The Physical Basis of Voluntary Trade

Karl Widerquist[1]
Lecturer in Politics
University of Reading
Karl@widerquist.com

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Abstract

The article discusses the conditions under which can we say that people enter the economic system voluntarily. Section 1 briefly explains the philosophical argument that voluntary interaction requires an exit option—a reasonable alternative to participation in the projects of others. Section 2 considers the treatment of effectively forced interaction in economic and political theory. Section 3 discusses theories of human need to determine the capabilities a person requires to have an acceptable exit option. Section 4 considers what form access to that level of capability should take—in cash, kind, or raw resources, concluding that a basic income guarantee is the most effective method to ensure an exit option in a modern, industrial economy.

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> [Milo Minderbinder] raised the price of food in his mess halls so high that all officers and enlisted men had to turn over all their pay to him in order to eat. Their alternative, there was an alternative, of course—since Milo detested coercion, and was a vocal champion of freedom of choice—was to starve. When he encountered a wave of enemy resistance to this attack, he stuck to his position without regard to safety or reputation, and gallantly invoked the law of supply and demand.
>
> -Joseph Heller, *Catch-22*

Voluntary trade is one of the most forceful justifications for a market economy (Sen, 2002, pp. 501-502) used both by economists (Friedman, 1962; Friedman and Friedman, 1980; Hayek, 1944; 1960) and by political philosophers (Narveson, 1988; Nozick, 1974; Rothbard, 1982). It is also perhaps the most basic concept in positive neoclassical economic theory. A perfectly competitive market price equates cost and benefit because (among other assumptions) consumers and producers are free to trade or to refuse trade. This same assumption underlies everything from to the welfare and efficiency advantages of the market to the value of the Gross Domestic Product.

In two senses, a market economy can be characterized as voluntary. First, people can choose with whom they trade subject to the limits of the property rights of the people involved. They can say yes or no to any *one* other participant. Second, people have the legal right to choose whether or not trade at all. They have the legal right to say yes or no to trade with *all* other participants. We can call these the physical conditions of voluntary trade.

But there is a crucial third sense in which trade is not voluntary for many people today. That is, they are effectively denied any legal means to survive without providing services to someone who controls property. If the law ignores the existence of human

needs, it can nominally establish the legal conditions of voluntary trade while legally subverting the physical conditions necessary for voluntary trade. Many people enter the economic system owning nothing; finding that all the resources are owned by someone else, they see that someone will interfere with any effort they make to meet their own needs. Therefore, they are forced to provide services for property owners to obtain money to buy resources. It is the aspect of *obtaining* money that concerns the discussion here, not *spending* it. Although trade involves both buying and selling, it is the things we do to obtain money that involve providing services for others; spending money involves other people providing services for us. It is not particularly problematic that a person with government-created tokens called money has to hand them to other people to receive goods and services, but it is a problem for voluntary trade if a person without money has no legal means to survive unless she provides services for people who hold money. It is of course desirable that nonmarket interaction, such as marriage and friendship, is also voluntary, but the primary concern here is trade, specifically the things people do to get money, which for most of us means the labor market.

This article builds on work I have done to define and argue for the importance of freedom as Effective Control Self-Ownership (ECSO freedom), which in short is freedom as the power to say no. More exactly ECSO freedom is the effective power to accept or refuse interaction with other willing people. I have argued that genuinely voluntary interaction requires that all people have ECSO freedom, and that ECSO freedom requires an exit option—some way that a person can survive without being forced to provide services for, to take orders from, or to meet conditions set by any particular group of other people (Self citation). The prohibition of chattel slavery necessary to secure the

right to say no is well encoded in law if not always enforced (Bales and Robbins, 2001), but this article argues, the conditions necessary to secure the power to say no are often ignored in law and in many discussion of economics and human rights, in way that make one group of people subservient to another. A society that establishes nominal self-ownership, but interferes with individuals attempts to preserve their effective control self-ownership secures the right to say no, but denies the power to say no.

This article examines what policy would be necessary to secure ECSO freedom. Section 1 briefly discusses the philosophical argument why voluntary interaction requires an exit option. Section 2 examines the attention that has been paid to the issue of effectively forced trades in economic and political theory. Section 3 discusses theories of human need to determine the level of functioning that an acceptable exit option must allow. Section 4 considers what policies could secure that exit option. It concludes that it would be best secured by a basic income guarantee (a government-provided unconditional cash income) large enough to secure housing, food, clothing, and basic transportation, plus enough more that individuals do not display signs of economic distress.

This article does not discuss the feasibility of an exit option,[2] nor does it directly argue that there is the government is morally obliged to provide an exit option. If this article successfully identifies the physical conditions necessary for voluntary trade, there are two ways we could respond it. We can meet those conditions and appeal to voluntary trade as a justification of the economic system. Or we can decide we are unable or unwilling to meet those conditions and give up the appeal to voluntary trade as a

justification of the economic system. The economic system would then require some other justification such as necessity or mutual obligation, whatever that might entail.

1. The need for an exit option

Since the United Nations adopted *the Universal Declaration of Human Rights* in 1948 there has been great interest among social scientists and philosophers to justify the inclusion of various economic rights (such as a right to a decent standard of living) as basic human rights. However most of the literature on economic rights focus on individuals' post-trade standard of living. As valuable as that issue is, no post-trade living standard tells us whether people *enter* the trading system voluntarily. This paper asks what physical conditions must be present at the outset before we can say that an individual enters the market voluntarily and how can those conditions be secured.

