

Freedom and the Invisible Hand:

Hussain on the Judgment-Bypassing Character of the Market

Andrew Franklin-Hall

The University of Toronto

andrew.franklin.hall@utoronto

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I. Introduction

Adam Smith famously invoked the image of an “invisible hand” to characterize a situation in which people collectively realize a socially beneficial outcome without anyone intending to do anything other than seek his own advantage (Smith 2000: 482, 485). For Smith, the invisible hand is a marvelous thing. Though you might have thought that self-interest needs to be restrained to promote the public good, Smith is suggesting that, like the hand of Providence, the market can bring about the general good by working through the narrow motives of ordinary human beings.¹ And, if it is true that market institutions increase social wealth, then they arguably enhance opportunity and freedom for all as well.

¹ For a defense of this providential reading, see Harrison 2011.

But the image of an invisible hand could also be made to take on a more sinister appearance. For example, a central theme in Karl Marx is that the appearance of freedom in the market economy is illusory or superficial. Not only is the worker in fact unfree, but the capitalist is not a truly free agent either—he “is simply personified capital, functioning in the production process simply as the bearer of capital,” which follows its own laws (Marx 1981: 958). These economic forces, moreover, are not at all benign. In *The Communist Manifesto*, Marx and Engels compare bourgeois society, in the face of economic crises, to a sorcerer, “who is no longer able to control the powers of the nether world whom he has called up by his spells” (Marx 1978: 478). Though Marx does not refer to this control as an invisible hand, he could well have done so, depicting human beings as the puppets of their economic system. This moreover, fits with his idea that real social freedom consists at least partly in this: “that socialized man, the associated producers, govern the human metabolism with nature in a rational way, bringing it under their collective control instead of being dominated by it as a blind power” (Marx 1981: 959).

Many thinkers have been drawn to one or the other of these perspectives: the market is either a source of freedom or a source of bondage. What is distinctive about Waheed Hussain’s *Living with the Invisible Hand* is his insistence that there is truth in each of these views and that we need a philosophy of the market that can account for this. The suggestion that we must find a way of *living with* the invisible hand indicates the general tenor of Hussain’s approach. The market is at once indispensable and deeply problematic. The market economy is valuable because it coordinates production and consumption activities in an economically efficient way, which in turn promotes human welfare. But the market brings about this economically efficient pattern by exerting a subtle form of social control over us which bypasses our judgment as

rational beings. Therefore, in subjecting ourselves to the market, we may fail to treat ourselves with respect as free agents. This, Hussain claims, makes the market potentially “authoritarian.” The constructive task, then, is that of defining the conditions, and sketching the possible institutions, which would render a market economy consistent with the ideal of mutual respect.

Now to deny that markets unambiguously promote freedom is a familiar theme. But to allege that the market economy may be *authoritarian* is particularly provocative. After all, it is common for classical liberals to contrast *free* markets with the *authoritarian* character of planned economies. Thus, Friedrich Hayek contrasts the kind of “spontaneous order” that emerges endogenously from markets settling into equilibrium with the externally imposed structure “favoured mainly by authoritarians” (Hayek 2021: 58). Hussain is directly challenging that simple dichotomy. And yet exactly what does the charge of authoritarianism amount to? What does it mean to say that the mechanism of the market “bypasses our judgment” when it coordinates our activity? This is the key question I want to explore here. Part of my aim is to articulate some interpretations of this idea that, though perhaps initially tempting, cannot ultimately be correct. More positively, I want to make the case that Hussain has actually identified a few separable senses in which the market might be criticized as authoritarian. I contend that these senses are crucial to disentangle because they call for rather different sorts of remedies.

II. An Overview of Hussain’s Argument

Let me begin by laying out how I read Hussain’s central argument. The subject of Hussain’s book is, of course, the market – or, more precisely, the “advanced market economy.” Hussain describes this as a type of “social coordination mechanism,” a way of getting our activities, as a society, organized. One might also say, following Hayek (who is surely his most important foil),

that the market is a kind of *order* that consists in certain regular patterns. A hierarchical authority structure – as found in a corporation, a bureaucracy, or a planned economy – would be another kind of order, another social coordination mechanism. What is distinctive about the market, though, is that the order it manifests is not imposed from above according to some preconceived plan but arises from a decentralized equilibrium process. That is, as I make certain choices from within my option set, this subtly changes the options others face. Their subsequent choices have a similar effect, and so on. If every move within this system involves exchanges that are mutually beneficial to the parties directly involved, and if no negative externalities are imposed on third parties, then the system should approach an equilibrium that is economically efficient, meaning that no mutually beneficial forms of cooperation are left unrealized (Hussain 2023: 72, 60-64).

Hayek distinguished between a grown or spontaneous order, a *kosmos*, and a made order, a *taxis* (Hayek 2021: ch. 2). Hussain, however, would reject that dichotomy when it comes to the market. There is, he would allow, a sense in which the order of the market is spontaneous, the result of decentralized mutual adjustment. But he would insist that the market can only generate this order because of a complex set of consciously constructed institutions lying in the background, including the money system, the law of property and contract, corporate law, anti-trust law, and so on. The functioning of the invisible hand, thus, depends on the visible hand of the government to define and enforce the rules that make market activity possible. The efficient patterns that emerge from market activity, moreover, are not just byproducts of protecting property rights, as though protecting those rights were what really mattered. Rather, the institutions of an advanced market economy are deliberately designed and constantly calibrated to maintain efficiency, even when this requires (as in competition law) curtailing an abstractly

conceived freedom of property and freedom of contract. It is economic efficiency, Hussain insists, that is the key “public justifying rationale” of a market economy.

