

Exploiting the Poor: Housing, Markets, and Vulnerability

A Book Review of MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* (Crown Publishers, New York, 2016)

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INTRODUCTION

Matthew Desmond's magisterial *Evicted: Poverty and Profit in the American City* is arguably the most important book about poverty in the United States in a generation.¹ Just as Michael Harrington's *The Other America* provided the country with a necessary window onto the poverty lurking below the surface of the affluent society of post-war America,² so too *Evicted* brings to life the immense challenges and hardships of poverty in today's economy. Desmond's empathetic descriptions of the lives of poor individuals and families facing eviction and homelessness in two Milwaukee neighborhoods force readers to confront the inhumanity of society's choice to not treat housing as a basic right.

Evicted differs from other works exploring poverty both in form and in argument. Rather than focusing exclusively on the experiences of tenants, Desmond offers the perspective of landlords as well. As a result, his work highlights the relationship between those near the bottom of the economic ladder

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1. MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* (2016).
 2. See JOHN KENNETH GALBRAITH, *THE AFFLUENT SOCIETY* (1958); MICHAEL HARRINGTON, *THE OTHER AMERICA: POVERTY IN THE UNITED STATES* (1962).

and those near the top.³ This complex social and economic dynamic ultimately leads Desmond to make two provocative conclusions: that the low-income housing market is marked by exploitation and that as a policy matter the country should significantly expand existing housing voucher programs in order to guarantee all low-income families housing.⁴ This Essay focuses on Desmond's exploitation claim and leaves discussion of Desmond's voucher proposal to others.

Desmond's understanding of exploitation begins with the simple idea that "[t]here are losers and winners"—and that, in the low-income housing market, "[t]here are losers *because* there are winners."⁵ Explaining in more detail, Desmond writes:

Exploitation. Now, there's a word that has been scrubbed out of the poverty debate. It is a word that speaks to the fact that poverty is not just a product of low incomes. It is also a product of extractive markets In fixating almost exclusively on what poor people and their communities *lack*—good jobs, a strong safety net, role models—we have neglected the critical ways that exploitation contributes to the persistence of poverty.⁶

As Desmond rightly points out, we do not generally frame poverty as a matter of exploitation and doing so forces the reader to confront a series of uncomfortable questions. Do landlords, and more generally the rich, “exploit” the poor? What does it mean to exploit the poor if it is done in compliance with the law? Is exploitation inherent in markets, or is market-based exploitation a nonsensical concept that reflects a misunderstanding of how markets work? These questions are uncomfortable because readers of *Evicted* are likely not only to be relatively privileged but also to be members of a culture that tends to treat the market as either apolitical or at most something with ground rules, rather than as a mechanism for systematically exploiting part of the population.⁷

This Essay seeks to answer some of these questions raised by Desmond's reintroduction of exploitation into the poverty debate, and in doing so, to bol-

3. Desmond elsewhere argues, from a theoretical perspective, that ethnographers should focus on relationships and not discrete groups, locations, or issues. See Matthew Desmond, *Relational Ethnography*, 43 *THEORY & SOC'Y* 547 (2014); Matthew Desmond, *How Should We Study Human Suffering?*, 37 *ETHNIC & RACIAL STUD.* 1761 (2014).

4. DESMOND, *supra* note 1, at 307-08.

5. *Id.* at 305 (emphasis added).

6. *Id.* at 305-06 (emphasis in original).

7. See Justin Desautels-Stein, *The Market as a Legal Concept*, 60 *BUFFALO L. REV.* 387, 393 (2012) (highlighting that law has a role in shaping markets and in distributions of wealth).

ster the case against markets as neutral institutions. It begins by exploring Desmond's claim that the poor are exploited. It will examine two different forms of exploitation, one that faults individual actors and one that limits itself to a structural critique of markets. This Essay concludes by applauding *Evicted* for challenging the linked notions that the poor are separate from the rest of society and that markets are merely a set of neutral rules. As a country, we are still slowly emerging from the Great Recession, and we can see signs everywhere of dissatisfaction with the economic status quo. We are arguably at a unique moment in which uncomfortable questions and visionary proposals for change might have more space to be aired than is ordinarily possible. Matthew Desmond's grounded look at evictions, the relationship between the poor and the rich, and the hardships of the housing market is a significant contribution that hopefully will occupy part of that space.

