Making the Case against "Price Gouging" Laws

A Challenge and an Opportunity

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> If we were to apply the unmodified, uncurbed, rules of the micro-cosmos (i.e., of the small band or troop, or of, say, our families) to the macro-cosmos (our wider civilization), as our instincts and sentimental yearnings often make us wish to do, *we would destroy it*. Yet if we were always to apply the rules of the extended order to our more intimate groupings, *we would crush them*.
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> —F. A. Hayek, *The Fatal Conceit* (emphasis in original)

Few examples exist of greater disagreement between the public and economists than the one over laws outlawing "price gouging" (a term I put in quotation marks, along with "price gougers," because I consider both to be emotionally loaded and misleading, as I explain later in this essay). The general public's view is clearly reflected in the almost complete lack of political support for allowing prices to be determined by market forces after a natural disaster. Public opposition to "price gouging" is highly emotional and clearly unites politicians. In contrast, most economists are skeptical of politically imposed price ceilings (or floors) because such ceilings (floors) interfere with the operation of market forces

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that are the best means of allocating scarce resources to their most valuable uses and thus harm consumers.[1]

The persistent public support for "price gouging" laws represents a challenge and an opportunity for economists who are interested in improving public understanding and appreciation of how markets work. The challenge is that even though millions of students have taken economics courses, most of which explain why price ceilings generally harm consumers, there has been no noticeable reduction in public support for "price gouging" laws.[2] The opportunity is found in the reasonable expectation that a convincing case against "price gouging" laws would suggest an effective approach for moderating much of the skepticism and often outright hostility that exist toward relying on markets and market prices in general.

Although economic arguments are necessary for making a widely convincing case for letting prices respond to market incentives after a natural disaster, most people will not take those arguments seriously until economists take moral concerns seriously. For example, a highly emotional and instinctive morality appropriate for small groups is widely seen as being violated when those seeking profits sell needed goods and services at high prices after a natural disaster. This instinctive morality is to be applauded when applied to situations in which it is appropriate. For example, taking food to a sick friend with no thought of asking for a payment. But achieving the extended cooperation needed to help disaster victims requires markets and unrestrained market prices, as explained by economic reasoning. For this reasoning to resonate broadly, however, it has to be presented in a way that makes clear that markets supplement, not substitute for, help motivated by our instinctive morality to provide aid to victims of disasters as well as to people in general. Critical to a convincing argument for eliminating "price gouging" laws is explaining that doing so allows both the morality of caring for others and the working of the markets to complement each other in achieving moral outcomes, such as helping disaster victims, more effectively than either could achieve alone.

This paper begins by discussing the advantages and disadvantages of our instinctive small-group morality and how markets have reduced some of the disadvantages by expanding the number of people with whom we can productively

1. It should be acknowledged that economists often qualify the conclusion that price controls harm consumers by pointing out that when market failures exist, it is theoretically possible for government to correct those failures by altering unrestricted market prices with subsidies, taxes, and even price controls (in the case of monopoly and monopsony). But they often present these possibilities with little if any discussion of flaws inherent in government "corrective" action, which can easily do more harm than good. The failure to discuss systemic government failure seems to be more likely when philosophers are recommending government restrictions on market prices than when economists are, as discussed here in the context of "price gouging."

2. James Gwartney, the lead author of a successful economic principles textbook, has told me that each year roughly 1.5 million college students take microeconomics courses, and a similar number take macroeconomics courses. Another half-million take a one-semester course on basic economics, and many more take a basic economics course in high school. In all of the microeconomic courses and in most of the others as well, the implications of demand-and-supply curves are developed, one of the most obvious being that both price ceilings and price floors harm consumers.

interact. The next section explains why natural disaster victims cannot get all the help they need unless the help motivated by our instinctive morality is supplemented and enhanced with the information and motivation provided by unrestricted market prices as well as why, despite this enhancement, people still fail to appreciate the benefits those prices provide. The importance of being clear on what is meant by our "neighbors" when considering "price gouging" is discussed next. In this section, I also introduce the tendency for people to quickly categorize others on the basis of groundless prejudices as another reason for the resistance to seeing price increases as a means to help disaster victims. The fourth section begins with Michael Munger's (2007) story of the arrest of some "price gougers" being applauded by those they were in fact benefiting. This story sets up further consideration of the uninformed prejudice upon which much of the opposition to "price gouging" is based. I argue that highlighting this prejudice can motivate more people to become responsive to economic arguments against "price gouging" laws. Next I consider the perspective of a few philosophers who understand the arguments in favor of markets but still favor laws against "price gouging" because of moral considerations, with the notable exception of one who is persuaded in large measure by economic analysis to oppose those laws. Finally, I address the concern that the poor are harmed by "price gouging."