Hussain also accepts Hayek’s argument that no other institution is so well suited to promoting efficiency as the market. In his classic 1945 article, “The Use of Knowledge in Society,” Hayek observed that you might think that a central planner could design an efficient division of labor, if only he had enough knowledge of people’s preferences and of the means to satisfy them. But Hayek argues that, in reality, this complete knowledge “never exists in concentrated or integrated form, but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess” (519). Not only is there simply too much information for any single person or agency to comprehend it all, but collection is made even more infeasible in that the relevant facts are constantly changing (524). The “marvel” of the price system is that it provides us a way of aggregating that dispersed information in a form that is actually usable by individual actors (527). If everyone is, in essence, bidding on goods to pursue their own aims based on their own local knowledge of circumstances, then the resulting prices will indicate the most efficient use of those goods.

Now, if we were welfare consequentialists, this might be the end of the story. The market economy would be justified because it tends to promote efficiency—and thus human welfare—better than a planned economy could. But this inference is too quick for Hussain. A philosopher king is not justified in trying to rule us merely because it would promote our welfare. Political power, he thinks, must also be exercised in a way that is consistent with “citizens respecting themselves and one another as free persons, each entitled to guide her activities in light of her own practical judgments.” This “Kantian ideal of mutual respect” also applies to the social

coordination mechanism of the market. There is something problematic about a system of mutual adjustment that “bypasses the practical judgments of the individuals about the pattern” even if it *is* economically efficient. Here is Hussain’s clearest statement of the point:

[C]oordination mechanisms that draw people into certain patterns through a process that bypasses their private judgments about these patterns suffer from a potential moral defect. Like a government that passes laws without regard for public opinion, these arrangements may be ‘authoritarian,’ determining our conduct in a way that embodies a lack of respect for ourselves and one another as free persons (Hussain 2023: 83).

The market, therefore, is in roughly the same moral situation as political authority. Let me expand upon this point.

Authority looks problematic to many philosophers because we are asked to comply with the authoritative command, even if we disagree with, or never reflect upon, the command’s content. This seems to require that we surrender or set aside our own judgment of the matter and simply do as we are told. And that seems like an abdication of our moral autonomy, of our responsibility for our own actions – something that thinkers following Rousseau and Kant say we cannot do without forfeiting our dignity as free moral agents.² And yet some political authority does seem necessary. The task for the political philosopher, then, becomes that of articulating the conditions under which authority is justified and of distinguishing such legitimate authority from “authoritarian” abuses.

² Rousseau, *On the Social Contract*, I.iv; Kant, *Metaphysics of Morals*, 6:223, 235-236, 313-314; Kant, “What is Enlightenment.”

Hussain's approach to the market has the same basic shape. The market is morally problematic because it is a social coordination mechanism that draws us into patterns of activity that bypass our ability to govern ourselves according to our own practical judgments. At the same time, the market also enables us to do valuable things we could not otherwise do. Therefore, the judgment-bypassing character of the market is not necessarily gratuitous, and our task is that of identifying the conditions that would make the judgment-bypassing character of markets consistent with mutual respect.

It is worth stressing how novel this argument is. I cannot think of anyone who has modeled a critique of the market on the critique of authority in quite this way. One common method of claiming that the market threatens our freedom goes something like this. Market economies, especially in an unadulterated form, engender great inequalities of income and wealth and this can relegate the least advantaged members of society to poverty. Such poverty, in turn, may deprive the poorest members of society of sufficient opportunity – or “effective freedom” – to pursue their own reasonable aims (Sen 1992). Another familiar approach is to locate the objection to capitalism with the authoritarian structure of the employment relation (McMahon 1994, Anderson 2017). But neither of these are the ideas that Hussain is driving at. *Living with the Invisible Hand* dwells relatively little on inequality and poverty, and more than once the point is made that the market threatens the freedom of even privileged actors like corporate executives. For Hussain, the tension between the market and freedom affects everyone – not only those at the bottom or in subordinate positions.

But exactly what Hussain means when he says that the market is a judgment-bypassing mechanism is not as easy to grasp as we might hope. I think that there are three reasons for this.

First, Hussain relies heavily on a series of examples and analogies, and it is not always clear exactly what we are supposed to take away from these. Second, it is hard to understand whether Hussain thinks that the market endangers our freedom as private individuals with personal interests or solely as democratic citizens concerned about the common good. And third (and most importantly), Hussain has, without distinguishing them, actually put his finger on a few different senses in which the market can bypass our judgment. The aim of this paper, then, is simply to articulate the strongest interpretation of Hussain's basic worry about the market. The task of coming to a final appraisal of the position will have to be left to another occasion.

III. Do Markets Exercise Authority?

In this section and the next, I discuss two interpretations of Hussain's notion of a judgment-bypassing mechanism which lean heavily on some of the examples and analogies marshalled to elucidate the account. I begin with the analogy to authority.

Hussain clearly intends to problematize a view like Hayek's which praises free markets for coordinating economic activity without relying on authoritative commands (Hayek 2021: ch. 10). But does Hussain mean to flatly deny Hayek's claim? Is Hussain saying that market economies really are authoritarian *in just the same way* as centrally planned command economies are? This is a very natural question. After all, Hussain's description of the market as a "judgment-bypassing mechanism" seems close to Joseph Raz's claim that the nature and purpose of authority is "to preempt individual judgment on the merits of a case" (Raz 1986: 48). In fact, Hussain makes this comparison himself (Hussain 2023: 94). And, as I tried to bring out in the previous section, the whole shape of Hussain's critique of the market seems to be modelled on the critique of political authority. Furthermore, he insists that the distinction between governments and markets has

been overdrawn: while they differ in the mechanisms they rely on, they are both forms of “governance,” the common function of which is to draw citizens into certain patterns of activity. The market is, therefore, said to be “governance without government” (Hussain 2023: 113).