I. EXPLOITATION OF THE POOR

When observing the chaos swirling in the lives of people struggling with poverty and facing eviction, it can be tempting to imagine that their hardships are simply a matter of bad choices or bad luck. The eviction phenomenon seems too big, too complicated for responsibility to be assigned anywhere. Scholarship about poverty tends to focus almost entirely on particular groups of poor people and not on the relationship between the poor and the non-poor.⁸ Consequently, though many scholars have pushed back against attacks on the poor by politicians, the emphasis is usually on the line between the deserving and undeserving poor, not on connecting their hardships with the many advantages enjoyed by the non-poor.⁹ Breaking new ground, Desmond focuses on the relationship between the poor and the non-poor, arguing that evictions are part of a housing market marked by exploitation of the poor.

Exploitation can take many forms. A strong version of the claim that access to housing is plagued by exploitation is that landlords deliberately exploit the poor in a way that makes landlords morally, and perhaps legally, culpable. This thick understanding of exploitation requires that particular landlord actions be identified as "wrong" and exploitative. A weak version of the claim is that low-

8. See, e.g., KARL ALEXANDER ET AL., *THE LONG SHADOW: FAMILY BACKGROUND, DISADVANTAGED URBAN YOUTH, AND THE TRANSITION TO ADULTHOOD* (2014); KATHRYN J. EDIN & H. LUKE SHAEFER, *\$2.00 A DAY: LIVING ON ALMOST NOTHING IN AMERICA* (2015); DAVID K. SHIPLER, *THE WORKING POOR: INVISIBLE IN AMERICA* (2004).

9. For insightful critiques of the demonization of the poor, see, for example, JOEL F. HANDLER & YEHESKEL HASENFELD, *BLAME WELFARE, IGNORE POVERTY & INEQUALITY* (2007); and Ann Cammett, *Deadbeat Dads & Welfare Queens: How Metaphor Shapes Poverty Law*, 34 B.C. J.L. & SOC. JUST. 233 (2014).

income tenants are exploited by market forces. This thin version of exploitation removes individual actors from moral judgment, making the exploitation claim about society in general. Desmond does not specify precisely how readers should interpret his exploitation claim; therefore, this section will explore both strong and weak versions of the idea that tenants are exploited.

Given the extent to which market ideology is embraced across economic and social classes in the United States, both the strong and weak versions of the exploitation claim are likely to be greeted with skepticism. The popular belief that markets are natural and that the best thing that government can do with respect to them is get out of the way is pervasive. This view not only is part of the country's official mythology¹⁰ but is often shared by conservatives and liberals alike.¹¹ While this view rests on an imagined version of markets, which ignores the many ways law and policy shape and define markets, nonetheless market ideology plays a powerful role in shaping our understanding of the connection between morality and markets. Desmond's invocation of exploitation—done either directly by landlords or indirectly by market forces—is a hard claim to make because it challenges strong societal pro-market biases. It is much easier to reconcile faith in the market with the non-judgmental idea that some people live in unfortunate circumstances, than it is to recognize that the circumstances of some poor tenants are not entirely the result of bad choices or bad luck. Nonetheless, *Evicted* does a good job presenting the possibility that tenants are the victims of exploitation.

A. Strong Version of the Claim: Deliberate Exploitation

The “simple definition” of slumlord, according to the Merriam-Webster dictionary, is “a person who owns a building with apartments that are in bad condition and rents them to poor people.”¹² Exploitation only creeps into Merriam-Webster's “full definition” of slumlord: “a landlord who receives unusually large profits from substandard properties.”¹³ But if landlords are not obligated to keep their profits modest or to maintain their properties, even the full definition arguably does not amount to exploitation of the poor. A thick version

10. See, e.g., *Civics (History and Government) Questions for the Naturalization Test*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Feb. 2016), <http://www.uscis.gov/sites/default/files/USCIS/Office%20of%20Citizenship/Citizenship%20Resource%20Center%20Site/Publications/100q.pdf> [<http://perma.cc/3B9R-N26E>] (question 11).