Individuals in a market economy choose among the options it makes available without a real option to refuse the entire set (Levine, 1995; Peter, 2004). Fabienne Peter argues that choice from among a set of offers does not imply consent to the set as a whole (Peter, 2004, p. 3). She follows Serena Olsaretti who, along with G. A. Cohen, argues a choice is voluntary if and only if it is not made because an acceptable alternative to it is lacking (Cohen, 1988, Chapter 12; Olsaretti, 2004, p. 71). Although the legitimacy of the market economy is premised on voluntary trade, without out a reasonable exit option, the trading system as a whole lacks an acceptable alternative. Individuals' acceptance of one out of the set of available offers does not imply the consent necessary to say that the set of offers is legitimate (Peter, 2004). For example, suppose we let Bob choose which

concentration camp we intern him in. We cannot from this conclude that Bob has consented to being interned in a concentration camp. I have defined ECSO freedom to explicitly incorporate the need for an exit option into a conception of freedom (self-citation), and the goal here is to examine the treatment of forced participation in theory and to determine what policy can best provide the exit option necessary to secure ECSO freedom.

There is a wide spectrum of possible alternatives to market participation. Which point on this spectrum provides a sufficient exit option to make an individual's participation in the trading system voluntary? According to Cohen, to say a person is forced to do X is to say they have no reasonable or acceptable alternative to X, but it is not to say that the person lacks any alternative at all (Cohen, 1988, Chapter 12). According to Stuart White's interpretation of Cohen, the choice of X is forced, if the alternative to X is *thoroughly bad in an absolute sense* (White, 2003, p. 46).

Section 3 examines theories of human need to determine the characteristics of an acceptable exit option. Until then it is only necessary to establish that that the exit option has to meet some standard of acceptability for participation to be voluntary. The following examples show why voluntary trade requires an exit option, not only from trade with any one other person but also to participation in the trading system.

Consider the story of Kader Mia (Sen, 1999; 2006). In 1944, during the civil strife near the end of the British occupation of south Asia, Kader Mia went to a riot plagued and hostile part of the city of Dhaka to find work. His wife told him it was too dangerous, but he went because he had no food for his children. He was stabbed, and died from his wounds. "The penalty of his economic unfreedom turned out to be death" (Sen, 1999, p.

8). What Kader Mia found in the marketplace was unusual, but the conditions that compelled him to go to the marketplace were not. Hunger made Kader Mia unfree to refuse employment. Millions, if not billions, of people worldwide face hunger if they refuse whatever employment is available. Most of them are not forced to accept an imminent risk of death in the market place, but many of them are forced to accept a lifetime of the worst working conditions, lowest pay, and lowest status in jobs that require them to serve the interests of at least one person who controls access to resources.

Suppose the Nazi's tell Mr. Von Trapp that he must serve the Nazi project as a naval officer. Mr. Von Trapp makes it clear that he does not want to be in the Nazi navy. Suppose the Nazis reply that there are many other ways he can serve the Nazi project including working in many privately businesses (all owned by Nazis), many offering good pay. Under these conditions we can say that Mr. Von Trapp voluntarily chooses to serve the Nazi project *in this particular way*, because there is an alternative to any one way in which he might serve the project. But we cannot say that Mr. Von Trapp voluntarily chooses *to serve the Nazi project*, because there is no reasonably alternative to serving the Nazi project in some capacity. If our project is called regulated welfare capitalism instead of Nazi's, but we also put Mr. Von Trapp in the position in which he must serve our system to survive, we just as much force him to participate in our project as the Nazi's forced him to participate in theirs. If your response is that we have the right to put Mr. Von Trapp in that position because our project is just while the Nazi's project is unjust, you have a legitimate response that I do not attempt to refute it here. But this response does not involving using voluntary participation as a justification. This response requires the belief that it is acceptable to force people to participate in a just system but

not in an unjust system. The question here is not whether a system with forced or voluntary participation can be justified but what conditions must be present to have a system that is actually based on voluntary participation.

Some property rights advocates[3] do not accept the claim that economic destitution forces people to take jobs. According to Tibor Machan, if a person lacks what they need, they should find a job in the market place (Machan, 2006, p. 9), as if it were a fact of nature that the propertyless must serve those with property. Some property rights advocates, such as Israel Kirzner and Jan Narveson, even claim that the owner of the only watering hole in a dessert can put whatever conditions he wants on access to water without forcing the person dying of thirst to do anything (Kirzner, 1981, pp. 380-411; Narveson, 1988, pp. 100-101). To assess this claim, I draw the distinction various sources of force.

A person can be forced to do something by nature or by other people, and force can be either direct or indirect. Direct force by other people uncontroversially reduces freedom. Force by nature and indirect force by other people require further discussion. Suppose a gust of wind blows Q into the water, and he cannot get to safety unless P throws him a line. P refuses to do so unless Q signs a contract promising to be P's servant. Under Kirzner and Narveson's conception of freedom, Q is as free as before. If Q is forced by need, it was the gust of wind that made him needy, and force by nature does not count. P takes advantage of Q's predicament, but he does not exert force.

Not all property rights take such a strong position. Robert Nozick considers an example of a drowning man in terms of "threats" and "coercion," which are very similar to the idea of force under discussion here. According to Nozick:

> If one views the normal or expect course of events as one in which Q drowns without P's intervention then in saying that he will save Q if and only if Q makes a promise, P is offering to save Q. If one views the normal or expected course of events as one in which a person in a boat who comes by a drowning person, in a situation such as this, saves him, then in saying that he will save Q if and only if Q makes the promise, P is threatening not to save Q (Nozick, 1997, p. 26).

In this view, coercion (or force) implies a deviation from "the normal course of events," and thus the answer depends on what one considers the normal course of events to be. To get a less ambiguous answer Nozick "sharpens the example" and considers a case in which Q has done something to make himself unworthy of rescue such as having done great harm to others (Nozick, 1997, pp. 26-27). By using this example, Nozick implies that in a case in which Q has not done anything to make himself unworthy of rescue, the demand of conditions for rescue is coercive.