Hussain must have realized that his repeated assertion that the market economy is a potentially authoritarian form of governance would raise this question about whether the market exercises authority, since he goes to the trouble of denying that this is his claim (Hussain 2023: 97). However, as far as I can see, he never really spells out *why* the market can’t be said to exercise authority. So, let us fill in this bit of the account here, since it will put us in a better position to appreciate the distinctive way that markets are supposed to be judgment-bypassing.

How exactly does authority bypass our judgment? On the influential analysis developed by Joseph Raz, if a legitimate authority directs me to ϕ , then I am supposed to ϕ on the basis of that direction instead of acting on my independent judgment about whether it is better to ϕ or not- ϕ (Raz 1986: chs. 2-3). Hussain observes, though, that there are ways of bringing about a similar result without the issue of commands. The point is made most vividly with a series of cases about a gym teacher who wants his students to do a certain amount of running. The gym teacher might accomplish this by simply directing the students to run the length of the soccer field, in which case the students are expected to obey the gym teacher instead of consulting their own judgment about the value of running. But Hussain says that a subtler approach is for the gym teacher to set up a soccer match where the winners get higher grades than the losers. This will put the students in competition with one another, and everyone will have to do a good deal of running in hopes of outperforming the other team. The result is that everyone runs the desired amount, even if this is not something they independently thought they ought to do, and yet no one will have been

specifically directed to run at all (Hussain 2023: 95). The intended analogy is, of course, the market economy, where no one is directed to produce anything in particular, but where incentives are attached to outcompeting others in offering desired goods and services. Now, our question is, if both the gym teacher's command and the soccer match bypass the judgment of the students, do they bypass their judgment in the same respect?

The answer, it seems, is *no*. The gym teacher's command to run represents a so-called "exclusionary reason" (Raz 1999: ch. 1). The student is supposed to run because he has been ordered to run, and he is to set aside his judgment about whether running is worthwhile. By contrast, when the student's opponents run a lot in the competition, the student is not expected to set aside his judgment about the worth of running so much. There is no exclusionary reason. What his opponents do simply changes the circumstances that are relevant to what he needs to do to achieve his goal of winning the game or getting a good grade. The same is true when I respond to competition in the market.

This contrast may seem too quick. Don't the rules that structure the game of soccer (or the market economy) represent exclusionary reasons for the participants? Yes, but this would mean that every rule-structured institution turns out to be equally authoritarian. So, this would shed no real light on how the neo-liberal market is supposed to be distinctively authoritarian as compared to any other arrangement. What about the fact that the gym teacher instructed the students to play a game of soccer?³ This is indeed an exclusionary reason. But, first, I worry that this detail is a distraction from the main point Hussain is trying to make: after all, he wants to say

³ My thanks to an anonymous reviewer in posing this question.

that the form of governance imposed by the soccer match differs from the issuance of a command or authoritative rule. Second, the fact that the command to play soccer is an exclusionary reason does not make it the case that the actions of the other team which the player must adjust to represent exclusionary reasons.

To be sure, one might think that the changing circumstances of the soccer match (or market economy) *force* me to act in certain ways because this is necessary to achieve my end. As a consequence, I might have to set aside some of the considerations that would ordinarily shape my decision. I shall come back to this notion of the market as quasi-coercive or as a source of pressure in Section VI. All I have tried to do so far is to make the point (which I think Hussain would readily accept) that the respect in which the operation of markets bypasses judgment must be distinct from the respect in which the exercise of authority bypasses judgment.

IV. Does the Market Control Us?

Though the market does not exercise authority over us, Hussain insists that it does exert social control in a “non-discursive” way. It does so, he says, by continually shaping and altering our option sets via the price system (Hussain 2023: 76, 97).

At any point in time, an individual’s income (or potential income) and the prices of various goods and services in the market together constitute a complex set of options that are open to that person: they constitute her *option set*... [C]hanges in wages and prices represent changes in the option sets open to us... Changing wages and prices are constantly opening and closing ‘doors’ for individuals, altering the possibilities that are open to us (67-68).

Since we are constantly adjusting our activities in the face of changes in prices, our choices are clearly affected or conditioned by the market. But does this, in itself, make the market a “mechanism of social control”? What exactly would that mean? To help us grasp his perspective, Hussain offers us another analogy:

Mice in a Maze. Three mice are in a behavioral science lab. The mice are in an enormous maze. The maze has doors at many junctures that can be opened or closed remotely. A scientist sits at the controls. At each point in time, the mice have different options open to them—go straight, go left, go right, go back, etc. – but the scientist always ensures that each mouse has more than one option open to her. But by opening and closing the doors in the right sequence, the scientist leads the mice into a certain pattern of activity: the scientist leads them into a pattern in which the three mice keep meeting each other at regular intervals (69).

Even though each mouse always has a choice about which way to go, Hussain insists that

the pattern of activity that the mice find themselves in – a pattern in which they keep running into each other—is not something that is wholly attributable to the private choices that the mice make from within these option sets. The reason is that their option sets are constantly being *set up* in such a way as to draw them into the pattern, and the pattern of activity is mainly attributable to the process that continually adjusts and readjusts their option sets (ibid.).