It's Not All about Me

Self-interest is an important component of human motivation; economists typically consider it the dominant motivation when they are constructing models of economic behavior. Adam Smith provided a succinct justification for self-interest when he observed that "[e]very man is, no doubt, by nature, first and principally recommended to his own care; and as he is fitter to take care of himself than of any other person, it is fit and right that it should be so" ([1759] 1982, 82). But Smith also recognized that people moderate their own self-interest with sympathy for others. Early in his first book, Smith wrote, "[W]e enter as it were into [another's] body, and become in some measure the same person with him, and thence form some idea of his sensations, and even feel something which, though weaker in degree, is not altogether unlike them" ([1759] 1982, 9). This sympathy for others seems to be instinctive, as evidenced by the negative reactions from infants (as young as six months old) to puppets that harm another puppet and their positive reactions to puppets that help the other puppet (Bloom 2013, chap. 1).

This instinctive morality provides the emotional foundation for the loyalty we have to our group as well as the love we have for and receive from our family and friends, all of which gives meaning to what would otherwise be emotionally barren lives. It also helps individuals expand their motivation beyond narrow self-interest to include concern for others within their orbit of personal activity, helping to reduce the tension in the "me versus us" that exists in small social groups or tribes.

Like all benefits, the social harmony fostered by our instinctive morality comes at a cost. It motivates greater suspicion, hostility, and likelihood of violence between groups, with this "us versus them" hostility often triggered by trivial distinctions (Greene 2013, 54). The distrust and hostility between groups has been a serious obstacle to peace and prosperity throughout human history. The most obvious example of their manifestation is the wars that have cost many lives and diverted resources out of productive activities into destructive ones. It has been estimated that the 100 million or more people who died worldwide from wars in the twentieth century (including all war-related causes such as famine and disease) is only 5 percent of the estimated war-related deaths that would have occurred if the world's population were still grouped into small bands and tribes (Keeley 1997, 93).[3] Intertribal conflict greatly limited trade between hunter and gatherer tribes, which required each to be almost completely self-sufficient, leaving little opportunity for people to increase their productivity by specializing in narrow activities and trading their output for those of a large number of other specialists. Our instinctive morality provided hunter-gatherers confidence that they could rely on the help from others in their tribe, but there were few to provide that help and little if any increase in the productivity of its provision.

Today trade has been expanded to include people all over the world, and we have had centuries of opportunities to benefit from and increase the gains of that trade, which explains why we enjoy a prosperity today that was unimaginable even a hundred years ago, much less during the era of hunter-gatherers. In less than an hour in a local grocery store, we can hunt for and gather a week's supply of food (much of it ready to eat) from a choice of thousands of items (including a host of nonfood items), made available by the cooperative (and specialized) efforts of millions of complete strangers making productive use of large amounts of human and physical capital. And we can pay for that food with the income earned in three or four hours from our own specialized productivity, such as working as an accountant in a comfortable office for a manufacturer that produces nothing but ball bearings using highly specialized machinery.[4]

Obviously, we are talking about the benefits we realize from markets based on private property, voluntary exchange, and specialization, with the freedom to pursue our own interests as long as we do so without interfering with others' legitimate rights to do the same. The tremendous benefits we receive from the cooperative efforts of a multitude of strangers in almost every aspect of our lives,

3. Lawrence Keeley bases this counterfactual estimate of war-related deaths on archaeological and historical research indicating that even though each incidence of combat between small hunter-gatherer tribes was not very lethal, those incidences were sufficiently frequent that the probability of dying in combat was far higher then than it is today.