It is not necessary to endorse the belief that force by nature threatens freedom to show that modern economic systems force the propertyless to participate. Even if one believes that the "normal course of events" is that P let's Q drown, the example works only as long as P did not throw Q in the water. If P or some other person is in any way responsible for Q's predicament—even by indirect force—Q's promise is forced.

The modern economic system is not well model by an example in which Q needs P to throw him a line. In many cases all the propertyless need is the freedom to apply their own efforts to the Earth. Suppose Q is capable of swimming to shore without aid, but P (who claims ownership of the entire shore) refuses to let him do unless he promises to do X. Q is effectively forced to do X, and it is P or whoever created P's claim of ownership to the shore. One might object to the representativeness of this example because there is only one P. Yet, adding more P's doesn't solve the problem. Suppose

there are 10 P's, each claiming ownership to part of an island, and together they claim the whole island. Each one individually refuses to let Q save himself unless Q does X. Q's alternative to doing X for P_1 is to do X for P_2 or P_3, etc. If so, Q is just as much forced to do X for *somebody* than he was in the example with only one P. Competition among property owners for the services of the propertyless might be good for the propertyless, but it does not change the fact that the propertyless will serve the propertied.

This example involves indirect, and perhaps even unplanned, force. Each P directly takes control of a resource, indirectly giving them power over Q because Q is a human being with needs that can only be met by resources. If Q did not require dry land to survive, or if some land were left for Q, any P's assertion of control would not force Q to serve his interests. A society that wishes to have voluntary trade cannot pretend that human beings have no needs.

To apply this reasoning to market transactions, it is important to consider whether individuals just happen to be in a position in which they have no other reasonable choice but to sell their labor to property owners or whether they are in that position as a result of interference by other people. If we were looking at why people end up in poverty *after* selling their labor, we would find that there are many explanations. It might have something to do with labor market conditions, skills, motivation, or human capital, but the end-state is not the issue. The question is why people *enter* the market in a position in which they must sell their labor to people who own property. For this there is only one explanation: if propertyless individuals try to produce goods to meet their own needs without trade, someone who claims ownership of the natural resources they need to do so will *interfere* with them, thus forcing them to work for people who own property.

According to Robert Hale, if the law designates other people as owners of anything with which an individual might secure her own diet, those laws coerce her to offer whatever services she can to someone with property (Hale, 1923, 471-473).

Jeremy Waldron argues that the poor and propertyless are not merely needy, but unfree in the most liberal, negative sense. Most homeless people are capable of building their own shelter, but they are barred from doing so by property law (Waldron, 1993). Many modern political theorists (Barry, 1996; Cohen, 1988; 1995; Olsaretti, 2004, p. 71; Otsuka, 1998; 2003; Peter, 2004, p. 3) have made observations leading to the conclusion that paid employment is many people's only genuine option and therefore effectively forced (Levine, 1995, 261-262). The problem has been recognized in some form at least since the Nineteenth Century (Cunliffe, 1979; Marx, 1887; 1958; Spencer, 1872, Chapter 1).

Some property rights advocates, such as Kirzner and Narveson, who argue that force by nature does not count, also argue that indirect force through property claims does not count. They argue that individuals cannot be made unfree by others' ownership of resources because they have no right of access to resources (Kirzner, 1981, pp. 380-411; Narveson, 1988, pp. 100-101). I have argued elsewhere that this position leads to nonsensical and very un-libertarian conclusions. If property ownership is not limited by respect for the needs of people without property, a monarch who owns all the property in a nation could establish feudalism or absolutism and still pass the test of voluntariness. A Queen with property rights can starve everyone in her kingdom, and there is as much reason to believe monarchs have legitimate historical claims to property rights as there is to believe private holders have legitimate claims (self-citation). Any freedom-based

argument that results in one person or group's right to starve others into submission robs freedom and voluntary trade of any substantive meaning.

The more common position among property rights advocates, such as Robert Nozick and Erick Mack, is to admit that property infers with individuals who might use unappropriated resources to meet their own needs (Mack, 1995; 2002; 2002; Nozick, 1974, 174-182). In compensation Nozick and Mack offer a proviso amounting to the hope that work in a market economy will make individuals better off than they would have been with direct access to resources (Nozick, 1974, 178-182). Even if this hope proves true, it is a paternalistic argument justifying interference with reference to end-state welfare, and therefore, it ought to be abhorrent to people who claim to support negative liberty. If the propertyless are denied the possibility to make that choice, property owners force the propertyless to work for them *whether or not* doing so is in their interest. Even if paternalistic force turns out to be in the interest of the propertyless; it is still force, and still violates negative liberty. Thus, whether or not this proviso holds after trade is irrelevant to the question of whether property law forces the propertyless to work for whatever group controls property (self-citation).

Even if the fulfillment of the proviso were enough, we could only know that it was fulfilled if individuals had an exit option. If an exit option exists that is as good as the situation without appropriation and people participate anyway, the proviso is fulfilled. If there were a sufficient amount of unappropriated land in Queens reserved for New Yorkers who would rather not participate in the economy, and *if no one wanted it*, we would know that Nozick and Mack's claims about the proviso hold true for New Yorkers.

But I believe that far more people would want such land than we could possibly provide. If so, the claim that capitalism without redistribution fulfills the proviso is false.

The result of all this is that property rights advocates who claim to believe in voluntary trade support a trading system that is based on forced participation. A government that enforces a one-sided property claims interferes with the propertyless in a way that forces them to be subservient to the propertied. Although this force is indirect, it is just as real and as damaging as direct force. The arguments above imply that there is little reason for a moral distinction between denying a person access to food by claiming all the land and denying access to air by sucking it all out of the atmosphere and into a private container. Before examining the conditions under which participation in the trading system can be genuinely voluntary, I examine the treatment of forced participation in economic and political theory.