If we think of these mice as intelligent, human-like agents, it would certainly be very natural to say that they are being controlled or manipulated.

Now, suppose we replace the mice with economic agents and the opening and closing doors with a system of prices. However, as an intermediate step (which Hussain does not take), imagine that we retain an analogue to the scientist and that these prices are intentionally set by a paternalistic social planner with the aim of incentivizing more virtuous choices. As a result, even though people may not share the social planner's values and are merely looking for the best bargains, they end up living lives that conform to the planner's values. It does not seem implausible to say that the participants in this system are being manipulated or controlled.

When we come to examine the actual market, we again find that participants drawn into patterns of activity which have characteristics that are not part of their design. That, after all, is the very definition of an invisible hand process. But now there is no scientist or social planner with his hands directly on the levers; there is, in fact, "no discrete component of the system that controls everyone's option set in a centralized way" (73). Market prices are rather determined through a complex decentralized system of mutual adjustment, sensitive to supply and demand. Thus, the choices I make subtly affect the options you have, and the choices you then make affect my choices in turn, and so on. And yet Hussain still wants to say that the market exerts social control over us; it is just that the "control mechanism in this case is 'dispersed' throughout the system" (73). This, Hussain claims, makes the control "more subtle and difficult to pinpoint" but no less real (75).

This conclusion can seem puzzling, however. Hussain described the mice as controlled because their pattern of activity "is not something that is wholly attributable to the private choices that the mice make from within these option sets" (69). But isn't that exactly the situation in an ideal market? Aren't the prices and the resulting patterns of activity determined by the

complex interaction of the individual choices that market actors each make? Of course, my freedom in the market is not absolute. What exchanges I can make will depend on what others want and on what I can give them. The freedom I enjoy is thus bounded by the like freedom of others. But, far from being a moral defect, you might suppose this to be a morally attractive system. In any case, the bounded freedom I have in the market seems very different than being subject to a command economy where I am told what goods and services I must produce and where my discretion about consumption is quite limited.

Hussain might reply that this ignores the artificiality of modern markets. Joseph Heath has characterized the market economy as “a set of staged competitions” instituted to organize the social division of labor in the most efficient way (Heath 2023: 6). This perfectly captures Hussain’s view as well. Patterns of economic activity do emerge from the countless choices of market actors, but (as we have observed) those choices are shaped by the rules that structure the market, and they depend on the background institutions that maintain the preconditions for market interaction. These rules and institutions have the shape they do, moreover, because they are thought to foster a desirable outcome, namely socially efficient patterns of activity. Therefore, the options we face in the market are not merely the result of the choices other people have made – they also depend on the character of the economic system we have in place.

If this is on the right track, then perhaps we should say that the market counts as a system of social control because it satisfies two criteria. First, market participants are drawn into a pattern of activity that has certain features which they never intended to bring about. And, second, the rules that govern that activity are set the way they are because they tend to produce the patterns with those desired features.

I am not sure whether Hussain would want to say that this is enough to make the market a judgment-bypassing mechanism. In my opinion, though, this would be a problematic claim, for I don't see how this makes our situation in the market relevantly like that of the mice in the maze. In the maze scenario, the scientist has a very substantive end—that of having the mice repeatedly encounter one another—and that end seems wholly foreign to anything that the mice want. At the same time, although the mice have the freedom to arbitrarily *pick* which way to go, it is not clear that they are making any meaningful *choices*. That is, it doesn't seem as if their decisions get them any closer to whatever goals they may have.

Now compare the market. Assume its main point is the promotion of social efficiency. But this end is not so distinct from the aims of the participants. After all, one outcome counts as more socially efficient than another only if it makes some people better off *in terms of satisfying their own preferences* without making anyone else worse off. While overall social efficiency may not be the aim of any individual economic actor, efficiency is defined in terms of the total aims of all the actors in the system. That is why liberals have tended to be drawn to principles like equality, utility, and efficiency – they don't represent aims that are completely foreign to the individuals concerned, but are only ways of aggregating or balancing interests taken as given. A related point is that the participants in the market are not blind cogs in a machine. They are making choices that, given their circumstances in the system, make sense to them and help them achieve what they care about. If efficiency is a property that emerges from everyone satisfying their own wants

through mutually beneficial exchange, then (unless we have more to say) it seems like a stretch to say that the participants are being manipulated or controlled to achieve that result.⁴

V. Opacity and Reason Insensitivity

I have just been arguing against the idea that the market could plausibly be regarded as authoritarian merely because it leads us into patterns of activity that no private actor individually intends. But perhaps this general idea is strengthened when we bring into view two related features of the market that Hussain clearly means to highlight: opacity and insensitivity to reasons.⁵

⁴ You could think that, even though market actors make choices to satisfy their own wants, many of those wants have been created by advertisers and consumerist culture. On this picture, we are controlled by the market because we are led by wants the market itself fosters. While there may be some truth in this, there is no hint in Hussain's book that this is his point.

⁵ Hussain often writes as if transparency, reason sensitivity, and trustworthiness are three conditions that, if met, justify coordination systems that incorporate judgment-bypassing mechanisms (see, for example, Chapter 5). This makes it sound like we should be able to define a judgment-bypassing mechanism without referring to those three conditions. On the interpretation I am offering in this section, however, the judgment-bypassing character of the market is actually best understood as a function of the market's lack of both transparency and reason sensitivity. I do not discuss trustworthiness here, though, since trustworthiness does seem like a remedial virtue. That is, trust comes into play when we have some reason to believe that the market will operate in a justified way, even though we cannot see this in any detailed way for ourselves. Since we need evidence to deem something trustworthy, trustworthiness can be understood as a kind of indirect transparency.