4. According to the U.S. Bureau of Labor Statistics (2010), a median-income household spent $65.52 on food for home consumption in 2009. This is slightly less than four times the median hourly wage of $16.87 in 2013 over all occupations (U.S. Bureau of Labor Statistics 2013).

not just when we go to the grocery store, are truly amazing. Yet among the general public little thought is given to these benefits made possible by the global cooperation generated in response to market prices, most likely because those benefits are made available so spontaneously that they are easily taken for granted. And when people do think about markets, they tend to do so in negative terms, seeing the impersonal nature, self-interest, and unintended benefits that are perceived to characterize market exchange as morally deficient when compared to the instinctive morality of small-group interaction.[5] Paul Rubin concludes that "those untrained in economics think of prices as allocating wealth but not as influencing allocation of resources or production of goods and services" (2003, 157). So when market prices increase, hostility based on the belief that others are benefiting at our expense is far more common than appreciation for the improved resource allocation that those prices make possible. This hostility is often impervious to clear evidence that there are real benefits from higher prices that exceed the costs, as Munger's (2007) example of one community's reaction to "price gouging" (discussed later) illustrates. One is reminded of those criticized by Machiavelli who "admire [the] achievement . . . but condemn the main reason for it" ([1532] 2000, 60).

Condemning the Most Effective Way Victims Can Get All the Help They Need

Natural disaster victims are clearly people who suddenly find themselves needing a great deal of help. They need electric generators, bottled water, gasoline, batteries, flashlights, food, medical attention, building materials, construction workers, and much more. Many people would like to help the victims and do so by contributing items through churches and charitable organizations and by paying taxes that fund government relief agencies, such as the Federal Emergency Management Agency (FEMA).[6] Much of this help is voluntary, motivated by a sincere desire to help those in need, and should be applauded. But disaster victims cannot depend on strangers' instinctive morality to provide them with the amount and mix of the help they most need. If such generosity could be depended on, there would be no need for victims to buy any more after a disaster than they normally do, and there would be no price increases or controversy over "price gouging."

Only in response to the information and motivation provided by market prices can disaster victims hope to receive the help they most need. For example, is additional plywood more useful than more gasoline, additional generators of greater

5. This sentence is motivated by the concern Hayek expresses in the epigraph to my essay (1988, 18).

6. See Horwitz 2009 for an interesting comparison of FEMA's and Walmart's response to Hurricane Katrina in providing victims timely and effective help. Walmart, with the market power to increase prices, provided some much needed products without charge and increased the prices of many others by little, if at all.

value than additional food, or more carpenters more valuable than more plumbers? When price increases are allowed to reflect consumer demands, producers receive the information needed to respond appropriately to these questions and are motivated to do so. Laws against "price gouging" are gag orders that make it illegal for disaster victims to call out for help in the most effective way possible to those with the greatest ability to provide the help at least cost.

Recognizing the importance of markets does not require dismissing the importance of the instinctive morality of caring as a way of helping disaster victims. The help people receive from those who care for them is a very special type of help that is received with a greater sense of appreciation than is the help motivated by market incentives. But it is difficult to understand why anyone would see the help motivated by our instinctive morality as a justification for obstructing the *additional* and critically needed help that disaster victims can receive *only* through markets. Emphasizing the importance of our instinctive morality and markets working together to help disaster victims can surely influence some people to take the economic arguments against "price gouging" laws more seriously.[7] But many people will continue to see the economic arguments against "price gouging" laws as irrelevant because of their intense hostility to "price gougers," who they consider to be immorally taking advantage of disaster victims.

Who Are Our Neighbors?

Harvard political philosopher Michael Sandel defends the prevailing moral objection to "price gouging" by stating that "[i]n times of trouble a good society pulls together. Rather than press for maximum advantage, people look out for one another. A society in which people exploit their *neighbors* for financial advantage in times of crisis is not a good society" (2009, 7, emphasis added). Few would disagree with this statement if Sandel limited the meaning of the term *neighbors* to those people who know each other at least casually.[8] Out of a genuine desire to help, all of us have taken food to a sick friend or assisted a neighbor who we knew needed that help, and we would have been appalled by the thought of billing the neighbor for services rendered. But disaster victims need help from millions of people they don't know and who don't know them, and only the most naive would expect those strangers to be motivated or able to provide the help needed without the information and motivation of uncontrolled market prices. So why do

7. It should also be recognized that transactions between disaster victims and remote suppliers, seemingly motivated only by impersonal incentives, invariably require a network of intermediate transactions between people who know each other personally and deal with each other regularly and whose relationships are made more permanent, pleasant, and productive by the influence of their instinctive morality. Our instinctive morality can be thought of as providing the connecting tissue that infuses networks of transactions with personal regard for others no matter how impersonal the relationship between many in that network may be.

8. It is clear that Sandel has a far less restrictive view of who our neighbors are.

most people and the politicians who represent them favor censoring price communication with "price gouging" laws and thus obstructing the help that disaster victims can get only from these millions of strangers?