2. The treatment of effectively forced labor in economic and political theory

Although some economists have recognized the effects of propertylessness on workers' ability to refuse unacceptable offers at least since Adam Smith (1976 [1776], book I, chapter 8, paragraph 12), it has been largely ignored by mainstream modern economists. Little attention has been paid to the minimum requirements to make trade voluntary or the effect of involuntary trade on the market's ability to equate costs and benefits of production that involves effectively forced labor.

A good example of attention to the legal conditions of voluntary trade while ignoring the physical conditions is in Cappelen and Tungodden (2006). Their article combines a "No forced Labor" condition (meaning that those who do not work do not pay tax) with a "No Income Without Effort" condition (meaning that no resources at all will be provide to those who do not participate in the labor market). It is strange to think that someone who has no resources to meet her needs is free from forced labor, but to tax that starving person suddenly "forces" her to labor. Such a position is only tenably if we ignore the fact that human beings have needs. Individuals who have no resources to live unless they accept employment are already under a high level of effective force, even if they are not taxed for refusing to work. When Cappelen and Tungodden's two conditions apply, the legal conditions for voluntary trade are nominally met because no law says "people must work." But the law ignores the physical conditions of voluntary trade. Laws that create a situation in which members of group A own property and members of group B have no access to resources, not only force group B to work but force them to *work for* members of group A.

Models of Walrasian general equilibrium have tended to assume that individuals have enough property that they can survive even if they do not trade. Arrow and Hahn (1971, p. 120) explicitly assumed that modern welfare states assured some non-zero level of consumption even for those who could not secure anything in the market place. T. C. Koopmans (1957, p. 59) was critical of that assumption, but the concern on both sides mostly involved whether worker starvation would affect the market's ability to reach equilibrium and whether work starvation had implications for Pareto optimality. These authors were less concerned with whether the threat of starvation makes workers'

participation involuntary or with the ramifications of a market system based on *involuntary* trade. Hammond (1989, pp. 210-212) and Coles and Hammond (1995) demonstrate that it is possible to relax the no-starvation assumption in a Walrasian model and get a Pareto optimal market equilibrium in which some portion of participants starve to death. They do this to show that Pareto optimality is not a sufficient condition to conclude that an outcome is ethical and that perfect competition does not necessarily protect an economy from famine. However, they do not address the question of whether the threat of starvation makes labor-market participation involuntary.

Amartya Sen clearly recognizes the problem that people can be so desperate that they are effectively forced to do things they otherwise would not (Sen, 1981; 1999; 2006). But he has taken that observation in a different direction the one pursued in this article. He defines two closely related terms neither of which are quite the same as ECSO freedom.

First, he defines exchange entitlement as the set of alternative bundles that an individual can obtain either by holding or by trading everything she owns including her own labor. Starvation occurs if no bundle of goods within her exchange entitlement includes enough food to keep her (or all of her family) alive (Sen, 1981, pp. 3-7). Second, he defines trade-independent security as the amount a person can consume without any kind trade—either through home production or through consuming what she already owns (Sen, 1981, pp. 172-173). Both of these concepts are valuable in determining whether an individual is vulnerable to famine, but not in determining whether an individual is effectively a forced laborer. A person with trade-independent security has ECSO freedom, but so does a person with sufficient cash or goods that she can trade for

what she needs without trading her labor. ECSO freedom can be thought of as *participation-independent security*, but it does not require security independent of all exchanges of cash.

Sen and many people who have built on his work have documented the collapse of exchange-entitlements and trade-independent security in many nations in recent decades and have demonstrated that many people now fail to reach a reasonable capability level despite intense labor-market participation (Drèze and Sen, 1989; Drèze and Sen, 1990; Gasper, 2005; Osmani, 2005; Robeyns, 2005). These studies are extremely important, but they do not answer the question of when labor-market participation is or is not effectively forced by the threat of starvation.

3. Human need

Section 1 argued that genuinely voluntary participation in a trading system requires that individuals have an acceptable exit option. Section 2 indicated that the need for an exit option is sometimes recognized but not well explored in economic and political theory. Now this section considers what conditions the exit option must have to ensure that those who participate do so voluntarily. If people are deprived of their needs unless they do X, they are effectively forced to do X, but what exactly does it mean to be deprive of need? It certainly does not mean being deprived of anything one might want or of equal standing; needs involve a basis level of human functioning.

This paper does not advance a new theory of human need; it applies the theories of human need primarily by Nussbaum (1995; 1999; 2000; 2003) and by Doyal and

Gough (1991). Although the two theories take different approaches, they have a great deal of overlap (Gough, 2003). Either or both of them imply a similar level of need fulfillment, which meets the characteristics of an acceptable exit option.

Nussbaum's theory of need (basic human functioning or central human capability) is based on Sen's conceptions of "functionings" and "capabilities." Functionings are parts of the state of a person, particularly the various things that she manages to do or be in leading a life. Capabilities are the alternative combinations of functionings from which a person can choose (Sen, 1993).

Both Nussbaum and Sen argue that quality of life must be understood in terms of capabilities rather than in terms of utility (Nussbaum, 2003). One important reason for giving up the utility-based approach is that people in distressing situations often formulate adaptive preferences. If a person is continuously denied the capacity to reach a basic level of human functioning, a common (and perhaps sensible) way to deal with it is to learn to accept her condition. A person with low functioning and low expectations might exhibit a fairly high level of preference satisfaction with an extreme case being a contented slave. Thus, Sen argues that there is a strong cause for judging individual advantage in terms of capabilities, or "the substantive freedoms he or she enjoys to lead the kind of life he or she has reason to value. In this perspective poverty must be seen as the deprivation of basic capabilities" (Sen, 1999, p. 87).