11. JOSEPH WILLIAM SINGER, *NO FREEDOM WITHOUT REGULATION: THE HIDDEN LESSON OF THE SUBPRIME CRISIS 2* (2015).

12. *Slumlord Definition*, MERRIAM-WEBSTER DICTIONARY, <http://www.merriam-webster.com/dictionary/slumlord> [<http://perma.cc/7CQC-ZTDR>].

13. *Id.*

of exploitation would seem to require actions that are either immoral or illegal. The landlords depicted in *Evicted* at times behave in ways that certainly seem immoral. Sherrena and Tobin—the two landlords who own the rental housing that Desmond focuses on—embody many of the characteristics associated with stereotypical or mythical slumlords, including “reckless indifference to the plight of tenants and their children”¹⁴ and a practice of “mak[ing] only the repairs that are required by applicable housing regulations or the minimal expenditures they need to attract tenants.”¹⁵ Desmond tells us that Sherrena forced tenants who fell behind on rent to accept poor conditions or face eviction.¹⁶ The implied warranty of habitability is supposed to protect tenants from bargaining away their right to decent housing, yet throughout the book Sherrena seems to have little remorse about neglecting to make repairs on basic things like plumbing for extended periods of time.¹⁷ Similarly, Tobin, the 71-year old owner of the worst trailer park in Milwaukee, routinely offered prospective tenants a so-called “Handyman Special”—a free mobile home as a way of passing along maintenance costs to tenants, who still owed him ground rent.¹⁸ Secure in the knowledge not only that low-income tenants could never afford to move the trailer but also that he would get the mobile home back after an eviction should they not pay their ground rent,¹⁹ Tobin’s offer seems morally deficient.

The challenge when it comes to judging Sherrena and Tobin’s business practices is that, however morally questionable, they are broadly speaking not illegal. Sherrena’s use of a tenant’s handicap parking permit²⁰ and Tobin’s creative accounting²¹ notwithstanding, the two largely operate within the law. Milwaukee allows landlords to rent out sub-standard apartments,²² and it is

14. Gary Blasi, *Framing Access to Justice: Beyond Perceived Justice for Individuals*, 42 LOY. L.A. L. REV. 913, 933 (2009).

15. A. Mechele Dickerson, *Revitalizing Urban Cities: Linking the Past to the Present*, 46 U. MEM. L. REV. 973, 987 (2016).

16. DESMOND, *supra* note 1, at 76.

17. *Id.* at 74.

18. *Id.* at 46.

19. *Id.* at 46-47.

20. *Id.* at 197.

21. Tobin kept many of the accounts and negotiations verbal and resulting agreements always went to the high end: “Trailer park residents had a word for this: being ‘Tobined.’ Most chalked this up to old age or forgetfulness, though Tobin was only forgetful in one direction.” *Id.* at 38.

22. See Jennifer Senior, *Review: In ‘Evicted,’ Home Is an Elusive Goal for America’s Poor*, N.Y. TIMES (Feb. 21, 2016), <http://www.nytimes.com/2016/02/22/books/evicted-book-review-matthew-desmond.html> [<http://perma.cc/YK5C-LKQ4>] (“They rent units that run afoul

hardly the only city in the country where the implied warranty of habitability is more of a paper right than a meaningful check on landlords.²³ One can critique Tobin’s “Handyman Special” as exploiting the allure that homeownership has even for the poor, but it is hard to argue that Tobin should have to pay the maintenance and repair costs of individually owned trailers located on his land. Indeed, irregular purchase agreements such as rent-to-own, contracts for deeds, and “Handyman Special”-type arrangements are part of a growing trend in low-income housing of converting renters into supposed owners so that landlords and investors can pass along the costs of ownership.²⁴