The most plausible answer is that few people have given much thought to why they oppose price increases after a natural disaster. Instead, most simply see "price gougers" as different than us—not members of the same moral tribe as ourselves—who are not playing by the rules that we believe separate good people (us) from bad people (them). We make this distinction through a mental process that "is mostly outside the conscious mind" and "is fast and automatic" (Berreby 2005, 138–39).[9] This process is consistent with what Daniel Kahneman (2011) sees as our brain's intuitive, easily activated, and fast-thinking System 1, which commonly prompts no response from our brain's logical but slow and grudgingly used System 2. It is an exaggeration to say that the negative System 1 response most people have to "price gouging" and "price gougers" is involuntary. That response can be overridden, however, but only by incurring the cost of shifting consideration of higher prices after natural disasters into the brain's System 2 to learn and apply basic economic principles. This response is not widely adopted, as Kahneman would predict. Fortunately, a negative System 1 response to "price gougers" can be overridden in individual cases by a positive System 2 response. Which leads to an interesting story.

Are "Price Gougers" in a Different Moral Tribe?

Raleigh, North Carolina, lost electricity for several days in September 1996 from damage caused by Hurricane Fran. Ice was urgently needed to prevent items such as insulin and baby formula as well as other perishable food from spoiling. According to Michael Munger (2007), ice was soon available temporarily because of the efforts of four young men from Goldsboro, about fifty miles away and bypassed by Fran. The four men rented two freezer trucks, filled them with ice bought for $1.70 a bag and drove them to downtown Raleigh, which required chain sawing and removing fallen trees that were blocking roads. They were soon selling ice in two locations for more than $8.00 a bag. Some residents complained about the price, but few refused to buy. After about an hour, two police cars arrived at one of the two locations (what happened at the other isn't mentioned), arrested the two men there for "price gouging," and impounded the truck and ice, preventing those still in line from buying ice they valued more than the price being charged. Yet those buying the ice applauded the men's arrest.

9. David Berreby's book *Us & Them: The Science of Identity* (2005) is a fascinating account of how our brains evolved to quickly assign others into categories of "human kinds." He also points out the importance across all cultures of children learning rules in terms of "our way of doing things" and learning that those rules are crucial to determining who is good and who is bad (186–87).

Understanding why people would applaud the arrest of anyone for making them better off—the Raleigh residents were getting the ice they needed—is difficult for economists. Munger begins his article by saying, "Here's the thing: They clapped. I can't for the life of me understand why the people would clap" (2007). This astonishment is understandable when we think of people as concerned primarily with their narrow self-interests. Economists have used the self-interest assumption to explain a wide range of human activities, but that is not the same as accepting this assumption as the sum total of human motivations. The late Gary Becker expanded the range of human activities that can be understood better by the assumption of self-interest. In his Nobel Prize lecture, however, Becker pointed out that "the economic approach I refer to does not assume that individuals are motivated solely by selfishness or gain. It is a method of analysis, not an assumption about particular motivations. Along with others, I have tried to pry economists away from narrow assumptions about self-interest. Behavior is driven by a much richer set of values and preferences" (1993, 395).

Those applauding the arrest of the "price gougers" in Raleigh were not indifferent to their narrow self-interest, but they were driven by more than that. People are quick to stereotype "price gougers" as violating moral rules that good people follow, which places them in a different moral tribe than those doing the stereotyping. This sense of "us versus them" was more important to those applauding the police for arresting the "price gougers" than the disappointment in not getting the ice. But imagine that before the police arrived the crowd became aware that the men were selling the ice to help finance an operation for one man's disabled child. Is there any doubt that this information would have immediately altered the crowd's view of the "price gougers"? One man would have been seen as a person who loves his child, the other man as someone helping his friend, and those in the crowd would have quickly revised their perceptions to include both as members of their moral tribe.[10] I doubt they would have applauded the police for arresting the two men, and most would surely have become more appreciative

