinski's account of exploitation, we have seen that three conditions can make a transaction or interaction exploitation. The first condition is when an agent enters a transaction without freely consenting to it; the second condition is when an agent's right is violated because of agreeing to a transaction; the third condition is that the agent is made worse off because of the transaction. However, these conditions offered by Zwolinski do not capture all cases of exploitation. A person may be exploited even though they consent to a transaction, their rights are not violated, or the transaction makes them better off than their condition before the transaction. Meyer, for instance, offers a helpful example to illustrate this point.

Suppose Carole is driving across the desert on a desolate road when her car breaks down. After two days and two nights without seeing a single car pass by, she runs out of water and feels rather certain that she will perish if not rescued soon. Now suppose that Jason happens to drive down this road and finds Carole. He sees that her situation is rather desperate and that she needs (or strongly desires) to get to the nearest town as soon as possible. So, Jason offers her a ride but only on the condition that she allow him to sodomize her first. Jason does not force her into anal sex, nor does he manipulate her (he does not even try to convince her, he simply makes the offer, take-it-or-leave-it). Under these conditions, Carole accepts the offer, allows herself to be sodomized, and then afterwards, true to his word, Jason drives her to the nearest town, and she is grateful (Meyer 2004, 324).

Meyer's example is a paradigmatically exploitative transaction. Even though Carole freely prefers Jason's offer (to be sodomised and later be rescued) to other options like staying in the desert to die of dehydration or waiting for another helper (which is uncertain), such a preference does not make the transaction less exploitative. Zwolinski may claim this example is disanalogous to the sweatshop case because sodomy seems like a worst-case scenario. Besides, the aim of sweatshop employers is not to rescue potential employees but to enter a contract with them based on a win-win situation, where the employer makes profits while

the employee earns their living to meet their basic needs. Despite this observation, Meyer's example, which relates to the Lecherous Millionaire case, indicates an instance in which a transaction may be exploitative even though the agent consents and benefits from the transaction. A similar thing can be said of sweatshop workers. At least, they prefer working in harsh and risky conditions with meagre wages to not working at all, just like Carole, who prefers to be sodomised rather than remain in the desert to die of dehydration (Arnold and Bowie 2003; Meyers 2004, 2007).

Like the Carole rescue case and the sweatshop case, clinical trial cases like the Lilly, AstraZeneca and Tenofovir experiments also show that interaction could be exploitative even if it makes the exploitee better off. For instance, in the Lilly experiment, the homeless workers preferred to test the safety and efficacy of the trial drug to receive the incentives rather than refuse to participate in the trial and lose the opportunity to meet their basic needs. Even though the homeless alcoholics benefit from participating in the trial, it is not less exploitative. So, what is morally wrong in each of these cases is that the exploiters (e.g. Jason, sweatshop employer, and the Lilly researcher) took advantage of the desperate situation of the exploitees (Carole, the sweatshop employee and the homeless alcoholics) to further their ends.

In the next section, I explore Jeremy Snyder's account of exploitation based on this theory of duty of beneficence. While Zwolinski limits exploitation to the inability of an agent to express free consent, violation of an agent's rights and a condition in which an agent is made worse off, Snyder views exploitation based on the duty of beneficence. Let us examine Snyder's argument in defence of his account.

3.3 Snyder's Duty of Beneficence Theory

Jeremy Snyder's account of exploitation begins with an attack on Zwolinski's view that sweatshop labour is nonexploitative and non-degrading. Snyder uses Mr Wang Chengua's experience in a Chinese box factory to show that Zwolinski's view is implausible: "Wang... slipped strips of metal under a mechanical hammer with his right hand, then swept moulded parts into a pile with his left. He did this once

a second for a 10-hour shift, minus a half-hour lunch" (Khan, 2003, quoted in Snyder 2008, 389-390). This brief account explains what an average sweatshop workers' experience is. Like Wang, most sweatshop workers are exposed to bodily harm with fewer benefits to compensate them for the risks. (Snyder 2008, 390). Despite this plausible remark, my interest is not so much in Snyder's attack on Zwolinski's stance on sweatshop labour but in his explanation about what makes an interaction exploitative.

A promising start is to recap Zwolinski's argument on what makes a transaction or interaction exploitative. According to Snyder, "Zwolinski focuses his account of exploitation in sweatshops on the transformative power of consent and autonomy-exercising choices. He argues that if a choice exhibits even a partial degree of autonomy, then there is a prima facie supposition against interfering with that choice" (Snyder 2010, 190). Zwolinski's claim rests on the importance of the agent's autonomy and their right to choose a course of action freely without interference. We might worry that employers violate workers' rights by allowing them to work in poor conditions. But for Zwolinski, by accepting the sweatshop labour, the workers "waive certain claims that we might have had" (Zwolinski 2007, 693). So, when agents express their choices, even when their autonomy seems limited, Zwolinski believes that such decisions "still signal preferences" (Zwolinski 2007, 693). So, one cannot see a transaction as exploitative when the agent freely consented to it. Nevertheless, an agreed interaction may constitute moral wrong or become exploitative when the agent's rights are violated and (or) when the agent is deliberately made worse-off. This point implies that consent is necessary but insufficient to make a transaction exploitative. Violation of right or worse-offness (or both), on the other hand, is sufficient to make a transaction exploitative.

Snyder also notes that Zwolinski's claim that an agent's choice is morally significant supports the idea that when workers receive benefits like low wages, their rights are not violated⁵². The reason is that both transacting parties (the

⁵² The idea of right implied here is the workers' legal right. Zwolinski thinks that if a worker has consented to the terms and conditions of the sweatshop labour, then, they cannot claim to have been exploited when the contract, which spells out the worker's right has not been violated. There is an obvious question as to the justice of the law in many contexts here. However, some critics of sweatshop think that besides injustice, some labour laws that seem just are

worker and the sweatshop owner) act within their rights by making and agreeing to offer wages based on market price. And, since violation of right is sufficient to make a transaction exploitative, according to Zwolinski's account, Snyder argues that Zwolinski believes it is implausible to view sweatshop labour as exploitative based on the workers' low wages (Snyder 2010, 191). In other words, since the transaction between workers and sweatshop owners suggests that no rights are violated, no one can claim that exploitation has taken place. Snyder's worry about this conclusion is that Zwolinski's account "fails to consider how structural injustice can disadvantage some parties within a transaction. In the context of sweatshop employment, sweatshop workers may have a weaker bargaining position because they are the victims of socioeconomic injustice." So, because sweatshop owners take systemic advantage of institutional injustice, Zwolinski's account is unable to "account for the intuition that background injustice can be wrongfully exploited" (Snyder 2010, 191).

Snyder believes that for any account of exploitation to address the issue of background injustice, such an account must focus on the notion of '*duty of beneficence*' in its perfect form⁵³. The perfect duty of beneficence is morally binding, and it is not in the power or discretion of an agent to choose whether to perform or refrain from performing it. And a refusal to perform the duty amounts to a moral wrong. Based on this, Snyder contends that interaction is exploitative when one of the interacting parties (the exploiter) gains advantage from another (the exploitee) but neglects the basic needs of the exploitees, which they (the exploiters) are obligated to meet (Snyder 2008, 390). In other words, to determine whether an interaction is exploitative, we must ask whether an agent occupies a better position because of the interaction to the detriment of the other interacting party. And whether the advantaged person gains from interacting with the disadvantaged party and whether the needs of the disadvantaged party, which the advantaged agent is obligated to meet, are being neglected. If it is ascertained that

very weak. So, many companies take advantage of the weakness of the laws and coupled with some economic realities to seek cheap labour, whose dignity and well-being are often neglected by their employer to maximise profits by exposing them to very worse working conditions (Pagnattaro 2013; Iqbal and Chuan 2016).

⁵³ In the original sense of the term 'perfect duty', which is derived from Kant's ethics, perfect duty is viewed as a particular action or omission "we owe to particular people, such as the duty to keep a promise, tell the truth, or respect someone's rights" (Kant 1997, 32).

the advantaged person gains from the interaction and neglect to meet the needs of the disadvantaged person, based on Snyder's view, exploitation has occurred.

Furthermore, Snyder argues that every human being has basic needs to make their lives minimally flourishing. And, while the details about what these basic needs may consist of could be contentious, Snyder believes that "a broad consensus can focus on the common biological and psychological characteristics of human persons" (2008, 395). As an example, he explains that at the centre of the life of all rational human beings is the desire to have a meaningful degree of control over one's life and choose one's ends. But, due to the lack of some necessities of life like decent shelter, food, and even money to meet other pressing needs, the capacity of some individuals to choose their ends are constrained (Snyder 2008, 395). He further notes thus:

Ordinarily, the basic needs of others guide an imperfect duty to help them achieve a decent minimum for living a distinctly human life. Given the imperfect form of this duty, individuals will have considerable leeway in determining when and where to direct their resources toward supporting this decent minimum. But, when we enter a *relationship of use* with a particular person who has such deficits in her well-being, the general duty of beneficent, I want to argue, takes on a more specific shape. (Snyder, 2008, 396, emphasis is mine).

Snyder's point is that we are only imperfectly obligated to meet their basic needs before engaging in a consensual interaction with people. So, we may decide to fulfil it or refrain from doing so. For instance, my obligation to help a beggar I met on the street is only an imperfect one, and it is imperfect because my personal needs may override my duty to meet their own needs. However, the status of my duty towards the beggar would change when we establish a consensual relationship for mutual benefit (or through which I stand to benefit). For instance, if I contract the beggar to carry my bag to the train station, my imperfect duty changes to a perfect one. This new duty is what Snyder refers to as the *duty of beneficence*.

According to Snyder, the perfect duty of beneficence depends "on connections to particular others through our roles and relationships." And, where this connection results in an agent deriving benefits from interacting with the other person, Snyder

believes that the agent is morally bound to meet the other person's needs (Snyder 2008, 396). Snyder expresses this point more clearly in terms of employment relationships. According to him, when someone begins to work for another, the employer's duty towards the employee changes. So, the employer is morally obligated "to cede as much of their benefit from the interaction to their employees as is reasonably possible toward the end of the employees achieving a decent minimum standard of living" (Snyder 2008, 396). A failure to fulfil this moral demand makes the employer's interaction with their employee exploitative.

But how much benefits can an employer cede to their employee that is *as much as reasonably possible*? Snyder acknowledges that it would be over-demanding for the employer to provide for all employees' needs. For instance, it would be over-demanding for me to provide health insurance, pay rent or even pay the fees of a beggar whom I contracted to carry my bag to the train station. To determine what may count as a reasonable demand of benefit, we need to evaluate "the prospective dependence of person B on A for some need X. By 'dependence' I do not mean that A is the sole means of support for B in X, but instead that, through the relationship, X would expect to receive all or part of its support, and B expects that if A did not provide this support, their needs would not be met". (Snyder 2008, 397). In other words, a reasonable amount of benefit implies the least amount of benefit, which a person needs to meet their needs. And, where an agent refuses to give a reasonable amount of benefit to a dependant to meet their basic needs, Snyder argues that such an agent exploits the dependant. So, since employees depend on their employers to meet their basic needs, if, like sweatshops, the employers refuse to provide living wages that would help the employees meet their needs, such employers are guilty of exploitation.

In sum, Snyder's point is that a transaction or interaction is exploitative when an agent receives an insufficient or reasonable benefit to meet their basic needs. This point is significant because Snyder's emphasis is not about exploitative situations. Instead, his focus is on what the exploitative nature of those situations involves. For instance, where A and B are transacting, and A derives greater benefits while B is disadvantaged, the benefits of B ought to be reasonable or adequate to meet their basic needs. In other words, to identify which situations are exploitative, we

must form the idea of reasonable or adequate benefits. So, we can say that what makes a situation exploitative is for one party to fail to give adequate or reasonable attention to the benefits coming to the party.

Snyder's emphasis on reasonable or adequate benefits is an improvement on Zwolinski's account. Zwolinski argues that exploitation can occur in a transaction if an agent does not voluntarily consent to it. His account also shows that exploitation can occur when it violates a right or leaves one agent worse off. But Snyder's account shows that even though an agent's right is not violated, such transactions may still be exploitative, especially where their share of benefits from the transaction is not adequate or reasonable to meet their needs. One way Snyder could fix the problem of determining what counts as adequate or reasonable benefits is to appeal to the idea of an *objective standard*. Given the agent's needs and dependence on me and my inability to meet their needs in other ways. Then, what helping them enough will count as in my situation is doing XYZ, like giving them extra money, providing them with health insurance, and so on. However, this appeal to an objective standard may be relying on impossible or difficult calculations. We do not really know how he would make that precise.

However, it is essential to note that Snyder's account may still be plausible, especially when an agent feels that the benefit received from a transaction is not reasonable to address their needs. For example, Mr Wang Chengua's experience provides an example of an exploitative interaction where an agent contributes to interaction without receiving a reasonable amount of benefits to help them meet their needs. Recounting his experience in the sweatshop Mr Chengua expresses dissatisfaction with his pay compared to his working condition. Snyder is right to view this case as an example of an exploitative transaction. However, Zwolinski's account of sweatshop labour shows that despite being offered low wages, some workers seem satisfied with what they get despite their working conditions. At least, such an offer makes them better off relative to their condition when they were unemployed (Zwolinski 2007; Powell and Zwolinski 2012). Based on Snyder's account, would one say that the workers in Zwolinski's example are not exploited? Of course not. Many anti-sweatshop theorists have shown that even though some workers seem satisfied with their low wages since there are no other alternatives,

such acceptance or feeling of satisfaction does not make the transaction less exploitative (Arnold and Bowie 2003; Meyers 2004, 2007; Sample 2003, 2016). As I have shown earlier (in the Carole rescue example), Zwolinski's account fails to capture some cases of exploitation in which the exploitee voluntarily accepts to be treated as a mere opportunity because there are no better or favourable alternatives.

Similarly, I have noted that Zwolinski's account is inadequate to explain moral wrongness in cases like the Lilly, AstraZeneca and Tenofovir clinical trials where participants voluntarily enter interaction, are well off (at least temporarily), and their rights are not violated. Snyder's account does not provide any explanation either. The problem is that in each of these cases, the participants did not suggest that the benefits they received by participating in the clinical trials were not reasonable to meet their basic needs, at least temporarily. Like I noted in the Lilly case, the homeless alcoholics looked forward to participating in similar clinical trials whenever the opportunity came. Despite the feeling of satisfaction, the clinical trials, just like the Carole rescue case, are still exploitative.

We have examined Zwolinski's account and Snyder's duty of beneficence theory. While Zwolinski argues that interaction is exploitative when an agent does not freely consent to it, and, if the agent consents, the interaction may still be morally wrong, but only when the agent's right is violated or when the agent is made worse off. Similarly, Snyder's account shows that interaction or transaction may be exploited if an agent does not receive sufficient benefits to meet their needs. The Lilly, AstraZeneca and Tenofovir clinical trials show that an agent may enter an exploitative consensual interaction without violating their rights and feeling resentful. So, just like Zwolinski, Snyder does not account for all exploitation cases because he is not thinking about taking advantage of the vulnerability of the agents. More importantly, his account fails to explain why the duty to meet a person's needs should devolve only on the employer or the researcher, when many others may have contributed to their being in dire need. We will now turn to Alan Wertheimer's account to see if his account helps us to explain the moral wrongness in cases like the Lilly, AstraZeneca and Tenofovir clinical trials.

3.4 Alan Wertheimer Unfair Distribution of Benefits Account

In the preceding sections, I explored Zwolinski's non-worseness and Snyder's duty of beneficence. I showed that both theories are inadequate to explain the moral wrongness in cases like the Lilly, AstraZeneca and Tenofovir clinical trials. Zwolinski claims that a transaction may be exploitative if it is not consensual and violates an agent's right or makes them worse off. However, the Lilly example shows that interaction may still be exploitative even when all these conditions are met. On the other hand, Snyder argues that if an agent fails to act based on the duty of beneficence by providing benefits that would be reasonable to meet the basic needs of the other interacting part, the agent is guilty of exploitation. But the rescue case and a few cases of sweatshop labour show that interaction could still be exploitative even when an agent feels that the benefits gained from the interaction are enough to meet their basic needs (at least temporarily). I will now turn to Alan Wertheimer to ascertain whether he provides an adequate account of exploitation.

Alan Wertheimer explores exploitation from the context of taking *undue* or *unfair* advantage of someone. Wertheimer's view of exploitation, as we shall see, seems to acknowledge Zwolinski's argument that taking undue advantage of someone may not be exploitative provided the transaction does not violate the agent's right or make them worse off. His view also supports the need exploitation thesis of Snyder, which holds that exploitation may occur where the benefit of A may be in excess compared to that of B, without A expressing an obligation of beneficence towards B. The distinguishing feature of Wertheimer's account is that for interaction to be exploitative, two essential dimensions must be considered, namely, the outcome of the exploitative act and the process that leads to the exploitative act.

Wertheimer argues that one way to know if an act is exploitative is to consider the *outcome* of the act – to ascertain whether the act is substantively unfair. And this involves determining (i) the benefit of the act or interaction to A and (ii) the effect on B. Interaction may be substantively unfair either because A benefits from it by

harming B; or because the benefits of A are more than B's⁵⁴. The second consideration concerns "the *process* by which the unfair outcome comes about." Here, the concern is whether A coerced, deceived or manipulated B to consent to the interaction (Wertheimer 2010, 203). Wertheimer identifies three elements that could make an interaction exploitative. These elements are harm, unfair distribution, and lack of consent. In other words, an interaction may be exploitative if it harms one of the interacting parties, the benefits of interaction are unfairly distributed, or one of the interacting parties does not consent freely to the interaction. For instance, the syphilis clinical trial was judged exploitative because it was harmful. The participants did not voluntarily consent to it because they were not adequately informed. And the benefits they received were less than the benefits the researchers and their sponsors received.

Some bioethicists and policymakers agree with Wertheimer (Hans Jonas 1969; WHO-GCP 2005; NCHRE 2007; Emanuel et al. 2008; Brody 2012; CIOMS 2016). For instance, the WHO-GCP provides that the clinical investigator must ensure they obtain and document the consent of eligible subjects before enrolling them in the study. And they must also ensure that participants are protected from harm (WHO-GCP 2005). The CIOMS guideline emphasizes that investigators are required to show respect and concern for the rights and welfare of research subjects and their communities by ensuring that they obtained informed consent, the study is less harmful; and the anticipated benefits are adequately distributed (CIOMS 2016, 2).

Wertheimer, however, notes that while *harm* and *unfair distribution of benefits* are necessary and sufficient to render interaction exploitative, lack of consent lacks such moral force (2010, 203). In other words, to determine if an interaction is exploitative, we must examine the moral defect in its outcomes, such as harm or unfair distribution of benefits. The exploitation that results from harm is straightforward. According to Wertheimer, an exploitative interaction is considered harmful if "(1) others secure a benefit by (2) using them as a tool or resource so as (3) to cause them serious harm" (Wertheimer 2010, 201). The idea of harm implied

⁵⁴It is not clear at this point whether it is just a little more benefit or whether it involves a significant imbalance of benefit.

here is a net loss relative to the exploitee's previous circumstances. The Pfizer, Tuskegee syphilis, Synflorix experiments are paradigmatic examples of harmful exploitative interactions. Wertheimer contends that such cases are, *prima facie*, morally wrong and impermissible (Wertheimer 2010, 214). This point seems to appeal to Zwolinski's view that a transaction may be exploitative if it leaves an interacting party worse than they were before entering the interaction.

We have seen that in Zwolinski's account, an interaction is non-exploitative if it is consensual and does not make an interacting party worse off. But Wertheimer does not appeal to this intuition because some interactions may be unharmed and consensual yet exploitative. Wertheimer gives the following example in defence of the claim: Florida has had a hurricane. A, a lumber retailer, triples his price for lumber. B, who needs lumber to rebuild, pays A's price. In this case, the exploitee seems to gain from an exploitative transaction (Wertheimer 2008, 65-67). He rightly claims that the lumber retailers exploited their customers by raising their prices due to the hurricane incident, even though the customer made an informed, voluntary, and rational decision to accept the lumber price (Wertheimer 2010, 212). The lumber case, an example of consensual exploitation, indicates that people agree to terms based on certain conditions beyond their control. Suppose the lumber case is consensual and mutually beneficial. In that case, that is, if lumber retailers went home with huge profits, and the customers got the lumber they needed to fix their houses, why does Wertheimer think that it is exploitative? According to Wertheimer, the problem with the lumber case is that it involves unfair distribution (Wertheimer 2010, 207).

Our usual intuition about the unfairness of transactions is that one of the transacting parties gains too much relative to the other. But Wertheimer contends that the idea of thinking about unfair distribution based on the incommensurability of goods may be complicated if we cannot compare what the transacting parties received (Wertheimer 2010, 207-208). So, to determine what may be morally wrong and exploitative in a consensual mutually beneficial transaction, "we must measure the fairness of their gains against a *normative standard* as to how much the parties ought to gain" (Wertheimer 2010, 210 emphasis mine). To determine what counts as normative standard, Wertheimer

suggests we use “a “hypothetical market” criterion of a fair transaction, where the terms are fair if they were the terms that rational, informed bargainers would agree to in a competitive market environment or what we sometimes call ‘fair market value’” (Wertheimer 2010, 210). What is “fair market value”? According to Wertheimer, fair market value implies the value of a good in an actual competitive market. He uses the following example to illustrate this point.

If I want to sell my house to a friend for a fair price, then I will try to discover what would (hypothetically) be paid for the house in an actual competitive market. The question is not how much I paid for the house (my profit) or what the buyer can afford. Fairness is market dependent. If the actual market in which A and B operate is highly competitive, A does not exploit B if A pays B the market price (Wertheimer 2010, 210).

In other words, it is fair market value that determines what a normative standard is. Normative standard or baseline implies a standard of transaction that would happen to be accepted by transacting parties based on some objective, fair market mechanism.

So, for a consensual and mutually beneficial interaction to be exploitative, it means that such interaction violates the normative standard. We can say that the benefits of a transaction are unfairly distributed if they violate the normative standard – that is, if the distribution of benefits is not based on a fair market standard or value. It means that if a sweatshop worker agrees to a wage of £100 per month, and the wage is based on a fair market standard, even if such wage cannot cushion their pressing needs, the employer cannot be guilty of exploitation. The reason is that such an agreement is a product of rationally informed bargaining based on some fair market standard or value.

The challenge with Wertheimer’s reliance on fair market standards to evaluate the moral wrongness or the exploitative nature of interactions is that market mechanism will not always be the right way to fix the normative standard, particularly in cases like clinical trials. Lynn Jansen and Steven Wall buttress this point. According to them, to be able to determine what a normative baseline of clinical trials could be based on some fair market value, “one would need to identify the level of benefits that would need to be provided to the participants in the trial to warrant the risks imposed on them” (Jansen and Wall 2013, 382-383).

In other words, if we want to rely on a fair market standard to evaluate what may be morally problematic about some clinical trials like Lilly experiment on homeless alcoholics, as well as the AstraZeneca and Tenofovir cases, we will have to identify the appropriate amount of benefits that each participant is meant to receive vis-a-vis fair, competitive market situation. This task, of course, is difficult to achieve because the market mechanism does not determine clinical research participation. In other words, researchers do not consider what a volunteer would be paid in an actual competitive market before determining how much financial incentive is required to enrol participants in clinical trials. Instead, recruitment is often done based on what ethics committees consider morally appropriate incentives. This is to protect potential participants from undue inducement (CIOMS 2016; Malmqvist 2019)

Besides, it is difficult to see how Wertheimer's account could be applied in interpersonal relationships. For instance, a wife who wishes to save her marriage may agree to whatever her husband tells her, even though it means being treated like a sex slave. Let us say that the woman voluntarily agrees to such treatment based on some rational considerations. Of course, this is an example of consensual exploitation that is mutually beneficial. This is mutually beneficial because while the husband gains from the sexual servitude of his wife, the woman gains by ensuring that the marriage is intact. However, it is difficult to evaluate whether the wife's benefits are fair relative to her husband's. Even if we concede that evaluating the fairness of such distribution of benefits is possible, can this evaluation be made based on some fair market standard? If it is, what would such fair market standards consist of? These are fundamental questions that Wertheimer's theory of exploitation fails to consider.

Furthermore, Wertheimer believes that exploitation occurs in transactions that do not conform to competitive market standards. In other words, what may count as a fair price in a particular transaction depends on what the price of the commodity would be under perfect market competition. This could be true in the lumber case. However, there are other cases where exploitation may not occur even though one refuses to conform to competitive market standards. Vrousalis, for instance, explains that "it is counterintuitive to maintain that were Senegal to erect tariff

barriers to protect its domestic industries by keeping domestic prices artificially above competitive levels, it would thereby be exploiting Canadian tourists in Senegal” (Vrousalis 2018, 8). In other words, a failure to adhere to perfect market value in the distribution of benefits is not sufficient to make a transaction exploitative. Such failure may be based on fair considerations. As the Senegal tourism tariff case shows, the only way the Senegalese government would save its domestic industries from liquidation is to increase its domestic prices above international market competitive prices. Besides, such an increase aims to protect the welfare and well-being of the Senegalese citizens and ensure that the economy is intact.

Another fundamental issue with Wertheimer’s account is that he assumes that exploitation only applies to transactions. So, to evaluate the exploitative nature of any human interaction, we ought to use a microeconomic theory of fairness or a competitive market. But as Allen Wood notes, reducing all human relationships to transactional relationships is wrongheaded. For him, evaluating all human relations based on market transactions tacitly appeals to the “loathsome idea” that human dignity is commercializable (Wood 2016, 93).

The above examples show that Wertheimer’s account is problematic. So, a good account of exploitation should be moving in a more Kantian direction, which entails that it is wrong to see people as mere opportunities or resources. That is the core intuition about exploitation. A plausible alternative now would be to turn to Allen Wood vulnerability account of exploitation. I argue that although exploitation involves taking advantage of another's vulnerability with the intent of attaining some ends or benefits, such an advantage is incomplete with the conditions of mere means and relations of servility. The reason is that in every exploitative exchange, there are relations of servility, whereby exploiters occupy positions of power and treat the exploitees merely as means by making them subservient to further the exploiter’s interests.

Chapter Four: Wood, Vulnerability and Kantian Accounts of Exploitation

4.1 Introduction

In the thesis so far, we have been trying to understand the wrongness of exploitation cases like the Lecherous Millionaire, Lilly clinical trial, etc. In chapter three, I assessed these cases based on the accounts of exploitation offered by Zwolinski, Snyder and Wertheimer. I argued that their accounts of exploitation do not provide sufficient explanations of the moral wrongness in the Lily, AstraZeneca and Tenofovir clinical trial cases and non-medical cases like the Uncompassionate Rescuer the Lecherous Millionaire. These cases show that interactions could be exploitative even when interacting parties voluntarily consent to them, they make the exploitees better off, or the benefits gained by the exploitee are enough to meet their basic needs. Exploitation also occurs even though the interactions do not expose the exploitee to unjustifiable risks of harm. More so, it is inadequate to evaluate whether an interaction is exploitative and morally objectionable by assessing the fairness of the interaction based on some fair market standard. Besides, as we will see later in this chapter, Allen Wood shows that interactions can be exploitative without being unfair. So, we have seen from the previous chapter that there are problems in thinking about the transactional focus of exploitation. Therefore, there is a need to start anew based on a Kantian approach to explain why the Lecherous Millionaire and Lilly cases, for example, are wrong and exploitative.

Thus, in this chapter, I want to explore an account of exploitation that is non-transactional⁵⁵. To do this, I will pick up some Kantian ideas of dignity, degradation, and mere means⁵⁶, which I mentioned in chapters one and two, but

⁵⁵ By non-transactional, I mean an account of exploitation that is intended to be generally valid, but is not based on the assumption of a transactional model of exploitation.

⁵⁶ Immanuel Kant uses the verb *to use* or *to treat* to describe his Formula of Humanity. In his *Groundwork*, Kant notes that "a human being is not a thing and hence not something that can be *used* merely as a means but must in all his actions always be regarded as an end-in-itself" (Kant 1997, 38). He also explains that "all rational beings stand under the law that each of them is to *treat* himself and all others never merely as means but always at the same time as ends in themselves" (Kant 1997, 41-42). In his *Metaphysics of Morals* (MM), Kant notes that "a man can never be *treated* merely as a means to the purposes of another or be put among the objects of rights to things" (Kant 1991, 141). Similarly, in his *Lecture on Ethics*, he appeals to the concept of treating to explain the wrongness of suicide as follows: "man can only dispose over things; beasts are things in this sense; but man is not a thing, not a beast. If he disposes over himself, he *treats* his value as that of a beast" (*Lecture on Ethics*, 1963 151). Whether we use the verb 'to use' or 'to treat' to explain Kant's formula of humanity, what is important is the underlying meaning of Kant's idea of using or

which are not developed by Zwolinski, Snyder and Wertheimer. These ideas are fundamental to explaining why some cases like the Lecherous Millionaire and the Lilly clinical trial, for example, are morally wrong and exploitative. Exploitation from a Kantian perspective involves the idea that there is some way in which an exploiter degrades or disrespects the dignity of the exploitee by treating them as a mere opportunity rather than as an end in themselves. To develop this Kantian intuition, we can start by exploring some Kantian theorists like Onora O'Neill and Allen Wood and the various ways in which they were able to offer a Kantian account of exploitation. I will also explore their accounts to ascertain how they bear on morally problematic and exploitative medical research like the Lilly, AstraZeneca and the Tenofovir clinical studies.