Let me begin with opacity. It seems clear that at least part of Hussain's concern about the market is that the price mechanism does not make the causes and consequences of the patterns of exchange transparent to market participants. The problem is not merely that market interaction brings about effects that the participants did not strictly intend to produce and may be indifferent to; the problem is that the market draws us into patterns of activity that we do not fully comprehend.

In making this point, Hussain refers us to Hayek's paper on the epistemic function of prices which we have already alluded to. For Hayek, recall, a cardinal virtue of prices is that they aggregate dispersed knowledge about preferences, opportunity costs, and scarcity into a form that is actually usable by individual market actors. For example, suppose a manufacturer is trying to decide how to organize his own production. Hayek says:

There is hardly anything that happens anywhere in the world that *might* not have an effect on the decision he ought to make. But he need not know of these events as such, nor of *all* their effects. It does not matter to him *why* at the particular moment more screws of one size than of another are wanted, *why* paper bags are more readily available than canvas bags, or *why* skilled labor, or particular machine tools, have for the moment become more difficult to acquire. All that is significant for him is *how much more or less* difficult to procure they have become compared with other things with which he is also concerned... (Hayek 1945: 525).

Hayek thinks this economization on the information transmitted through prices is a good thing. Hussain, however, accuses Hayek of "essentially defending a form of authoritarianism" (Hussain 2023: 119 n. 3). But what kind of opacity is Hussain worried about?

Heath, in his contribution to this issue, reads Hussain as holding that any degree of opacity is problematic—a stance Heath finds quixotic:

It seems like a foregone conclusion that any complex division of labour, involving literally billions of participants, is going to involve drawing individuals into patterns of interaction that are not fully transparent to them all. Indeed, while some ethical consumers may like to know the name of the farmer who grew the carrots they are eating, no airline passenger wants to know the name of every person who contributed, in any way, to the on-time arrival of their flight, or the impact that each had on the price of the ticket (Heath xxxx: xx).

Now, from my reading of Hussain, I find little evidence that he is worried about the fundamentally anonymous character of market transactions. What, though, about the manufacturer not knowing the reason why one size of screw is in greater demand than another size? Is it a problem if someone cannot understand why prices are what they are? Hayek would surely respond that the specific information that the price system does not represent is typically only so much irrelevant detail given the practical purposes of the market actor. The price system, he says, is like a dial measuring pressure on a piece of machinery (Hayek 1945: 527). And, if I may run with that comparison, it is not a defect that the gauge only measures pressure-per-square-inch and does not try to indicate the location and trajectory of all the molecules in the tank. That more specific information, even if we could gather it, would be useless to us. Much the same is surely true about most of the information obscured by market prices.

But the lack of transparency regarding these mundane details of exchanges is not, I think, what is really worrying Hussain either. The problem, he says at one point, is that “market coordination does not put citizens in a position to see for themselves what the emerging pattern

of production and consumption is and whether it is justified” (Hussain 2023: 119). It is worth emphasizing that Hussain is saying, at least here, that the lack of transparency raises a moral problem because it bypasses the judgment which we ought to exercise *as citizens*.

Is it Hussain’s position, then, that the market’s lack of transparency only poses a problem for us in our role as citizens, not in our role as self-interested economic actors? If this *narrow interpretation* of the problem of opacity does best capture his view, I think it is fair to say that he does not always make this as clear as he might have. For example, when he invokes Hayek’s work on the information that prices leave out, the context suggests that he is talking about information pertaining to decisions of “market actors” (ibid.).⁶ On the other hand, the narrow interpretation might just seem more sound philosophically. As pure economic agents, you could contend, it just doesn’t matter whether we understand why our option set has a particular shape. We just need to understand enough to know how best to promote our interests from within that set. The problem with the market’s opacity only arises because it makes it difficult for us to perform our duty as citizens to judge whether the patterns that our institutions engender are morally justified.

But I wonder whether this last reading relies on an overly stark distinction between the public-spirited citizen and the self-interested individual. Arguably, we also have a perspective as a claimant concerned with whether the cooperative system we contribute to is treating us fairly. Suppose that I find myself laid off from my job in a struggling industry. Clearly this is bad for me. But I am also going to want to determine whether it is unfair. Is the market working in a way that I should be able to reasonably accept, or is the system rigged to benefit others at my expense?

⁶ Perhaps this is why Heath, in the passage quoted above, reads Hussain as he does.

This is not the perspective of the purely self-interested agent as he appears in the economics textbooks, but it is not a wholly detached or disinterested perspective either. Although this contractualist line of thought is not very explicit in the book, it plays a central role in an earlier essay, and it suggests the plausible view that there is an important kind of freedom that consists in being treated fairly as an economic participant (Hussain 2013: esp. 526-527). That is, I am less free if I am subject to a system that reduces my options in a way that is deeply arbitrary or that fails to take my interests reasonably into account.

In any case, the allegation of opacity raises another puzzle. As we have seen, Hussain says that markets draw us into “a pattern of production activity and consumption activity that is economically efficient” (68). But is he claiming that *this fact* is opaque to us? This seems hard to accept. First, just because many of the factors that affect prices are opaque to market actors, it does not follow that the broader pattern is opaque. As Hayek observes elsewhere, even if the reasons for certain concrete relations are obscure to us, we may still be able to identify an order within the system at a higher or more abstract level (Hayek 2021: 60). A physicist may be unable to account for the movement of particular gas molecules under certain conditions, but she can still predict the behavior of the gas in the aggregate. Second, Hussain himself claims that efficiency is the public justifying rationale for markets. Doesn’t that public recognition make this feature of markets quite legible to us?