10. According to Berreby, people are able to redraw their mental maps (or stereotypes) of others in response to changes in "relations *between* people (or to be more accurate, from perceptions about those relations)" (2005, 165, emphasis in original). An anonymous referee is not convinced that ordinary Americans see "price gougers" as members of a different moral tribe because the "price gougers" would then not be subject to the same moral rules as Americans are. Rather, Americans "think price gougers are legitimate targets of scorn and punishment" because they are seen to be Americans who are violating the rules that Americans are supposed to obey. I don't deny that this can be a reasonable way to explain the animosities that arise in some cases between members of the same moral tribe over what seem to be trivial differences to those outside that tribe. But even in such cases the result is often either the exile of those who adhere to what are seen as deviant views or rules or the splitting of the moral tribe into two different moral tribes. In the case of "price gougers," my speculation that those applauding the arrest of the two men in Raleigh would have been far more sympathetic if they had known that the men's motivation was to help a disabled son can be thought of as a test of my argument as opposed to that of the referee's argument. If the hostility the crowd felt toward the two men were based on their being Americans who were not obeying the rules that Americans are supposed to obey, then my speculation would be wrong. The two men would still be seen as violating the rules against "price gouging" regardless of their motivation for doing so, and the crowd would still have applauded their arrest.

of the market exchanges that were taking place. And if the exchanges had been allowed to continue, my bet is that some buyers would have tipped the men when paying for the ice.

We don't know what motivated the men, but we shouldn't rule out the possibility that they were motivated by more than narrow self-interest. And this is true of the motivations of "price gougers" in general. Consider why the term *price gouger* is emotionally loaded and misleading. Upon hearing the term *price gouger,* people imagine someone who is increasing prices to benefit himself by harming disaster victims. But the truth is that market-clearing prices increase because victims have increased their demand for goods and services that have become more costly to supply, and "price gougers" are in truth keeping those prices lower by increasing the supply of what the victims need. Of course, price ceilings do keep legal prices artificially lower than the market-clearing prices, at least for the small quantity brought to market, but by reducing the amount of goods available, price ceilings increase their cost, as I explain more fully later. So-called price gougers are reducing the costs of the goods victims need by increasing their availability above what would otherwise be the case. They are helping, not harming victims. Blaming those who are increasing the supply of goods for the higher costs makes no more sense than a preacher blaming his congregation for being too small.

We all take advantage of opportunities to sell our goods and services where the prices for them are highest. The main difference between a "price gouger" and your friendly neighbor is that you know your friendly neighbor. People who vilify others as "price gougers" typically know almost nothing about those they are criticizing. We will commonly find "price gougers," like others whom we stereotype as members of a group we are biased against, to be remarkably like us in the ways that really matter once we get to know them as individuals.

This similarity suggests that when making the case against "price gouging" laws economists should point out that the political support for those laws is fueled largely by a tendency to hastily categorize and judge as morally contemptible a diverse group of people, almost none of whom we know personally, for engaging in behavior that is not fundamentally different than our own. Most people disapprove of such negative stereotyping, and many who favor laws against "price gouging" also despise those who stereotype others as much as they despise those they themselves are stereotyping as "price gougers."[11]

Recognizing this human tendency to negatively stereotype others on the basis of trivial distinctions can add to our understanding of the political popularity of "price gouging" laws as well as of many other public policies. This understanding might also help convince those who would otherwise dismiss economic arguments

11. One might be reminded of Charles Dickens's observation in *Nicholas Nickleby* that "it will be very generally found that those who sneer habitually at human nature, and affect to despise it, are among its worst and least pleasant samples" ([1839] 1916, 154).

on "price gouging" to give those arguments some consideration rather than be thought of as judging others on the basis of sweeping and poorly informed generalizations. Of course, although this concern may create troubling cognitive dissonance in some, one can argue that there are easier ways to reduce that dissonance than by taking economics seriously. Yet it seems reasonable to hope that this psychological phenomenon, along with accounts of "price gouging" such as Munger's (2007), can be used to increase the interest in and effectiveness of the economic case against "price gouging" laws on both economic and moral grounds.

Philosophers' Views

It was my initial impression that most moral philosophers as well as philosophers in general have serious reservations about the morality of "price gouging" without being well informed on the economic arguments in favor of leaving prices free to rise after a natural disaster or that they choose to ignore these arguments as irrelevant. Fortunately, an anonymous referee pointed out that not all critics of markets lack a sophisticated understanding of the advantages of specialization and trade yet still favor restricting postdisaster price increases on moral grounds. Without claiming a sophisticated understanding of moral philosophy, I venture brief comments on some of the moral concerns expressed by philosophers for restricting reliance on markets in general and for justifying laws against "price gouging" in particular.