Evicted includes moments in which both Sherrena and Tobin get into trouble for the poor conditions of their properties, but both landlords demonstrate a willingness to work with authorities when required.²⁵ Indeed, the strongest case for labeling Sherrena and Tobin’s actions exploitation is not so much that they violate the law but that they exploit the unfair advantages the law provides to landlords in the eviction process. As Professor Barbara Bezdek explains, “[T]he operational premise of the rent court as an institution is to enforce the entitlement of the landlord to payment and possession, while it obscures the entitlements of tenants under the same governing law.”²⁶ As repeat players with more experience appearing in housing court and a greater likelihood of having legal assistance, landlords enjoy distinct advantages over tenants in housing court.²⁷ Benefitting from the fact that poor tenants often fail to even appear at

of the property code, which is perfectly legal in Milwaukee as long as tenants are told in advance—*caveat rentor*. They deny their tenants basic appliances, which the law also, amazingly, permits—not just in Wisconsin, but in most states.”).

23. See David A. Super, *The Rise and Fall of the Implied Warranty of Habitability*, 99 CALIF. L. REV. 389 (2011) (detailing the decline in the power and relevance of the implied warranty of habitability). *But see* Paula A. Franzese et al., *The Implied Warranty of Habitability Lives: Making Real the Promise of Landlord/Tenant Reform* (unpublished manuscript) (on file with author) (arguing that the implied warranty can still play a significant role in improving housing conditions when tenants raise it as a defense).
24. See, e.g., Heather K. Way & Lucy Wood, *Contracts for Deed: Charting Risks and New Paths for Advocacy*, 23 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 37 (2014); Alexandra Stevenson & Matthew Goldstein, *Rent-to-Own Homes: A Win-Win for Landlords, a Risk for Struggling Tenants*, N.Y. TIMES (Aug. 21, 2016), <http://www.nytimes.com/2016/08/22/business/dealbook/rent-to-own-homes-a-win-win-for-landlords-a-risk-for-struggling-tenants.html> [<http://perma.cc/5RAC-X6WN>].
25. See *supra* notes **Error! Bookmark not defined.**, **Error! Bookmark not defined.**, and accompanying text.
26. Barbara Bezdek, *Silence in the Court: Participation and Subordination of Poor Tenants’ Voices in Legal Process*, 20 HOFSTRA L. REV. 533, 540 (1992).
27. See Kevin Nance, *Matthew Desmond’s ‘Evicted’ Details Cost of Evictions on Milwaukee’s Poor*, CHI. TRIBUNE (Mar. 10, 2016), <http://www.chicagotribune.com/lifestyles/books/ct-prj-evicted-matthew-desmond-20160310-story.html> [<http://perma.cc/4TH3-4BDE>] (quoting Desmond as saying, “We see [the importance of power] in courts especially, where landlords

eviction hearings or are “silenced” by the process,²⁸ landlords can treat eviction as a routine business matter and can expect the court to side with them.²⁹ As a consequence, many landlords find it “cheaper to deal with the expense of eviction than to maintain their properties.”³⁰ If landlords needed to keep tenants happy or if the process were less efficient, landlords might see eviction as more of a last resort. But at least in Milwaukee when Desmond conducted his research, “[t]he high demand for the cheapest housing told landlords that for every family in a unit there were scores behind them ready to take their place. In such an environment, the incentive to lower the rent, forgive a late payment, or spruce up your property was extremely low.”³¹ In this “brutal world where landlords have all the power and tenants feel all the pain,”³² reliance on the le-

often have a lot of experience in civil court, and where they have attorneys. Tenants don't have any right to court-appointed attorneys in civil court, so they're either facing their landlord—or his or her attorney—alone, or they just don't show up. That reflects a severe power imbalance.”); see also Jessica K. Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 GEO. J. ON POVERTY L. & POL'Y 453, 483-85 (2011) (“It is possible that unassisted pro se tenants . . . retained possession far less frequently because they did not have the benefit of an attorney representing them in court, where the skilled presentation of legitimate defenses would have been more likely to result in a tenant retaining possession of her home.”); Super, *supra* note 23, at 433 (noting that landlords enjoy “greater familiarity with court procedures” and discussing tactics landlords can use against tenants making escrow payments that some states require in order for tenants to raise the implied warranty of habitability).