So, in what follows, I explore Kant's humanity thesis in section 4.2 because I am interested in the idea of exploitation as an act of taking advantage of someone's vulnerability, which involves *treating someone as mere means*. O'Neill agrees that there is something morally wrong in treating someone as mere means. So, in section 4.3, I examine her interpretation of Kant's idea of mere means. Korsgaard contends that "it is a rational being's prerogative, as a first cause, *to have a share in determining the destiny of things*" (Korsgaard 1986, 336). Based on this intuition, O'Neill thinks that we treat someone as mere means when we act on maxims to which a person cannot possibly consent to the interaction and share in its end (O'Neill 1985, 262). I refer to this idea of mere means as a Possible-Consent Account (PCA).

As I have argued in the preceding chapters and will further show in the next chapter, the idea of mere means is fundamental to a Kantian theory of exploitation. It explains why an exploitative interaction is morally wrong. However, I will argue that O'Neill's PCA is not adequate for a Kantian account of exploitation. It is also not helpful to explain why the Lilly clinical study or the Lecherous Millionaire case is morally wrong and exploitative. However, O'Neill's idea of coercive offer provides helpful insight for a Kantian account of exploitation. For instance, she contends

treating a person as mere means. Pauline Kleingeld captures it as follows: "it is widely understood to mean that there is an absolute moral limit to what we may do to one another (and to ourselves) in the service of our ends, no matter how desirable or important those ends may be" (Kleingeld 2020, 389).

that there are some key elements that an account of coercion must consider to be applied more generally: “coercion *operates on the will*, that it has *propositional content*, that it thereby *makes agents complicit* in a way in which brute violence does not” (O’Neill 2000, 89). In other words, a person who makes a coercive offer does not just focus on turning an undesired option into a desirable option. Instead, they focus “specifically on the way this can be brought about by embedding the option with which they want compliance (‘the compliant option’) in an unrefusable ‘offer’ whose other option(s) (‘the residual option(s)’) is deeply injurious” (O’Neill 2000, 89). As I explained in Chapter Two, the Lecherous Millionaire, the Uncompassionate Rescuer cases, and the Lilly, AstraZeneca and the Tenofovir medical studies are not cases of coercive offer. The offers made by the exploiters are not coercive because (i) *they were not backed up by threats*; (ii) *the exploiters did not contribute to the exploitees’ vulnerable situations*. However, O’Neill’s ideas of complicity and unrefusable offer provide rich conceptual resources to a Kantian account of exploitation because they highlight the servile dimension of exploitation, an aspect that many accounts of exploitation ignore, and which we will explore in Chapter Five.

In section 4.4, I turn to Allen Wood’s Kantian account of exploitation. Wood’s account explicitly starts more broadly with the idea of taking advantage of vulnerability. I examine Wood’s account based on his four influential papers on exploitation, namely, “Exploitation” (1995); “Coercion, Manipulation and Exploitation”⁵⁷ (2014); “Unjust Exploitation” (2016); and “Marx and Kant on Capitalist Exploitation” (2017). Based on these papers, I identify the main features of Wood’s account. First, exploitation involves using or exercising control over someone’s vulnerability (Wood 1995, 145; 2014, 296; 2016, 96-97). Second, it degrades the exploitee. That is, it deprives the exploited victims (through coercion) or subverts or usurps (through manipulation) of their freedom or their rational control over their own choices and actions (Wood 2014, 294-302). Third, it does not involve the idea of treating someone as mere means because, in some exploitative interactions, exploitees are treated as ends in themselves (Wood 2016,

⁵⁷ This paper is the Chapter Twelve of Wood’s book titled: *The Free Development of Each: Studies on Freedom, Right, and Ethics in Classical German Philosophy*.

100; 2017, 649). Fourthly, exploitation is unjust when it involves a violation of rightful freedoms through coercion. And, most unjust exploitation is compatible with the person exploited making the rational choice to enter the interaction. I explain how these elements provide deep insight into Wood's vulnerability account of exploitation.

In section 4.5, I offer some criticisms of Wood. For instance, I argue that by excluding the mere means and servility components in his account of exploitation, Wood offers an incomplete vulnerability account of exploitation. He fails to consider that exploitation is grounded, not simply in the feature of the exploited party, but instead in the relationship of servility between the exploiter and the exploited person. So, before exploring Wood's vulnerability account of exploitation in detail, let me discuss Kant's humanity thesis and O'Neill's Possible Consent Account of mere means.

4.2 Kant and the Humanity Thesis

The Humanity Thesis is Kant's second formulation of the categorical imperative, and it indicates how human beings should treat each other because of their rational nature⁵⁸. Whenever we want to perform any action whatsoever, like going to the library, attending a conference, cooking dinner, inviting friends for a cocktail, we believe that these actions are good in themselves or aimed at furthering some other ends. In other words, whenever we perform actions, we set ends for such actions. Kant believes certain ends like those outlined above are subjective because not all human beings share them. The point is that "the ends that a rational being proposes at his discretion as effects of his actions (material ends) are all only relative; for only their mere relation to a specially constituted faculty of desire on the part of the subject gives them their worth" (Kant 1997, 36).

⁵⁸ To have a rational nature is different from being instrumentally rational. A rational nature is "a nature defined by and endowed with intelligence and will" (Emery 2011). Instrumental rationality implies the application of our reason to practical use – solving problems or making a moral decision. Children may not be able to express their rationality given some physiological and psychological inhibitions, yet, they possess a rational nature. As they grow, these inhibitions are overcome. For those with severe neurological disabilities, they remain perpetually inhibited, in other words, their rational capacity remains dormant.

From the preceding point, Kant shows that the objects we employ to serve our ends derive their value only to the extent they satisfy our needs, inclination, or interests. Their values are only relative to our needs and desires and not intrinsic or absolute. So, the ends we set for ourselves based on our needs and interests only stimulate a "... a subjective principle of human actions" (Kant 1997, 37). The objective end, which grounds the moral law, is only found in human beings because, in the same way, my existence is grounded in rationality, so also it is for all other human beings. Since these other rational beings are not objects, which I employ to attain my personal inclination, it becomes imperative not to treat them as such. For this reason, Kant notes that we should so act that we neither use our *humanity* or the *humanity* of others as mere means but always as an end (Kant 1997, 38).

What does Kant mean by 'humanity'? According to Christine Korsgaard, "Kant takes the characteristic feature of humanity, or rational nature, to be the capacity for setting an end" (Korsgaard 1996, 110). Kant notes that "the capacity to set oneself an end — any end whatsoever — is what characterizes humanity (as distinguished from animality)" (Kant 1991, 195). Animality is a feature we share with non-human animals. What makes us uniquely human beings is our humanity. It grounds us the capacity to choose a course of action through practical reason based on certain rules. These rules (maxims) connect our actions to the motives or the basis for such actions. But in our animality, we act on the grounds of instinct or inclinations.

The capacity to set ends involves those ends that aim to satisfy material needs or intellectual enlightenment and the capacity to act in a morally acceptable way (Sensen 2011, 128). Humanity, as construed here, implies the capacity to act freely. To be free is to act in accordance with the moral law. In his *Lectures on Ethics*, Kant contends that to be a free agent is to act in accordance with the moral law based on rules or maxims. But to act based on inclination is to act against the essential *end* of humanity (Kant 1963, 122-123). The essential ends of humanity are two: One is about *perfection* – a duty we owe ourselves – "The first principle of duty to oneself lies in the dictum – 'live in conformity with nature (*naturae convenienter vive*)', that is, preserve yourself in the perfection of your nature; the

second, in the saying – ‘make yourself more perfect than mere nature has made you (*perficite te ut finem, perficite te ut medium*)’ (Kant 1991, 216). The other end is *happiness*, that is the duty we owe others. “To be beneficent, that is, to promote according to one's means [*Vermögen*] the happiness of others in need, without hoping for something in return, is everybody's duty” (Kant 1991, 247).

These distinct ends - perfection and beneficence, need no further explanations except that our nature of humanity is basically to pursue two ends, attain perfection by acting according to the moral law, and be beneficent towards others. Kant also notes that “...the prior condition of our duty towards others is our duty to ourselves; we can fulfil the former only insofar as we first fulfil the latter” (Kant 1963, 118). Our duty towards ourselves is to be perfect. The only way to attain perfection is to act in goodwill towards people, to be benevolent towards others. Kant also adds that to express goodwill towards others is to act justly towards them, and to act justly towards others is to respect their rights (Kant 1963, 192-194).

Humanity does not *only* imply the capacity to set ends. In fact, Kant believes that the capacity to set ends is only extrinsically valuable to human beings. Kant views humanity (which is synonymous with our personhood (*homo noumenon*) or *inner freedom*) as the rational and autonomous nature of all human beings. It is also an *end-in-itself*. The end implied here is not dependent on or affected by something but exists independently (Kant 1997, 44). The idea of humanity as construed here is distinct from our human nature as experiential beings (*homo phenomenon*)⁵⁹ influenced by the laws of nature.

Moreover, humanity is an essential independent quality that defines our personality as moral agents. This essential independent quality, according to Kant, is the object of respect, which all moral agents demand from others, and which they also ought not to disregard (Kant 1991, 230). To disrespect or degrade oneself is to lose one's moral self-esteem and consciousness of moral predisposition by being servile or subservient to others or our inclinations and ambitions. The idea

⁵⁹ This phenomenon-noumenon distinction could also be likened to the distinction between the rational-higher self and the instinctual-lower self. When we act according to our humanity, we act based on our rational-higher self but when we act on the basis of inclination, we act on the basis of our instinctual-lower self.

of disregard does not imply loss of humanity or one's dignity but allowing oneself to be treated as a thing. When we disregard the humanity of others, we seem to assume that they are not deserving of any moral self-esteem and, thus, are subservient to our interests and inclinations. The way we treat ourselves, according to Kant, depends on whether we value ourselves or others as sensible beings (in terms of our *homo animalis*) or as intelligible beings (in terms of our rational and moral predispositions) (Kant 1991, 229).

4.2.1. The Humanity Thesis: Dignity Versus Things

In the previous section, we explored the notion of *humanity*. We noted that humanity connotes two fundamental ideas: Moral agents' capacity to set ends. It is also an essential independent quality that defines our humanness and is at the same time the object of respect because it is an end-in-itself. Suppose we ask why human beings cannot be likened to objects, just like technology, a hammer or a car, which we use to achieve some ends. A Kantian response is that human beings are distinct from things because they are persons and rational nature⁶⁰.

Human beings possess absolute moral worth or dignity and are ends in themselves. "These, ... are not merely subjective ends, the existence of which as an effect of our action has worth for us, but rather objective ends, that is, ... the existence of which is in itself an end, and indeed one such that no other end, to which they would serve merely as means, can be put in its place ... (Kant 1997, 37). Other beings that exist in nature but do not possess reason (plants and animals) are classified as things. In his *Metaphysics of Morals*, Kant defined a thing (*res corporalis*) as "... that to which nothing can be imputed. Any object of free choice which itself lacks freedom" (Kant 1991, 50). The values they possess are only limited to their usefulness because they are mere means to the ends or goals of humanity, and *they serve the purpose for which human beings demand of them*.

⁶⁰ It is important to distinguish between reason and being instrumentally rational. While the former suggests a capacity, which may or may not be applied practically, the latter implies the practical application of our rational capacity. For instance, engaging in a rational reflection to choose whether to perform an act or not, to forgive or not, to consent or not. All these are instances of practical application of our rational capacity. The non-expression of rational capacity, however, does not suggest that one lacks it. Rather, it is inhibited, and as such, passive.

Human beings possess inviolable dignity, so they are morally obliged to respect and protect both their dignity and the dignity of other human beings. While we have a strong inclination to pursue our happiness (and this is permissible), we are also under a duty to promote and protect the ends of others. Kant contends that we owe ourselves and others moral duties. For example, “as regards the concept of necessary duty to oneself, someone who has suicide in mind will ask himself whether his action can be consistent with the idea of humanity as an end in itself” (Kant 1997, 38). To harm oneself is to reduce oneself to a thing, that is, a mere means to an end. Since human beings are not objects that could be merely used to satisfy a purpose, they must, in all their actions, be regarded as an end-in-itself.

On the concept of ‘necessary duty to others’, Kant argues that because we owe ourselves the duty to treat ourselves as ends, we owe others the same necessary duty of treating them as ends. To treat them as ends implies respecting them because they are human beings. Some libertarians believe that Kant’s idea of treating persons as ends implies respecting an agent’s right to self-determination. Gunnar Beck, for instance, argues that human beings are autonomous only when they choose to act freely. In choosing, they must not be constrained by anyone. They should be allowed to decide whether to act morally or not (Beck 2006, 386). This same idea of treating persons as an end is implied in some ethics guidelines for human research. A patient or a research participant is entitled to decide how to be treated or enrol in a study without interference (Belmont Report 1979; Nuremberg Code, 1947).

Although treating others as ends seems to imply allowing them to choose what they want in the sense of non-interference (that is, a kind of hand-off attitude), there are two significant ways a person can be treated in a deeper Kantian interpretation as an end. The first aspect is that we should act in a way that helps others further their ends. To help a person to further their ends may mean that our actions should be such that they promote the interests and well-being of others. This point is essential because Kant emphasises that “the ends of any person, who is an end in himself, must as far as possible also be my end, if that representation of an end in itself is to have its full effect on me” (Kant 1997, 39). According to Hill, to further a person’s end or to share the end of a person might

involve “removing obstacles, providing opportunities, and all manner of "positive" activity distinct from a passive "hands-off" attitude” (Hill 1980, 97).

Secondly, treating others as end-in-themselves implies we should neither deceive, manipulate nor coerce others into doing what ordinarily they would not want to do. According to Kant,

He who has it in mind to make a false promise to others sees at once that he wants to use another human being merely as a means, without the other at the same time containing in himself the end. For, he whom I want to use for my purposes by such a promise cannot possibly agree to my way of behaving toward him, and so himself contains the end of this action (Kant 1997, 38).

To make a false promise or to make false claims just for the sake of furthering our end in you using that person merely as mere to our subjective end. So, a politician who decides to make false campaign promises to win an election is merely using the vulnerable populace as mere means to his selfish ends. Similarly, a researcher treats a patient as mere means by giving them some false information about a study to mislead them to enrol in the study to advance some scientific knowledge. Some Kantian scholars offer further insights into Kant’s notion of mere means. For this thesis, I will explore O’Neill’s view.

4.3 O’Neill and the Mere Means Principle (MPP)

I explored Kant’s idea of humanity and why human beings should be respected in the previous section. The central view of Kant is that humanity is the essence of all human beings. By virtue of the humanity in their person, every human being is an end in themselves and is unconditionally and intrinsically valuable. This essential quality confers them the innate right to be respected and not be used merely as a means by others.

Kant’s injunction that we should not treat anyone as mere means has remained one of the most influential views in the history of ethics. For instance, Kleingeld observes that the fundamental implication of the principle of mere means is that “there is an absolute moral limit to what we may do to one another (and to ourselves) in the service of our ends, no matter how desirable or important those ends may be.” Moreover, “the prohibition is regarded as clearly applicable in

paradigmatic cases such as enslavement or the secret subjection of individuals to dangerous medical experiments” (Kleingeld 2020, 389). So, while some philosophers are attracted to Kant’s idea of mere means as a valid moral constraint, others think that the principle is problematic and is broadly considered incapable of supplying concrete ethical direction. For instance, Kerstein contends that “we can imagine an extreme scenario in which treating them in this way will not seem to us to be wrong” (Kerstein 2009, 163). To address the conceptual misgivings about Kant’s idea of mere means, Onora O’Neill offers an interpretation of mere means based on her possible consent account. She thinks her account specifies the condition under which a person could be morally guilty of treating another merely as a mean.

I. O’Neill’s Possible Consent Account

O’Neill contends that “to use someone as a mere means is to involve them in a scheme of action *to which they could not in principle consent*” (O’Neill 1980, 547). Note that Kant does not think that there is anything wrong in using someone as means to attain some end. “It is true that a person can serve as a means for others (e.g. by his work) but only in a way whereby he does not cease to be a person and an end” (Kant 1965, 120). O’Neill also appeals to this intuition. She contends that evidently, we have to use people as means in any cooperative scheme of action (O’Neill 1980, 547). For example, a customer uses the taxi driver as means to arrive at their destination, and the taxi driver uses the customer as means to make some money. *Though the taxi driver and the customer use each other as means, they do not use or treat each other as mere means.* In other words, each transacting party consents to their part in the transaction. They assume that the other has maxims of their own and is not just a thing or a prop to be manipulated” (O’Neill 1980, 547).

So, O’Neill contends that two ways someone may not possibly consent in principle are through deception and coercion. The false promisor example shows how a person can be treated or used as a mere means through deception. The false promisor case is morally objectionable because the promisor takes a loan from the promisee through deception. By deceiving the promisee, “he or she can’t in principle consent to his or her part in the proposed scheme of action. The person

who is deceived is, as it were, a prop or a tool – a mere means – in the false promisor’s scheme” (O’Neill 1980, 547). Similarly, the only way the driver would be culpable of treating his customer as a mere means is if he acts in such a way that makes it impossible for the customer to consent by lying to the customer of imminent danger to manipulate the customer to use the taxi to more than the usual taxi fare. By making a false claim about a non-existent threat to defraud the customer, the driver acts in a way that makes it impossible for the customer to consent in principle to the transaction and treats her as a mere means. The act of coercion also works like deception. According to O’Neill, “with a maxim of coercion: victims cannot agree with a coercer’s fundamental principle or maxim (which denies them the choice between consent and dissent)” (O’Neill 1985, 262).

It is important to note that although the idea of consent is fundamental to O’Neill’s account of mere means, she does not claim that in treating a person as mere means, the wronged victim cannot make an actual consent. Actual consent, according to her, usually reflects a person’s wants or preferences (O’Neill 1985, 260). For instance, in the vicious robber example, the vicious robber proposes (through threat) to the house owner to either allow him to have access to the safe or be killed. So, such a proposal made under threat allows the house owner to choose between allowing the robber to access her safe or being killed. Although the house owner makes an actual consent by allowing the robber to have access to her safe, it does not mean that the consent she has made is *genuine or morally significant*. Consent made under such a threatening condition is merely spurious.

A genuine or morally significant consent, according to O’Neill, is a consent that originates from an agent’s free will without the interference of a third party’s desires or preferences: “*if another’s consent is to be morally significant, it must indeed be his or her consent*” (O’Neill 1985, 259). This consent is possible in principle. So, when we coerce or deceive an agent, we rule out their dissent and their genuine or possible consent. By doing so, we treat the agent as mere means or tool in our schemes (O’Neill 1985, 259). In other words, for us to genuinely consent or offer consent that is in principle possible, the interaction will be such that “*we can refuse the opportunities, offers, or activities that do not suit us*” (O’Neill 1985, 260, emphasis added).

II. Evaluating O'Neill's Possible Consent Account

Samuel Kerstein raises some key criticisms against O'Neill's possible consent account of mere means. For instance, Kerstein contends that O'Neill's account implies that if A does not genuinely or possibly consent in principle to B's action, A cannot share in B's end in treating them that way. He thinks that this is a serious problem to O'Neill's account. According to him, "if your spouse deceives you so that your birthday party will be a surprise, then the nature of her action (deception) renders you unable to avert or modify it. But you might be able to share your spouse's end in throwing the party, namely that of your enjoying your birthday" (Kerstein 2009, 173-174). Kerstein contends that O'Neill's account delivers the implausible conclusion that your spouse treats you as mere means and that her action is morally impermissible.

However, O'Neill's account does not yield the conclusion attributed to it by Kerstein since the alleged example of a deceptive spouse illustrated above seems trivial and innocent. And as Papadaki notes, it is unusual that anyone "would want to admit that there might be Kantian reasons against surprise parties, after all" (Papadaki 2016, 84). But beyond the example being trivial, O'Neill precludes deception in cases of jokes and surprises that expresses friendship. Specifically, O'Neill notes that "A's claim to be acting out of friendship rather than disrespect in throwing a surprise party would be rebutted if the party would be thrown even when friendship would require other implementations (the friend is exhausted or ill or bereaved or shy)" (O'Neill 1985, 271 footnotes). If my spouse, for instance, refuses to disclose some information out of friendship to treat me to a surprise birthday party, I cannot claim that my spouse deceived me and treats me as mere means. She can only treat me as mere means if her intention of surprising me is to disrespect or humiliate me.

So, it is not sufficient to claim, as Kerstein does, that the reason why my "deceptive" spouse may not be accused of treating me as mere means is that I also share in her end, which is enjoying my birthday. Like O'Neill notes, if my spouse gives me a surprise party out of friendship and not out of fraud or disrespect, then her action does not constitute deception in the first place. In fact, O'Neill stresses that an action can be morally impermissible even though a person shares the end

of such an action. Papadaki's version of lying promise is very instructive to explain the above point.

Suppose that the borrower (B) makes a lying promise to a lender (L) to get L to lend him some money, which B needs to afford an operation that would save his child's life. Let us further assume that B prefers not to explain to L why he needs the loan. B might excuse his lying to L in thinking that L would share his ultimate end of using L's money to save his child (Papadaki 2016, 84).

And as Papadaki rightly notes, even if L eventually shares B's end, "it does not mean that B did not treat L merely as a means in making the deceitful promise in the first place" (Papadaki 2016, 84). So, a person who acts on the maxim of coercion or deceptive, for instance, "treats another as mere means and not as a person, *even if the victim becomes so involved in the initiator's action that we judge that he or she has become a collaborator or accessory*" (O'Neill 1985, 263, emphasis added).

So, to what extent does O'Neill's possible consent account of mere means explain what a Kantian account of exploitation should look like? Also, how does the account bears on morally problematic and exploitative medical research like the Lilly, AstraZeneca and the Tenofovir clinical studies? O'Neill's key argument is that we treat a person as a mere means if we act on maxims that make it impossible to consent or dissent in principle. And to be able to consent or dissent in principle, an agent must be able to refuse any proposal or opportunities that do not suit them or serve their interests. To develop an account of exploitation from the above claim, we can say that A exploits B if in pursuit of some ends or schemes, A acts in such a way that B is not able to consent, avert or modify in principle, A's action, and B is not able to refuse or dissent to the opportunities that A offers.

To simplify the above, we could claim that a person exploits another if the exploiter acts so that the exploited person cannot give genuine consent. As I noted earlier, O'Neill claims that a person expresses genuine consent if they can possibly consent or refuse what is proposed. For example, O'Neill notes that a person may consent to be enrolled in a clinical study that drags on longer than expected. The research participant could be inconvenienced, but it does not imply that they are misled in a morally problematic way. "My consent will have been spurious, and I

will not have been treated as a person, but indeed used, if I consented to a seriously misleading account of the experiment and its risks” (O’Neill 1985, 258). This O’Neillian view applies to morally wrong medical research cases like the Pfizer, Synflorix or Tuskegee Syphilis experiments. For instance, in the Pfizer case, the parents of the meningitis children consented to a deceptive experiment. So, their consent was spurious and not morally significant because they lacked a fundamental understanding of the study’s purpose, methods and procedures, and other essential details (CIOMS 2016, 103-105). They could not refuse their children to participate in the experiment because the researchers made them believe that their children were receiving meningitis treatment. So, based on O’Neill’s account, the researchers exploited the children and their parents by treating them merely as means to some scientific schemes.

However, applying O’Neill’s account to explain why some medical research cases like the Lilly, AstraZeneca or Tenofovir clinical studies are morally objectionable and exploitative seems problematic. In these cases, the participants agreed voluntarily to enrol in the study without being coerced or deceived by the researchers. It is the same in the case of the Lecherous Millionaire. The woman with a dying child voluntarily agreed to be the lecherous millionaire’s mistress without being coerced or deceived by the Millionaire. In what follows, I will discuss O’Neill’s account of coercive offer to ascertain whether her account offers a plausible explanation of why the Lilly clinical trial and the Lecherous Millionaire, etc., are morally objectionable and exploitative.

III. O’Neill’s Account of Coercive Offer

Some theorists think that the Lecherous Millionaire case is morally problematic and exploitative because it involves a coercive offer (Feinberg 1989; McGregor 2005). As I noted in chapter one, Feinberg contends that the Millionaire’s proposal to the woman does not involve any threat of harm. Yet, he claims that the interaction is coercive because it rearranges the woman’s options in such a way that she ‘*has no choice*’ but to comply by agreeing to be his mistress or else suffer an unacceptable consequence of seeing her child die due to lack of money for surgery (Feinberg 1989, 231).

In her paper titled “What are the offers you can’t refuse?”, O’Neill seeks to address these issues and offers some argument to explain why certain offers may be coercive and why consent made under the influence of such offers are merely spurious. To do this, O’Neill sought a definition of what coercion is. One idea of coercion is that “coercers alter others’ preferences by playing on their desires and beliefs so that options they would otherwise view as less preferred come to be preferred” (O’Neill 2000, 88). But she thinks that the idea of coercion based on preference alteration is inadequate because it seems to suggest that whatever proposal that alters a person’s preferences is coercive. O’Neill explains this with an example:

If a shopkeeper offers a special price, some customers will find that they now prefer to make purchases they would not otherwise have made, given their desires and beliefs. If a bus company raises ticket prices during the rush hour, some travellers will prefer to wait to get the cheaper tickets (O’Neill 2000, 88).

It is implausible for someone to claim that customers who buy things based on incentives and travellers who change their travel routine because of a hike in price are coerced. Of course, as O’Neill claims, “the threats coercers use do indeed alter their victims’ preferences, but not every action that changes others’ preferences coerces” (O’Neill 2000, 88). In her alternative account of coercion, O’Neill contends that “coercion *operates on the will*, it has *propositional content*, it thereby *makes agents complicit in a way in which brute violence does not*” (O’Neill 2000, 89). What does it mean for a coercer to operate on the will of their victim? It means that the coercer imposes an option that they believe their victim would not otherwise choose to secure compliance (O’Neill 2000, 89). For example, in the vicious robber example, the robber forces the house owner to choose between disclosing his safe code or getting killed. Without the option of being killed, the robber knows that the house owner will not comply with the option of disclosing the code of her safe. But by applying threats, the coercer aims to secure compliance from the house owner to accept the option they would originally not choose.

O'Neill contends that the above definition applies to coercive offers (as well as coercive cases involving threats).⁶¹ A coercive offer, according to her, is an *unrefusable offer* that consists of an option the victim would not otherwise choose, which is imposed on a victim by a coercer to secure compliance (O'Neill 2000, 89). In coercive offers, the intent of the coercer is not simply to make the compliant option preferable but instead, they seek to make the residual non-compliant option(s) untenable for the victim by linking it to injury, which they believe the victim cannot live with (O'Neill 2000, 90). O'Neill thinks that Don Corleone in Mario Puzo's novel, *The Godfather*, is a paradigm example of a coercer who makes an unrefusable offer. For instance, to get back Johnny Fontane's role as a lead actor, Don Corleone promised to make Jack Woltz (Fontane's former boss) an offer he cannot refuse (Puzo 1922, 38). Based on O'Neill's account, Don Corleone's offer is coercive because he made the residual non-compliant option of Mr Woltz (the option of denying Fontane his movie role) untenable by linking it to injury (that is, by putting the severed head of Khartoum (Woltz's horse) under the sheets of Woltz's bed) as a warning that a similar thing may happen to him if he refuses to reinstate Fontane (Puzo 1922, 68-70; O'Neill 2000, 83).

O'Neill's account of coercive offer is not sufficient to explain why the Lecherous Millionaire or the Lilly clinical trial is morally objectionable and exploitative. The reason is that the offers made in these cases were not coercive. Unlike the case of the godfather, these cases did not involve any threat of harm, nor did the exploiters contribute to the vulnerable situation of the exploited victims. So, to explain why the Lilly clinical trial and the Lecherous Millionaire case, for instance, are paradigmatically exploitative and morally objectionable, we cannot appeal to the idea of coercive offer.