Consider two recent books by philosophers, *Why Some Things Should Not Be for Sale* by Debra Satz (2010) and *What Money Can't Buy: The Moral Limits of Markets* by Michael Sandel (2012), which argue for limiting a range of goods and services that are exchanged in markets but without considering "price gouging." Their relevance is that they both express serious skepticism toward markets even though they preface their skepticism with comments on the value of markets in the absence of what they see as their moral failures. In her opening chapter, Satz acknowledges the market virtues of efficiency and freedom. Her discussion of these conditions leads to a section on systemic market failure that includes the comment that "*perhaps* some market inefficiency is preferable to *a lot* of government regulation, with its slow, clumsy, and lumbering bureaucracy" (2010, 32, emphasis added). Yet addressing her moral concerns—such as inequalities in income and wealth, equality in the status of individuals, and the corruption of the nature of goods by market exchange—would call for a great deal of government control over economic decisions, and she provides no examination of the inevitability of systemic government failure. In his introduction, Sandel acknowledges far more briefly than Satz the success of markets at generating prosperity, before stating that we should "worry that we are moving toward a society in which everything is for sale" because "in a society where everything is for sale, life is harder for those of modest means" and "putting a price on the good things in life can corrupt them" (2012, 8, 9). The moral concerns indicated in Sandel's subtitle aren't always apparent in his uneasiness about selling autographs (164), paying more to baseball players who get on base more often (176), and explaining human behavior by assuming people consider the costs and benefits of their actions (48). Sandel doesn't explicitly call for government to remedy what he clearly sees as markets' moral failures, so he may be forgiven for not mentioning government failure, even though any attempt to respond to his moral concerns would require political control over the economy that no government has the information or incentives to exercise morally.

Philosopher Jeremy Snyder (2009), in contrast, clearly recognizes the benefits disaster victims can realize from price increases. For example, he states that "there are many reasons to think that price increases condemned as gouging are morally innocent at worse and, more often, create a positive and praiseworthy benefit for all concerned" (277). Snyder does question the morality of price gouging, however, in situations where it prevents equitable access to essential goods by "giving the wealthiest members of a community the greatest access to limited supplies" (281) and by distributing "scarce and essential goods on the basis of pre-existing privilege within the community" (282).[12] The problem is that Snyder recommends political steps—such as limiting "price increases to the going market rate prior to the disaster, plus increases for additional costs and risks to the vendor" (285)—to prevent moral wrongs, but these steps would require far more localized information on the "particular circumstances of time and place" (Hayek 1945, 521) than any political process can gather in a timely manner, much less use to make and enforce policy-relevant distinctions between different vendors. Snyder does "grant the *possibility* that [the recommended] policies cannot be reflected in price gouging legislation without being so detailed as to restrict efficient increases in supplies of essential goods or so flexible as to be capricious in the application" (289, emphasis added). But there is no hint in Snyder's book that public-choice analysis has already uncovered systemic failures in political processes and thus indicates that Snyder's "possibility" is better described as an inevitability.

Finally, consider two articles on "price gouging" by Matt Zwolinski (2008, 2009), a moral philosopher who believes economic arguments overcome the moral concerns that motivate support for legal restrictions on "price gouging."[13] In the first article, Zwolinski makes three important points: (1) there is nothing morally objectionable about price increases in general, and there is no way of defining the differences between such price increases and "price gouging" for legal purposes that are not problematic; (2) most cases of what is seen as "price gouging" are morally permissible, even if not praiseworthy;[14] and (3) the fact that a person is engaging

12. I do not put quotation marks around the term *price gouging* here because I do not believe Snyder would consider price gouging to be misleading, at least not in some situations. The same goes for my presentation of Matt Zwolinski's argument later.

13. Zwolinski 2008 is a stand-alone article, and Zwolinski 2009 is a response to Snyder 2009.

14. Zwolinski refers to the insights of such notable economists as Friedrich Hayek, Israel Kirzner, and Vernon Smith in making this point.

in "price gouging" is insufficient to reflect negatively on his moral character. Zwolinski's article "Dialogue on Price Gouging" (2009) is focused on two of Snyder's arguments, but I limit my discussion to Zwolinski's response to Snyder's contention that "price gouging" puts the poor at a disadvantage by preventing them from having equitable access to essential goods. Zwolinski responds, as any good economist should, that "it is the *emergency* that undermines equitable access, not whatever price gouging may occur in response to that disaster" (2009, 297, emphasis in original). He also points out that policy attempts to ration goods equitably "are often subject to corruption that favor 'insiders'" (298–99). He concludes "that[,] given the constraints in knowledge faced by those who would be charged with regulating prices, reliance on market prices in post-disaster contexts does a better job at promoting our moral values than any feasible alternative mechanism" (301).[15]

What about the Poor?