Sen conspicuously resists defining a specific list of capabilities or a threshold level of capability, partly because of his support for a democratic deliberative process, and partly because his focus is more on human flourishing than on basic human need. The capabilities approach has inspired a large amount of research including the Human

Development Index, published annual by the United Nations in the *Human Development Report*. The key operational goal of the human development approach is to expand people's choices (Fukuda-Parr, 2003, p. 311). That is an important goal, but it is different from the goal here, which is to examine the physical conditions necessary to ensure that one particular choice is available—the exit option. This article does not address the issue of whether the provision of an exit option exhausts social responsibility for providing choices.

Nussbaum argues that the capabilities approach needs to focus on a specific list of basic capabilities that can be used to define a threshold of minimum acceptable human functioning or need. She argues that although Sen has never endorsed such a list, he has made statements logically imply the need for such a specification (Nussbaum, 2000, pp. 11-15). Ingrid Robeyns argues that Sen's unspecified approach is valuable for some purposes while Nussbaum's specified approach is valuable for others (Robeyns, 2003). Following that insight, I will employ Nussbaum's list for the specific purpose here.

In a series of works, Nussbaum has proposed and refined a list of ten basic human functional capabilities or central human capabilities (Nussbaum, 1995, pp. 83-86; 2003, pp. 41-42):

> 1. **Life**. Being able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living.
> 2. **Bodily Health**. Being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter.
> 3. **Bodily Integrity**. Being able to move freely from place to place; to be secure against violent assault, including sexual assault and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.
> 4. **Senses, Imagination, and Thought**. Being able to use the senses, to imagine, think, and reason … Being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic

speech, and freedom of religious exercise. Being able to have pleasurable experiences and to avoid nonbeneficial pain.
5. **Emotions**. Being able to have attachments to things and people outside ourselves…
6. **Practical Reason**. Being able to form a conception of the good and to engage in critical reflection about the planning of one's life. (This entails protection for the liberty of conscience and religious observance.)
7. **Affiliation**.
A. Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another…
B. Having the social bases of self-respect and nonhumiliation; being able to be treated as a dignified being whose worth is equal to that of others…
8. **Other Species**. Being able to live with concern for and in relation to animals, plants, and the world of nature.
9. **Play**. Being able to laugh, to play, to enjoy recreational activities.
10. **Control Over One's Environment**.
A. Political. Being able to participate effectively in political choices that govern one's life; … protections of free speech and association.
B. Material. Being able to hold property (both land and movable goods), and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure… (Nussbaum, 2003, pp. 41-42).

Nussbaum has been criticized for not explaining why individuals have a right to these functional capabilities (Robeyns, 2003, p. 75). This charge is not wholly warranted. Although her arguments on this issue are not greatly detailed in the works that enumerate her theory of need, they exist, and she has made additional arguments elsewhere. Nussbaum endorses Rawls's argument for primary goods, replacing his list of goods with the ten capabilities (Nussbaum, 2003, p. 55), and she makes the following argument, "Either a society has a conception of basic justice or it does not. If it has one, we have to know what its content is" in terms of capabilities (Nussbaum, 2003). I interpret Nussbaum to mean that treating humans beings as ends in themselves worthy of equal concern and respect must entail an awareness (and hence at least a tentative specification) of what the needs of a human being are and a policy of ensuring that people have the

capability to meet those needs. Elsewhere she has proposed that social justice be guided partly by the virtue of compassion (Nussbaum, 1996), which may provide greater support for relief from suffering than Nussbaum realizes (Whitebrook, 2002).

The argument in this paper is not premised on the full acceptance of Nussbaum's reasoning. The only part of it I employ here is her identification of human need as these ten functional capabilities. The perspective summarized earlier in this paper provides two arguments for an unconditional right to basic human capability, which could be used separately or in conjunction with her arguments for supporting human capability. First, no individual or group may block or to put conditions on any other individual or group's effort to secure their own needs by their own efforts without compensation sufficient to meet their needs; to do so would be to interfere with an individual's most important liberties—their ability to accept or reject interaction with other willing people. Second, without unconditional access to the resources necessary to secure these needs (or some other unconditional method of meeting their needs), an individual cannot be said to engage voluntarily in trades with other people.

Robeyns (2003) employs Nussbaum's approach with a slightly different list of basic capabilities, and compares it with similar attempts by Alkire and Black (1997) and Erikson and Aberg (1987). Although the four lists are not identical, Robeyns (2003, pp. 75-76) remarks about the striking overlap between them. They represent a near consensus. Robeyns lists 14 basic capabilities:

1. Life and physical health,
2. Mental well-being,
3. Bodily Integrity and safety,
4. Social relations,

5. Political empowerment,
6. Education and knowledge,
7. Domestic work and nonmarket care,
8. Paid work and other projects,
9. Shelter and environment,
10. Mobility,
11. Leisure activities,
12. Time-autonomy,
13. Respect,
14. Religion (Robeyns, 2003, pp. 71-76).