However, some elements O'Neill highlighted in her account of coercive offer are helpful to deepen our understanding of what happens in an exploitative exchange. For instance, one of the things an exploiter does to an exploited victim is to prey on their will, that is, to make them act in specific ways to secure compliance. Of

⁶¹ Note that O'Neill does not think it is necessary to distinguish between coercive offers and coercive threat. She thinks that it is a fruitless task to do so. Through threat or offer, the key intent of the coercer is to prey on the will of the coerced to secure compliance by making the coerced's preferred option less desirable (Cf. O'Neill 2000, 83-85)..

course, some of the strategies may involve coercion or deception. Still, for some cases like the Lecherous Millionaire or the Lilly clinical trial, the exploiter appeals to the victim's needs and self-interests by making unrefusal offers as a way to secure compliance – "I will provide the money you need to take your child to the hospital. I will also take care of other miscellaneous expenses. But what you need to do to get what you want is to become my mistress." In this statement, the Millionaire does not threaten to harm the woman if she refuses to become his mistress, and he does not also deceive the woman with some makeup stories. However, he cashes in on the woman's situation and uses it to make an offer, which he knows the woman cannot refuse, considering her desperation to save her child.

Furthermore, her idea of complicity is very instructive. It suggests that in most morally objectionable and exploitative exchanges, exploiters make their victims complicit in the wrong done to them. But the fact that the victims are complicit does not imply that they are morally culpable. This O'Neillian idea of complicity is also helpful to explain why someone who enters a servile relationship with their exploiter cannot be blamed for wrongdoing. Before discussing how some of the elements O'Neill highlighted could help develop our Kantian servility account of exploitation, it is essential to explore Allen Wood's account. This step is essential because his account appeals to the idea of taking advantage of the victim's vulnerability, which is also crucial for our account of exploitation. So, let us now examine Wood's account in detail.

4.4 Wood and the Moral Problem of Exploitation

In the introductory section of this chapter, I noted that Zwolinski, Snyder and Wertheimer's exploitation accounts are inadequate to explain why some morally problematic interactions like the Lecherous Millionaire, Uncompassionate Rescuer, or the Lilly case are exploitative. These cases are exploitative because the exploiters took advantage of the vulnerability of the exploitees and treated them as mere means or mere opportunities to further their ends or benefits. However, the exploitees received their deserved benefits, were not harmed, and gave free, informed consent to the exploitative interaction. Given the inadequacies of the transactional accounts of exploitation, there is a need for a Kantian approach to

examine why the cases mentioned above are exploitative and morally wrong. As a starting point, I examined O'Neill's Kantian account of mere means.

For O'Neill, a person is treated as mere means when they cannot consent to the interaction through coercion or deception. This narrow interpretation of mere means is inadequate for a Kantian account of exploitation. Some medical research cases like the Lilly clinical trial and some non-medical research cases like the Lecherous Millionaire show that exploitees can freely assent or possibly consent to exploitative interactions and even contribute to the ends of their exploiters. I also examined O'Neill's idea of coercive offer. I noted that the idea of coercive offer does not apply to the above cases because *the exploiters' offers were not backed up by threat*, unlike The Godfather case; *neither did the exploiters contribute to the exploitees' vulnerable situation as grounds to make their offers*. However, O'Neill did mention that when a person makes a coercive offer or proposal, the coercer operates on the will of the coerced agent by proposing an option the coerced victim cannot refuse, thereby making them complicit to the coercer's compliant option. I will discuss the relevance of the concept of complicity for our Kantian servility account of exploitation.

I now turn to Allen Wood's Vulnerability account of exploitation based on his four seminal papers, namely, "Exploitation" (1995); "Coercion, Manipulation and Exploitation" (2014); "Unjust Exploitation" (2016); "Marx and Kant on Capitalist Exploitation" (2017). I show how Wood's account attempts to address some of the problems facing Zwolinski, Snyder and Wertheimer's transactional accounts of exploitation and the Kantian view of O'Neill. Unlike the transactional accounts, Wood contends that exploitation is not essentially wrong. He focuses on the ideas of degradation and taking advantage of a person's vulnerability for some ends to explain when exploitation can be morally objectionable. Moreover, his account shows that involuntariness, unfair distribution of benefits and exposure to unjustifiable harm are neither necessary nor sufficient to explain why exploitative interactions like the Lilly clinical trial or Lecherous Millionaire are morally objectionable. However, Wood's vulnerability account still faces serious problems. Before I examine the problems, it is essential to discuss the account in detail.

4.4.1 Exploitation as Taking Advantage of Vulnerability

Wood's account of exploitation begins with a generic description of exploitation. The verb form of exploitation, 'to exploit,' is synonymous with the verb, to use. In this rudimentary sense, exploitation means the act of using something (non-human entities, opportunities, situations, or fact) or someone to achieve certain ends (Wood 1995, 141). But certain kinds of 'use' do not connote exploitation. For instance, we do not exploit a stream when drinking from it. But the stream is exploited when we build a mill on it. So, Wood thinks that the fundamental idea of exploitation as it applies to persons, things or opportunities is that the exploiter *takes advantage of what is being exploited, incorporates them into her plans or project, and ensures that they are under her control* (Wood 1995, 141-142).

Wood contends that an exploitative interaction can be morally objectionable or innocent, neutral or positive. Exploitation is morally objectionable when the exploiter degrades or violates proper respect for the exploitee by taking advantage of their vulnerability and treating it as an opportunity to advance the exploiter's interest or ends (Wood 1995, 150). There are two essential elements in Wood's definition of morally objectionable exploitation. "There is (a) the vulnerability of the exploited of which the exploiter makes use in gaining control; and there is (b) the capacity or other features of which the exploiter makes use through exercising this control over the exploited" (Wood 2014, 296). Wood refers to (a) as advantage-exploitation or a-exploitation and (b) as benefit-exploitation or b-exploitation.

According to Wood, to b-exploit, "we exploit some attribute of the person from which we derive benefit or use to achieve our end.... [To a-exploit] we exploit someone's weakness or vulnerability, which gives us a hold or advantage over the person and puts at our disposal the attribute which we b-exploit" (Wood 1995, 142). For example, Wood thinks that the case of a charming spy who takes advantage of a government official's need for affection to obtain a state secret is morally objectionable because "the spy a-exploits the victim's need for affection (regarded as a vulnerability) and b-exploits the victim's official position or access to state secrets (regarded as an attribute from which the spy may reap some benefit)" (Wood 1995, 142). In other words, the spy treats the government official's vulnerability (need for affection) as an opportunity to further their end (to obtain

state secrets). Surrogacy, blackmail, and all forms of wrongful gain fall under this type of exploitation (Wood 1995, 146, 150).

Wood notes that exploitation is innocent or morally neutral if what a person takes advantage of is *merely* the other person's weakness or attribute but not "a sufficiently wide range of what the person does or is", which may constitute humiliation or degradation (Wood 1995, 146). There is nothing wrong or unethical when a player exploits the weakness of their opponent's defence to win a game or when a lawyer exploits their opponent's weak arguments to win a case. In fact, as Wood notes, "we may even compliment a lawyer for exploiting the weaknesses in her adversary's case to win a just verdict or congratulate a resourceful person for exploiting her opportunities to the full" (Wood 1995, 138, 152). Innocent exploitation also applies to the use of another person's talent for some ends, as in a case "when a manager exploits the base-stealing ability of his leadoff man to grab a quick first-inning lead" (Wood 1995, 145). We can also talk about innocent exploitation when you use our talent to advance our ends. For instance, I can exploit my writing skills to produce a best-selling book. Wood notes that "exploiting our own talents can be like exploiting natural resources, where the place of vulnerability is supplied by our having control over what we b-exploit or deploying it as part of some plan of ours" (Wood 1995, 145). But there is no wrongdoing in exploiting or taking control of one's talent to advance their ends or best interests.

Wood's distinction between morally objectionable and innocent or morally neutral exploitation is vital because it shows that exploitation is not essentially wrong. This point distinguishes Wood's account from Zwolinski, Snyder and Wertheimer's accounts because they appeal to a moralized idea of exploitation - that is, the idea that exploitation is conceptually a wrongful act. Zwolinski, for instance, claims that "the concept of exploitation is best understood in terms of actual or threatened rights-violation" (Zwolinski 2007, 711). In other words, to exploit a person is to violate their rights. Wertheimer thinks of exploitation in terms of unfairness (Wertheimer 2010, 207-212). Snyder views exploitation "as a failure of a duty of beneficence" (Snyder 2013, 351). Wood thinks it is morally vacuous to invoke "a contentful moral belief to the effect that exploitativeness is a substantively wrong-making feature of acts" (Wood 1995, 140). As shown in some

of the examples above, we can exploit our talent, a person's attribute or skill, some natural resources, or even a person's weakness for our gains or to advance our project without being guilty of any wrongdoing.

I have noted that the transactional accounts of Wertheimer, Zwolinski and Snyder are problematic. By restricting exploitation to unfair distribution of benefits, Wertheimer fails to account for exploitation cases in interpersonal relationships like marriages or friendships. Zwolinski limits exploitation to rights violation and involuntariness. He fails to consider cases of voluntary exploitation like the Lilly clinical trial or the Lecherous Millionaire case. Snyder, on his part, claims that a person is exploited when the exploiter fails to meet the exploitee's basic need to enable them to live a minimally flourishing life. But the Lilly clinical trial shows that a person can be exploited even though their basic needs are adequately met. Wood avoids the challenges facing Wertheimer, Zwolinski and Snyder's transactional accounts and attempts to address them by taking a broader scope of morally objectionable exploitation. He maintains that the central issue of morally objectionable exploitation is that an exploiter degrades the exploitee by taking advantage of their vulnerability and treats it as an opportunity to further their end. This broad view of exploitation applies to cases involving unfairness, involuntariness, violation of rights, unjustifiable harm, and those lacking these elements (Wood 1995, 154; 2016, 96).

Some examples are helpful to illustrate Wood's point on why unfairness, involuntariness, etc., are neither necessary nor sufficient for morally objectionable exploitation. A blackmailer who threatens to divulge the secret affairs of a cheating husband to his wife unless he pays some money exploits the cheating husband. This type of exploitation does not involve any unfairness. Moreover, as Wood notes, "those who are exploited tend to benefit more from being exploited than their exploiters do from exploiting them" (Wood 2016, 101). In the blackmailer's case, the blackmailer gains only the amount the cheating husband offers them. But the cheating husband gains more in the exploitative interaction because the non-disclosure of his secret affairs will save his marriage and possibly his job (if his action violates the code of ethics of his workplace). Also, "someone who is propertyless and starving has a lot to gain by striking a deal with an employer who

is willing to offer bare subsistence in exchange for long, hard labour under dangerous conditions" (Wood 1995, 149). A starving person has a lot to lose if they fail to enter the exploitative bargain with the employer.

However, as we have already shown in this thesis, it is not always the case that those who are exploited "typically benefit more from the exploitation", as Wood seems to claim (Wood 1995, 148; 2016, 101). The Pfizer, Tuskegee Syphilis, and Synflorix clinical studies show that exploitees do suffer from the act of exploitation. As I explained in Chapter One, some participants died while others were incapacitated in these medical research cases. In some cases where the exploiter and the exploitee mutually benefit from the exploitative interaction, it is difficult to determine who benefits more than the other. The Lecherous Millionaire case and the Lilly clinical trial apply to this point. The woman, for instance, got the money she needed for her child's surgery to save her from dying, while the Lecherous Millionaire satisfied his lustful desires. But it is difficult to determine whether one benefitted more than the other. Notwithstanding these observations, Wood's view is very instructive. It suggests that "when exploitation is both beneficial and voluntary on the part of the exploitee, it still involves the exploiter's a-exploitation of the exploitee's vulnerability, based on which the exploiter furthers (through b-exploitation) some end of the exploiter's own" (Wood 1995, 151).

As we can deduce from Wood's account, the concepts of vulnerability and degradation are fundamental to his account of morally objectionable exploitation. But are there precise ways to determine when a person is vulnerable to another in a morally objectionable sense? Some proponents of the vulnerability theory of exploitation, like Robert Goodin and Ruth Sample, seem to limit vulnerability to interest and need, respectively. Goodin, for instance, claims that a person is vulnerable to us "if [their] interests are strongly affected by our actions and choices" (Goodin 1987, 187). For instance, I am vulnerable to a gunman who breaks into my house because his choices and actions (the use of threat to compel me to yield to his demands) strongly affect my interests (the desire to keep my life and property). However, as Logar observes, Goodin's idea of vulnerability is vague because "it does not specify whether the relevant interests only apply to essential needs, or also to plain wants and desires" (Logar 2010, 336).

Sample defines vulnerability in terms of needs. According to her, "vulnerability is dependent upon an account of what humans require (or need) for a good or flourishing life" (Sample 2003, 74). Martha Nussbaum had argued that what is required for human flourishing is the ability of persons to be in a position in which they can express their capabilities (Nussbaum 2000, 74-75). Appealing to Nussbaum's capability view, Sample thinks that one of the ways a person exploits and degrades another interacting party is by ignoring the exploitee's capabilities in pursuit of the exploiter's advantage or ends (Sample 2003, 81). Sample, however, contends that a person cannot claim to have been exploited if they voluntarily enter an exchange that meets their basic needs (Sample 2003, 83). But the Lilly clinical trial and the Lecherous Millionaire case show that a person can be exploited even if the interaction adequately meets their basic needs.

Wood is aware of the challenge of reducing vulnerability to needs or interests. He notes that some acts of benevolence are exploitative and constitute moral ambivalence. Benefactors make solidarity with the weak and needy "a far more vital achievement than any positive contribution to their welfare" (Wood 1995, 153). So, he thinks that we may not be able to say in precise terms what exact conditions would make us say that an individual is vulnerable to another. In most cases, being vulnerable suggests a lack of capacity to refuse (Wood 2014, 297). For example, a victim of blackmail is vulnerable to her blackmailer because it is difficult for the victim to refuse their blackmailer's proposal. Wood, however, suggests that a person is vulnerable to another if they are in a situation that "makes them more eager to be exploited" (Wood 2014, 297). Note that it is not the case that all exploitees are always eager to be exploited. A rape victim does not express any willingness to be violated by her aggressor. The court cases that resulted from the Pfizer experiment does not suggest that the parents of the victims of the dangerous experiment were eager for their children to be exploited. It is only in cases of voluntary exploitation like the Lilly clinical trial or the Lecherous Millionaire that exploitees are eager to be exploited.

The significance of Wood's appeal to the idea of vulnerability is that he identifies a key feature that underlies all exploitation cases. The key feature is that all exploitees are *always* in a weak bargaining position such that they cannot refuse

their exploiter's offer or proposition (Wood 1995, 155). O'Neill, for instance, limits the idea of an unrefusable offer to cases of coercive interactions, for example, the Godfather case (O'Neill 2000, 90). But Wood's vulnerability account suggests that the idea of unrefusable offer or proposition incorporates non-coercive interactions. To illustrate this point, consider someone sick and desperately needs some medication. Wood notes that "the person is clearly vulnerable to a price-gouger who provides medication at a wildly inflated cost" (Wood 2014, 297). The patient is vulnerable to the price-gouger not because anyone coerces or manipulates them into buying the medication. Instead, their sickly condition puts them in a weak bargaining position. And, they are unable to refuse whatever price that the price-gouger offers for the medication.

Another fundamental feature of Wood's vulnerability account exploitation is the notion of degradation. Wood claims that exploitation degrades the exploitee – "It is degrading to have your weaknesses taken advantage of, and dishonourable to use the weaknesses of others for your ends" (Wood 1995, 151). But how does exploitation degrade an exploitee? Wood identifies two ways in which an exploiter can degrade an exploitee. First, an exploiter can degrade an exploitee by depriving them of their freedom, "*which is fundamental to their human dignity*" through coercion (Wood 2014, 298). Second, a person can be degraded through manipulation. Wood defines manipulation as "a way of interfering with or *usurping someone's free agency that does not limit or destroy free choice* but rather influences it in certain ways that promote the outcome sought by the manipulator" (Wood 2014, 286, emphasis added). Let us briefly examine these aspects of degradation and their roles in Wood's vulnerability account of exploitation.

§ I. Coercion as a Deprivation of Free Agency

Wood's earlier paper suggests that coercion is neither necessary nor sufficient for an account of exploitation. According to him, a person may agree to an exploitative arrangement because they lack an acceptable alternative. However, "it does not follow that the exploiters themselves are coercing the exploited". They are coerced "*only if the exploiters themselves are the ones who put the exploited in their*

*vulnerable situation*⁶²" (Wood 1995, 149, emphasis added). This point explains why I have maintained that the Lecherous Millionaire case and the Lilly clinical trial, for instance, are paradigm examples of voluntary but morally wrong exploitation. They are voluntary because the exploiters neither forced them to enter the interaction nor put them in their vulnerable situation. However, these cases are morally objectionable because the exploiters took advantage of their vulnerable conditions to treat them as mere opportunities to further the exploiters' ends.

However, in his later works, especially in the twelfth chapter of his book titled *Free Development of Each: Studies on Freedom, Right, and Ethics in Classical German Philosophy*, Wood takes a different position regarding the role of coercion in his vulnerability account of exploitation. This new position is fundamental to his account because it explains one of the ways exploitation degrades the exploitee. Wood notes that exploitation degrades the exploitee because it deprives them of their Freedom (Wood 1995, 149). And the only way a person's freedom can be deprived is through coercion because "*coercion is about freedom*" (Wood 2014, 281, emphasis added).

To explain how coercion is linked to freedom and how these two concepts explain the moral objectionability of exploitation, we must first understand what coercion means for Wood. In some philosophical accounts of coercion, it is widely believed that "persons who are coerced into performing specified actions are commonly regarded as not morally responsible for those actions, or at least not fully responsible for those actions" (Arnold 2001, 93). It is also believed that a person cannot be coerced without a coercer (Arnold 2001; Baron 2003; Sachs 2013). Wood offers a more general account of coercion to explain how coercion affects our freedom without going into details about whether a coerced person is morally responsible for their actions. His account also attempts to defend the claim that a

⁶² I agree with Wood's view that an interaction is coercive if the coercer puts the coercee in a vulnerable situation to make them comply to their demands. I also think that threat is an essential condition for a coercive offer or proposition. I argue that although the Lecherous Millionaire case and the Lilly clinical trial are morally objectionable, they are not coercive because the exploiters neither threatened the exploitees to enter the exploitative interaction nor caused them to be in the vulnerable condition. These cases are paradigm examples of voluntary exploitation because the exploitees in both cases voluntarily agreed to the exploitative exchange. *Their vulnerable condition makes it indispensable for them to agree to the exploitative exchange*. Put differently, we can say that the exploitees acted voluntarily because *their vulnerable conditions* and not their exploiters compelled them to enter the exploitative interaction.

person can be coerced without an assignable coercer. "Such issues as responsibility for coerced actions, and who (if anybody) is the agent of coercion, can be considered in this framework, but they turn on matters it does not emphasize" (Wood 2014, 278).

Wood describes coercion as the act of limiting, removing or interfering with an agent's freedom (Wood 2014, 182), where freedom means "*the capacity of a rational human adult to govern his or her life, rather than having it subject to the will of someone else*" (Wood 2014, 174). In other words, when a person is coerced, the coercer removes, limits or interferes with the agent's rational capacity to govern themselves or determine their course of action. But this description does not explain what is wrong with coercion, and it only expresses a general understanding of what makes an action coercive. For instance, Wood thinks that a law against theft is coercive because it prohibits potential thieves or robbers from going away with another's property (for example, your car) since doing otherwise may lead to arrest and prosecution. Also, "if a judge rules in favour of the defendant because he finds that the facts of the case leave him no alternative under the law, then he is forced (or coerced) by the law so to rule" (Wood 2014, 278). These instances of coercion do not involve any wrongdoing because they involve mere interference (Wood 2014, 294). A judge cannot rule in the defendant's favour because the law interferes with their desire to issue partial judgments. In other words, the law coerces or forces the judge to make fair and cogent decisions rather than ruling based on prejudice.

But when is coercion morally objectionable? According to Wood, coercion is morally objectionable when it deprives a person of their freedom as non-domination. Deprivation of freedom as non-domination involves "the removal ...by one person of another person's rational control over their own choices and actions" (Wood 2014, 302) and "substituting your own choices for it" (Wood 2014, 294). It is this type of coercion that applies to exploitation. So, based on Wood's estimation, an exploitative interaction is coercive when an exploitee's rational control over their choices is "*constrained by another's choice*" (Wood 2014, 298, emphasis added).

Wood contends that coercive exploitation operates in two distinct forms. First, it can be *coercer-dependent*. For example, in the Vicious Robber case, the robber exercised a coercive power over the house-owner by depriving them of their freedom of possessing their life and property. Through threat, the robber makes the house owner act on the options that they (the robber) have determined – to disclose the safe's code or be killed. Also, an exploitative employer is guilty of coercion if they compel the workers to do surplus labour by threatening to sack them if they fail to comply. In fact, Wood affirms that the truth about capitalist labour is that "employers, in purchasing the labour of their employees, purchases fundamentally an *authority over workers, the supposed right to exercise coercive power over them, to deprive them of their independence of being constrained by another's choice*" (Wood 2014, 298, emphasis added). So, Wood's view is that in an exploitative interaction that involves an individual coercer, the exploiter takes advantage of the vulnerability of the exploitee and exercises coercive power over them (depriving them of their freedom as non-domination). He does this by using threats (Wood 2017, 649) or putting them in a position where they can be controlled (Wood 2014, 295) to further the exploiter's end or project.

Second, against the claim that there cannot be coercion without a coercer, Wood maintains that "*you can be coerced to do something without there being anyone who coerces you*" (Wood 2014, 283). In the case of exploitative interaction, a person can be coerced to enter an exploitative exchange "for which no assignable person (or persons) is (are) responsible" (Wood 2014, 293). This type of coercion, according to Wood, applies to cases in which circumstances or background social injustices (like poverty, lack of affordable medical care) compel a person to enter exchanges they would not usually consent to if they were better off.

This second sense of coercion is complicated because Wood describes it in a way that absolves exploiters of wrongdoing. Note that in Wood's earlier paper (1995), an individual who takes advantage of the vulnerable situation of another person and treats it as an opportunity to further their end is guilty of wrongdoing even though the exploitee voluntarily agrees to the exploitative interaction as a result of their background condition. They are guilty of wrongdoing because "it is degrading to have your weaknesses taken advantage of, and dishonourable to use

the weaknesses of others for your ends" (Wood 1995, 151). However, Wood takes a different position contrary to what he earlier affirmed by claiming that there can be coercion without an individual coercer.

According to Wood, "persons can be deprived of rightful freedom because *the social system— not any assignable person—deprives them of the conditions of free life and puts them in a position where the will of others constrains their actions*" (Wood 2016, 103, emphasis added).⁶³ In cases of capitalist labour, for example, poor economic situation and fear of starvation often compel workers to accept dangerous, low-paying jobs like sweatshop labour and do surplus (uncompensated) labour for fear of being fired. Based on Wood's standard description of wrongful exploitation, this case is an example of exploitative exchange because the employer treats the workers' vulnerability as an opportunity to extract extra benefits. But Wood's position is that in this case, "*the individual exploiter does not wrong the individual who is exploited*" (2016, 102, emphasis added) because the exploitee is not in the position to refuse to be exploited. The exploiter also does not have an acceptable alternative but to exploit. In other words, "the economic system forces both the exploiter and exploited into their roles" (Wood 2017, 651).

This latter Wood's view suggests that exploiters are morally exculpated in cases of voluntary exploitation. Let us illustrate this point with the Lecherous Millionaire case and the Lilly clinical trial. In the first case, the woman voluntarily entered the exploitative interaction with the Millionaire because of her desperation to raise money for her child's surgery. The Millionaire initiated the exploitative interaction because his Lecherous desire constrained him to do so. Suppose we apply Wood's latter view to the Lecherous Millionaire's case. In that case, we will then conclude that the Millionaire is not morally culpable of wrongdoing because circumstances compelled both him and the woman into their roles. A similar thing can be said of

⁶³ Wood introduces the concept of rightful freedom based on Kant's doctrine of right (cf. *Metaphysics of Morals*, C:231-E:233) to explain his idea of unjust exploitation. According to him, Rightful freedom is not just a freedom from domination or coercion by other. It is the freedom protected under the coercive power of the state in accordance with universal law (Wood 2017, 645-647). A person who possesses rightful freedom is someone who earns ownership over the conditions of their productive life, their body, or the power not to be under the condition of servitude or bondage (Wood 2016, 104). So, to deprive a person of their rightful freedom is "to have control over the other and to *deprive them of a free mode of life*" (Cf. Wood 2016, abstract).

the Lilly clinical trial. Assuming we accept Wood's latter position, we may claim that economic conditions forced the homeless alcoholics to accept their role as objects to be used and forced the researchers to use the objects (the homeless alcoholics) to further their scientific ends. And so, there is no wrongdoing on the part of the researchers. But it will be erroneous to draw such a conclusion because, as I have noted severally, the exploiters in both cases are guilty of wrongdoing. After all, they degraded the exploitees *not by coercing them* but by treating them as mere opportunities to further the exploiters' ends.

Moreover, even though Wood claims that a person can be coerced without a coercer, it is crucial to note that in standard Kantian approaches, coercion must be undertaken by a person, not an event or situation (Cf. Hill 1991; O'Neill 2000). Note that there are, of course, such things as forced circumstances and structural violence. But it is essential to bear in mind that when we speak of the act of coercion as it relates to exploitation, the reference is to someone (a coercer) who acts on a maxim⁶⁴. Besides, where circumstances compel or force a person to enter an exploitative interaction, such an exchange cannot pass as coercive. In this context, the idea of force or compulsion is used metaphorically to describe the gravity of our desperate circumstances relative to the exploiter's "promising alternative" – that is, an alternative we will not otherwise choose if we were better off. Before going further to discuss other problems in Wood's vulnerability account of exploitation, it is important to discuss his idea of manipulation and its relationship with his ideas of freedom and exploitation. Also, I will briefly discuss why his exclusion of the Kantian notion of mere means in his vulnerability account of exploitation is problematic. Note that Wood's manipulation account is necessary because I believe the Lecherous Millionaire case and the Lilly, AstraZeneca and the Tenofovir clinical trials involve manipulation somehow.

§ II. Manipulation as the Usurpation or Subversion of Rational Choice

Some philosophers and bioethicists contend that manipulation is essentially morally problematic. Its fundamental problem is its constraining power over an

⁶⁴ I thank my examiners for drawing my attention to this point.

agent's voluntariness or capacity to express their free will (Wertheimer 2012; Nelson et al. 2011; Appelbaum 2009). Others think about manipulation from the point of view of moral responsibility. They claim an agent is not morally responsible for an action they are manipulated to perform (Clarke 2012; Alm 2015). I am not interested in developing an argument for or against the above claims. But a quick point to note is that the concept of manipulation is a morally neutral term because the fact that a person manipulates another person or a thing does not necessarily mean that they are morally culpable. When we say that a mathematician manipulates a number or that the Formula One driver manipulates the car to the delight of his audience, we do not mean that the actions of the individuals, in this case, are morally blameworthy. Also, a religious politician may not be guilty of wrongdoing if he manipulates his conservative religious audience to vote for him by appealing to their preferences, beliefs and values (Gorin 2014, 53).

Wood also takes a morally neutral approach in his discussion of the concept of manipulation. According to him, those who use the concept of manipulation in a moralized sense distort its common usage in specific ways that are misleading since, like coercion, the manipulation applies to behaviours that may not be essentially immoral or wrongful. For example, "a speaker at a public gathering might be admired for skilfully manipulating an obstreperous heckler into sitting down and listening respectfully" (Wood 2014, 276). However, in thinking about manipulation in a morally objectionable way, Wood contends that there is a need to consider it in the context of the manipulated agent's free agency. In this context, therefore, Wood defines manipulation as "a way of interfering with or *usurping someone's free agency that does not limit or destroy free choice* but rather influences it in certain ways that promote the outcome sought by the manipulator" (Wood 2014, 286, emphasis added). The central feature of manipulative behaviour, according to Wood, is that "it influences people's choices in ways that *circumvent or subvert their rational decision-making processes*" without necessarily destroying their capacity to choose (Wood 2014, 289, emphasis added).