Whether "price gouging" is being considered by philosophers or by members of the general public, any mention of eliminating laws against "price gouging" is sure to raise the question, Wouldn't the poor be worse off if suppliers could charge higher prices after a natural disaster? Let's consider several responses to this concern.

First, although it is argued that politicians can keep prices from increasing after a natural disaster if they devote enough resources to enforce "price gouging" laws, after a natural disaster the cost of the things victims need will increase no matter what government does. If government does not impose price controls, prices will go up to reflect the higher costs (such as the ice suppliers' costs of transporting the ice from Goldsboro to Raleigh, which required that they clear the blocked roads in the process). If government does impose price controls, the more effectively prices will be held down, the less available will be the goods that victims need, and the higher will be the cost of acquiring them. Reducing the availability of goods increases their marginal value, and the amount people are willing to pay for another unit of them. If consumers are prevented from directly paying suppliers as much as the unrestricted market price would have been, they will compete with each other in other ways for what is available and end up paying more than the unrestricted price.

Second, the poor benefit from additional goods and services coming into the disaster area in response to market incentives. Increasing the availability of needed goods in the disaster area benefits the poor there for the same reason the poor are better off in countries where well-functioning markets make more goods available. Obviously, some people benefit more than others from the additional supply, and some may benefit very little. But that is not a good reason to deny the benefits

15. It is worth mentioning that Zwolinski recognizes Hayek's point on the importance of distinguishing between two sets of moral rules (Zwolinski 2009, n. 3), as contained in the epigraph to this paper and discussed in earlier sections.

from increased supplies and lower costs to everyone. It makes more sense to target help directly to those most in need. Indeed, providing direct benefits to the poor is less costly when most of those in disaster areas are benefiting from the help motivated by unrestricted market prices.

Third, by restricting prices as the means of rationing goods and services, "price gouging" laws increase the importance of rationing by political influence and social connections. The poor are often less likely to benefit from this nonprice rationing than from price rationing and certainly less likely to benefit from it than the wealthy. The wealthy are more likely than the poor to have the influence to get special access to goods and services in short supply because of either who they are or who they know. Furthermore, they are more likely to know about political opportunities for subsidies that provide help after a natural disaster and how to maneuver through the bureaucracy to take advantage of those opportunities.[16] By going to the Lower Ninth Ward in New Orleans, where many poor people used to live and some still do, you can still see, despite FEMA promises, houses badly damaged by Hurricane Katrina in 2005. Tours are available. The wealthy may prefer artificially low prices on some things needed after a natural disaster because they are better than the poor at taking advantage of them.[17]

Fourth, costs are increased by laws against "price gouging" because of reductions in the quality of the goods and services available. This cost results when prices are kept below their market levels. With rent controls, the maintenance of apartments is reduced, and with price ceilings on gasoline the hours when gas is available are restricted. This argument can also explain reductions in the quality of some services after a natural disaster when "price gouging" laws are in force, when such poor service is easily confused with fraud. It is not clear whether these costs are more likely to be suffered by the poor or by the wealthy, but they are undeniably greater for both when price increases are limited after a natural disaster.

Fifth, going without needed goods and services longer than would be the case without "price gouging" laws is another cost of those laws. Consumers don't like high prices, but they receive what economists refer to as "consumers' surplus" when they make a purchase, wherein the total value they receive from a purchase exceeds the total value sacrificed. It should be recognized that this consumer

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16. Recall Snyder's concern that price rationing distributes "scarce and essential goods on the basis of pre-existing privilege within the community" (2009, 282). True enough. But those "pre-existing privileges" are just as strong, if not stronger, under nonprice rationing.