I think Hussain would make two replies to this point. First, while we know what well-functioning markets are *supposed* to do, they are so complex that it is difficult to tell whether they are really working correctly or not. Hussain gives the example of workers in the automotive industry seeing that factory jobs are in decline while the number of jobs in the health care sector

is growing. For all the workers know, this change may in fact be efficient: people may be driving less and be more interested in new forms of medical treatment. But it could just as well be the case that the change is due to a market failure that reduces efficiency. For example, perhaps foreign “low-cost manufacturers are simply tak[ing] advantage of weak environmental and labor standards” which makes domestic manufacturing unprofitable (Hussain 2023: 118). The problem, according to Hussain, is that the price system does not give either the workers or consumers any information about why prices are changing. Is it due to changing patterns of supply and demand or due to negative externalities and unfair trade rules? Without that kind of information, we cannot exercise any independent judgment about which patterns of activity are justified.

The second point is that, although we institute markets because they tend to produce economic efficiency, this is not the only thing that we, as citizens, ought to care about. As Hussain says, “besides advancing the private goals of citizens[,] ... we should care about [things like] distributive fairness, environmental considerations, and the protection of human rights” (Hussain 2023: 120). But the price system doesn’t tend to reflect these values very adequately. This is where the lack of reason sensitivity comes into play. And this has two consequences. First, economic activity that is merely responsive to prices will typically ignore these other values and can easily produce outcomes at odds with them. Second, even if people want to make decisions about where to work or what to buy on ethical grounds, they may have difficulty doing so since prices don’t render the existence of these problems visible.

Taken together, these two points put Hussain in a position to deflect one serious objection to his argument. Someone might say that Hussain’s criticism of the market misses its mark because his examples of authoritarian markets typically involve *market failures*. Why, this critic may ask,

should the champion of markets be embarrassed by the fact that markets are not always ideally realized? Hussain's reply, I think, is that part of what is worrisome about markets is that their complexity systematically hides their own imperfections and limitations from our view. The market, as he depicts it, is like a government which needs some measure of secrecy to operate, yet this secrecy prevents the public from seeing what exactly the government is doing or what trade-offs it is making. And this does seem potentially authoritarian.

VI. Competitive Pressure

I think that the foregoing captures much of what Hussain means when he says the market is a judgment-bypassing mechanism—but not everything. I now turn to an interpretation I have alluded to a few times already: that the market bypasses our judgment in virtue of the quasi-coercive pressure it exerts on us.

Consider Hussain's remarks on the example of the soccer match arranged in gym class:

Notice that any time a student tries to act in a way that might prevent the overall pattern [of running a certain distance] from emerging, her option set will change in ways that draw her back into the pattern. For instance, if you stand around doing nothing, an opposing player will see an opportunity to attack your team's goal. When the other player attacks, you have to chase the player down or else face the consequences of losing the game. So whenever a student slows down, her option set changes in ways that get her moving again. Everyone on the field is roped into an enterprise whose influence on her activities is very real but more subtle and difficult to pinpoint than in a centralized system of command and control (Hussain 2023: 74).

Hussain says that when the students adhere to the requirements of this arrangement, “they participate in *partially bypassing one another’s judgments to determine one another’s conduct.*”

But if the soccer match does bypass the players’ judgments, it is not because the workings of the soccer match are particularly complex or opaque. It is perfectly clear to everyone on the field that, if one student wants to get to the ball first, he has to run faster than his classmate. The mechanism, here, is simply competition. The students have to perform in a certain way because the system has been set up to “pit people against one another,” to borrow a phrase from another of Hussain’s major essays (Hussain 2022).

The point of the gym class example is, as we have observed, to illustrate a parallel dynamic in the market:

Note that any time a citizen tries to act in a way that is inconsistent with economic efficiency, her option set will change in ways that draw her back into an efficient pattern. For instance, imagine that a citizen is working at a job that represents a socially valuable use of her talents, and she starts slowing down in her work effort. Other market participants will see an opportunity. As other market actors improve their performance, hoping to take her job, the citizen has to double down on her effort or else face the consequences of unemployment. Her option set changes so as to draw her back into a set of activities that are consistent with the overall pattern. In this way, citizens in a market arrangement are roped into an enterprise whose influence on their activities is very real but more subtle and difficult to pinpoint than in a centralized system of command and control (Hussain 2023: 75).

Here, too, what seems to be bypassing the judgment of the employee is not anything about the opacity of the market: it may be perfectly obvious how the actions of other economic actors force the employee to increase her efforts. What is happening is simply that the competitive structure of the market is pressuring the employee to behave in a certain way.

The manner in which the market applies this competitive pressure on all of us is a recurring theme in the book. In his preface, Hussain recalls the epiphany he had as a teenager while working under an unpleasant manager:

[O]ne day, it dawned on me that almost everyone I knew had a boss.... This seemed incredible to me. How could we live in a society that cared about freedom, and yet almost everyone spent most of their waking hours following orders? The whole thing seemed so unbelievable; I couldn't understand why people were going along with it (Hussain 2023: xi).