In her paper titled "Manipulativeness", Baron identifies three essential techniques used in manipulation. First, a person can manipulate another through *deception*

(e.g. lying, providing false information, withholding information, etc.). Second, manipulation can occur where an individual *uses pressure, which takes the form of a threat or offer*, to obtain compliance. Where it involves threat, Baron notes that manipulation only differs from coercion only the degree of the manipulee's capacity to resist the threat. And, "whereas coercive threat does not leave one a reasonable alternative to doing the coercer's bidding, the manipulative threat does" (Baron 2003, 40-41). Third, manipulation also involves *playing on the manipulee's emotions or character* in a way that weakens their resistance to the manipulator's demands (Baron 2003, 42).

Wood draws on these three kinds of manipulation enunciated by Baron to explain how morally objectionable manipulation relates to exploitation. He notes that "exploiters sometimes do deceive, exert pressure that subverts the rational choices of their victims or play on weaknesses of character" (Wood 2014, 301). For instance, an exploiter can take advantage of the vulnerable situation of an exploitee by feeding them with false information "on the basis of which they make choices they presumably might not have made if they had known the truth" (Wood 2014, 289). The Pfizer clinical trial and the Tuskegee Syphilis experiment illustrate this point. In the Pfizer clinical trial, the researchers informed the parents of the meningitis patients that they were treating the children of their ailment, unknown to them that the children were being administered with experimental drugs.

However, Wood contends that sometimes exploiters exert their bargaining powers over their victims without necessarily appealing to manipulation tricks (Wood 2014, 301). This case applies to coercive exploitation – in coercive exploitative, the exploiter takes advantage of the vulnerable situation of the exploitee by making offers or proposals they know the exploitee cannot refuse (Cf. the Godfather; capitalist labour). However, I think that all instances of voluntary exploitation involve subtle manipulative strategies. The exploiters do not coerce or deceive the exploitees in these cases. Still, the exploiters appeal to their emotions or best interest by making offers they will not refuse. They know the exploited victims are already constrained by their situations and would comply due to their vulnerable situations. For example, it seems that what is going on in the Uncompassionate

Rescuer case is that Mark (the rescuer) exerts his bargaining power over Jim (who is at the risk of drowning) by proposing that Jim gives him some portion of his investments in exchange for rescue.

But the issue in the Uncompassionate Rescuer is not about who has the bargaining power. This case shows that Jim enjoys a bargaining advantage over Mark. He is willing to give anything to be rescued (just as Carole, in Meyers's example, is willing to be sodomized to be rescued from the desert). As Meyers points out, "being rescued far outweighs the humiliation, pain, and feeling of degradation of submitting to the sodomy (or the loss of all of their wealth)" (Meyers 2004 324-25). So, there is manipulation going on here. The rescuer takes advantage of Jim's vulnerable situation *by playing on his needs and best interest* (the desire to be rescued) to further his ends (taking part in Jim's investments). In Carole's case, *the rescuer played on her desperation to leave the desert* to further his lustful ends (sodomizing Carole). This point suggests that in all exploitative interactions, the exploiter either coerces or deceives the victims (Vicious Robber, Pfizer, Tuskegee Syphilis experiments, etc.), or plays on the victims' emotions, needs or best interests (Lilly clinical research, Lecherous Millionaire, Uncompassionate Rescuer, etc.) to secure compliance.

Can a person be manipulated without an assignable manipulator? Baron argues (and I agree) that "*there is no manipulation without a manipulator*. I may be the victim of circumstances, but the circumstances have not manipulated me. Only people can do that" (Baron 2014, 104, emphasis added). But Wood thinks otherwise. Like his view on coercion, Wood claims that manipulation can occur without a manipulator. He defends this point by looking at how advertisement influences people to make choices they would not make in non-manipulative circumstances. According to him, "advertising is not merely a practice engaged in by specific advertisers, but also *a social institution that over time shapes people's habits and preferences in deplorable ways*" (Wood 2014, 293, emphasis added). He enumerates many ills of advertising, including the use of "constant repetition to wear down our resistance, to reinforce associations at a sub-rational level, to offer us inducements that are illusory, or otherwise "of the wrong sort" (Wood 2014, 291). Wood thinks that the market operates like advertising. According to him,

"the market itself, like advertising, plays a systematic role in manipulating people: it encourages them to focus narrowly on their own lives" (Wood 2014, 293). So, the way both the market and advertising often operate "amounts to a form of manipulation, *for which no assignable individual or individuals bear the responsibility*" (Wood 2014, 293, emphasis added).

Wood seems to overstretch the notion of manipulation by claiming that a person can be manipulated without a manipulator. As Baron notes (and I agree), advertisement as a social institution, for example, does not manipulate, "rather, advertisers, or groups composed of advertisers, manipulate" (Baron 2014, Note No. 11). Although some advertising or marketing institutions control and shape potential customers' preferences in deplorable ways by making misleading or deceptive claims about their products, an individual or a group of individuals behind the scene decide how these institutions should operate. Institutions do not drive themselves. People do drive them. So, even though advertising institutions manipulate customers without any assignable person bearing responsibility, it does not mean that there are no actual persons whose decisions or choices made the manipulation possible. This point also explains why consumers protection laws in most countries confer customers the right to sue for deceptive and false advertising⁶⁵.

I wrap up this discussion by drawing the reader's attention to Wood's exclusion of the idea of mere means in his account of exploitation. In the introductory section, I noted that a Kantian account of exploitation requires key concepts like mere means and degradation, but Wood rejects the former but accepts the latter. Wood thinks that the idea of mere means is not necessary for an account of exploitation because there are cases of exploitative interactions in which exploiters treat exploitees as ends in themselves (Wood 2016, 100; 2017, 649). Interestingly, however, Wood appeals to the Kantian idea of degradation to explain why some exploitative interactions are morally objectionable.

I do not think Wood is correct to think that the Kantian idea of mere means is not necessary for an account of exploitation. The reason is that the idea of mere means

⁶⁵ <https://www.ftc.gov/sites/default/files/documents/reports/protecting-consumers-online/fiveyearreport.pdf>

further explains why it is wrong to take advantage of people's vulnerability in some cases. I say 'in some cases' because it is not in all cases that taking advantage of a person's vulnerability is wrong⁶⁶. So, in Chapter Five, I will explain why Wood is mistaken Wood to exclude the mere means condition in this account of exploitation. I will also explain how the Kantian idea of mere means should be understood to fit into our Kantian servility of exploitation. For now, let us explore some problems that arise in Wood's vulnerability account of exploitation.

4.5 Criticisms of Wood's Vulnerability Account of Exploitation

In section 4.4, I discussed Wood's account of exploitation in detail. One of Wood's central views is that when a person is exploited, the exploiter treats their vulnerability as an opportunity to attain their ends. I have already raised objections to why the description of exploitation is incomplete, and that is because it excludes the mere means component. I also explored and raised objections to Wood's ideas of coercion and manipulation, especially his view that we can be coerced without a coercer and that we can be manipulated with an assignable manipulator. I highlight some further problems with Wood's account before, in the next chapter, developing my Kantian servility account of exploitation.

First, Wood claims that in an exploitative interaction that involves manipulation, the exploiter subverts or undermines the exploitee's capacity to make rational decisions. This claim is valid for cases of manipulation that involve deception. In the Pfizer clinical trial, the researchers deceived the parents of the meningitis children into believing that their children were being administered an antibiotic drug to treat meningitis. Unknown to them, the researchers were administering Trovafloxacin, a test antibiotic drug awaiting FDA approval. By manipulating the parents through deception to enrol their children in the research, the researchers undermined and disrespected their rational capacities to choose whether to enrol their children in research that exposes them to an unjustifiable risk of harm. Wood's view may also apply to extreme cases like hypnosis, where the agent may be acting, but they do not know why they are performing the said action.

⁶⁶ I will explain this point further in the section that highlights problems in Wood's account.

It is important to note that substantial manipulation can undermine or vitiate the manipulated victim's voluntariness. However, the fact that a person is manipulated (substantially) does not necessarily mean that their capacity to make rational decisions is subverted or circumvented. For instance, in the Synflorix experiment, the researchers manipulated some parents to allow their children to continue with the study by lying to them that withdrawing their children could expose them to harm that may lead to death. Their heeding to the manipulative suggestion of the researchers is not that their rational decision was subverted in any way. It is simply because they are taking precautions based on what seems like an expert advice. There is nothing irrational about acting in a way that one deems necessary to protect their loved ones even though it might be risky to do so.

Tying all the objections I have raised against Wood's account, we can say that the general weakness of Wood's account is the following. Wood tries to explain the wrongness of exploitation by examining the weaknesses or incapacities in the exploited agent. He, however, fails to consider that exploitation might be a property grounded, not in features of the exploited party, but rather in features of the relationship between the exploiter and the exploited. In particular, he does not recognize that all morally objectionable exploitation involves servile relations (even though he agrees that exploitation degrades the exploited victim). Through acts of coercion, deception, or other subtle manipulative means, exploiters persuade the exploitee into becoming servile or submissive to their demands. This point shows that the exploitee is an active (and not a passive) participator in the exploitative exchange. However, their actions aim to further the ends of their exploiter. Nicholas Vrousalis, in his recent paper titled "How exploiters dominate", alludes to the above point but differently by defending the view that "exploitation is a dividend of servitude—a benefit the powerful extract *by converting the vulnerable into their servants*" (Vrousalis 2021, 103, emphasis added). So, to understand what is morally wrong in an interaction, we must evaluate the relation of interacting parties. This aspect, thus, is missing in Wood's account.

Finally, and connected with this last point, Wood's account does not appeal to the idea of complicity, which is necessary for a Kantian account of exploitation. In

O'Neill's account of coercive offer, she explains that one of the essential features of coercion is that "*it makes agents complicit in a way in which brute violence does not*" (O'Neill 2000, 89). In other words, when a person is coerced, the coercer operates on the coeree's will by making them accept the coercer's compliant option, thereby making them complicit in the coercive interaction. The idea of complicity can also be applied to the Lecherous Millionaire case or the Lilly clinical trial, which are non-coercive. When the exploiter takes advantage of the exploitee's vulnerability by appealing to their needs or best interests and treating them as mere objects, the exploitee voluntarily agrees to the exploiter's demands and enters servile relations with them. This voluntary agreement makes the exploitee complicit in their own exploitation.

The reader may worry that by suggesting that an exploitee is complicit in their own exploitation, I imply that they are blameworthy. Besides, as Alex Zakaras points out, the general intuition about complicity is that it is a species of wrongdoing that involves two key things: "first, the agent lends support, as an accomplice, to another who acts unjustly; second, she does so in a way that leaves her partly responsible for the primary agent's actions" (Zakaras 2018, 193-194). But it is not the case that all cases of complicity entail moral culpability. Lepora and Goodin also affirm this point. According to them, "complicity is a very precise way of being involved in wrongdoing.... However, *[it] does not necessarily entail sharing the principal wrongdoer's evil intentions*" (Lepora and Goodin 2017, 269, emphasis added). The complicitous agent is only morally culpable to the other's wrongdoing if they genuinely share in the principal's wrongful purpose (Lepora and Goodin 2017, 269). In the case of exploitative interactions like those earlier mentioned, the exploitees do not genuinely share in the wrongful purpose of their exploiters. For instance, in the Lecherous Millionaire case, the woman does not genuinely share in the Millionaire's wrongful purpose of treating her as an object of lustful gain even though she agrees to the servile relations. Her agreement to the exploitative interaction stems from her understanding that the most rational thing is to be complicit in her own exploitation rather than face the dire consequences of refusal.

In the next chapter, I discuss my Kantian servility account of exploitation in detail. I show why the account is a better alternative to Wood's vulnerability account.

Chapter Five: The Kantian Servility Account of Exploitation

5.1 Introduction

Earlier in the thesis, I showed that the transactional accounts of exploitation offered by Wertheimer, Zwolinski and Snyder are too narrow and do not cover all exploitation cases. Wertheimer, for instance, claims that exploitation occurs when an interaction involves an unfair distribution of benefits or harm. For Zwolinski, a person is exploited if their consent is neither voluntary nor informed, or their rights are violated. Snyder claims that exploitation occurs when one interacting party gains an advantage from interacting with the other party but fails to fulfil their duty of beneficence towards them. But the Lecherous Millionaire case and the Lilly clinical trial, for example, show that people can be exploited even though they voluntarily consent to interactions. Exploitation can also occur in non-harmful, beneficial interactions or those cases that do not involve the unfair distribution of benefits. I claim that the Kantian idea of mere means is necessary for an account of exploitation.

I explored O'Neill's account of what it is to treat someone as a mere means. O'Neill claims that we treat people as mere means when they cannot possibly consent to the interaction and share the end of the interaction (O'Neill 1985, 266). This account applies to some exploitation cases that involve coercion or deception like the Vicious Robber, Pfizer clinical trial, Tuskegee Syphilis study, and so on. In the Tuskegee Syphilis clinical trial, for example, the researchers refused to disclose the true nature of the study to the participants. Pritchard and Goldfarb observe that even after penicillin was launched in 1943 as having a safe, effective cure for syphilis, "*those few who recognized their condition and attempted to seek help from PHS syphilis treatment clinics were prevented from doing so*"⁶⁷. In the Pfizer study, the researchers made the Meningitis children's parents believe they were being treated for their ailment. They did not know that the children were being administered Trovan, a trial drug to test for its safety and efficacy to gain FDA's approval. Based on O'Neill's account, the researchers treated the participants as mere means because they acted on a maxim of deception or

⁶⁷ <https://onlineethics.org/cases/ethics-science-classroom/tuskegee-syphilis-study>

coercion by making the participants enter studies they would not possibly consent to and share in their end. For instance, if the Syphilis patients knew they would be denied treatment, they would not possibly agree to enter the study.

However, I have shown that her account of mere means is unhelpful to explain the wrongness in some other instances of exploitation, where exploited agents freely and voluntarily consent to wrongful interactions. The Lecherous Millionaire case and the Lilly clinical trial exemplify this point. These cases show that a person can be treated as mere means though they freely and knowingly consent to and contribute to the end of an exploitative interaction. Wood also raises a similar concern in his vulnerability account of exploitation. In fact, Wood thinks that the reason why we cannot appeal to the notion of mere means to explain the wrongness of exploitative interactions is that some exchanges, like some capitalist labour, show that a person can be exploited even though they voluntarily consent to it and benefit from it based on the terms of the exchange (Wood 2016, 100; 2017, 649). Wood thinks that morally objectionable exploitation occurs when a person takes advantage of another's vulnerability and treats it as an opportunity to further their ends. I contend that Wood's account of exploitation is incomplete because it fails to capture the servile relations between exploiters and exploitees in exploitative exchanges.

In the light of this criticism, we should either conclude that the Kantian account of exploitation has failed, or that we need to find a different way for the Kantian account to go. A plausible way to start looking for an alternative and a more inclusive account is to base a Kantian theory of exploitation on three essential and interrelated ideas, namely: a) taking advantage of vulnerability for the sake of some gain; b) treating someone as mere means, or a mere opportunity; c) making the exploited person enter servile relations with the exploiter. So, I will defend the view that *A exploits B if and only if A takes advantage of B and degrades B by treating B as a mere means by making B enter a servile relationship with A to further A's ends or interest*. I refer to this account of exploitation as Kantian servility account of exploitation because it suggests that all exploitative exchanges involve servile relations between the exploiter and the exploitee.

It is essential to clarify, from the onset, the relationship between mere means and servile relations. The idea of treating a person as mere means implied here is that a person acts on a maxim that suggests that the other interacting agent's humanity is comparatively less valuable and that their worth is relevant *only* to the extent the person can be instrumentally utilised to further their ends. Let us take the Tuskegee Syphilis study to exemplify this point. I earlier noted that O'Neill's idea of mere means suggests that what makes the study wrongful and exploitative is that the researchers made the participants enter a study they would not possibly consent to and contribute to its end. But there is a more fundamental reason why the study is wrongful. It is because it involves servile relations. The researchers who occupy the position of control failed to disclose to the participants the detail of the study. Also, they refused the participants from accessing treatments when an effective drug for their ailments became available. So, the researchers' relationship with the participants suggests that they regard the participants as individuals whose moral worth is relevant *only* to the extent that they *serve* some instrumental ends.

A similar explanation can be applied to the Lecherous Millionaire case and the Lilly medical study. In the Lecherous Millionaire case, the Millionaire asks the woman to become his mistress as a condition to offer her the money she needs to treat her child. Although there was no deception or coercion, in this case, it still involves servile relations. The Millionaire's offer shows that the only way the woman can save her child is *by being submissive* to the Millionaire. By putting the woman in a position of submissiveness or servility, the Millionaire suggests that her humanity is valuable only to the extent that she can serve an instrumental end – to satisfy the Millionaire's lustful desires. This analogy also applies to the Lilly clinical trial. By cashing in on the poor economic conditions of the homeless alcoholics to make their offers (offers they cannot refuse), the researchers put the homeless alcoholics in a servile position. They make the homeless alcoholics agree to be used to test the safety and efficacy of an untested trial drug that is unrelated to their condition in exchange for some incentives. By doing so, the researchers regard the homeless alcoholics as persons whose moral worth is valuable only to the extent they can further some experimental ends. So, in each of the exploitation

cases illustrated, *the exploiters, rather than respect the humanity in the exploitees, wrongfully exerted authority over the exploitees either through coercion, deception, or cashing in on their vulnerable conditions, making them serve the exploiter's ends*⁶⁸.

Note that Wood's vulnerability account focuses on (a). Wood maintains that exploitation involves taking advantage of a person's vulnerability and treating it as an opportunity to further the exploiter's ends. He further notes that exploitation degrades the exploitee either by depriving them of their free agency or by subverting it in a way that does not limit their capacity to choose. I have already noted that Wood's account is incomplete because it excludes the mere means component - it does not say how a victim is treated when we take advantage of their vulnerability to further our ends. I also noted that Wood's account is overly inclusive because it captures cases outside the scope of exploitation. For instance, as Arneson's heating company case shows, we can take advantage of the vulnerable situation of a person and treat it as an opportunity to further our ends or make fair profits without being guilty of wrongdoing. This chapter will develop a further criticism: Wood's account also fails to capture the servile relations component. This component indicates that the exploiter acts on the exploitee's will and makes them enter a servile relationship to further the exploiter's ends⁶⁹. I will develop this argument by drawing on O'Neill's discussion of the partial complicity of the victim in the case of a coercive offer. I will argue that victims of exploitation

⁶⁸ The point is that the concept of mere means does not make the idea of servile relations in an exploitative exchange redundant. However, I do not claim that all cases of mere means involve servile relations. In the *Groundwork*, Kant notes that "If a person destroys himself (by suicide) in order to escape from a trying condition he makes use of his person merely as a means to maintain a tolerable condition up to the end of life." I do not regard this idea of mere means as involving servile relations because it does not involve an unequal power relations, where one party is in control and other party is in the position of subservience. So, the link between mere means and servile relations is only in the context of exploitative exchange.

⁶⁹ As O'Neill notes, a victim can be coerced to be complicit to a wrong done to them. But I prefer to add the adjective partial, to indicate that the victim is only complicit in some sense because either they are forced by their coercer or their circumstances, or they are deceived or manipulated to be complicit in the wrong done to them. The adjective 'partial' is also helpful and distinguishes this kind of complicity from a robust idea of complicity that denotes moral culpability on the part of the complicit agent. The robust idea of complicity entails that the complicit agent knowingly and willingly contributed to a wrongdoing, and also shared in the purpose of the wrongful act (Cf. Lepora and Goodin 2017, 269).

are degraded in the sense of their being treated as mere means by making them enter servile relationships to serve the exploiters' ends.

In the last chapter, I pointed out that Wood's idea of degradation is inadequate. People can still be degraded through exploitation even when their free, rational agency is not deprived or subverted. For example, the Vicious Robber case shows that the robber coerces the house owner to disclose the passcode of their safe or be killed. Although the house owner involuntarily complies with the robber's demand to avoid being killed, they still exert rational control over their choice by disclosing the passcode rather than choosing to be killed. Even in cases that involve deception like the Pfizer case or cases where exploiters appeal to the victim's needs or best interests like the Lilly clinical trial or the Lecherous Millionaire case, the exploited victim still retains their rational control over their choices. We can see this if we imagine that natural causes, rather than human agency, put the victim in a position of only having a narrow range of options, none of them desirable. In such cases, there would be no loss of rational control if the victim seeks to make the best of the bad situation by choosing the least worst option.

Furthermore, Wood's account fails to capture the actual wrong on the part of the exploiter where a person voluntarily consents to an exploitative interaction because their vulnerable situations or unjust socio-economic systems compel them to do so. Wood maintains that in this type of exploitation (unjust exploitation), an "*individual exploiter does not wrong the individual who is exploited.*" Instead, the social system does the wrong because it deprives the exploitees of their rightful freedom and puts them in a position where their actions and choices are constrained (Wood 2016, 102-103). Wood may be partially correct here. Perhaps it is reasonable to believe that we may have genuine reasons to take advantage of others' vulnerable situations. For instance, for an employer to meet economic demands, they may hire a poor, desperate job seeker who does not want to die of starvation to do a dangerous and low-paying job like sweatshops. Also, a Millionaire who takes advantage of a desperate woman may have genuine reasons for doing so. It could be that his action is borne out of marital issues that have caused him emotional trauma, leading him to treat women he comes across as

mere objects. However, *these reasons are insufficient to absolve them of wrongdoing*. And the way to capture that wrongness, I will argue, is that the exploiters treat their victims as mere means: as mere opportunities to further their ends rather than as individuals with independent dignity and worth.

Given the challenges highlighted above, the task of this chapter is to explain how (a) to (c) can, in principle, jointly and sufficiently capture the wrongness of examples such as Lecherous Millionaire and Lilly, etc. Another task is to show how my Kantian servility account is not vulnerable to the challenges I identified in Wertheimer, Zwolinski and Snyder's transactional accounts; and Wood's vulnerability account. So, to address these tasks, I structure the remaining part of the chapter as follows. Section 5.2 defends the view that taking advantage of a person's vulnerability to further your ends is necessary but not sufficient for an account of exploitation.

In section 5.3, I briefly discuss the idea of mere means and its role for a Kantian servility account of exploitation. I argue that the idea of mere means that applies to exploitation is understood as disrespecting humanity. I show how this broader sense of mere means avoids the challenges we posed for O'Neill's possible consent theory as the basis for a Kantian account of exploitation. In section 5.4, I reiterate Wood's view that exploitation involves degradation. However, I defend the view that a person can be exploited without the exploiter subverting or depriving them of their free, rational agency. I relate the idea of degradation to O'Neill's idea of complicity. O'Neill's account shows that people can be partially complicit in their coercion but not blameworthy. I will draw on this view to argue that exploitees enter servile relations with their exploiters in exploitative interactions. But their being servile does not necessarily mean they are blameworthy.

I introduce my Kantian servility account of exploitation in section 5.5. I show how it connects to O'Neill's intuition about partial complicity and helps us understand the wrongness of the Lecherous Millionaire and Lilly and other cases. Against Hill's account of servility, I defend the view that servility does not involve blaming the victim (that is, where the agent voluntarily and knowingly enters the servile relations as in cases like the Lecherous Millionaire and Lilly clinical trial). I briefly

introduce Vrousalis's domination account. Then I show how the servility account relates to but is superior to Vrousalis's domination account. In section 5.6, I distinguish servility accounts from Wertheimer, Zwolinski, Snyder's transactional accounts, and Wood's vulnerability accounts. Finally, in section 5.7, I defend the servility account against possible objections.

5. 2 Exploitation and the Necessity of the Vulnerability Clause

I have been examining the conditions that make interactions exploitative and morally objectionable. I argued that the unfairness condition proposed by Wertheimer, the lack of consent and violation of right conditions proposed by Zwolinski, or Snyder's violation of the duty of beneficence condition, are unhelpful to explain why some medical research cases like the Lilly, AstraZeneca and Tenofovir clinical trials are exploitative and morally objectionable. As an alternative, I turned to Wood's account of exploitation. Wood suggests that two conditions are necessary and jointly sufficient for an interaction to be exploitative and morally objectionable. An exploitative and morally objectionable exchange involves: (i) *taking advantage of a person's vulnerability*; and (ii) *treating the victim's vulnerability as an opportunity to further the exploiter's ends*.

In this section, I defend the view that the first condition, which holds that exploitation involves *taking advantage of a person's vulnerability*, is necessary but not sufficient for exploitation to occur. However, the second condition is neither necessary nor sufficient for an account of exploitation. As Arneson's Heating Company example shows, we can profit from a person's vulnerability through fair bargaining without wronging the person. Also, I show that human beings are not essentially vulnerable. A person is vulnerable only in relation to another. I contend that vulnerability does not essentially entail being in a weak bargaining position. Finally, I briefly offer a view of vulnerability and its value for an account of exploitation.

I. Taking the Vulnerability Clause Seriously

I noted earlier that one of the necessary conditions of an exploitative and morally objectionable interaction is that *exploiters take advantage of their exploited victims'*

vulnerability or desperate situation. I refer to this condition as the vulnerability clause. The other necessary conditions are (i) exploiters treat a person as mere means, and (ii) the agent being in servile relations in the exploitative exchange. I will discuss these other two conditions in the sections that follow. I now discuss why the vulnerability clause is a necessary condition for exploitation. A starting point is to ask what vulnerability entails.

Vulnerability is often described as an inevitable characteristic of the human condition, which arises from human afflictions and frailties. It stimulates the need for co-dependence and responsiveness to each other's wellbeing, needs and interests. This broad view of vulnerability reminds us that all human beings may be vulnerable to harm under certain circumstances. However, as Mitra and Biller-Andorno rightly observe, this very broad conceptualisation of vulnerability "is insufficient when it comes to developing protective mechanisms for those who may be rendered particularly vulnerable to harm" (Mitra and Biller-Andorno 2013, 94). The reason is that it "leads to confusion about who the vulnerable are and what duties are owed them in the areas of health care, research and public health" (Wendy 2014, 60).

So, the motivation among bioethicists has been to describe the features that make specific individuals or groups vulnerable. Agrawal, for instance, avers that a person is vulnerable if there is an increased possibility that their interests cannot be protected (Agrawal 2003, S26-S28). For the CIOMS ethics guideline, "vulnerability involves judgments about both the probability and degree of physical, psychological, or social harm, as well as a greater susceptibility to deception or having confidentiality breached" (CIOMS 2016, 57). Specific groups considered vulnerable in the context of CIOMS and Agrawal's definitions are pregnant women, children, prisoners, people from disadvantaged social and economic backgrounds, etc. (Macklin 2003, 473-475).

The above description of vulnerability seems to face some objections. First, the views treat the concept of vulnerability as a concept that applies primarily to groups. This way of describing vulnerability has been criticized for being essentialist and disrespectful. Hurst, for instance, observes that "classifying

groups as vulnerable can be stereotyping: for example classifying the poor or pregnant women, as vulnerable is insulting if we mean that they are not capable of decision-making or (protecting their interests)" (Hurst 2008, 195). Second, to describe a vulnerable person as someone whose interests cannot be protected or someone very likely to be exposed to harm is to construe the concept of vulnerability narrowly. Many exploitation cases suggest that a person may be vulnerable to an exploiter without the likelihood of being harmed by them. The Lecherous Millionaire is worthy of note. The woman, in this case, is vulnerable to the Millionaire, not because the Millionaire will harm her, but because failure to enter the exploitative interaction with him will very likely lead to bad consequences (possible death of her child). Also, Wood's blackmail example shows that people are exploited to protect their interests. A cheating husband whose interest is to protect his marriage would be willing to yield to a blackmailer's demand in exchange to protect the secrets of his infidelity.

A more nuanced approach is to treat vulnerability as a relational concept. This approach is well illustrated by looking at the asymmetry of power that underlies exploitative relationships (McLaughlin 2008, 9-11; Goodin 1985). Goodin, for instance, affirms that every exploiter-exploitee relationship involves an asymmetric balance of power. On the one hand, the exploitee occupies a position of dependence and subservience. On the other, the exploiter occupies a position of superordination and exercises discretionary control over the exploitee through actions and choices that directly impact the exploitee's interests or welfare. So, "you are always vulnerable to or dependent upon some individual or group of individuals who have it within their power to help or to harm you in some respect(s)" (Goodin 1985, 779). Goodin also thinks that we can apply this unequal power relation to exchanges where one party in a strong bargaining position presses their advantage on another's weakness. And it is the height of immorality for anyone to exploit others' weaknesses in this way (Goodin 1985, 779).

Wood expresses a similar intuition in describing what exploiters do in exploitative interactions. For instance, he notes that "in order to exploit a person (that is, their capacity or resources), I need to get them under my control. I do this by finding in the person some vulnerability of which I am in a position to take advantage" (Wood

2016, 95). Wood does not say how the exploiter's control over the exploitee makes the exploitee act servilely in the exploitative exchange. But he affirms that someone can only control the other person if you are in an advantaged power position relative to the other interacting party. In other words, *a person is vulnerable to you if they are in a comparatively weak bargaining position because they lack reasonable or acceptable alternatives*⁷⁰ (Wood 1995, 144, 148; 2016, 100); or *are in a situation where they are always eager to be exploited* (Wood 2014, 297).