17. For example, the federal government provides flood insurance through the National Flood Insurance Program at rates subsidized by taxpayers. At last count, this program was $24 billion in debt. It attracts investment in homes in hurricane-prone property along the Gulf Coast, which would be less developed without the flood insurance subsidy. You don't have to be rich to get this insurance, but the biggest payouts go to owners of expensive houses (often second homes). President Obama signed legislation in 2012 to increase premiums and tighten limits on coverage but then signed legislation in 2014 that rescinded most of those provisions. Such backtracking on this program has happened before, and a common prediction is that it will happen again. See Taxpayers for Common Sense 2011; National Association of Insurance Commissioners and Center for Insurance Policy and Research 2014; Joyce 2014.

surplus is greater the more desperate consumers are for a product, as measured by the inelasticity of demand. Thus, by preventing prices from clearing markets, "price gouging" laws impose the greatest loss of consumers' surplus on the most desperate consumers, who are generally the poor.[18]

Finally, price controls of any sort reduce the economy's ability to create prosperity by preventing resources from being directed into their most valuable uses. Unfortunately, "price gouging" laws are but one of many examples of government policies that destroy wealth by creating economic distortions that waste resources. Without discussing them here, it should be recognized that these policies create significant costs in lost productivity that clearly harm the poor.

Once these costs are *properly* considered, it is no longer clear that "price gouging" laws benefit the poor. Of course, these costs are considered because they are major aggravations to disaster victims. But they are seldom considered in terms of the negative effect "price gouging" laws have on the ability and willingness of millions of people to make more goods and services available in the disaster area. Just as disaster victims and others blame suppliers ("price gougers") for high prices, they are also far more likely to blame suppliers for the costs caused by the shortages that have been created by "price gouging" laws than to blame the laws themselves. With much of the costs "price gouging" laws impose on the poor easily ignored, it is easy to believe that those laws help the poor.

Conclusion

The economic case against "price gouging" laws is impressive, but it is nevertheless strikingly ineffective at changing public opinion. This ineffectiveness will continue until economists present their economic arguments for markets in ways that address the concerns that "price gouging" and "price gougers' are immoral. For example, the value of small groups' instinctive morality should be acknowledged while explaining, however, that this morality is incapable of mobilizing millions of widely dispersed people to provide all the help needed not only by the victims of disasters but also by all of us every day. No matter how much many people desire an economy based on this instinctive morality, it needs to be emphasized that we are all far better off when markets supplement caring and sharing with the specialized and coordinated efforts of multitudes, almost none of whom we will ever know.

Of course, the appeal of an economy based on the morality of small groups cannot fully explain the intense animosity toward "price gougers" that fuels much of the support for "price gouging" laws. Another explanation is the human

18. It is true that the most desperate may also be the most vulnerable to "price gouging." This can be a problem with some services, such as repair work, in which the price depends on the particular situation, and customers don't have the time or ability to get competitive bids. It is less a problem with particular products for which it is relatively easy to compare price differences. In this case, small suppliers have little market power, and large suppliers that have some market power to increase prices on products, such as Walmart, are reluctant to exercise it in the aftermath of a disaster. See note 6.

tendency to quickly relegate strangers into broad categories and quickly form negative opinions of them based on little information. Fortunately, these initial opinions can easily change in response to changing perceptions of them as individuals. The person you immediately disliked when hearing he sent plywood from his lumberyard to a disaster area to be sold for more than he could charge locally can quickly move from being a "price gouger" to being a fellow member of your church, a parent, or a friendly neighbor once you get to know him. This change in view doesn't guarantee that you will suddenly oppose "price gouging" laws, but it probably increases the chance that you will become more open to arguments that sending plywood to a disaster area is not the cause of increasing plywood prices and is in fact benefiting disaster victims by moderating those increases. And you might be willing to admit that selling one's goods and services where the personal return from doing so is greatest is neither uncommon nor immoral.

The recommendation is not that economists should soften up their audiences by introducing them to nice "price gougers" before making their arguments against "price gouging" laws. They can point out, however, that much of the support for "price gouging" laws results from people making a sweeping generalization of a diverse group as immoral for behavior that is not fundamentally different than their own. Furthermore, this generalization can be shown to be erroneous with straightforward economic arguments. I sincerely believe this approach has the potential to increase the number of people who are willing to consider the economic arguments against "price gouging" laws.

If this approach makes it possible for economists to convince more people to keep markets free after natural disasters, it should also help them make a more convincing case for markets in general. Doing so would require humanizing the "economic man" in our discussions of the real world, if not in our abstract models. According to Ken Boulding, "No one in his senses would want his daughter to marry an economic man, one who counted every cost and asked for every reward, was never afflicted by mad generosity or uncalculating love . . . economic man is a clod" (1969, 10). Put differently, few people would accept the "economic man" into their moral tribe.

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