Doyal and Gough approach objective human need from a different angle. They concur with Sen and Nussbaum that adaptive preferences make preference satisfaction unworkable for the study of needs (Doyal and Gough, 1991, p. 23), and they refute arguments claiming the needs are culturally or individually relative (Doyal and Gough, 1991, pp. 9-34). But they do not frame their discussion in terms of functional capabilities. Instead, they derive a list of basic instrumental goods necessary to secure two broad, basic needs—physical survival and personal autonomy. These needs are universal, but they must be satisfied in different ways in different cultures and environments. They define "personal autonomy" as the mental capacity to make choices, the understanding of the available choices, political freedom, and the opportunity for freedom of agency. Doyal and Gough's basic needs are:

Physical survival	→	nutritional food and clean water protective housing safe physical and work environments control over reproduction appropriate health care
Autonomy	→	secure childhood significant primary relationships physical and economic security appropriate education

> safe birth control and child-bearing (Doyal and Gough, 1991, pp. 155-159)

Doyal and Gough do not go on to enumerate every good that is useful in securing the basic instrumental goods on their list. But the goods that secure needs vary so much with circumstances that it would be impossible to list them all in any conclusive way. The type of housing and education needed by Amazonian tribe members is very different from that needed by New York citizens, but they both fulfill the same goal of providing for the survival and autonomy of individuals in each society.

Although Nussbaum's list focuses on capabilities and Doyal and Gough's lists focuses on a set of basic instrumental goods, securing Doyal and Gough's list of goods would secure nearly all of Nussbaum's capabilities. Gough observes that every item on either list has some equivalent on the other except for play and concern for nature, which appear only on Nussbaum's list (Gough, 2003). Focusing on either one of the two lists would not significantly change the argument; both lists are comprehensive enough that it is fair to say a person who has these capabilities has a life that is not thoroughly bad in an absolute sense. If a person has these capabilities (or these basic goods) without doing someone else's bidding, she has an exit option. If she chooses to work for someone else from that starting position, she does so voluntarily.

For my purposes, it is helpful to group these capabilities into three broad categories. This is not a new theory of need, but simply a categorization of the needs listed in these theories.

1. **Access to the goods or resources necessary to secure life and health:** nutritional food, clean water, protective housing, safe physical and work environments, appropriate clothing, a healthy environment, and appropriate health care (Nussbaum's 1, 2, 3, and 8; Robeyns 1, 2, 3, 6, 9; Doyal and Gough's physical survival and physical and economic security).
2. **Access to noneconomic interaction with other willing people:** the need to form meaningful relationships with others (Nussbaum's 5, 7 and the sexual and transportation portions of 2; Robeyns 4, 5, 7, 10, 13, 14; Doyal and Gough's significant primary relationships).
3. **General access to resources:** being able to use the five senses; being able to imagine, to think, and to reason, being able to form a conception of the good and to engage in critical reflection about the planning of one's own life, being able to laugh, to play, to enjoy recreational activities, being able to live one's own life and nobody else's; being able to live one's own life in one's very own surroundings and context (Nussbaum's 4, 6, 9, 10; Robeyns 6, 7, 8, 10, 11, 12; related to Doyal and Gough's autonomy and security and significant primary relationships).

The first of these categories is the need for the goods (or the resources with which to produce the goods) that secure survival and health. Importantly, none of the lists limit needs to the purely physical needs of this category. An alternative that provides just enough resources to meet one's physical needs, but makes it impossible or extremely difficult to form relationships with others, to plan a conception of the good life in one's

own surroundings is thoroughly bad in an absolute sense. Although it may not be as immediately distressing as one that denies physical needs, such a default position would not provide an adequate exit option.

The intrinsic need to interact with other people is captured by the second category. Many, if not all, of the goods need for the other two categories can be produced better in cooperation with other people, but human cooperation is instrumental but not intrinsic to securing the goods to satisfy those categories of need. Satisfying the human need to interact with other people requires civil rights, and access to goods such as transportation, communication, and public spaces. These goods are instrumental to forming personal relationships just as cooperative relationships can be instrumental to producing goods. The government can guarantee access the goods necessary to facilitate personal interaction and the civil rights that allow willing people to interact, but short of paying people to be each other's friends, it cannot guarantee that others will be willing to interact. Therefore, the government can directly secure the first category of need, but it can only secure access to the second category.

This third category can be summarized as a person's need for resources to pursue her conception of the good life. It encompasses anything for which a person might need resources other than to secure her physical survival and maintain relationships with other people. This category of need introduces a difficulty, because a threshold is must less apparent in it than in the other two categories. The more resources a person has, the greater her ability to direct them toward her conception of the good life. Determining a cutoff point is difficult but not necessarily insoluble. The next few paragraphs propose a way to do so.

As long as the people in question are competent adults, it is not necessary to focus on their functionings but on their capabilities, making the use of a money-measure possible. Money does not always secure the same functioning for everyone, but Sen argues that the cautious use of the money measure can work if guided by capabilities:

> As long as minimal capabilities can be achieved by enhancing income level (given the other personal and social characteristics on which capabilities depend), it will be possible (for the specified personal and social characteristics) to identify the minimally adequate income for reaching the minimally acceptable capability levels. Once this correspondence is established it would not really matter whether poverty is defined in terms of a failure of basic capability or as a failure to have the *corresponding* minimally adequate income (Sen, 1993).

Sen is careful to warn that money is at best a rough measure of capability, and it leaves out some critical aspects of the issue (Sen, 1992). Income will not necessarily reveal the lack of capability experienced by a disabled person or the lack of freedom experienced by disadvantaged groups. Any use of the money measure must be carefully guided by capabilities. It is not money per se that a person needs but the specific capabilities that can be secured by a given amount of money.

Access to the first category of need can be measured fairly well in money. Access to the second requires civil rights and a few (often publicly provided) goods such as transportation, communication, and public spaces. The third category of need is difficult to measure in money, even if it can be largely secured by money. However, once a competent adult assures her family's physical survival, she can direct any additional resources to achieving the third category of need. Therefore, an income that is safely beyond serious pressure on physical needs (of nutritional food, clean water, protective housing, safe physical environment, control over reproduction, transportation, and

appropriate health care) gives her at least some ability to reflect, play, and live her own life.