Wood, for instance, illustrates the above point by drawing on capitalist wage bargains. In a capitalist wage bargain, the capitalist who owns the means of production uses it to drive a hard bargain by purchasing workers' labour on terms advantageous to the capitalist (Wood 2016, 97). So, "where the vulnerability of labour to capital exists, and the wage bargain reflects it, there are good grounds to say that wage labourers are being exploited by capital" (Wood 2017, 644). The capitalist labour wage also suggests that in some exploitative interactions, exploitees are in a position where they are eager to be exploited because they do not have a reasonable alternative. Workers in capitalist labour, for instance, agree to poor working conditions because unjust social systems compel them to enter exploitative interactions to escape their penurious situation.

Furthermore, Wood affirms that to be in a comparatively weak bargaining position does not depend on a person's social class or status. A poor or illiterate person can be vulnerable to people of higher or equal social status. Similarly, a wealthy businessperson can be vulnerable to a person of the same social status or someone below their socio-economic rank. So, understanding who occupies what position in asymmetric power relations depends on the context of the exchange. For instance, a wealthy businessperson could be exploited by a poor farmer through blackmail. A wealthy employer can also exploit a poor, desperate worker by offering them dangerous, low paying jobs to save costs. In other words, exploitation

⁷⁰ Note that it is not always the case that a person who drives a bad bargain is necessarily exploited. Some persons may be too impatient to shop around for the best price around, so they end up paying higher than they would normally pay if they did a proper price comparison . There is no exploitation in such cases.

essentially depends on "who is in control—who is vulnerable and how that vulnerability is used" (Wood 2016, 97).

Goodin and Wood's descriptions of what counts as vulnerability are intuitively appealing. They acknowledge exploiters' superordinate role in exploitative interactions. They think that the asymmetric power relations in exploitative interactions often reflect the unequal bargaining power between exploiters and exploited. But as Sample observes, asymmetric power relations in exploitative exchange are not necessarily an issue of unequal bargaining power. Two persons in an exploitative exchange may have an equal bargaining advantage to ensure their interests are met (Sample 2003, 83). The Lecherous Millionaire and the Lilly clinical trial illustrate this point. For example, in the Lecherous Millionaire case, the woman agreed to the Millionaire's terms not because she lacked bargaining power but because she was willing to give everything to save her child. Asymmetric power relations entail that "the person who has the greater power in the relationship uses it to gain an advantage in a way that fails to respect the other person in the relationship" (Sample 2003, 83-84).

Furthermore, Wood argues that vulnerability also involves a situation where a person is eager to be exploited. It is true that in cases of voluntary exploitation like the Lecherous Millionaire or the Lilly clinical trial, the exploited, due to their desperate situations, agree to be exploited to avoid the unpleasant consequences that may arise if they fail to yield to the exploiter's demands. But as I have noted in section 4.4.1, it is not always the case that a vulnerable person is in a situation where they are willing to be exploited. In rape or robbery cases, victims are never eager to be exploited even though the exploiter uses force or threat to make them accede to the exploiter's demands.

We have seen different ways of thinking about vulnerability. We have seen that to be vulnerable, a person can be in a weak position, in need, or possibly in a position where they cannot protect their interests. There is also a broader aspect of vulnerability that applies to all human beings. In fact, the idea of vulnerability can also be extended to non-human entities or events. Formosa captures this latter idea of vulnerability. According to him, "vulnerability implies that x is susceptible

to y being inflicted by z, where y is some harm, injury, failure, or misuse, and x and z are some person, animal, object, event, or group” (Formosa 2014, 89). It is not out of place to say that some animals are vulnerable to extinction, some women are vulnerable to breast cancer, or older men are much more vulnerable to testicular cancer than younger men. However, for my account of exploitation, I am not committed to any view of vulnerability. So, whichever account of vulnerability the reader may wish to adopt, my account aims to show that in an exploitative exchange, the exploitee is always in a position that an exploiter cashes in to make the exploitee act in a way that further’s the exploiter’s interests.

Note that Goodin thinks that vulnerability stimulates a responsibility in those in well-situated positions to care for the interests and wellbeing of those in subservient positions. But I do not think the responsibility condition is tenable for our idea of vulnerability. I am not saying that we are not morally obligated to care for each other. But as Kant notes, a duty of love or benevolence is only an indirect duty. We are not morally bound to obey it. But we are morally obligated to keep the duty of respect. So, adhering to a duty of respect is not dependent on another's vulnerability. Instead, it is dependent on the direct duty we owe each other as rational, moral agents, irrespective of the individual's condition or circumstance.

5.3 Exploitation and the Kantian Notion of Mere Means

In his vulnerability account of exploitation, Wood affirms that exploitation degrades the exploited victim. Exploitation is degrading because the exploiter takes advantage or gains control of the exploitee's vulnerability and then treats the vulnerability as an opportunity to further the exploiter's ends. As this claim shows, Wood does not say that *the exploiter treats the exploitee as a mere opportunity* for some ends. Instead, *the exploiter treats the exploitee's vulnerability as an opportunity* for some ends. It is crucial to notice the difference. Wood's account suggests that the badness of exploitation stems from how the exploiter treats an exploitee's weakness or vulnerable condition. So, when the exploiter cashes in on the exploitee's weakness to further their ends, Wood argues that the exploiter degrades the exploitee.

This argument seems plausible in some sense because it explains what exploiters do to their victims – they treat the vulnerability of their victims as opportunities to further their end. However, his argument that this always involves degradation is too broad. There are cases in which a person does no wrong by treating another person's vulnerability as an opportunity to further their ends or to derive benefits. Arneson's heating company example illustrates this point. There is nothing wrong if a heating company provides me with heating because I desperately need it, and it is exchanged for a fair price (Arneson 2013, 395). So, although the company profits from my vulnerable situation, it does not mean that it engaged in any wrongdoing since the exchange was based on a fair bargain. But Wood's account seems to suggest otherwise.

The problem with Wood's account is that it excludes the notion of mere means in his account of exploitation. This exclusion makes his account incomplete. His account fails to explain how we treat a person (not their vulnerability) when we take control or advantage of their vulnerability. For instance, the problem in the Lecherous Millionaire case is that the Millionaire took advantage of the woman's desperation to save her child from dying and then treated her as a mere opportunity or object for his lustful satisfaction⁷¹. Similarly, in the Lilly case, the researchers took advantage of the desperate situation of the homeless alcoholics and treated them as mere objects for some experimental ends. So, we can strengthen the vulnerability account of exploitation against Arneson's criticism by saying that what is happening in the heating company case is that the company does not treat the agent as mere means. It does not treat the agent as a person who can be *used* for profiteering.

Wood, however, thinks that the idea of mere means is not necessary for an account of exploitation. According to him, *the claim that an exploiter treats the exploitee as mere means suggests that the exploiter gives no weight to the exploitee's interests*. He thinks that such a claim is problematic because some exploitative interactions show that exploiters treat exploitees as ends in themselves (Wood 2016, 100). He

⁷¹ Notice that so far, I have not explained what the exploiter does next to successfully treat their victim as mere means to further their ends. This other component will be made clearer in chapter five when my Kantian servility account is fully developed.

illustrates this point with two examples. Some capitalist wage labour shows that capitalists treat their workers as an end in themselves by "showing respect for the worker's will as a party to the wage contract and willingness to provide for the worker's welfare according to its terms" (Wood 2016, 100). Also, the novel *Gone with the Wind*, for instance, portrays Ashley Wilkes as a slaveowner who does not treat his slaves merely as means. Instead, he "*cares for their welfare as a father might care for his children* – except that most fathers do not live off the labour of their children, as Ashley does off the labour of his slaves" (Wood 2017, 649).

In section 4.3, I discussed O'Neill's interpretation of treating a person as a mere means. According to O'Neill, to treat a person as mere means is to act on the maxim that makes it impossible for the other person to consent in principle or dissent from your action or proposal (O'Neill 1985, 260). Wood draws on this narrow interpretation of Kant's idea of mere means. First, when we act on a maxim that prevents a person from possibly consenting to our interaction, we disrespect their capacity to interact voluntarily (Wood 2016, 100). Secondly, in preventing a person from sharing or contributing to the end of the interaction, we fail to promote their welfare, thus, disrespecting their rational nature (Wood 2008, 102). But Wood thinks that Ashley Wilkes and the capitalist labour examples show that interactions can still be exploitative even though the exploitee voluntarily enters the interaction or the exploiter promotes their welfare (Wood 2016, 100). This point aligns with my criticisms of O'Neill, and this, therefore, makes Wood's account closer to mine and more defensible in this respect.

However, by excluding the idea of mere means from his account of exploitation based on a narrow application of that concept, Wood fails to capture a broader sense of the mere means principle understood as disrespecting humanity in persons. While this principle is broader than O'Neill's interpretation, it is a determinate moral principle. But Wood thinks that we also do not need the idea of disrespect for humanity in a person for an account of exploitation because "humanity as an end in itself is an ethical principle; it is not a matter of right. The two are different and independent" (Wood 2016, 100). However, on this point, Wood departs from Kant's own view. For instance, Kant's Doctrine of Right suggests otherwise. In his discussion of the general division of rights, Kant divides

rights into two broad parts. The first part refers to rights as systematic doctrines. It is divided into natural (private) right – the kind of right individuals express in a state of nature (e.g. the right to self-preservation); and positive (statutory) right, that is, "right, which proceeds from the will of a legislator" (Kant 1991, 63).

The second part, which is of interest to us, refers to rights as "moral capacities for putting others under obligations." They are divided into innate and acquired rights. "*An innate right is that which belongs to everyone by nature, independently of any act that would establish a right; an acquired right is that for which such an act is required*" (Kant 1991, 63). The kind of right that is dependent on humanity as an end in itself is the *innate right*. Kant affirms that freedom is *the only innate and only original right belonging to every human being by virtue of their humanity*. And freedom is "independence from being constrained by another's choice, in accordance with a universal law" (Kant 1991, 63, emphasis added). In other words, the innate right, which we possess by virtue of our humanity (Kant 1991, 65, 140-141), confers in us a unique value – "*—a value that makes it worthy of a kind of respect that places limits on the acceptable ways we can act toward those who have it*" (Hay 2012, 592, emphasis added).

Kant specifically notes that our innate right or freedom confers us innate *equality*, "that is, independence from being bound by others to more than one can, in turn, bind them" (Kant 1991, 63). Our innate right authorizes us to claim equal practical or moral standing in virtue of our humanity and recognize the same authority in others. For example, my innate right requires that I should not be enslaved or be taken hostage because doing so violates the authority I possess not be bound by others. But this authority also engenders a moral duty not to bind others. The duty of respect which originates from a person's innate right, thus, requires that "*one ought not to act as though one is morally superior to another, thereby expressing that the other's humanity is of no worth and hence that the other is a mere object*" (Pallikkathayil 2010, 142, emphasis added). This duty prohibits us from coercing or deceiving people (either by lying or giving false information) to make them yield to our demands. But more importantly, *this duty also prohibits us from taking advantage of people whose vulnerability or unjust social system has caused them to disregard their innate rights*.

Emphatically, Kant affirms that "in observing a duty of respect I put only myself under obligation; I keep myself within my bounds so as not to detract anything from the worth that the other person is authorized to put upon themselves" (Kant 1991, 244). This duty is also contained in the maxim that I should not degrade any person to a mere means to my ends - for example, "not to demand that another throws themselves away to slave for my end" (Kant 1991, 244).

So, Wood's Wilkes example is unhelpful to explain why we should exclude the idea of mere means in our exploitation account. Although Mr Wilkes's care towards his slaves is based on the duty of love (which we are not obliged to keep), his actions are still wrong and exploitative. As Kant notes, the duty of respect demands that we should not force, deceive or encourage them to throw themselves away (that is, fail to demand their rights to innate equality) to slave for our ends (Kant 1991, 244). So, by taking those persons as slaves and living off their labour, Wilkes violates the duty of respect he owes them. The same reasoning applies to the case of the capitalist. A worker may voluntarily consent to a dangerous and low paying job to escape starvation. However, a capitalist who endorses such a working condition to further their ends is still morally guilty of exploitation. Like Mr Wilkes, the capitalist treats the worker as an object they are entitled to control to further their ends rather than a human being with an inviolable right to innate equality.

Based on these two examples, we can see why we think the Lecherous Millionaire case and the Lilly clinical trial are morally objectionable and exploitative. Taking advantage of the woman's desperate situation to save her child, the Millionaire treats the woman as an object he is entitled to control to further his lustful ends. Note that he did not achieve this control through force or deception but rather by taking advantage of a pre-existing prospect of harm to her child together with her tendency to do anything she can to save her child. Also, in the Lilly case, the researchers employed the same manipulative trick to persuade the homeless alcoholics to agree to their proposal of being *objects of experiments for some scientific gains* without recourse to the homeless alcoholics' right to innate equality they are obligated to respect. These examples, thus, suggest that the mere means condition is necessary to a Kantian account of exploitation.

5.4 Degradation, Partial Complicity and the Problem of Exploitation

So far, I have discussed two necessary elements for our Kantian servility account of exploitation. The first element is that exploitation involves taking advantage of a vulnerability. I agree that vulnerability is a relational concept. However, for my argument, I take a neutral stance on what vulnerability entails, and I argue that no one account exhausts the meaning of vulnerability. A person can be vulnerable to another by being in a weak bargaining position, being in need or position of dependence, being in a situation of harm or distress, or a position where they cannot protect their interests. Irrespective of which account appeals to the reader, what is fundamental is that in an exploitative exchange, the exploitee is always in a situation, which the exploiter takes advantage of or controls to degrade the exploitee by treating them in a way that serves the exploiter's ends.

I also explored the second element of exploitation, which involves treating a person as a mere means or a mere opportunity. As I explained earlier, Wood excluded the idea of mere means in his account of exploitation based on a narrow view of the concept. He claimed that the idea of mere means is not necessary for an account of exploitation. According to him, some exploitation exchanges involve situations where exploitees voluntarily consent to the exchange, and the exploiters also promote the welfare and interests of the exploitees. But as I have shown with the capitalist labour wages, Wilkes' slave case, Lecherous Millionaire, Lilly clinical trial examples, a person's humanity can still be disrespected in an exploitative exchange even though they consent to the relationship voluntarily or the interaction promotes their welfare. And according to a standard Kantian account, a person treats another as mere means whenever they treat the other person's humanity as valuable only to the extent they serve an instrumental end.

This section clarifies the idea of degradation, which underpins my servility account. I show that Wood's idea of degradation is inadequate. I give a preliminary insight on how we should think about degradation in an exploitative interaction by reflecting on O'Neill's idea of complicity in her account of coercive offer. I beg to differ with O'Neill that an offer is coercive simply because the offeror operates on the will of the offeree to make an offer that the offeree cannot refuse. As noted in

the section on O'Neill, an offer can only be coercive if the offeror contributes to the offeree's vulnerable situation or backs the offer up by threat (as in the Godfather example). However, I agree that there is a kind of partial complicity that takes place on the part of the offeree when an offeror operates on the will of an offeree to make an offer the offeree cannot refuse. Let us now revisit Wood's idea of degradation and see what could be wrong with it.

I. Re-examining Wood's Idea of Degradation

Wood had argued that *an exploiter degrades an exploitee by depriving, removing, pre-empting (through coercion), or subverting or subtly undermining (through manipulation) the exploitee's "rational control over their own choices and actions - (freedom as non-domination)"* (Wood 2014, 303). I contend that degradation does not necessarily involve an exploiter's deprivation or subversion of an exploitee's rational control over their choice and actions even though the exploitative exchange involves coercion, deception or manipulation. A defender of Wood may argue that Wood does not think that deprivation or subversion of an exploitee's rational agency occurs in all cases of exploitative interactions. For instance, they can say that Wood affirms that unjust exploitation is compatible with the person exploited making the rational choice to enter the interaction. In that case, an exploitee can still be degraded even though their choice is rational.

However, I draw the reader's attention to Wood's central view about unjust exploitation. Wood thinks that unjust exploitation involves interactions in which the "social system— *not any assignable person*—deprives exploitees of the conditions of a free life (or their rightful freedom) and puts them in a position where the will of others constrains their actions" (Wood 2016, 103). Moreover, Wood thinks that in unjust exploitation cases, "*the individual exploiter does not wrong the individual who is exploited*" because the unjust social or economic system forces both the exploiter and the exploitee to enter into their roles (Wood 2016, 102). I beg to differ with Wood. First, an unjust social system does not degrade a person or persons. Those whose policies make unjust social systems possible are guilty of degradation and so wrong the victims. Second, anyone who exploits another's vulnerability to further their ends in a morally objectionable way

degrades and wrongs the exploited person, irrespective of their reasons for exploiting the person. The exploiters are guilty of wrongdoing even if the exploitees' vulnerability was brought about by unjust social structure, and the exploitee voluntarily and rationally chooses to enter the exploitative exchange (e.g. Lecherous Millionaire and the Lilly clinical trial).

So, in unjust exploitation, we can say that exploitees are wronged in two ways. First, they are degraded and wronged by those whose policies have put them in a vulnerable position. Second, they are degraded and wrong by those who take advantage of their vulnerable situation and treat them as mere opportunities to further the exploiters' ends or interests. So, I am defending the view that *every exploitation involves an assignable person or a group of persons who degrade and victim(s) who are degraded*. So, when I say that exploitation degrades the exploited victim (as Wood affirms), I am saying that someone (or some persons) in a relationship or exchange treats the other interacting party in a way that disrespects them - in a way that devalues their humanity. Aptly put, the exploiter treats the exploitee in a morally objectionable manner that makes them act in a certain way that serves the exploiter's interests.

To clarify my idea of degradation, I revisit O'Neill's idea of complicity.⁷² I explain how O'Neill's view might be applied to my account of exploitation. I claim that although exploited agents are partially complicit in their exploiters' wrongdoing, they are not blameworthy.

II. *Revisiting O'Neill's Idea of Complicity*

O'Neill does not offer a specific account of complicity in her discussion of coercive offers. I discussed O'Neill's account of coercion in detail in section 4.3 of Chapter Four, highlighting what she thinks are the key elements of coercion – whether it

⁷² The reader may wonder why I am talking about partial complicity and complicity at the same time. In her discussion on coercion, O'Neill thinks that the notion of complicity is fundamental in explaining how a coercer treats the coerced (Cf. O'Neill 2000, 89ff). However, I use the idea of partial complicity to suggest that a person may be complicit in the wrong done to them, but their complicity is *only partial*.

involves a threat or just an offer.⁷³ We can revisit that discussion to illustrate the role of complicity in exploitative exchanges.

O'Neill contends that what happens in a coercive interaction is that the coercer operates on the will of the coerced agent through a proposal or an offer, making the coerced agent "*complicit in a way in which brute violence does not*" (O'Neill 2000, 89). O'Neill thus distinguishes coercion from brute violence. Although most violent actors aim to inflict harm, maim, torture or destroy others, that is not the aim of coercive actions. Furthermore, coercers operation on their victims' will and not on their bodies (the domain of violent actions). The coercer controls the will of the coerced in some way to make them comply and act on the coercer's demands. The coercer achieves this by "misleadingly speaking of their own 'enforcing' action as the consequences, as if it were a natural or necessary corollary of rejecting the compliant option" (O'Neill 2000, 90).

O'Neill contends that the coercer preys on the will of their victim by presenting their preferred option as the only favourable alternative to the coerced's residual (or available) option. The coerced sees it as an unrefusable offer because their residual option is undesirable and reflects the victim's vulnerable life situation (O'Neill 2000, 95). So, by accepting the coercer's offer because it appears as a valuable or favourable alternative, the coerced becomes complicit in their coercion.

As I have said, O'Neill does not give a full account of what complicity entails in her account of the coercive offer. However, her discussion suggests that to be complicit in the context of a coercive offer is to accept a coercer's proposal or offer because it appears valuable or favourable relative to your undesirable residual option, which may not serve the victim's end. For instance, in the Mafia example, Don sent a scary gift to Mr Woltz to persuade him to give Fontane (Don's godson) back his movie role. So, by acceding to Don Corleone's demands, Mr Woltz became complicit in Don Corleone's desire of ensuring that his godson, Fontane, got back to his movie role. Mr Woltz's complicity in Don Corleone's wrongful approach of securing Fontane a position in his former through threats does not mean that Mr

⁷³ Note that O'Neill does not think it is necessary to distinguish between coercive offers and coercive threat. She thinks that it is a fruitless task to do so (Cf. O'Neill 2000, 85).

Woltz *genuinely* shared in his wrongful intention. However, there is some sense in which this involves sharing Don Corleone's purpose. He did join in a joint or collective action with Don Corleone, where Mr Woltz did as he did because it furthered Don Corleone's plan. His complicity only stems from his understanding of Don Corleone's motives and his resolve to play along with him by reinstating Fontane to his former position, failure of which may lead to undesirable consequences (O'Neill 2000, 83).

It is essential to note that when I say that a victim is partially complicit in the wrong done to them, I do not mean that they are morally guilty of participating in a wrongful act and genuinely sharing in the wrongdoer's intended purpose. As O'Neill's account has shown, in cases of coercion, the coercer operates on the coercee's will in a way that makes them partially complicit in the coercer's intended end. But it does not imply that the coercee is morally culpable for being complicit. It simply explains that the collaboration or agreement results from the coercer's controlling influence. The coercer makes the coercee act in a way that helps to further their intended end even though the coercee does not *genuinely* share in that intended purpose or end.

Moreover, as I noted in Chapter Four, it is not in all cases of complicity that a complicitous agent is guilty of wrongdoing. A complicitous agent is guilty of wrongdoing only when they understand the wrongdoer's intentions and genuinely share in their wrongful purpose. So, in exploitative interactions, the exploitee may be partially complicit because they are aware of their exploiter's motive and agree to their demands. However, the exploitees are not blameworthy because they do not genuinely share their exploiter's wrongful purpose or end. So, in the following sub-section, I will discuss the relationship between partial complicity and degradation and their relationship to exploitative exchange.

III. Relating Partial Complicity and Degradation to Exploitative Exchange

O'Neill's account of coercive offer shows that a victim of coercion can somehow be complicit in the wrong done to them⁷⁴. My interest is in how partial complicity involves degradation and how they relate to exploitation. To explain this relationship, let us reiterate some conditions that make exploitative interactions possible.

In the preceding two sections, I discussed two necessary conditions that make exploitative interaction possible. The first condition is that the exploiter takes advantage of the vulnerable condition of the exploitee. The second condition is that the exploiter treats the exploitee as a mere means or mere opportunity. The third condition involves an agent being in a position of servility to further the exploiter's end. Note that when an exploiter takes advantage of the vulnerability of an exploitee, they treat them as mere means or a mere opportunity. They do that by making an offer the exploitee cannot refuse (not necessarily through coercion or deception) but by appealing to the exploitee's needs or self-interests, as in the Lecherous Millionaire or Lilly clinical trial, to make them act in a way that furthers the exploiter's end or interests.

It is degrading to take advantage of an exploitee and make them act in a way that serves our end through coercion, deception, or subtle manipulative means. It is degrading because the exploiter, occupying a position of power in the exploitative interaction, indicates that they are morally superior and puts them in a situation where they serve to further the exploiter's ends. By making the exploitee act in a way that helps to further the exploiter's ends, the exploiter puts the exploitee in a position of servility. However, just as a person coerced to serve the interest of the coercer is partially complicit in the wrong done to them but is not guilty of any wrongdoing, a person put in a position of servility by their exploiter cannot also be blamed for acting servilely for the sake of the ends. The reason is that not yielding

⁷⁴ Note that O'Neill does not extend the idea of partial complicity to deceptive interactions and all cases of non-coercive wrongful interactions. Maybe, she thinks that cases of deception do not involve complicity because they do not involve the victim adopting the wrongdoer's ends in the way that coercion does. I do not wish to argue for or against this, but just to draw the reader's attention to this point. I allow the reader to consider whether partial complicity is possible in the case of deceptive interaction.

to the exploiter's demand by agreeing to serve in furtherance of their end may be of grave consequence.

In the following section, I clarify the concept of servility and explain how it relates to exploitation. I contend that being servile in an exploitative exchange does not necessarily involve blaming the victim. I defend this view against Hill's account of servility.

5.5 Servility and the Problem of Exploitation

In the preceding section, I examined O'Neill's idea of complicity as applied in her account of coercive offer. I explained that when a person is coerced, the coercer makes them partially complicit to the coercer's intended ends even though the coerced does not genuinely share in the intended end. Their collaboration to the intended end is due to the coercer's controlling influence over the coerced's will, making them act in a way that serves the coercer's ends. I noted that even though a person is partially complicit in the wrong done to them, they are not guilty of any wrongdoing. Similarly, part of my defence in this section is that a person who acts servilely in an exploitative exchange is not guilty of wrongdoing. Strictly speaking, all exploitative exchanges are relationships of servility. To defend this claim, it is essential to explain what servility means. Explaining the concept is helpful to clarify what a servile relationship entails for exploitative exchange.

I. Understanding the Concept of Servility

The concept of servility is fundamental to Kantian ethics. Kant discusses the moral problems that underlie the act of servility in his *Metaphysics of Morals* and *Lectures on Ethics*. In *Metaphysics of Morals*, Kant notes that all human beings, because of their intrinsic moral worth (dignity), are morally obligated not to act in inconsistent ways with their dignity. One of the ways a person can act in a way that violates their dignity is by being servile, and others are lying and avarice (Kant 1991, 429).

In *Lectures on Ethics*, Kant explains how one could act servilely using the example of someone who has an extreme weakness for a beer or a kind of dependency on

alcohol. As a result of such dependency, the drunk submits themselves to all manner of indignities, making themselves a plaything to some jeering onlookers (Kant 1963, 118). The jeering onlookers take advantage of the drunk's dependency or weakness. They are not interested in his dignity but in what they are getting because he has this weakness. The drunk acts servilely because they submit themselves to indignity by allowing themselves to be under the control of alcohol, turning themselves into "a plaything of another" (Kant 1963, 118).

Thomas Hill applies Kant's view of servility to social interactions to explain why it is wrongful for an agent to act servilely. Hill, like Kant, notes that everyone owes themselves a moral duty of self-respect – that is, not treating themselves in a way that violates the humanity in their persons. But of course, when a person acts servilely, as Kant describes above, they violate this duty of self-respect they owe themselves. But what does Hill think the act of servility entails? Hill thinks that servility does not, in particular, mean that "someone refuses to press their (moral) rights, speaks disparagingly of themselves, or devotes themselves to another" (Hill 1963, 89). For example, a woman that works to make her husband happy and prosperous may not be seen as acting servilely. According to Hill, "she might freely and knowingly choose to do so from love or from a desire to share the rewards of his success. "If the effort did not require her to submit to humiliation or maltreatment, her choice would not mark her as servile" (Hill 1963, 90). In other words, "to be servile is not simply to hold certain empirical beliefs but *to have a certain attitude concerning one's rightful place in a moral community*" (Hill 1963, 90).

What kind of behaviour would a moral agent portray to suggest that they are acting servilely? According to Hill, a person acts servilely when they behave in a manner contingent on their distorted view of their own rights and worth as a person (Hill 1963, 91). In other words, the moral defect of servile behaviours, according to Hill, is a failure on the part of a moral agent "*to acknowledge their moral right or status because they do not fully understand what their rights are, how they can be waived, and when they can be forfeited*" (Hill 1963, 93-94).

Hill illustrates the above point with some examples, one of which is the deferential wife. Hill contends that the deferential wife acts servilely because she consents to serve her husband and be treated degradingly by failing to demand her moral right. In the African tradition, it is believed that a woman's role is to serve the man. Suppose the woman's acceptance to serve her husband and be treated in a humiliating way is motivated by this socio-cultural paradigm. In that case, Hill thinks that the woman may be acting based on some false understanding of her moral duty towards her husband – that is, she does not fully understand that she has a right not to defer to him (Hill 1963, 95). So, when the woman claims that she decided to give up her (moral) right for her husband to treat her the way he does, Hill thinks that the woman does so out of moral confusion. Her confusion stems from a differential attitude towards her husband, which results from *ignorance and misunderstanding of her moral rights* (Hill 1963, 95).