Hussain's youthful observation anticipates the "private government" objection to modern capitalism raised by Elizabeth Anderson and others. The complaint is that, despite our claim to live in a free society, most of us spend our lives working for small-scale dictators (Anderson 2017). But Hussain reports that he came to think that this objection wasn't really getting to the root of the matter. He says that he used to imagine that, while most of us inhabited a higher or lower position in a chain of command, "there was a group of people at the top who told everyone what to do" (Hussain 2023: xi). The threat to freedom, on this picture, is a kind of tyranny or domination of some people over others. But with time Hussain says he discovered that even executives of the largest corporations, individuals who command the labor of tens of thousands of employees, are still "subject to market discipline." If, for example, CEOs try to make decisions that do not

maximize profits, they are likely to be replaced as managers—or their companies will lose out to competitors. “And so, in the long run, the market’s dynamic tendency will be realized.” No one, including the most powerful figures in the economy, are really free. Echoing Marx’s claim about capitalists simply being “capital personified,” Hussain describes those at the summit of the economic order as mere “handmaidens of the market, the instruments through which the invisible hand shapes and reshapes our lives” (Hussain 2023: 3-4).

This feature of the market receives its fullest treatment in Chapter 7, “The Dynamical View of Business Corporations,” where Hussain directly engages with the private government objection. His main interlocutor, there, is Christopher McMahon. McMahon’s critique of the existing capitalist workplace mainly turns on the fact that we are not only market actors; we are also citizens with moral convictions. But when we are at work, we are expected to defer to the judgments of management, even though business decisions involve moral questions. This moral subordination, according to McMahon, is *prima facie* objectionable since it seems like an abdication of our responsibility as autonomous agents. But Hussain argues that the executives are subject to moral subordination as well. For example, if it would be profitable for an oil company to expand drilling, a competitive market will make it very difficult for a CEO to choose otherwise on moral grounds. Doing so would either directly cost him his job (in which case his replacement *will* make the profitable decision to expand drilling) or some other company will seize the opportunity and the CEO’s own company will either go out of business or (again) decide to replace its leadership. The long and the short of it is that any CEO who plans on being around for a while is probably going to have to subordinate his conscience to the pursuit of profit.

According to Hussain, then, the problem with McMahon's account is that it is insufficiently structural or systemic.

On McMahon's view, the moral subordination of employees consists in the fact that the moral judgment that directs their conduct is the moral judgment of the corporation and its corporate officials. But this personalized view of moral subordination obscures the fact that *corporate officials themselves (and even corporations) may be morally subordinated to a significant degree in an advanced market economy*. Corporations and corporate officials act in a competitive market environment, and the impersonal process of market coordination can force them to act according to moral judgments that are at odds with their own moral judgments (Hussain 2023: 159).

We might quibble, here, with the characterization of executives bending to market discipline as acting according to *moral judgments* that are at odds with their own—for surely impersonal market forces do not make moral judgments. But Hussain's basic point seems clear enough. The executives are subordinating their moral judgment to another directive, to the dictates of the market.⁷ And so Hussain draws this conclusion: "The proper object of moral concern for those who care about moral subordination should encompass not only authority relations in the corporation but also the wider market process within which these corporations operate" (Hussain 2023: 159).

⁷ I also set aside Hussain's suggestion that we think of corporations themselves as subordinating their moral judgments since that raises additional issues about the nature of corporate agency.

One question to ask is whether, on this account, the pressure of the market only threatens our freedom when it forces us to subordinate our narrowly *moral judgments*—our judgments about what we owe to one another (Scanlon 1998). Do I suffer the same loss of moral autonomy when I subordinate my personal values to the demands of the market? Maybe I think of myself as a serious artist, but I find that the only way to earn a living is to spend most of my energy doing graphic design for advertising. Or what if the pressures of the market simply force me to do something other than what I'd prefer? There is, after all, no evident subordination of lofty values in either the example of the soccer game or the pressured employee. Maybe my freedom suffers whenever there is only one decent choice, and my distinctive values make no difference to what I do. On the other hand, you might deny that I am less free when other people don't pay me for doing what I most value or want to do. What is "forcing" me in these circumstances is simply the structure of offers I face. And that is just a consequence of the fact that other people are free to cooperate with me or not, depending on what I choose to do for them.

This may be another place where it would be helpful to introduce the perspective of the reasonable claimant. While competition can be a valuable part of an economic system insofar as it encourages innovation and efficiency, it also has certain costs. Not only can it corrode community and solidarity (Hussain 2020), it can create a race to the bottom that crowds out the ability to pursue other goals. The normative question, then, becomes how much competition is justifiable to everyone. If competition is simply forcing me to work harder than I'd like in order to keep my customers from abandoning me, then I probably don't have a very serious complaint—not, anyway, as serious as the complaints that others would have to an alternative arrangement governed by different principles. But if competition is depriving me of viable opportunities for a

measure of work-life balance or job-security, then perhaps the market *is* depriving me of my rightful freedom.

VII. The Variety of Judgment-Bypassing Mechanisms and their Remedies

What the foregoing shows is that Hussain has actually identified two or three judgment-bypassing mechanisms of the market (depending on how you count). There is the opacity and reason insensitivity of the price system. And then there is the quasi-coercive pressure exerted by competition. Often, these mechanisms work in tandem. Hussain's case of the drug company brings this out nicely:

You are a research scientist at BSK, a large pharmaceutical company. Your team has developed a new drug, and the company conducts tests to determine whether it is safe for public consumption. After conducting a number of tests, you and your team discover a problem in the company's testing methodology. There is some chance that the test results are mistaken. Suppose that, as a matter of fact, the company has a moral obligation to withhold the drug from the market in order to perform more tests. Market coordination is not sensitive to the moral obligation. Prices typically convey no information to consumers about whether producers (e.g., firms, employees, executives) have satisfied their obligation of due care, so consumers are prepared to purchase certain drugs whether or not producers have satisfied their obligations. Since consumers are prepared to make purchases this way, producers such as BSK face an option set that draws them into the production of certain drugs whether or not they can produce these goods while also satisfying their obligation of due care. As a result, the market process draws citizens into a pattern of production activity

and consumption activity that violates both individual and corporate obligations of care (Hussain 2023: 121).