Sharif estimates the level of income that satisfies basic needs by examining the work behavior of families in less developed countries. He finds a point of distress at which reductions in wages cause entire families including children to forego physical rest so that they can increase their hours of work to maintain consumption as wages fall. Total income, at the point where this behavior begins, "can be considered to provide an estimate of their subsistence—the lowest income free of distress" (Sharif, 2003). As difficult as it is to determine an exact cutoff point, it is possible to say that a person who is constantly struggling to keep her family fed, sheltered, and safe does not have her needs met, and a person who has enough so that they are clearly not struggling for these needs has the ability to direct the surplus toward planning their conception of the good life. Thus, physical needs can provide a rough guide to required level of income.

However, the money measured to secure safety from immediate distress is not everything. People might not be desperate to obtain available housing and food, but the quality could be so low that it fails to meet their needs. How can we be sure that the available goods are of adequate quality? For this problem, we would have to keep an eye on statistical measures. If a significant number of people have food and shelter but suffer from malnutrition, accidents, the cold, infant mortality, epidemics, etc., their needs are not adequately secured.

Thus, we could get an estimate of the necessary cash income by looking the prices of a few basic commodities. Assuming the assessment is done in a country that follows the prevailing conventions among industrialized nations of providing free education,

health care, thoroughfares, and public spaces; normally-abled individuals would require enough money for the rental of basic but safe apartment, an adequate diet, basic clothing, reasonable transportation, plus enough extra so that they do not exhibit signs of economic distress. Those with disabilities or special needs would require something more.

4. Capability in cash, kind, or raw resources

If the argument above has correctly indentified the minimum capability level of an adequate exit option, the final question is what policy best secures that level of capability? An exit option requires unconditional access to resources, but that could be provided by benefits in cash or in kind or by direct access to raw resources. This section tentatively argues that a regular cash transfer the best policy to secure an exit option in a complex industrial economy.

A "basic income guarantee" is a government-provided, unconditional regular cash income large enough to meet an individual's basic needs. The income is unconditional in the sense that it is not limited by the imposition of requirements that individuals perform (or show willingness to perform) some kind of work or service in exchange for it. The income is regular in the sense of it being paid daily, weekly, monthly, or often enough to ensure stable capabilities. Under this policy a person's alternative to employment is living off an unconditional income that is small but enough to secure her basic needs.

There is an enormous literature on the basic income guarantee, and therefore it is not necessary to go into it in detail here.[4] Most arguments for a basic income guarantee justify it as a way to streamline the welfare state, to reduce economic inequality, to

reduce poverty, or to increase opportunities for the poor. Few have justified it as a way to ensure that workers' labor market participation is genuinely voluntary.

It is generally agreed by economists that cash transfers are Pareto superior to in-kind benefits, and therefore at least potentially better for both the payer and the recipient. Pareto superiority does not imply that they should always be preferred to in-kind benefits, if some important value is at stake (Thurow, 1974). At least some of the goods on the list need to be provided in kind, such as childhood education and public spaces. Most nations provide healthcare in kind, perhaps because of market failure.[5] However, most of the goods necessary to secure life and general access to resources are difficult to supply in kind. Living one's own life is personal; it is different for everyone. The individual might decide to make do with slightly worse housing for slightly better food or slightly worse of both to use resources to achieve some other centrally important goal. A rigid system of in-kind benefits would keep individuals from making those decisions, and reduce their ability to control their lives.

In-kind benefits have also been criticized for segregating or stigmatizing recipients. Stigma may not be as problematic for securing a minimally adequate exit option as it is for redistribution based on other reasons. However, if the goal of redistribution is to allow individuals to refuse forced service, without punishing them for doing so, the possibilities of stigma and unnecessarily restricted freedom to live as individuals wish provide a reason to favor a basic income guarantee over in-kind transfers even if both can potentially provide the necessary exit option.

The argument for an exit option implies the need for freedom from for forced work in the sense of one person being forced to serve another; it does not imply that

people have any right to be free from the need to work in the sense of applying effort to turn raw resources into consumption. The provision of raw resources is one way to provide an exit option and to satisfy people who believe that everyone (without sufficient wealth) must work for their subsistence. In some cases, access to resources may be exactly what those who are unwilling to join the prevailing economic system want. Colin Ward argues for an anarchist society with the right to squat in unused buildings; to self-build housing on available land; to produce food on allotments; and even to provide for some of their own healthcare, education, and daycare through mutual aid groups (Crouch and Ward, 1994; Hardy and Ward, 1984; Ward, 1973; White, 2006). James Robertson argues for self-organized and self-controlled "ownwork" (Robertson, 1985).

There are at least three problems with securing an exit option by the provision of raw resources. First, as Section 1 mentioned, an exit option might prove to be far more expensive to provide in raw resources than in cash. Modern capitalism is both very hungry for resources and very good at turning resources into consumption products. It is far cheaper for a capitalist society to secure and exit option by providing enough cash to buy goods than it would be to securing an exit opting by providing enough resources for individuals to produce those goods themselves. This fact is capable of transforming a claim to resources into a claim to cash that can be used to buy services provide by other people. Homesteads might have been a viable way to secure an exit option in the 1860s when the United States was resource rich and industrially poor, but few if any countries are in that position today. New York City could hardly grant land and materials to the 40,000 people who seek beds at its homeless shelters every night. The rent on that

amount of land necessary to support one person with direct access to raw resources would go a long way to supporting the income of nearly every homeless person in New York.