In his *Metaphysics of Morals*, Kant contends that it is morally objectionable to act servilely because such *false humility* belittles the agent's moral worth. It is against the agent's duty to themselves since it degrades their personality (Kant 1991, 231). So, in the drunk person's example, Kant thinks that by making himself a plaything to entertain the onlookers, the drunken person violates the duty he owes himself by degrading his personality. But Hill thinks that it is not always the case that a person who acts servilely is blameworthy. For him, "*insofar as servility results from moral ignorance or confusion, it need not be something for which a person is to blame*" (Hill 1963, 95, emphasis added).

However, Hill thinks that the situation is quite different where an agent's servile behaviour is due to laziness, timidity, or desire for minor benefits. By acting differentially due to these reasons, the agent "shows too little concern for his moral status as a person" and as morally blameworthy (Hill 1963, 96). So, based on Hill's account, there are at least two ways a person can act servilely. First, a person can act servilely by misunderstanding their moral right. Second, they can also act servilely because they think their moral rights as less valuable. In either case, Hill thinks that servility is the absence of a kind of self-respect. "*The servile person displays this absence of respect not directly by acting contrary to their own moral*

rights but indirectly by acting as if their moral rights were nonexistent or insignificant" (Hill 1963, 97).

II. Applying the Notion of Servility to a Kantian Account of Exploitation

In the preceding sub-section, I explored the concept of servility based on Kant's ethics and Hill's two-way approach. Kant thinks that when an agent acts servilely, they violate the duty they owe themselves and, as such, degrade their personality – that is, their dignity or humanity in their person. Hill also thinks that when a person acts servilely, they fail to respect the moral duty they owe themselves. However, he further notes that we can think about servility in at least two ways. First, a person acts servilely where their deferential behaviour is due to some mistaken belief that they can waive their moral right and be treated in a degrading manner by another. The other kind of servility stems from an agent's voluntary decision to place a low value on their moral rights in exchange for some minor benefits or favour.

However, there is a sense in which the notion of servility could be applied to exploitative exchange. But from the onset, it is essential to point out that servility, which underlies exploitative interactions, does not necessarily involve ignorance or misunderstanding. It also does not involve a deliberate placement of low value to one's moral right or a waiver of one's moral standing *because of some minor benefits*. More importantly, *servility should not be understood as involving any blameworthiness on the part of the person acting in a servile way*. Nevertheless, servility is the appropriate concept describing what goes on in an exploitative interaction.⁷⁵ Before highlighting what I think servility entails in the context of exploitation, I will draw a few examples to motivate the reader's intuition on why I think about servility this way.

First, a person could act servilely by being a slave to another. Wood gave an example of a benevolent slave owner, Mr Wilkes, to illustrate a case of exploitation

⁷⁵ Some commentators have raised criticisms against Hill's account of servility. For instance, Marilyn Friedman contends that Hill fails to provide argument to sustain the view that a person has a right not to act deferentially (Cf. Friedman 1985). Also see Superson 2010. But my view on servility does not stand as criticism against Hill. It only provides a new way of looking at the notion of servility.

in which an exploiter cares for the needs and welfare of the exploitee. Suppose we think of exploitation in terms of unfair benefit-sharing or violating a person's duty of beneficence. In that case, we may argue that Mr Wilkes is not guilty of any wrongdoing because, as Wood explains, Mr Wilkes treated his slaves "as a father might care for his children" (Wood 2017, 649). But despite being benevolent, Mr Wilkes is still morally culpable because by taking those persons as slaves, he treats them as instrumental utility or puts them in a servile position so that he can live off their labour. So, by reducing them to the status of a slave, Mr Wilkes makes the slaves see themselves as persons whose humanity or personality are comparatively of no worth, which is typically characteristic of a servile agency.

Similarly, in some capitalist labour interactions, employers often create a working relationship in which workers are put in a servile situation to further the ends of the employer. Schaffner offers a vivid description of this relationship as follows. According to her, employers often elicit servility from attached farmworkers in most agrarian employment relations. Servility construed here entails "a package of labour services that have value to employers for social and political reasons, and that freely mobile workers may be induced to supply only under implicit long-term arrangements." And such labour services are often "interlinked with permanent agricultural labour contracts paying a premium and combined with the threat of dismissal for insufficient servility" (Schaffner 1995, 242). For purposes of clarifications, Schaffner notes that "this additional service, here called 'servility' is elsewhere called '*subjection*', '*deference*', '*dependence*', '*clientelism*', '*unfreedom*' and '*voluntary servitude*'. So, the use of servility here still retains Kantian-Hillian meaning, as the above synonyms exemplify.

The above examples – Mr Wilkes and the agrarian servile labour cases – depict exploitative interactions. The similarity in both cases is that the exploiters in both cases took advantage of the vulnerabilities of the exploitees because they occupy a position of control. They treat the exploitees as an instrumental utility – that is, as mere means – by putting them in a position of servility to serve the exploiter's ends. The wrongfulness deduced from the above cases of exploitative interactions exemplifies all cases of exploitation – whether transactional or interpersonal relationships. They are also helpful in thinking about the exploitativeness and

wrongfulness of some interactions, such as the Lecherous Millionaire or the Lilly clinical trial.

In the Lecherous Millionaire, for example, the Millionaire takes advantage of the emotional desperation of the woman (the need to save her child), treating her as some object or instrumental utility by putting her in the servile relations through her acceptance to become his mistress. So, by making her his mistress, the Millionaire treated the woman as a mere object to further his lustful desires. The same example could be extended to the Lilly clinical trial. *Prima facie*, we may think that there is nothing servile about a homeless alcoholic agreeing to be used as an object of experimentation in exchange for some support from the researchers to cushion their economic needs. But as I insisted in Chapter One, this is a paradigm example of exploitation. It is exploitative because the researchers, being in a control position, take advantage of the homeless alcoholics' poor socio-economic situation. And by appealing to their needs and self-interests, they treat them as mere means by making them enter servile relations to further the researchers' scientific ends. They suggest to the homeless alcoholics that they can only address their economic needs if they agree to test the safety and efficacy of a trial drug unrelated to their condition.

I have consistently said that in an exploitative interaction, the exploiter puts the exploitee in a position of servility. There is a need to clarify this point going forward. All exploitative interactions involve a relationship of servility because the exploiter occupying a position of control of superordination takes advantage of the exploitee, who are in a vulnerable, subservient position.⁷⁶ The exploiter's aim is not just to extract some benefit, just like farmers extract crops from their farms. Instead, through the medium of coercion, deception, or simply cashing in on the exploitee's vulnerable situation, the exploiter preys on the will of the exploitee, making them first to agree to their proposal. Second, the exploiter ensures that

⁷⁶ Note that the exploitees do not simply occupy this subservient position. Instead, in some sense they are forced by their circumstances to voluntarily accept it for the sake of some benefit they get from the exploiter, and which they need in their vulnerable situation.

the exploitee is used, based on their servile status (like a slave fulfilling the wishes of their master), to further the exploiter's ends.

From the above examples, it is convenient to find out how servility should be understood in the context of exploitative interactions. Servility that underlies exploitation involves *induced subservience* or a kind of *forced humility*. It is induced subservience or forced humility because their deference results from the exploitee's vulnerable situation and the exploiter's exertion of some control over the vulnerable situation. For this reason, I contend that a person in a servile position, mainly in the case of exploitative interaction, is not morally culpable because their deference is not a result of disregard for their moral values in exchange for some minor favours. Their deference is borne out of desperation to escape situations that lead to detrimental outcomes.

Nicholas Vrousalis's domination account seems similar to my servility-based account of exploitation. In the opening paragraph of his paper titled "How exploiters dominate", Vrousalis rightly captures the wrongness of exploitation in a certain respect. He says, "*exploitation is a dividend of servitude*—a benefit the powerful extract by converting the vulnerable into their servants" (Vrousalis 2021, 103). This statement is similar to my point that the relationship between an exploiter and the exploitee is not necessarily one whereby an exploiter extracts excessive benefits to the detriment of the exploitee. Instead, it is a relationship of servility, where the exploiter, occupying a position of control, puts the exploitee in a situation where they become servile or subservient to further the exploiter's ends, just as what happens in a master-slave relationship, where the slave owner puts the slave in a servile position to live off their labour⁷⁷.

⁷⁷ By drawing this analogy, I do not mean that all exploitative interactions have the features of exploitation that exist in a master-slave relationship. Slavery is one of the examples of involuntary exploitative relationship. Those who enter the relationship are forced by the slave-masters who occupies, uses their socio-economic influence and political powers to subjugate others in furtherance of their ends or interests. There are, however, other examples, like the Lecherous Millionaire or the Lilly clinical trial, where exploitees enter exploitative interactions voluntarily because of desperation or unjust social systems. But the similarities in both cases is that the exploiters deliberately take advantage of the exploitees, put the exploitee in a position where they become subservient (a mere means or mere opportunity, or mere instrumental object) to further the exploiters' ends.

The observation made in the preceding paragraph does not suggest that Vrousalis's domination account is the same as my Kantian servility account. Vrousalis suggests that exploitation occurs when A's benefits stem from A's domination of B. In other words, the exploiter makes an offer that seems to rank the exploitee's needs as less urgent than the exploiter's. Concurrently, the exploitee's needs are taken as a feature that can be instrumentalized to benefit the exploiter. "The exploitee, on the other hand, can only improve her own lot by accepting this ranking, indeed by seeing herself as someone whose desires and needs lack priority" (Vrousalis 2021, 112). This account vividly highlights the power relations in exploitative relationships or exchanges. The exploiter, occupying a position of control or domination, puts his needs ahead of the exploitee. At the same time, they put the exploitee in a position of servility or servitude, understanding that their interests can only be attained when they see their desires or needs as less significant.

The significance of Vrousalis' domination account is that it shows a relationship of unequal exchange where the exploiter treats their needs as more significant than the exploitees and puts the exploitee in a situation where their needs are instrumentalized for the exploiter's benefit. But this description does not capture all that happens in exploitative relationships. My Kantian servility account shows that the exploiter regards the exploitee's needs as less important because they treat the possessor of the need as one who lacks innate equality and whose humanity is of little or no worth. And since the exploitee does not share the same moral with them, they are best treated as mere means (instrumentalized), as people of servile status, whose role in the relationship is to help further the exploiter's ends or interests.

5.6 Defending the Kantian Servility Account Against Others

I have shown how the servility account helps to explain what could be wrong in an exploitative interaction. The wrongness of exploitation stems from the fact that the exploiter treats the exploitee as a mere means to their own advantage and degrades them by putting them in a servile relationship with the exploiter. The servility account does not rely on whether the interaction makes the interacting

agents worse off or better off and whether the agent voluntarily accepts to enter such interaction. We have seen that it is unsatisfactory to assess the moral plausibility of an interaction based on the conditions offered by Zwolinski.

The Lecherous Millionaire, the Uncompassionate Rescuer, and the clinical research cases like the Lilly, AstraZeneca and Tenovofir clinical trials show that interaction can be exploitative even if it is consensual and makes the interacting parties better off. I argued that the problem with these cases is that the exploiters take advantage of the exploitee's vulnerable situations and treat them as mere means by making them enter servile relationships with the exploiters. As it were, the reason for the woman entering a servile relationship with the Millionaire, for instance, is justified because it makes her situation better off – she can raise the required money for her child's surgery. Similarly, in the clinical research cases, for instance, the Lilly research with homeless alcoholics, the participants' decision to enter a servile relationship with the researchers seems reasonable. The incentives offered to them make them better off. The servility account also suggests that people can be exploited with their rights being violated. For instance, Jason exploited Carole without her rights being violated. Also, the woman in the Lecherous Millionaire case and the homeless alcoholics in the Lilly clinical trial were exploited without their rights being violated.

Snyder supports the claim that consent, violation of rights and making someone better off are not sufficient to determine the wrongness of interaction or transaction. Using his idea of a duty of beneficence, he argues that exploitation can occur when one of the interacting parties receives an insufficient or reasonable benefit to meet their basic needs. However, the servility account shows that even if one receives adequate or reasonable benefits to meet their needs, such benefits do not make the interaction non-exploitative. For instance, if we evaluate the benefit received by the rescuer, which is some portion of the drowning person's investments, and the benefit received by the drowning person, which is a lifeboat to save his life, our intuition will judge that the benefit of being alive is higher than the benefit of losing one's properties. We appeal to this intuition because it is difficult to compare the value of our being alive with some price, and human existence is beyond material quantification. So, we can say that it is challenging

to compare material benefits with human existence because the former is less valuable compared to the latter.

So, is it plausible to say that a rescuer who takes some of the investment of a drowning man in exchange to save the drowning man offers him more benefits than she received? Of course, he did because it is difficult to quantify the value of life but relatively easy to quantify the investment lost to the rescuer. However, even though the drowning person received an unquantifiable benefit (being alive) than the rescuer (some portion of the drowning man's investments), it does not make the interaction less exploitative. For instance, in the Lilly case, the homeless alcoholics hoped with excitement to participate in trials if they were given the opportunity. At least the incentives they received from the medical research were sufficient to meet some of their needs, just as the money the woman got from the Millionaire was sufficient to take her child to the hospital for surgery. Therefore, the servility account shows that the moral wrongness in these cases is not that the benefits received do not address their needs. Instead, what is going on is that there is some taking advantage of vulnerability going on in those cases.

Furthermore, the servility account shows that not all interactions are transactional. For instance, in Wertheimer's account, exploitation only occurs within transactions. To ascertain what is morally problematic in transactions, we must examine whether the benefits of the transacting parties are fairly distributed. It is exploitative if it is not fairly distributed based on a fair market standard. But clinical trials, for example, the Lilly, AstraZeneca and Tenovofir trial cases, and the Lecherous Millionaire and Uncompassionate Rescuer cases, show that some interactions can be exploitative when they are made transactional - that is, when extraction of benefit becomes the rationale for the interaction. Even if we concede to Wertheimer that the rescue case, for instance, is transactional because of the benefits gained by the rescuer (part of the investment of the drowning person) and the drowning person (being alive), it is impossible to evaluate the fairness of the transaction. It is difficult to quantify an unquantifiable benefit (being alive) with some material benefits.

So, the servility account shows, and Wood affirms that the issue of exploitation is not necessarily whether a person received fair benefits because the examples I outlined above suggest, people can be exploited even though the benefits received from the interaction are fair. Exploitative interactions are morally wrong because exploiters play on the vulnerabilities of the exploited victims and treat them as mere opportunities by putting them in a position of servility to further their ends. This point also applies to cases where slavemasters are paternalistic and benevolent by taking an interest in the lives and welfare of their slaves and offering them fair benefits. So far as benevolent slavemasters view the group of persons they care for as people of less moral worth, whose position is of servile or subservient status. As far as they are treated as mere instruments to further their ends, those benevolent slavemasters can still be regarded as exploitative, and as such, morally culpable⁷⁸.

Finally, Wood thinks that a person is exploited and, therefore, treated morally objectionably when the exploiter takes advantage of their vulnerability and treats it as an opportunity to further some ends. However, my servility account shows that by focusing *only* on the exploited victim's vulnerability without considering the victim's personality, Wood fails to recognize that all morally objectionable exploitation involves servile relations (even though he agrees that exploitation degrades the exploited victim).

5.7 Evaluating the Servility Account

Having evaluated my account of exploitation vis-à-vis other accounts of exploitation, we can consider some possible objections that might be raised against my account. The first possible objection against my account of exploitation is that it does not seem to capture the case in which an agent may voluntarily interact with a potential exploiter with the intent of helping them to realize their end without the exploitee feeling degraded or disrespected. Let us assume that

⁷⁸ I am not assuming that all cases of exploitation follow the same pattern as slavery. As I noted earlier, slavery is an extreme form of exploitation, and involves a situation where exploitees (the slaves) involuntarily enter the interaction. But more generally, my account shows that irrespective of how extreme an exploitative interaction might be, all cases of exploitation involve relations of servility, although some relations of servility may be comparatively more or less worse.

Tony, one of the homeless alcoholics recruited for the Lilly experiment, owed the manager of Lilly Pharmaceutical Company some money. The manager remembered the money owed her and felt that the only way to make Tony pay his debt was to recruit him for the trial. Let us assume that Tony reads the manager's mind and decides to play along with the manager by participating in the study. Even though Tony is aware that he is being degraded or disrespected by being used for such a study, he decides to participate in helping the manager realize their end (which is to recoup their debt). I defend the view that the servility account is not committed to the claim that exploitation only exists where the exploited person feels degraded. Besides, the feeling of an exploitee does not make the interaction more or less exploitative. To understand the exploitative nature, we must evaluate the servile relations between the interacting parties – how the exploiter treats the exploitee to further their ends.

Secondly, the reader may offer a counterexample to show that a person may be exploited without necessarily being degraded by the exploiter by making them enter a servile relationship with them. The Uncompassionate Rescuer case may quickly come to mind. In Chapter One, I illustrated the case involving a rescuer, Mark requesting Jim (the drowning victim) to give him half of his investments in exchange for the rescue. The reader may think that exploitation in this exchange stems from the enormous benefits that Mark desires to extract from Jim in exchange for Jim's rescue. And so, the issue of exploitation may significantly diminish if, for instance, Mark asks for a price as low as £100 instead of part of Jim's estate. But this is not a case of unequal bargaining power since Jim is willing to offer anything in exchange for rescue, the same way the woman is willing to become the Millionaire's mistress in exchange for money to rescue her child from dying. The point is that irrespective of the amount Mark wishes to extract from Jim (Whether £10,000 or £100), what is at issue is that Mark degrades Jim by cashing in on Jim's vulnerable situation and treating him merely as an object for his economic ends, the same way the Millionaire treats the woman merely as an object for his lustful desires.

Moreover, many international regulations regarding safety at sea provide that seafarers or ship-masters, or anyone in the position to rescue, are obligated to

proceed to the assistance of those in distress at sea⁷⁹. This regulation does not suggest that rescued victims may incur some charges for the rescue (no matter how small). The reason seems that it may be morally reprehensible or legally untoward for State rescue agents or anyone in a position to rescue to charge a person at the risk of drowning or lost at seas a fee in exchange for rescue. Based on this intuition, one can say that a rescuer may be guilty of exploitation even though they demand the drowning victim to pay £50 in exchange for the rescue. The point is that by making such a request, the rescuer takes advantage of the drowning person's situation of distress, putting the victim in a servile position – making the victim subservient to the dictates of the rescuer because the rescuer occupies some position of control, to extract some gains from the victim.

The critic may further claim that there is no reason to claim that Mark treats Jim as mere means by putting him in a servile position since his goal of staying alive is being promoted by Mark. But as I have already noted, someone can be treated as mere means even though the exploiter promotes their goal. In the Lecherous Millionaire case, the Millionaire also promoted the woman's goal by accepting to offer her the money she needed to save her child from dying. However, what is evident in these two cases is that both Mark (the rescuer) and the Millionaire hinged the promotion of their victim's goal on servile relations. In other words, exploiters consider their personality and need as invaluable and deserving priority attention. Then they put their victims in a position where they believe their own needs are less valuable and can only be attained when they further the end of their exploiters. As Vrousalis rightly notes, exploiters convert exploitees into servants to further their ends.

Finally, someone may claim that my account ties exploitation to servility, suggesting a voluntary undermining of one's moral right to be treated degradingly. As such, it does not seem applicable in medical research. However, my account of exploitation sits very well within the context of medical research. I do not claim that when exploiters cash in on their exploited victims' vulnerable situation, they

⁷⁹Cf. [https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-\(SOLAS\),-1974.aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-(SOLAS),-1974.aspx) ; https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf .

make them undermine their right to be treated with dignity and respect. Of course, in an exploitative relationship, the exploitee is put in a servile position to further the exploiters' end either due to the exploiter's coercive or manipulative influence or due to the exploitees' vulnerable circumstance exploiters cash in on to make an unrefusable offer. Despite being in a servile relationship, exploitees still retain their sense of respect for their dignity. So, it is worthy to note that a medical researcher who persuades a person to enrol in research because of their social and economic situation (as in the case of the homeless alcoholics in the Lilly case or the helpless Nigerian prostitutes in the Tenofovir case) understands that their socio-economic situation has conditioned them to think and act in specific ways. So, such an invitation suggests that the poor person's condition can only be mitigated if they accept the benefits and become available as research subjects. It is difficult, just as in the case of the drowning person or the desperate woman, to refuse because, at that point, you are not thinking or considering whether you are eligible for such a study. Your immediate interest is to take care of your economic needs.

So, just like the person who is eager to leave the waters so that they do not get drowned, or the woman who is desperate to save her child from dying, the intention of the poor person, for example, a homeless alcoholic, is to leave the waters of socio-economic situations they find themselves due to unjust social systems. Therefore, they voluntarily agree to participate in the study irrespective of whether they are suitable for the study. So, the issue of servility plays out here because while the homeless alcoholics fail to reflect on whether it is appropriate for them to participate in the study, the main interest of the researchers, who are occupying the position of control, is to see that the homeless alcoholics agreed to be used as objects of research to further some scientific ends. In this case, as explained in Chapter One, the researchers neither deceived nor coerced the participants. So, there is no question whether the homeless alcoholics voluntarily consented to the research. However, what is at issue in this case, as it is in others, is that circumstances or forces of unjust social systems made the homeless alcoholics willing to participate in the medical research. Understanding the vulnerable situation of the homeless alcoholics, the researchers, employing a

subtle manipulative tactic through the offer of incentives to appeal to their urgent needs or interests, convinced them to enter medical research, a request they won't consent to if they were well-off.

In the preceding sections, I extensively discussed the servility account of exploitation. I argued that when a person is exploited, the exploiter takes advantage of the exploitee's vulnerability and degrades them by treating them as a mere means by making the exploitee enter a servile relationship with them to further the exploiter's ends or interest. Based on this account, I explained why clinical research cases like the Lilly, AstraZeneca and the Tenofovir trials are morally problematic and exploitative. In these cases, the researchers took advantage of the participants' vulnerability by initiating an interaction with them. By initiating such interaction, not through coercion or deceptive means, but by using some subtle manipulative strategy (an appeal to their needs and best interests), the researchers created a servile relationship, in which the participants would voluntarily consent to be subservient to the wishes of the researchers (the exploiters). A morally permissible clinical research should not create a situation of servile relations. But it should be framed so that potential participants are treated with respect and dignity.

I explain the Kantian idea of treating persons with dignity and respect in the next chapter. I employ the principle to evaluate Nigeria's Code of Health and Research Ethics (NCHRE). The goal is to show that the NCHRE is not sufficient to address the issue of exploitation; and to argue that the principles I will explore act as a moral tool for the National Health Research Ethics Committee (NHREC) to evaluate all cases of clinical research, including those cases which in their estimation may seem *prima facie* morally unproblematic.

Chapter Six: Non-Exploitative Interaction and the Ethics of Medical Research in Nigeria

6.1 Introduction

In the preceding chapters, I tried to identify the necessary and sufficient conditions for morally objectionable and exploitative medical research. To do this, I explored Zwolinski, Snyder and Wertheimer's transactional accounts of exploitation. Zwolinski, for instance, claimed that transactions are exploitative when an interacting agent does not voluntarily consent to it, if it violates the agent's legal right (based on terms of the contract), or if it makes the agent worse off than they were before they entered the interaction. For Snyder, A is exploited when B, who gains from interacting with A, fails to fulfil their duty of beneficence towards A. On the other hand, Wertheimer thinks that exploitation occurs if A benefits from interacting with B by harming B, or in the case of consensual and mutually beneficial interaction, due to B's interactions with A, A receives unfair benefits. But these conditions only applied to some medical research cases like Pfizer, Tuskegee Syphilis, and Synflorix experiments. The patient-participants in these cases were either coerced or deceived; therefore, they did not give their voluntary, informed consent to enter the studies. They were worse off because some of the participants died while others were disabled. Regarding benefits sharing, the sick participants received little or nothing compared to the risks of participating in the research. In fact, in the Tuskegee Syphilis case, the researchers refused to treat the participants even when penicillin (a safe and effective cure for syphilis) was later made available.

The conditions offered by Zwolinski, Snyder and Wertheimer did not apply to some other morally objectionable and exploitative medical research cases like the Lilly, AstraZeneca and Tenofovir clinical studies. I used some non-medical research cases like the Lecherous Millionaire and the Uncompassionate Rescuer to corroborate this point. These cases showed that interactions could be exploitative and morally objectionable even though exploitees voluntarily and knowingly consent to the exchange, not made worse off and gained from the interaction. So, to explain why the Lilly clinical study and the Lecherous Millionaire case, for

example, are morally objectionable and exploitative, I appealed to Wood's Kantian vulnerability account that focuses on taking advantage of vulnerabilities and treating the vulnerabilities as opportunities to further exploiters' ends.

While I agreed that exploitative exchanges involve taking advantage of vulnerabilities, I differed with Wood on the claim that an exploiter degrades the exploitee by treating their vulnerabilities as opportunities to further their ends. I showed that this conclusion is flawed on two counts. First, it seems to assume that whenever we take advantage of a person's vulnerability to further our ends, we wrong the victim, even though the exchange is done on fair terms (cf. Arneson's heating company example). Second, it fails to capture the servile relations in exploitative interactions that arise from treating a person as a mere means. So, to improve Wood's account, I offered a Kantian servility account of exploitation. I argued that a person is exploited when the exploiter takes advantage of their vulnerabilities, treats them as mere means by putting them in a situation of servility to further the exploiter's ends. This account is inclusive because it captures the wrongness in voluntary exploitative interactions and those cases captured by Wertheimer, Snyder and Zwolinski.

This chapter explores some practical implications of the servility account of exploitation for Nigeria's Code of Health and Research Ethics (NCHRE). The servility account raises moral concerns about using coercion and deception to recruit potential participants, especially when a researcher is also a physician. As Fadare and Porteri rightly observe, "in developing countries such as Nigeria, physicians are the most qualified to conduct human subjects research, and their primary sources of subject recruitment are the health care facilities where they also care for these subjects (patients) (Fadare and Porteri 2010, 71). So, where doctors, because of their position of control or power, take advantage of the vulnerability of their patients to enrol them for research by threatening to refuse them treatments or care services if they fail to enrol⁸⁰ or by failing to provide them with adequate information concerning the studies, or by making the patients feel

⁸⁰In a nursing home in America, it was reported that "a resident was forced to participate in a study or leave the home. The subject, later found to be ineligible, died after participating in a trial." <https://oig.hhs.gov/oei/reports/oei-01-97-00195.pdf>.

like to protect their relationship with the doctors from being adversely affected, they need to remain in the study, then the doctors are treating the patients as mere means by putting them in a position of servility or subservience to further their scientific ends.

The servility account also raises moral concerns about using financial incentives for medical research recruitment. Conventionally, incentives are necessary for easy recruitment of volunteers for medical research participation. According to Trisha Philips, "offering cash payments to research subjects is a common recruiting method. Indeed, many studies would fail to meet enrolment goals without a financial incentive for participation" (Philips 2011, 209). In other words, without financial incentives, it would be difficult to recruit participants that would assist in attaining the goal of medical research – that is, the advancement of scientific knowledge and the enhancement of health and well-being of the public. Therefore, the Nigerian medical research ethics guidelines do not rule out incentives. Without incentives, research progress may be impeded.

But the servility account shows that using financial or material incentives (condoms, temporary accommodation, food, clothes, etc.) to motivate potential participants to enrol for studies is morally problematic because it increases the likelihood of exploitation. I have shown in Chapter Two that incentives do not undermine the capacity of participants to make autonomous and voluntary decisions. But some medical research like the Lilly, AstraZeneca and the Tenofovir studies show that the use of incentives most often compromises medical research's moral integrity on two fronts. First, it promotes a disproportionate enrolment of research participants who are socially and economically disadvantaged to bear the brunt of research favouring the well-off. For instance, during the Tenofovir clinical study in 2004 in Nigeria, the researchers and their sponsors targeted poor and illiterate female sex workers in Nigeria to test the safety and efficacy of the Tenofovir trial drug. Members of this population were selected not because they were the most eligible but because they were readily available and willing to participate because of their poor economic conditions⁸¹.

⁸¹ Some literature suggests that the reason for the influx of international researchers to test new HIV drugs in Sub-Saharan Africa was because of the high prevalence of the HIV/AIDS (cf. Dwyer-Lindgren, et al. 2019; González-Alcaide

Moreover, ineligible participants may be high where only economically disadvantaged people are targeted for studies. For instance, the homeless alcoholics were ineligible to participate in the Lilly experiment because, "as alcoholic abusers, they were not reliable in reporting adverse events, both because they feared disqualification from the study and confused adverse reactions with their normal symptoms" (VanderWalde and Kurzban 2011, 543). Nevertheless, they were selected because, as Cohen reports, the Lilly researchers thought that *using* them was "efficient and limits the risk that subjects will sue if harmed by an experiment or divulge particulars of a drug."⁸² Enrolling ineligible participants may compromise the social and scientific values of the research.