The initial mechanism in play, here, is the insensitivity of prices to the producers' moral obligation to ensure that their products are safe. This insensitivity gives rise to a certain opacity for consumers. The price doesn't necessarily tell them much about the safety of the drug. Therefore, at least in the short term (before they lose trust in the pharmaceutical companies), they are likely to make their purchasing decisions based on price alone. Since there will be other products on which consumers might spend their money, this brings about competitive pressure on the company to sell their drug at the lowest price, even if it means cutting corners on safety.

An example like this might make it look like the various mechanisms involved are simply facets of a single phenomenon. But they can come apart in important ways. For example, opacity paired with reason insensitivity is a problem for the civically minded consumer. But consumers are much less vulnerable than employees or managers to competitive pressure. This is on clear display in Hussain's breakthrough paper, "Is Ethical Consumerism an Impermissible Form of Vigilantism," which is all about consumers making market decisions on moral grounds. The premise of that essay, in fact, is that some consumers are *too unrestrained* in their willingness to unilaterally effect moral change as economic actors.⁸

As consumers, we are also less helpless in the face of reason insensitivity, as long as that is not paired with opacity. Suppose that coffee cultivation is often carried out in ways that produce

⁸ As Hussain recognizes, this requires some affluence, since a person who has difficulty buying what she needs often won't have the luxury to make purchasing decisions on moral grounds. This is one distinctive way in which poverty may impact the freedom of citizens embedded in a market economy.

negative environmental and social externalities and that no regulation has managed to internalize those externalities. In this case, the price of coffee does not measure the true social cost of its production – it is not sensitive to all the relevant reasons, as Hussain would say. But if consumers have other reliable sources of information indicating which coffees are produced in an environmentally sustainable and socially responsible way, they can choose to pay a premium in order to make purchases that align with their own moral judgments. The central problem for consumers, then, is opacity; that is what prevents them from making decisions that align with their values as citizens.

Fortunately, there are ways of mitigating market opacity: we can implement mandatory labelling regulations that alert consumers to environmental sustainability or decent conditions for workers; we can require corporations to report certain information about their businesses; and we can support journalism and scholarship in economics. In some cases, greater transparency can affect the competitive pressures that businesses are subject to. For instance, publicity about sweatshop practices in the 1990s changed the economic calculus for companies like Nike, since suddenly consumers were making decisions on the basis of ethical considerations. Even where the influence of these movements do not force companies to change their practices, they might make socially responsible practices economically viable and thereby reduce the inescapability of moral subordination.

Addressing the market's insensitivity to certain morally relevant reasons will require different interventions. Traditional measures include regulation and taxes that internalize negative externalities. Hussain, however, worries that the economy is so complex that the state will never be able to adequately contain the harms caused by corporations without fundamentally

addressing the way they make decisions (Hussain 2023: 124-130). One recommendation is that we revise laws that require publicly held companies to seek to maximize returns to shareholders at the expense of other goals. This reform would, for example, give legal permission to the executives of an oil company to forgo some profits in order to pursue environmental sustainability. On the other hand, it probably would not alleviate the pressures of competition.

Hussain's other suggestion—"intermediated capitalism"—is to give stakeholders besides the capitalist class some power in market governance. Part of this proposal is to follow the lead of the German co-determination system in reserving seats on corporate boards for worker representatives and perhaps other interested parties as well. This may make corporations more attentive to morally relevant reasons beyond profit-maximization, and we can hope that a board that represents more diverse interests will also be more transparent in the justifications it offers for its decisions (Hussain 2023:197-198). However, changes to corporate governance could not be expected to affect the more fundamental opacity that arises from the price system and the complex social division of labor. Nor will such reforms reduce the extent to which firms are exposed to competitive pressure by other firms.

A second part of Hussain's model of intermediated capitalism involves the creation of deliberative rule-making forums for particular sectors of the economy. These bodies would be made up of secondary associations representing various stakeholders including investors, workers, environmental groups, and consumers. Their task would be to establish standards across the industry and settle the rules for permissible competition. Hussain is spare with the details, but his idea is that these bodies would be more effective than legislatures in recognizing and implementing regulations. If these worked as intended, they could make companies more

sensitive to a wider range of values, alleviate some of the competitive pressure to subordinate those values to profits, and even foster a sense of trust in the broader society that markets were operating in a justifiable way.

VIII. Conclusion

There are many questions you could ask about the particular remedies that Hussain sketches. For instance, you may wonder whether corporations could make good decisions, or could be held answerable for making good decisions, if they assumed responsibility for promoting all relevant social values (Heath and Norman 2004). Or you could worry that the deliberative rule-making forums that he envisages are too utopian to be implemented. But clearly the main value of Hussain's work does not lie in its policy recommendations; the chief contribution of his book is to have tackled the slippery idea that there is something wrong if we are the instruments of our economic system, rather than the other way around. What I have tried to do in this paper is to push Hussain's project forward by further refining his notion of a judgment-bypassing mechanism. Most importantly, I hope to have shown that the market might be said to bypass our judgment in more than one way, and that this complexity is crucial to appreciate when we come to imagine possible reforms.

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