The land-demanding anarchists might prefer the larger amount of land to the smaller amount of basic income guarantee. One might have the impression that if society provides just enough income so that an individual can attain their basic needs by purchasing the cheapest products, it makes only one lifestyle possible. However, recall that basic needs are not limited to physical needs, and one category of needs on the list above is general access to resources. If people have a basic income guarantee safely above the bare minimum they need to survive, they might not have enough to buy all the land they would want, but they would have the flexibility to put what they have toward alternative lifestyles and to combine it with other similarly situated people. It would be difficult to give people raw resources and give them great flexibility about how and where to use them without allowing them to turn the resources into cash. Money is flexible because money buys every good on the market. It might be possible to make resource grants at least somewhat flexible with the provision of some kind of resource voucher, but it would be simpler to skip that step and start with cash.

Second, the provision of raw resources rather than cash has the potential to be both punitive and stigmatizing. For example, the ruling coalition says, "We cannot force you to work for us, but we can humiliate you and force you to struggle to survive in this remote spot." Resource grants could be punitive if they involve separating the receiver from other people who wish to associate with her. Forcing people to leave their home community in order to exit a joint project can have the effect of denying them access to the second category of need (access to noneconomic interaction with other willing

people). It is one thing if all the other individuals decide independently that they are not willing to interact with someone who refuses cooperate in a joint economic project, but quite another for the government to interfere with individuals' desire to interact.

Third, the attempt to secure an exit option by the provision of raw resources might require a long-term or even a lifetime commitment on the part of the person who would like to make use of an exit option. Such a difficult exit option can have the effective of putting people in the position of choosing *between* their ECSO freedom and social participation (self citation). Therefore, it is important not only that people have the possibility to exit social participation once in their life, but that they retain that option throughout their lives. Much of the economic distress that threatens people's independence in modern societies comes temporarily or at least unexpectedly during economic downturns. Such a worker would need access at least to temporary cash or in-kind benefits, but this argument doesn't necessarily preclude moving to a raw resource policy for a longer-term exit option.

Thus, although all three policies have the potential to secure the physical conditions of voluntary trade, the basic income guarantee is likely to be the most effective and least expensive.

5. Conclusion

Property rights advocates suffer from cognitive dissonance in their treatment of propertylessness. On one hand, they want to believe that the market economy reflects the free interaction of free people so that no regulation of wages or working conditions is

necessary. Employers have no responsibility to make wages acceptable because workers are nominally free to accept or refuse the offer. On the other hand, they want to believe that it is morally acceptable to create a system of property rights that interferes with individuals in such a way to put them in the position where they must work for whatever wages are offered by the group that controls property. Such a policy holds the propertyless to the responsibility to work while the main beneficiaries of their work are the people whose property rights block individuals from supporting themselves. They simply can't have it both ways. Forced servitude is not voluntary trade.

This article has put forth a theory of the default conditions a person needs to make a voluntary decision to participate in the economic system. It argues that genuinely voluntary trade requires that individuals have unconditional alternative to market participation that is not thoroughly bad in an absolute sense. This alternative involves individuals having access to the resources or the goods necessary to secure their basic needs which can be understood in terms of Nussbaum's basic capabilities or Doyal and Gough's basic human needs. In a modern, industrial economy, this status is best secured by an unconditional basic income guarantee large enough to secure housing, food, clothing, and basic transportation, plus enough more that individuals do not display signs of economic distress. In some circumstances, it could conceivably be secured by in-kind grants or raw resources.

By examining the conditions under which ECSO freedom and genuinely voluntary trade exist, this article does not therefore show that they must be established. If an exit option is required for trade to be legitimized by voluntary consent, we can either go about securing that exit option, or we can decide that voluntary trade is either

unsustainable or undesirable, and that economic interaction should instead be based on some other principle such as mandatory mutual obligation. I have argued that we can secure the conditions of voluntary trade with the relatively minor reform of a basic income guarantee, while reorienting the economy on the basis of mutual obligation would presumably imply a much greater changes, and perhaps much greater rights to equality of outcome. If so, neither accepting nor rejecting the exit option implies property holders can ignore some form of economic rights for all.

One might object to the way I have identified the exit option. But if *voluntary trade* is to play a role in the justification of the market system, some theory of an exit option is necessary. If we use the word "voluntary" to describe Kader Mia's decision to risk his life in the labor market he faced, then "voluntary trade" is meaningless. If Kader Mia was forced to risk his life, while those today who face destitution are not forced to accept the conditions in their labor market, what is the substantive difference between the two?

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[2] In the 1970s, the U.S. and Canadian governments conducted a total of five experiments on a policy that would guarantee an exit option by a direct cash benefit. Nearly all of the researches involved in those experiments agreed that they demonstrated the feasibility of such a program (Self Citation 2005). Even some strong market advocates have argued that a basic income guarantee can be sustained at reasonable cost within a market-oriented system (Friedman, 1968; Hayek, 1960, pp. 302-305; Murray, 2006).

[3] There is a large literature on the neoliberal perspective including, (Block and Callahan, 2003; Boaz, 1997; Friedman, 1962; Kirzner, 1989; Narveson, 1998; Nozick, 1974; Rothbard, 1978).

[4] For a description of how basic income guarantee might work and how much it might cost see (Atkinson, 1995; Garfinkel, Huang and Naidich, 2005). For a history of the idea see (Cunliffe, Erreygers and Van Trier, 2003). For a debate of issues surrounding basic income guarantee see (Harman, 2006; Standing, 2002; Van der Veen and Parijs, 1986; Van Parijs, 1992; 1995; 2001; 2002) and (self citation 2006b and self citation 2005).

[5] There is evidence of market failure in the health care industry, (Hurley, 2000; Pauly, 1986), but there is also a widespread belief that medical care should be provide outside the market because of their importance, (Bergmann, 2004; Thurow, 1976).