Second, by targeting a specific population for research because of their socio-economic conditions, socio-economic determinants may influence research outcomes. For instance, as Nyangulu et al. observe, "in a study to evaluate HIV care delivery models among adolescents where the primary outcome is retention in care, the inclusion of the stipend and other incentives may affect the results of the study by shifting the social-economic base" (Nyangulu et al. 2019, 4). There is a very low possibility to realistically measure the effects of socio-economic determinants on retention in such a study. So, since certain medical research requires enrollment of participants across the socio-economic spectrum, limiting participation to a particular population because they are easily accessible and because the researchers and their sponsors want to win fast-track approvals may expose end-users to the risk of harm⁸³. For research that is non-drug related, it may compromise the study design and data validity.

So, rather than using financial and material incentives to induce participation, researchers should focus more on educating eligible target populations about clinical research and its social and scientific value so that potential volunteers

2020. But the Tenofovir research was for healthy participants because it was a Phase 1 trial. Moreover, even if the research was for a population who are at a higher risk of contracting HIV, report shows that anyone who is gay, bisexual, or transgender and inject drugs is at a higher risk even though they are not sex workers (cf. <https://www.hiv.gov/hiv-basics/overview/about-hiv-and-aids/who-is-at-risk-for-hiv>).

⁸² <https://www.wsj.com/articles/SB847923261820633500>

⁸³ The Pfizer experiments exemplifies this point. According to report, "after approving Trovan for 14 other uses in 1997, the FDA advised Pfizer to pull the drug--two years and more than 2.5 million prescriptions later--citing "safety concerns." The problem: deaths from Trovan-linked liver injuries." <https://www.forbes.com/forbes/2008/1208/066.html?sh=7d8c65a323a7>.

may enrol for the right reason motivated by altruism rather than their economic needs, or by the prospect of free medical care.⁸⁴ In this chapter, I will discuss the strategy that should be employed by medical researchers and the National Health Research Ethics Committee (NHREC) in Nigeria to ensure that those who are economically impoverished are not treated as mere means by entering a relationship of servility to further some scientific ends.

To set out the discussion for this chapter, in section 6.2, I explore Nigeria's Code of Health and Research Ethics (NCHRE) by giving a brief historical overview of the NCHRE and highlighting its normative underpinning. In section 6.3, I examine the ethical challenges in Nigeria's Code of Health and Research Ethics (NCHRE) under four fundamental principles that underlie the guideline, namely, (i) Fair selection; (ii) Respecting informed consent; (iii) Adequate distribution of benefits relative to risks; and (iv) Community participation. I show that the NCHRE in its present state cannot sufficiently address the problem of exploitation in clinical research.

In section 6.4, I discuss how prioritising the dignity and well-being of interacting parties could underpin the NCHRE. The principle is important because it acts as a check against researchers degrading prospective participants or putting them in a situation of servility to further some scientific ends. So, the principle is helpful to evaluate all clinical research cases, including those that may *prima facie* be misconstrued as morally unproblematic. In section 6.5, I offer recommendations on how the challenges identified in the guideline could be assuaged based on the normative framework.

6.2 An Overview of Nigeria's Code of Health and Research Ethics (NCHRE)

Before employing the normative framework mentioned in the preceding section to evaluate the NCHRE, it is necessary to briefly explain the historical development

⁸⁴ By altruism, I do not mean that eligible potential participants should carry the burden of research without compensation. Of course, if the participants incurred some costs in the course of participating in the research, researchers are obligated to reimburse them. I do not regard reimbursement as a kind of incentive because its aim is not to motivate participation but to appreciate participation. More importantly, potential participations, especially, healthy participants ought to be informed that what they are given is a cost incurred for participation so that they do not treat research participation as a job opportunity for 'biopimps' (cf. Colloff, P. Biopimping. Details Magazine. August: 96-99, 1997); or opportunity for some free money (Cf. Laurie P. Cohen, The Wall Street Journal, Nov. 14, 1996, <https://www.wsj.com/articles/SB847923261820633500>).

of the NCHRE and its normative underpinning. Nigeria's Biomedical Research Ethical Guideline, formally called Nigeria's Code of Health Research Ethics (NCHRE), was developed and adopted in 2006 in response to a series of unethical clinical practices in Nigeria before that year. For instance, in 1996, a clinical trial was carried out by Pfizer. A team of clinical researchers were brought into Kano (one of the major cities in Nigeria located in the Northern part of Nigeria) to test an antibiotic drug called 'Trovan' on vulnerable meningitis children recruited for the study. The essence of the test was to study the drug's efficacy to secure approval from the US Food and Drug Administration (FDA). This case and the controversies that surrounded it have been highlighted in Chapter One. Another clinical trial case that seems less controversial is the 2004 HIV prevention trial drug study sponsored by Bill and Melinda Gates Foundation. The trial was incidentally stopped after a public outcry against a similar trial protocol that was carried out in Cameroon.

There are still many other clinical research cases in Nigeria, some of which have been judged unethical. The reason is that Nigeria is a populous country with over 86 million people living in extreme poverty⁸⁵. It is a hotbed for clinical trials because it is easy to recruit participants due to socio-economic conditions and desperation to receive medical remedies. It is, therefore, evident that apart from the cases mentioned above, exploitation in clinical research may have been going on in Nigeria.

The National Health Research Ethics Committee (NHREC) was instituted in 2005 to address the many unethical practices in clinical research. The committee was chaired by Professor Clement Adebamowo⁸⁶, a Harvard-trained Nutrition epidemiologist and biostatistician. He "coordinated and supported the entire technical consultation process with his NIH Research Grant ... funded by the Fogarty International Centre and the National Human Genome Research Institute" (NCHRE 2007, 5). He developed the preliminary draft of the NCHRE. The

⁸⁵ Kazeem, Yomi, 2018, <https://qz.com/africa/1313380/nigerias-has-the-highest-rate-of-extreme-poverty-globally>

⁸⁶ Professor Adebamowo is currently serving as an associate director of Population Science at the Marlene and Stewart Greenebaum Comprehensive Cancer Centre and a tenured Professor of Epidemiology and Public Health at the University of Maryland, Baltimore. He is also a Faculty member of the Centre for Bioethics and Research, where he engages in some training activities on Research Ethics.

preliminary draft was the bedrock upon which the 2006 NCHRE was developed and finally adopted.

The roles of the NHREC were, among other things, to establish ethical standards for the conduct of human and animal research, to ensure that clinical researchers adhere strictly to the clinical ethical guideline, and to advise the Federal government on ethical issues that arise in clinical research.⁸⁷ Based on the mandate of the members of the NHREC, in 2006, Nigeria's Code of Health Research Ethics (NCHRE) was developed and adopted as the first ethical guideline for human research in Nigeria. The NCHRE became a legal document after the National Health Bill was passed by the legislative arm of government and signed into law by the country's President (Dr Goodluck Jonathan) on December 9, 2014 (Ogunrin et al. 2016 398). Interestingly, before it was formally approved for use as a legal instrument, the code was already operational after its approval by the Federal Ministry of Health and the State Commissioners of Health in 2006. It was later revised in 2007 (with minor modifications)⁸⁸.

The 2007 guidelines contain ten provisions, numbered a to j on pages 35-42. Each of the provisions is drafted to reflect fundamental ethical principles like the principle of respect for persons, trust, the duty of beneficence, non-maleficence, and justice. Regarding respect for persons, the NCHRE provides that participants must be respected throughout the research. In the seventh provision, for instance, it is noted that respect for persons requires that participants' rights to privacy must be protected. It also implies that their consent and those of their communities must be sought (NCHRE 2007, 40-41).

The ethical principle of justice and fairness underlies the code. As implied in the code, the principle requires that since the communities, researchers, and participants bear the burden of the research, it is required that they share its

⁸⁷ (<http://nhrec.net/about-us>)

⁸⁸ For the sake of consistency, I am exploring the 2007 revised version. In the 2006 version, most of the provisions were concluded with statements like – ‘this requirement is based on the ethical principles of’ These ethical principles include the non-exposition of participants to needless risk (non-maleficence), avoiding waste of finite resources, beneficence, and avoidance of exploitation, equity and justice, respect for persons and community, as well as the principle of trust. This is evident in provisions b, c, d, f, g, h and i (<http://www.nhrec.net/nhrec/National Code for Health Research Ethics v2.0.pdf>). In the 2007 version, references to ethical principles were deleted to give the provisions more precision and suitability, and for them to align with other international documents.

benefits (2007, 36). Based on the principle of non-maleficence, the code warns that participants should not be exposed to needless risks by adopting invalid research methodology and complicated research objectives. Part of the fourth provision, for instance, states that specific safeguards should be included to protect the vulnerable as appropriate to the degree of risks.

Just like the principle of respect for persons, beneficence and non-maleficence, the principle of justice underlies all biomedical ethics guidelines. The Council for International Organizations of Medical Sciences (CIOMS)⁸⁹ guideline, for instance, provides that clinical studies should be designed so that the benefits and burdens of the studies are distributed equitably (CIOMS 2016, 7-8). Similarly, in the NCHRE, it is required that contributions of all parties as well their indigenous knowledge and intellectual property must be given adequate consideration. More importantly, where there are tangible benefits (in the form of incentives, approved drugs, and so on) or intangible benefits, as in data collection or knowledge advanced, beneficiaries must be protected and adequately compensated. The code provides that how benefits should be distributed must be agreed upon before the commencement of the research (NCHRE 2007, 41-42). Of course, such an agreement is based on available resources.

The code also incorporates ethical communitarianism as it reflects the role of the community in moral deliberations. For instance, in number S (ii) of the HREC functions and operations, the NCHRE provides that even if the HREC finds a study approvable, it is ethically required that the community leaders decide whether such study is ethically permissible. So, the community's permission must be sought before such a study can proceed.

In sum, the code provides that all clinical research should have social and scientific values; that it should be done in a way that respects and protects the participants, primarily through minimization of risks, maximization of research

⁸⁹ "The Council for International Organizations of Medical Sciences (CIOMS) is an international, non-governmental, non-profit organization established jointly by WHO and UNESCO in 1949. CIOMS represents a substantial proportion of the biomedical scientific community through its member organizations, which include many of the biomedical disciplines, national academies of sciences and medical research councils. CIOMS mission is to advance public health through guidance on health research and policy including ethics, medical product development and safety" (<https://cioms.ch/> accessed 20/7/2020).

benefits and ensuring that the participants provide informed consent and sign consent forms before they are enrolled in the research. So, the NCHRE captures all essential provisions that underlie standard biomedical research ethics guidelines.

The above overview shows that NCHRE was developed based on international best practice. The ethical principles of informed consent, respect for participants' privacy, just distribution of benefits, non-exposure to excessive risks, and community participation are the cornerstone of the code. By building the code on those ethical principles, the authors seem to suggest that research protocols designed in line with those ethical principles are non-exploitative and, as such, morally permissible. Many bioethicists also share this kind of intuition. Miller and Brody, for instance, argue it is morally inappropriate for researchers to enrol human subjects into hazardous studies. So, the obligation of researchers regarding exploitation is, on this view, that participants consent appropriately in the study, and they are not exposed to harmful studies (Miller and Brody 2003, 339). Even though the ethical principles that underlie the NCHRE are necessary for medical research regulations, they are not sufficient to address the ethical issue of exploitation. I will defend this claim in the section that follows.

6.3 NCHRE and the Problem of Exploitation

In the preceding section, I explored the NCHRE, highlighting the facts about its development and the ethical principles that grounded it. I noted that the code was based on essential ethical principles like informed consent, respect for privacy, just distribution of benefits, non-exposure of participants to excessive risks and community participation in ethical deliberation about the research. These principles are helpful to guide medical research that involves human subjects. In this section, I argue that even if these ethical principles are necessary for clinical research regulations, they are not sufficient to address all exploitation issues. The reason is that there are exploitative research cases that are consensual, beneficial and may not be very risky, like the Lilly, AstraZeneca and Tenofovir clinical trial cases. I examine the NCHRE vis-à-vis my servility account of exploitation developed in Chapter Five to show why those ethical principles that underlie the code are inadequate to protect human subjects from being exploited.

For proper analysis, I categorize the ethical principles underlying the NCHRE under four main headings: (i) Respect for persons. I examine how the notions of consent and privacy protection underpin the principle of respect for persons. I show that an issue of exploitation may still arise even when the participants offer informed consent, and their privacy is protected during the study. (ii) Justice and fair distribution of benefits. I examine the idea of a just selection of participants. Just selection of participants is dependent on the balance between risk and benefits of research. But it is difficult to see how balance applies to cases like Lilly clinical trial where participants were offered money and free temporary accommodation in exchange for participation. Do these incentives count as benefits, and if they do, how can they be balanced with the risks? What amount of incentives are enough to balance the risks? So, it is evident that the selection based on the balance of risks and benefits does not sufficiently address the moral problem of exploitation. (iii) I examine the idea of non-exposure to excessive risk. I argue that even if a study is minimally risky without a possibility of resulting in adverse events, it could still be exploitative. (iv) I explore the issue of ethical deliberation and community participation. I argue that the over-dependence on community authorization raises fundamental moral issues about the dignity and well-being of the research subjects. Each of these headings, thus, cover the core provisions of the NCHRE. Analyzing them will sufficiently expose the code's inadequacies in addressing the ethical issue of exploitation.

i. Fair selection of Research Participants

The third provision of the NCHRE requires that potential participants be selected based on *the scientific goal of the research*. (NCHRE 2007, 35, emphasis added). It suggests that investigators can *only* recruit research subjects whose participation is *relevant* and *crucial* for generating valid and reliable data. It further provides that selecting who participates in a study must not be based on sex, age, socio-economic status, or intellectual capacity (NCHRE 2007, 36). In other words, all potentially eligible research participants should be given equal opportunity to share in the risks and benefits of research – the poor or illiterate should not bear the burden of research while those who are socio-economically advantaged enjoy the benefits of research.

This provision also relates to how research sites and communities should be selected. Like research subjects, the provision implies that research sites or potential host communities for clinical research should be selected based on their relevance to the research objective or goal (NCHRE 2007, 36). Suppose the research goal is to develop an effective treatment for malaria infection. In that case, a community selected for such a study should have a high malaria prevalence and transmission rate (Emanuel et al. 2004). Some guidelines like the CIOMS emphasize that research must be socially valuable to a host community before such a community could be engaged in it. Engaging a community in research is a way of suggesting that the proposed research is relevant to the community's health needs (CIOMS 2016, 25).

Participants or their communities cannot be excluded because of social and economic conditions or lack of intellectual capacity without scientific justification, significantly where such a study "can advance their health and well-being" (NCHRE 2007, 36). To exclude research subjects by preventing them from participating in studies that should be beneficial to them without justifiable scientific reason is to treat them unfairly and discriminatorily. The code, however, states that the only justification for community or participant's preclusion is where the research has the potential of exposing the participants or their community to "*excessively increased risk of harm*" (NCHRE 2007, 36 emphasis added). In other words, if the participant or the community is at risk of being exposed to excessive risk of harm, the investigator is morally required to exclude them. The CIOMS guideline corroborates this provision. It notes that one of the ways to mitigate against adverse events is by "excluding participants who are at a significantly increased risk of being harmed from an intervention or procedure" (CIOMS 2016, 11). Some bioethicists argue that there is no moral justification to enrol participants into hazardous research (Emanuel 2005). This point explains why the Pfizer Trovan and the Synflorix clinical trials are exploitative. These studies were hazardous, and the trials resulted in the death of many participants, specifically children. In the case of the Tuskegee Syphilis, the researchers and their sponsors refused to treat the patients even when penicillin, an effective cure for syphilis, was later made available. Moreover, none of the participants was informed of their

right to withdraw from the studies if they thought they could no longer tolerate the risks and discomforts associated with the studies.

However, the NCHRE fails to spell out the relevance of the provision on inclusion and exclusion for research participants who may be recruited for non-therapeutic studies – studies involving healthy participants. The provision rightly emphasizes that the only reason to exclude a research subject and their community from participating in a study is if the study is harmful. But the code seems to suggest that if the study is minimally risky, it is morally permissible for research subjects and their community to be enrolled in it (Gordon and Micetich 2002; Emanuel et al. 2012). But the provision fails to highlight the strategies that researchers and their sponsors should follow to enrol research subjects in the study. As I noted earlier, many researchers and their sponsors massively advertise clinical studies, emphasizing the amount to be paid and promising free medical treatments as a way to persuade participation. Since the idea of the provision is to ensure a fair enrolment of participants, without explicitly saying how participants should be recruited, this gap may create a situation of exploitation. The researchers may enrol predominantly those who are economically disadvantaged to bear the burden for the benefit of all, thereby compromising the moral integrity of the study.

Moreover, the NCHRE states that the socio-economically, educationally and psychologically disadvantaged groups should not be excluded without explicit reason, significantly where the study could benefit the health and well-being of the participants. But the code does not address a possible conflict between this principle of fair inclusion and the fair distribution of third party risks.⁹⁰ For instance, some studies could involve a deliberate exposure of research participants to infectious diseases. Suppose researchers and their sponsors cannot provide adequate measures to prevent the diseases from spreading outside the study. Nonparticipants could be put at risk of infection, for example, if pathogens spread via sewage cannot be killed due to poor sanitation infrastructure. In such a case, "fair distribution of third-party risks may imply that the study is performed in non-endemic regions where the risk of infection to nonparticipants is lower" (MacKay

⁹⁰ Third party risk in medical research occurs when studies pose risks or severe consequences for persons who did not participate in the research (Hausman 2016; Kimmelman 2005).

and Saylor 2020). So, where the researchers decide to perform the studies in non-endemic areas to protect nonparticipants, they could use financial incentives and other subtle manipulative measures to induce participation. The poor and the low-income population would be willing to take the risk to participate in the study in exchange for the incentives, an offer they would not consent to if they were well-off. So, the above points show that participants may still be exposed to exploitation in an attempt to meet the fair selection requirement.

ii. Informed Consent and the Respect of Research Participants

Some theorists and many ethical guidelines appeal to the idea of informed consent to justify the enrolment of research subjects who are economically impoverished and socially downtrodden (like homeless alcoholics, poor South Africans, or poor prostitutes). The Nuremberg Code, for instance, emphasizes that "the voluntary consent of the human subject is absolutely essential" (Nuremberg Code 1947). The sixth provision of the NCHRE stresses that "informed consent is a *sine qua non* for the ethical conduct of research" (2007, 37).⁹¹ This provision implies that research may be considered unethical and exploitative if it is established that the participants did not offer voluntary, informed consent before they were enrolled. Why is informed consent essential or a *sine qua non* for clinical research? According to Buchanan and Miller, informed consent is essential for clinical research (as well as for medical practice) because its aim is "to ensure the free choice and self-determination of those who enrol in research" (Buchanan and Miller 2012, 448). In other words, the essence of informed consent is to respect the rights of the participants to determine their actions and legislate on their choices and preferences. Apart from the legislation of choices and preferences, Andrew et al. note that the essence of the informed consent process is to enable research participants to decide, based on the information at their disposal, whether to accept the risks and benefits offered by the study (Andrew et al. 2018, 560).

In the preceding chapter, I argued that even though an individual is economically impoverished or intellectually disabled, they still possess the capacity to make

⁹¹ Note that consent is necessary but not sufficient to make medical research morally permissible.

choices regarding their preferences. Hans Jonas contends that some individuals may lack the capacity to make a voluntary and informed decision based on their social and economic situation. For him, members of the society who are economically impoverished and socially downtrodden are not suitable to participate in clinical research because they cannot give valid consent to human experiments. Their social and economic condition put them in a condition where they cannot express the willingness not to be conscripted for experimentation or be treated as things (Jonas 1969). So, whatever decision they make, therefore, is born out of sheer helpless concession to the will of the state or the inducing power of the researchers. However, this is not the case in the cases under review. In the case of the Lilly clinical trial, the economic conditions of the homeless alcoholics, for instance, did not vitiate their voluntary decision to enrol in the study.

The NCHRE seems sympathetic to Jonas's stance. The NCHRE spells out the basic requirements to render consent ethically valid like other important ethics guidelines. Number one of the sixth provisions states that for a participant to give valid consent to any research, "adequate information must be provided at the educational level no higher than that of individuals". Number two of that same provision further states that "the design of the consent process must be appropriate for the type of research, expected participants, risks anticipated and the research context" (2007, 37). In the seventh provision, the code states that those participants must be aware that their involvement is voluntary and that they can withdraw at any time without penalties. So, this provision emphasizes that participants need to be aware that they can choose to be part of a clinical study, and it is also their right to withdraw.

Although consent is a requirement for clinical research, it is not sufficient to make it non-exploitative. Pace et al. corroborate this point as they contend that interaction may still be exploitation even if it is validly consented to (Pace et al. 2003, 122). This point is essential because many economically impoverished participants enrol for research because of incentives. The decision of the homeless alcoholics to enrol in the Lilly experiment or the decision of the poor prostitutes to consent to the Tenofovir HIV experiment, for instance, was made because they believed that was an opportunity to help cushion their economic needs. Enrolling

these individuals for clinical studies simply because of their economic situation is exploitative even if they offer voluntary informed consent. It is exploitative because such research takes advantage of the vulnerability of the economically impoverished participants, such that they act servilely by consenting to such research. David Resnik rightly points out that "taking advantage of vulnerable people is more like violating their dignity" (Resnik 2003, 239). This point is apt because when an individual is exploited, the exploiter treats the exploitee as mere means to their own advantage and degrades them. However, it is essential to note that the degradation also puts the exploitee in a condition where they voluntarily enter a servile relationship with their exploiter. So, even though research participants (in the case of the homeless alcoholics or the poor prostitutes) voluntarily consented to clinical trials, such trials may still be exploitative, as exemplified in the Lilly, AstraZeneca or the Tenofovir cases, and other non-medical cases like the Lecherous Millionaire.

This provision, therefore, is not sufficient to protect research participants from being exploited. Even though research participants can voluntarily consent to a study, there is still a gap in whether they are eligible for the research. In other words, even though the homeless alcoholics or the poor prostitutes voluntarily agreed to participate in the trials, does their voluntary consent make them eligible for such research? And does the consent help the researcher understand the participant's motive? Or, by consenting to the research, does the participant share the research goal with the researcher? And does the consent guarantee that the participant's well-being will be prioritized? These questions are necessary because they allow us to understand the challenges that arise by limiting the moral permissibility of clinical research to informed consent.

The authors of the NCHRE may argue that besides informed consent, the participants have the right to withdraw from the study. The seventh provision states that while providing information about the research, the participant must be aware that they can withdraw at any point in the research. The withdrawal, however, precludes retrieving the data that have been generated during the

research process⁹². This clause is necessary because it relates to the participant's right to express their autonomy to consent or revoke their consent. But it is not clear whether data withdrawal is strictly secondary to risks, harm and benefits. Even though this is the case, there is still something morally amiss because there is a way in which a participant could still be exposed to harm by failure on the part of the researchers to secure the data adequately. Moreover, it is difficult to see how such a right could be expressed, especially in cases (like the Lilly, AstraZeneca and Tenofovir clinical trials) where the participants are conditioned by their economic circumstances (Wilson et al. 2008). Even if some participants desire to withdraw, the fear of losing their benefits or the guilt of getting incentives without completing the task may pressure them to continue with the research.

The reader could say that earlier I claimed that an extremely poor person could voluntarily consent to be a subject in medical research but here, I seem to challenge my previous conclusion. I still maintain that the medical research cases I illustrated, namely, the Lilly, AstraZeneca and Tenofovir, are cases where participants voluntarily entered exploitative studies. The fact that the fear of missing their incentive or duty of reciprocity pressures them to continue with the study does not mean that their voluntariness is vitiated. Similarly, the fact that the woman in the Lecherous Millionaire case was pressured by her desperation to save her child from dying to become the millionaire's mistress does not mean that her decision was involuntary. The CIOMS guidelines also corroborate this point. The guidelines state that a potential participant may be pressured by poverty or illnesses to enrol in studies, "but it does not necessarily imply that participants cannot give voluntary informed consent in these situations" (CIOMS 2016, 35). The guideline also affirms that "the fact that potential participants are under

⁹² Of course, this additional clause is necessary because it helps to curtail loss of data to withdrawal of consents. Nevertheless, it also raises issues about the moral plausibility of such a study. If someone consents to a study based on some false comprehension of the study and later realises that their prior knowledge about the study may seem different from what they are experiencing. Is it still morally justifiable, therefore, to retain the data obtained through false comprehension of a study? Of course not, because the process of obtaining such data is morally questionable. The same reason could be applied to the Nazi case. Even though the data obtained from the Nazi experiments were scientifically valid, the process of obtaining such data was grotesquely barbaric, which also raises issue of the continuous use of such data. It is due to the issue of moral questionability of such data that in the CIOMS guideline, it is required that once withdrawal of consent is obtained, formalised and documented, the data or samples obtained "should either be destroyed or returned to the research subjects. Further use of the biological materials and related data is not permitted after the withdrawal of consent" (CIOMS 2016, 44).

duress does not prevent them from making a voluntary decision" (CIOMS 2016, 78). These points show that circumstantial pressure is insufficient to vitiate a person's voluntariness. A participant's voluntariness can only be vitiated in that situation described above if the researchers threaten to withhold the therapeutic benefits they are entitled to if they refuse to enter or if they decide to withdraw from the study (CIOMS 2016, 36).

iii. Adequate Distribution of Benefits Relative to Research Risks

Many ethical guidelines attempt to address the problem of exploitation in clinical research by stating that studies must be designed to balance the benefits with the research risks. The CIOMS guideline states that "the equitable distribution of benefits and burdens in the selection of study populations requires that the benefits of research be distributed fairly and that no group or class of persons bear more than its fair share of the risks or burdens from research participation" (CIOMS 2016, 7). In other words, to enrol a participant into any studies, the research ought to be designed to ensure that the risk of the research does not outweigh the benefits that should accrue to the participants or the host communities. Similarly, the NCHRE also emphasizes balancing research risks with the potential benefits. For instance, in the fourth provision, the code acknowledges that all clinical research involves risks. It, however, states that for research to be ethical, "there must be valid attempts to minimize risks and maximize health-related benefits to participants to engender favourable risk-benefit ratio within the context of where the research is being conducted" (NCHRE 2007, 36).

This provision is helpful to minimize the risks of exposing research participants to adverse events. For instance, in Nigeria's Pfizer experiment that involved meningitis children, the researchers did not consider the balance between the risks of the research and the benefits accrued from there. Even though the benefit of the clinical trial was for Pfizer to test the efficacy of the antibiotics drug to secure FDA approval to stand a better chance of competing with other pharmaceutical companies, consideration would have been made to ensure that the benefits outweigh the risks involved in such research. A similar worry could be raised in the Tuskegee Syphilis Experiment and the Synflorix clinical trial.

Nevertheless, it is difficult to see how this provision addresses the exploitation problem in clinical research cases like the Lilly, AstraZeneca and Tenofovir clinical trials. In these clinical research cases, there was no indication that the research was too risky or that the benefits received by the participants were not adequate. Yet, these clinical research cases were still exploitative. But it is challenging to ascertain incidents of exploitation in these cases by appealing to the idea of a balance of risk of benefits. As I pointed out in chapter two, it is difficult to evaluate the moral justifiability of a given interaction by examining the number of benefits interacting parties receive relative to the risks or burden of the interaction. Irrespective of the risks of interaction, participants may still deem the benefits offered to them adequate depending on their needs. It is, therefore, plausible to appeal to Ruth Macklin's point that it is difficult and near impossible for the Independent Regulatory Board (IRB) or the Independent Ethics Committee (IEC) to make a fixed policy on what counts as fair benefits (Macklin 1981). The reason is that even if the potential risks of interaction are minimal, the fact remains that what is reasonably fair for A may not be fair for B.

iv. Ethical Deliberations and Community Participation

To ensure that individuals and their communities are protected from being exploited, clinical research ethical guidelines provide that the communities from which the participants are selected should be involved in ethical deliberation. According to the CIOMS guideline, proactively engaging participants' communities is vital because it helps to ensure that the proposed research is relevant to the community and that the participants are eligible for the research (CIOMS 2016, 25). Similarly, the NCHRE views community participation in research ethics deliberation as indispensable for the smooth operation of any research. In the section on protection of participants in research, number four (i) indicates that *for a research proposal to be approved by the Ethics Committee, an agreement between research sponsors, institutions, researchers, and the community that spells out community consultation and agreement must be submitted* (NCHRE 2007, 30). Number four (ii) stresses that *research can only be approved if it clearly shows that the community is engaged and that permission was sought* (NCHRE 2007, 31).

Irrespective of the fact that individual participants are involved in the research process, some guidelines affirm that community involvement is also indispensable because the progress of each research depends on it (CIOMS 2016, 78; NCHRE 2007, 35). In preparing the research procedures, community consent and endorsement is required. For, in the first provision, it is required that even if the interests of individual participants would be considered, that of the community must also be given serious attention. The invaluable role of the communitarian ethical decision-making is expressed in the seventh provision, where it is required that "*community consultation or assent may have to precede research activities*" (NCHRE 2007, 41). Community involvement in clinical research is essential because, according to the communitarian view, "what is in the best interest of the patient or participant are affected by what a given community considers the good life" (Etzioni 2011, 368). More so, community involvement engenders "communal pressure—on granting and withholding social approbations and censure [as well as] on sorting out what the community considers morally appropriate" (Etzioni 2014, 248). The community helps to situate its interests within the frame of a broader goal of the research.⁹³ For instance, where research involves marginalized or stigmatized groups, community engagement is needed to address prejudice or discrimination. This point explains why the oversight role of the community contained in the NCHRE is vital.

Some bioethicists argue that community consultation and consent are essential because they protect prospective community members interested in participating in studies from the risks and threats of exploitation (Buchanan 2019, 350-351). For instance, during the recruitment of children for the Pfizer experiment, the researchers met with some local health workers who contacted the parents of the meningitis children without consulting the community leaders, at least to play an oversight role. The reason for the exclusive could be that the researchers did not want the public to understand the reason for their participation in what seems like an intervention on a disease outbreak. They took advantage of the desperation and ignorance of the parents of the meningitis children to test their experimental

⁹³ Note that this aspect of community life may make involving the community in the decision helpful, but it may also make that involvement harmful - for example in those cases in which the community would prevent potential participants from joining a trial because of superstitions (I thank the examiners for drawing my attention to this point).

drug that was not previously approved for human testing by the FDA. Suppose Pfizer had notified the community that they came to test their drugs. In that case, the leaders could have refused since the experiment would not serve the interest of the sick children (that experiment was not meant to be conducted with children, whether sick or not). This point explains why the authors of the NCHRE think that community participation in the medical research recruitment process must be taken seriously.

However, there is a concern about whether community consultation and consents are sufficient to protect community members involved in health research against exploitation. Gbadegesin and Wendler, for instance, contend that "a community may be informed of and consent to a research study that is exploitative because the community is desperate and has no other options" (Gbadegesin and Wendler 2006, 249). Gbadegesin and Wendler's idea of exploitation hinges on Wertheimer's theory of unfair distribution of benefits. Their argument centres on the view that "whether the benefits a party receives as a result of its engagement in a transaction are fair depends on the burdens that the transaction places on that party" (Gbadegesin and Wendler 2006, 249). In other words, apart from ensuring that the community consents to a study, ethics committees must also ensure that the benefits derived from participating in the study are proportional to the risks or burdens communities incur by engaging in studies.

As we have seen, Wertheimer says that an exchange is exploitative if the benefits of one of the parties in the exchange do not conform to competitive market standard – that is, if the benefit does not reflect what will be accepted under a fair market situation. However, it is challenging for researchers to explicitly determine the benefits they need to provide for the community that will not seem unfair and exploitative, especially when the studies are non-interventional. We could say that irrespective of what is required in a fair market situation (whatever that might be), it will be fair for communities to participate in studies that directly benefit their needs. Suppose there is a prevalence of ebola in a particular community. In that case, members of that community who are sick for ebola and are willing to participate can enrol in a study to test the Ebola drugs that will enhance their health and well-being and other community members.

The situation is different for non-interventional studies – that is, studies involving healthy participants. Suppose we concede to Gbadegesin and Wendler that the benefits a community should get should be proportional to the risks of participating in a study; how would such benefits be calculated to meet the fairness and non-exploitation threshold? Some bioethicists think that for studies that would not yield direct benefits to the communities, researchers could offer financial incentives or provide basic facilities such as clinics, pipe-borne water, or even cooking utensils as preconditions for the commencement of a clinical study (Adhikari et al. 2020; Adhikari et al. 2017). Payments in the form of food, soaps or educational materials could also be required (Nyangulu et al. 2019).

I have raised concerns about using incentives (financial and non-financial) to induce research participation. However, suppose the villagers think that the appropriate incentives for participating in a study are cooking utensils and bathing soap; it is hard to see how such items could be quantified against the risks and inconveniences of research participation. What about financial incentives? How much can the researchers pay to the community members that will be proportional to the risks, inconveniences, costs, harms, and discomfort of research participation? Already, bioethicists are divided on the amount of financial incentives researchers can offer to participants. Some bioethicists argue that the amount should be as much as a paid labourer will earn (Lemmens and Elliott 2001; Resnik 2015). Others think that "the payments should not be so large or the medical services so extensive as to induce prospective subjects to consent to participate in the research against their better judgement ('undue inducement')" (Wilkinson and Moore 1997, 374). Of course, paying less is unacceptable because that would amount to exploitation based on Gbadegesin and Wendler's estimation. So, it seems there is a problem here since "underpayment may be just as great an ethical landmine as overpayment" (Reame 2001, 54).

The above analysis suggests that we cannot adequately address the issue of community exploitation by appealing to informed, voluntary consent or distribution of benefits. Just like exploitation involving individuals, to understand community exploitation, we must understand the relations of servility that exist between community leaders who occupy positions of control and the other

members of the community, especially those in a situation of need or dependence due to poverty or lack of access to adequate healthcare. Given the high poverty rate in some Nigerian communities, many leaders are prone to reduce every clinical research to opportunities for financial gain. And, certain community members, mainly economically impoverished or loyal to the community leadership, might be targeted as potential research participants. So, the over-dependence on community authorization raises fundamental moral issues about the dignity and well-being of the research subjects. These points show that community participation and engagement are insufficient to protect the participants from exploitation.

The Ethics Committee might say that the community participation provisions combined with consent, fair selection, adequate distribution of risks and benefits, etc., can rule out the problems I highlighted above. The point is that even taken together, the NCHRE provisions are not yet sufficient to address the issue of exploitation. For instance, given the high poverty rate in Nigeria, they are willing to seize opportunities offered to cushion their economic needs. By endorsing their community leaders, these desperate volunteers may consent to studies that offer them incentives without considering whether they are suitable for such research. Egharevba and Atkinson also highlight this point. From the questionnaire they collated, they noted that because of the economic situation in sub-Saharan Africa, especially in Nigeria, the research volunteers who may often be selected from poor communities see research participation as a kind of help from both the researchers and their community leaders (Egharevba and Atkinson 2016, 106). I offer recommendations based on a Kantian idea of respect for dignity to address the ethical challenges.

6.4 Kant and the Principle of Respect for Dignity and Well-being

In the preceding section, I explored some ethical challenges in the NCHRE. I argued that those challenges show the inadequacies of the NCHRE to sufficiently address the problem of exploitation in medical research in Nigeria. This section discusses how the Kantian idea of respect for dignity could be applied to NCHRE. I contend that the principle of respect for dignity is valuable and may act as a moral tool for the National Health Research Ethics Committee (NHREC) to evaluate

all clinical research cases, including those that may *prima facie* be misconstrued as morally unproblematic. This principle ensures that researchers do not take advantage of the vulnerable situation of prospective participants by degrading and putting them in a situation of servility to further some scientific ends.

In the preceding chapter, I argued that exploiters see the exploitees' weaknesses, vulnerability, dependence or needs as something they can cash in on to treat them as a mere opportunity by putting them in a position of servility to further the exploiters' ends. Whenever a person treats another in this degrading way, they suggest that their victims do not deserve respect because their humanity is less valuable. One of the ways exploiters cash in on the vulnerable situation of their victims is by operating on the will of their victims by making offers or proposals their victims cannot refuse. I do not claim that an exploiter coerces their victim whenever they use offers as a controlling influence. Coercion is just one of exploiters' methods to operate on their victims' will to seek compliance. Another way is through deception or by appealing to the needs and best interests of the victims to induce the victims to serve the exploiters' interests (cf. Lecherous Millionaire and Lilly clinical trial). So, whenever the exploiter makes an offer their victims cannot refuse, they put them in a position of servility where the victims agree to comply with the exploiter's demands because of their vulnerable situations.

We cannot always prevent weaknesses or situations of dependence from arising. So, the goal of ethics guidelines should be to prevent researchers and their sponsors from making offers that will strongly motivate potential participants to be subservient to them by consenting to clinical studies they would not ordinarily agree to if they were well off. To achieve this moral requirement, ethical codes like the NCHRE should prioritize the dignity and well-being of research participants. The Kantian principle of respect for persons' dignity indicates that human beings should not be treated as objects with price tags but always as ends. Kant notes that everything has a price or dignity in the Kingdom of ends (or in all moral communities). Whatever has a price is expendable or replaceable, but whatever has dignity possesses unconditional, incomparable, intrinsic moral worth. And because human beings possess dignity, they deserve to be treated with respect

(Kant 1997, 41-43). One of the ways of treating human beings with respect and as an end is to ensure that their dignity and well-being is prioritized. My emphasis on the prioritization of dignity and well-being hinges on the idea that interacting agents are obligated not only to act in a way that does not exploit the other. They are also obligated to act on the maxim that protects and promotes the dignity and well-being of the other interacting agent. So, one way to fulfil this obligation is for medical researchers and their sponsors to ensure that measures are taken to promote the health and well-being of research participants.

The reader may worry that promoting the health and well-being of participants is bound to operate as a substantial inducement to participation, considering the socio-economic condition of some of the prospective research subjects. This concern is genuine, especially where some researchers could construe this obligation in monetary or material terms or as a way to target those desperately in need of medical care. However, promoting the health and well-being of participants is incompatible with cashing in on a person's vulnerable situation (poverty or sickness) to induce them through financial and material incentives (cf. Lilly, AstraZeneca and Tenofovir clinical trials) or by promising free medical care (cf. Tuskegee Syphilis experiment) to make them enrol in studies that fortunate people will find objectionable (Kuczewski 2001, 50). In the next section, I will discuss some practical measures that should be taken to ensure that the health and well-being of participants are protected and promoted. But it is essential to highlight a few measures here. In terms of advertising clinical studies, the advertisements should educate the public on the social and scientific values of the studies, the role of human participants in achieving this goal, and reasonably foreseeable risks of the study, and the kind of participants required for the study based on the research design (that is, where it will involve healthy volunteers or patients).⁹⁴

The Lilly, AstraZeneca and Tenofovir clinical trials have shown that prospective participants could still enrol for studies they believe could expose them to

⁹⁴ Prospective research participants should be aware that they may be exposed to unforeseeable risks and they have the right to withdrawal if they are unable to sustain the risks or discomfort that may arise from participating in the study.

unforeseeable risks because of their desperation to meet their economic needs or access free medical care. To reduce this possibility, advertisements on clinical trials should exclude any financial or material incentives or a promise of free medical care. This measure will help the public to see medical research, not as a commercialized venture where some capitalist syndicates are in pursuit of their agenda (Kuczewski 2001, 50), but as "an altruistic and socially responsible activity" (Sears 2001, 67). The idea of altruism here does not imply that research participants should bear the cost of participating in research. So, it is ethically appropriate for medical researchers to inform the public that prospective participants will be *reimbursed* for any reasonable cost incurred from participating in the research.⁹⁵

Note that studies that involve healthy participants are different from interventional studies – that is, studies that offer therapeutic benefits to the research participants. There are ways in which the health and well-being of prospective participants could be protected and promoted in both kinds of studies. I have noted that monetary incentives should be excluded from medical research recruitment. Reimbursement should be used instead. It will decrease the enrolment of the impecunious for studies for the benefit of the well-off. Moreover, it will discourage those desperately in need of money from withholding information about their medical conditions to participate in studies (McNeill 1997, 394-495). But besides financial needs, researchers enrol participants for Phase 1 studies in exchange for free medical care. But like monetary incentives, therapeutic incentives can also induce participants to enrol in very risky studies that others who are well-off may find morally objectionable to access free medical care (McCann et al. 2010, 6; Lee 2019, 14-15). To promote the health and well-being of such a prospective participant, especially in non-therapeutic studies, researchers should exclude those with underlying ailment, and at most, refer them to where they could receive medical care without incurring any cost. This point is also in line with CIOMS guidelines requirement for ancillary care: "when prospective

⁹⁵ There is a significant difference between reimbursement and incentives. Reimbursement is meant to cover the actual costs for research participation while financial incentive "suggests that the recipient makes a profit from their labour in the ordinary sense of being paid (e.g. getting wages for a job of work)" (Draper et al. 2009, 232. For more on this, cf. Zutlevics 2016; South African Good Clinical Practice 2019.

participants cannot be enrolled in a study because they do not meet the inclusion criteria, researchers should advise them to obtain or refer them for medical care" (CIOMS 2016, 22). This point is important because although the interest of researchers is to meet the goal of medical research, they should not achieve that goal to the detriment of the health and well-being of prospective participants.

Recruitment of patients for studies is different. Researchers enrol patients in interventional studies because it offers them some therapeutic benefits. This is morally permissible because researchers must prioritize patients' medical needs over the intended scientific benefits of the research (Jonas 1969; DoH 2013). This point is plausible because enrolling a sick person in an experiment without giving them adequate medical attention to address the medical needs reduces them to mere experimental objects. When enrolling patients for interventional studies, researchers should not overestimate the likelihood that the study will treat their ailments, saving the patients from having false hope. Moreover, in the event where a sick person meets inclusion criteria and are enrolled for a study but are found to have diseases unrelated to the study, "researchers should advise them to obtain or refer them for medical care. It may be relatively easy for researchers to treat the condition or refer participants to a centre where treatment can be provided in some circumstances" (CIOMS 2016, 22).

So far, we have seen what it means to treat persons as ends using the Kantian idea of respect for dignity and well-being. Let me suggest a few ways that the NCHRE can be revised.

6.5 A Recommended Revision of the NCHRE

In the preceding section, I discussed some essential principles based on end-sharing and the prioritization of dignity and well-being. I contend that these ethical principles ought to act as moral tools to guide the National Health Research Ethics Committee (NHREC) in the ethical decisions regarding medical research. This is to ensure that participants are sufficiently protected from exploitative interactions. This section offers recommendations on how the NCHRE might be revised. My interest is in some fundamental ethical principles that should be included in the guideline.

i. A Guide for Ethical Decision: Before itemizing different ethical codes for the conduct of medical research, the NCHRE provides that judgement and consensus would be adopted to resolve ethical conflicts that might arise while determining the approvability of studies. The challenge with consensus-based ethical decisions is that members may agree without recourse to whether such a decision is morally appropriate. In most cases, members may agree because they want to act in solidarity with the proposer of the decision or because they have a special stake in the ethical outcome or because their interests are being protected.

To mitigate this challenge, there is a need to make an ethical decision based on some normative framework. Based on the Kantian principles of respect for dignity and well-being and end-sharing, I recommend that a more appropriate ethical decision should be based on the following questions: To evaluate the non-exploitative nature of research, the National Health Research Ethics Committee (NHREC) must ask the following pertinent questions: (i) Does the research address the medical needs of the target community or is it a non-therapeutic study? (ii) Are participants enrolled based on altruistic reasons or for some personal reasons? (iii) Are the interacting agents eligible for such interaction. This question could involve why and how the individual has been approached to participate. Finally, iv) Is the dignity and well-being of the interacting parties prioritized?

The questions highlighted herein are helpful to the NHREC to ensure that the vulnerability of some individuals or communities is not being taken advantage of and participants are not put in a position of servility where they will serve the end of exploitative researchers and their sponsors. These questions would help ensure that studies are adequately scrutinized and that nothing is taken for granted, irrespective of the research's goal. It will also ensure that those enrolled for studies are eligible and not exposed to unjustifiable risk of harm, and the participants' dignity, rights and well-being always take precedence over research goals.

ii. Participant's Selection: The third provision of the NCHRE says that medical research participation should be based on "based on the scientific objective(s) of the research while minimizing risk" (NCHRE 2007, 35). Earlier in this chapter, I raised some challenges with this ethical requirement: it does not reflect a non-therapeutic situation. Therefore, I recommend that the provision

indicate that participants or communities should be enrolled in studies that offer interventions to their health needs in therapeutic research. In other words, a sick person or their community should only enrol into a study that is relevant to their health needs.

For non-therapeutic studies, participants must be recruited based on their eligibility or indispensability to the research design. The researchers must explicitly state why they selected the participants and how they were approached. More importantly, where community leaders are tasked to recruit prospective participants, an independent ethics review committee must oversee the selection process to ensure that a particular community sect is not selected for studies that could expose participants to risks of harm. Studies that could expose participants to the unjustifiable risk of harm should never be approved.

In addition, during the recruitment process, financial incentives or any other incentive that aims to induce participation should neither be advertised nor be offered. This ensures that socio-economically disadvantaged persons are not targeted as potential participants. All members of society ought to be given equal opportunity to enrol into studies without considering their social and economic status. The advertised clinical research must focus strictly on social and scientific values of the studies, the role of human participants in achieving this goal, and reasonably foreseeable risks of the study, and the kind of participants required for the study based on the research design (that is, whether it will involve healthy volunteers or patient). In other words, just like in the case of therapeutic research, participants for non-therapeutic research must be considered based on eligibility rather than based on their willingness to accept benefits or the risk of the research.

In addition, participants should be reimbursed for the costs incurred for participating in studies. Such cost could involve transportation, feeding or parking, etc., excluding inconveniences and time since it would be difficult to calculate those. However, "complete transparency and accountability must obtain, and receipts for all extra expenses incurred would have to be submitted by the research subjects before the repayment" (Bernstein 2003, 223). With reimbursement, most persons who will enrol in very risky research for money will

be discouraged. Moreover, I suggest that those who enrol in studies should do so for altruistic reasons: participation in studies should be for social good.

iii. Withdrawal of Consent and Use of Data: The NCHRE provides that participants have the right to withdraw from studies whenever they feel necessary. However, it also notes that the data or samples that have been generated within the period of participation "may not *needlessly* be withdrawn as this may jeopardize the scientific validity of the research" (NCHRE 2007, 40). In the section on informed consent and respect for research participants, I noted that such restriction of participants to decide how the data they generated should be used is morally problematic. Therefore, I recommend that participants be allowed to decide what happens to the data they generate, especially where their participation may have been induced or a result of misinformation. Data generated based on some dubious means may not be used except if the participant decides otherwise. Also, when a participant consents that the researchers use their data, it must be appropriately secured and cannot be used against research participants.

In this chapter, I have concluded my thesis by exploring the implications of the servility account of exploitation for medical research on human participants in Nigeria. I have argued that it is plausible to say that medical research aims to advance the health and well-being of participants and society. However, the servility account shows that incentivizing medical research as a recruitment strategy is morally problematic because it creates a high possibility of exploitation. To ensure that the purpose of medical research is adequately attained, research participants must be adequately protected from exploitation by allowing them to enrol in research based on moral motivation instead of inducing them through the offer of incentives. Such an offer compromises the moral integrity of medical research by targeting only those who are socio-economically disadvantaged or desperately need some medical care.

iv. On the Principle of Clinical Equipoise: The NCHRE state that clinical research is unethical if it lacks clinical equipoise. It fails to indicate the kind of clinical research that requires equipoise. As I noted in Chapter two, equipoise is required only for interventional or therapeutic research involving sick participants.

Also, the code fails to provide an explicit principle that should guide the use of placebo in clinical research in Nigeria.⁹⁶ The central principle of clinical equipoise is that new interventions can be tested against placebo controls when there is no effective treatment. However, where effective treatments exist and are available, the new intervention must be tested against the effective therapy. This principle ensures that patients enrolled in clinical studies receive best-proven therapies instead of placebos.

Of course, the idea of best-proven therapies is unproblematic in developed countries because adequate medical interventions are available and accessible. However, this is not the case in developing countries like Nigeria that lack adequate healthcare systems. Lurie and Wolfe observe that "some officials and researchers have defended the use of placebo-controlled studies in developing countries by arguing that the subjects are treated at least according to the standard of care in these countries, consisting of unproven regimens or no treatment at all" (Lurie and Wolfe 1997, 855). The problem with this kind of argument is that it allows researchers to discretionally ignore their fundamental obligation to care for the research participants and subordinate their dignity and well-being to the study objectives.

So, to protect prospective participants from being exploited, I recommend that the NCHRE insist, following Alexander Simmonds, that the idea of a standard of care or best-proven therapy "should be based on the most advanced medicine available to benefit humanity. It should not be based on the economic ability or inability of those in developing countries to afford the prices set by drug manufacturers" (Simmonds 2011, 48). In other words, researchers must ensure that available effective therapies are tested against new interventions. Where effective therapy is inaccessible in communities hosting clinical studies but is available elsewhere, the researchers and their sponsors in conjunction with the government must ensure that it is made available undertaking the study. To deny sick participants available standard care because it is not accessible in their community suggests that those

⁹⁶ There is no mention of placebo in the code. Since the code acknowledges the importance of equipoise for clinical research, it is essential to also provide explicitly an ethical principle that should guide the permissibility of placebo controlled when safe and effective treatment for an ailment is available.

in poor communities are less entitled to standard therapeutic obligations than those from wealthy and advantaged communities.

Conclusion

In concluding this thesis, I would like to highlight my main arguments. I noted that the ethical issue of exploitation in medical research is often centred on three conditions, namely, the inability to research participants to offer voluntary, informed consent; exposure of participants to excessive risks; and unfair distribution of research benefits such that participants receive minimal benefits relative to the enormous benefits received by researchers and Pharmaceutical companies vis-à-vis risks of research. However, some clinical research cases like the Lilly, AstraZeneca and Tenofovir experiments show that some medical research may still be exploitative even if it is consensual, does not expose participants to excessive risks and the benefits accrued to participants are based on agreed terms, and they are sufficient to address their basic needs.

Furthermore, I argued that to explain why the enrolment of homeless alcoholics in the Lilly experiment or why the Lecherous Millionaire case is morally objectionable, a Kantian account of exploitation based on the idea of relations of servility is needed. To set up my argument in defence of the Kantian servility of exploitation, I examined Zwolinski, Snyder and Wertheimer's theories of exploitation. Zwolinski viewed exploitation as a non-consensual transaction in which the exploitee's right is violated, or they are made worse-off. Based on the Lilly, AstraZeneca and Tenofovir clinical research examples and the Lecherous Millionaire case, I showed that exploitation can still occur even though an interacting agent consents to it, their rights are not violated, or they are not made worse off. For instance, in the Lecherous Millionaire case, the woman was not made worse off in any way, nor was she forced to enter the interaction. Both she and the Millionaire benefited from the exchange – that is, she got the money she needed to take her child for surgery while the Millionaire satisfied his lecherous desires. Yet, this is a case of exploitation because the Millionaire took advantage of the vulnerable situation of the woman, treated her as a mere opportunity by putting her in a situation of servility to further his lustful ends.

I also examined Snyder's account of exploitation based on his idea of a duty of beneficence. According to him, an agent exploits another if the agent fails to act on the duty of beneficence by providing the other person with the benefits

sufficient to give them a decent minimum standard of living. One of the objections I raised against Snyder's account is that it is difficult for someone to determine when a benefit is adequate or reasonable for the person receiving it. The reason is that what may be sufficiently beneficial to an individual may be based on several factors. For instance, in the Lilly clinical trial, the homeless alcoholics received free food, money and temporary accommodations. They were satisfied with their incentives and longed for another opportunity to participate in a similar clinical trial. Even though the homeless alcoholics expressed satisfaction with the benefits they received from Lilly, it did not make the Lilly experiment non-exploitative. It was exploitative because the homeless alcoholics were treated as mere means by making them subservient to the demands of the researchers – that is, to allow themselves to be used to test the safety and efficacy of a trial drug that is unconnected to the needs and well-being.

Furthermore, I explored Wertheimer's account. He argues that the interaction can be exploitative if the benefits of the interaction are not distributed according to fair market standards. This account is problematic because it is difficult to see how fair market standards could be applied to evaluate the moral wrongness in interactions like clinical trials. In addition, it is wrong to reduce all human interactions to some microeconomic theory of fairness. To do that is to view respect for human dignity based on some competitive market standard.

Given the inadequacies of the transactional accounts of exploitation offered by Zwolinski, Snyder and Wertheimer, I turned to some Kantian accounts. I explored O'Neill's idea of mere means. She claims that we treat people as mere means when we coerce or deceive them, thereby making it impossible for them to consent to the interaction and share its end. I noted that O'Neill's idea of mere means does not apply to the Lilly clinical trial or the Lecherous Millionaire case because the exploitees in these cases were neither coerced nor deceived to enter the interactions. Yet, they were treated as mere means because the exploiters put them in a situation of servility to further their ends. I also examined her idea of coercive offer. I noted that the Lilly clinical trial and the Lecherous Millionaire case are not cases of coercive offer because the exploitees were not threatened to enter the interaction, and the exploiters did not contribute to their vulnerable situation

to cash in on it. However, O'Neill's account of complicity offered a very useful insight into understanding the wrongness in consensual exploitation. Just as a coercer operates on the will of the coerced to make them partially complicit in the wrong done to them by serving the interest of the coercer but is not guilty of any wrongdoing, a person put in a position of servility by their exploiter cannot also be blamed for acting servilely for the sake of the ends. The reason is that not yielding to the exploiter's demand by agreeing to serve in furtherance of their end may be of grave consequence.

Since O'Neill did not offer any account of exploitation, I turned to Wood's standard vulnerability account. He argued that exploitation involves taking advantage of a person's vulnerability and treating it as an opportunity to further the exploiter's ends. He also affirmed that exploitation degrades the exploitee either by depriving them of their free agency or by subverting it in a way that does not limit their capacity to choose. First, I noted that Wood's account is incomplete because it ignored the servile relations between exploiters and their exploited victims. Secondly, based on Arneson's heating company example, I showed that we could take advantage of a person's vulnerability to further our ends without being guilty of wrongdoing. We are only morally culpable if, after taking advantage of the person's vulnerability, we put them in a situation of servility or make them subservient to our demands to further our ends. Thirdly, based on the Lilly clinical trial and the Lecherous Millionaire case, I argued that an exploited victim could be degraded without the exploiter depriving them of or subverting their rational control over their free agency. An exploitee is degraded when the exploiter treats them as mere means by putting them in a servile or subservient position to further the exploiter's ends.

Finally, I offered a Kantian account of exploitation based on relations of servility. I defended the view that *A exploits B if and only if A takes advantage of B and degrades B by treating B as a mere means by making B enter a servile relationship with A to further A's ends or interest.* In other words, there are three necessary and jointly sufficient conditions that make an exchange exploitative: a) the exploiter takes advantage of the exploited victim's vulnerability; b) the exploiter treats the exploited victim as a mere means or a mere opportunity; c) by making the exploited

victim enter servile relations or a position of subservience to further the exploiter's ends or interests. So, this Kantian servility account of exploitation helps to explain adequately why the Lilly, AstraZeneca and Tenofovir clinical research cases are morally problematic and exploitative. In these cases, the researchers took advantage of the participants' vulnerability by initiating an interaction with them. By initiating such interaction through the offer of incentives, the researchers subtly operated on the will of the prospective participants, not through coercion or deception, but by appealing to their needs and self-interests to make them enter a position of servility or subservience to further the researchers' ends.

The NCHRE focused mainly on consent, excessive risks, distribution of benefits, and community participation in clinical research ethical decision-making as the basis of evaluating the moral wrongness and exploitative nature of clinical research. I argue that these principles are not able to protect participants adequately. As the Lilly, AstraZeneca or Tenofovir clinical research has shown, medical research may still be exploitative even though it is consensual, beneficial, and not excessively risky. Even though the Ethical committee combines the community participation provision with other provisions of consent, adequate distribution of risks and benefits, and so on, they cannot rule out the challenges that arise with the NCHRE. Medical research should not create a situation of servile relations or subservience where the motive of conducting research is solely for scientific goals without regard to the dignity and well-being of prospective research participants. Instead, it should be framed to protect potential participants' dignity and well-being.

To conclude, I argued that to ensure that participants are adequately protected from exploitation, the Ethics Committee must ensure that the recruitment process for medical research participation is transparent. Only eligible individuals can participate in studies for the right reasons motivated by altruism rather than their economic needs. The dignity and well-being of research participants must always take precedence over the social or scientific goals of clinical studies.

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Appendix

Attached is the link to Nigeria's Code of Health and Research Ethics (NCHRE - 2007) published by the National Health Research Ethics Committee (NHREC) under the auspices of the Department of Health Planning and Research, Ministry of Health:
http://www.nhrec.net/nhrec/NCHRE_Aug%2007.pdf