28. Bezdek, *supra* note 26, at 536; see also Randy G. Gerchick, *No Easy Way Out: Making the Summary Eviction Process a Fairer and More Efficient Alternative to Landlord Self-Help*, 41 UCLA L. REV. 759, 795 n.132 (1994) (“A study of unlawful detainer cases in Los Angeles during 1991 found that failure to appear judgments were entered in almost 20% of all cases.”); Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1, 45 (1990) (“For if Mrs. G. was indeed silenced by the violence around her, she would then be dependent on the lawyer's expertise and protection, and therefore compliant to the lawyer's will.”); LAWYER'S COMMITTEE FOR BETTER HOUSING, NO TIME FOR JUSTICE: A STUDY OF CHICAGO'S EVICTION COURT 4 (2003), <http://lcbh.org/sites/default/files/resources/2003-lcbh-chicago-eviction-court-study.pdf> [<http://perma.cc/93ST-M4L8>].
29. Jennifer Schuessler, *A Harvard Sociologist on Watching Families Lose Their Homes*, N.Y. TIMES (Feb. 19, 2016), <http://www.nytimes.com/2016/02/20/books/a-harvard-sociologist-on-watching-families-lose-their-homes.html> [<http://perma.cc/6VD4-VQTK>] (“[E]victions have become just another part of an often lucrative business model.”).
30. DESMOND, *supra* note 1, at 75.
31. *Id.* at 47.
32. Carlos Lozada, *If You Lose Your Home, You Lose Everything Else, Too*, WASH. POST (Mar. 3, 2016), <http://www.washingtonpost.com/news/book-party/wp/2016/03/03/if-you-lose-your-home-you-lose-everything-else-too/> [<http://perma.cc/7H58-BZH9>].

gal system itself by landlords arguably amounts to exploitation.³³ But such an argument seems like a stretch, a mischaracterization of entrepreneurs who are simply relying on the court system to protect themselves from non-paying tenants.

In short, the strong version of the exploitation claim—which requires the identification of immoral or illegal action by individual landlords—seems to have little support. As much as readers might want landlords to forgive tenants for being late on rent, provide high quality housing, and tie rent to their ownership expense, landlords are in the business of making money.³⁴ Provided they are acting within the bounds of the law and market, exploitation seems too strong a word to describe the conduct of particular landlords. As Desmond reported, even those tenants most vulnerable to evictions tend not to fault their landlords: “Trailer park residents rarely raised a fuss about a neighbor’s eviction, whether that person was a known drug addict or not. Evictions were deserved, understood to be the outcome of individual failure. . . . No one thought the poor more undeserving than the poor themselves.”³⁵ While it is true that tenants have to dedicate a large percentage of their income to housing³⁶ and that the private housing market for poor people involves a significant amount of tenant turnover as a result of evictions,³⁷ such a business model is not illegal, and to characterize it as immoral is less about individual bad actors than about the market.³⁸ And it is here, when the focus moves away from particular landlords to the nature of the market, that a better argument for exploitation can be made.

33. See also Senior, *supra* note 22 (“With vacancy rates for cheap housing in the single digits, the moment is ripe for exploitation. It’s a landlord’s market. So exploit they do.”).

34. See Dale A. Whitman, *Fifty Years of Landlord-Tenant Law: A Perspective*, 35 U. ARK. LITTLE ROCK L. REV. 785, 788 (2013) (“The lesson is that landlords are not, and cannot be expected to be nonprofit organizations. If their tenants are poor and can only spend a limited amount on housing, then the landlord can only provide the level of housing quality that that amount of rent can buy. If the rent is too low to buy code-complying housing, then the landlord will usually provide non-complying housing. There simply is not enough money on the table to do any better.”).

35. DESMOND, *supra* note 1, at 179–80.

36. See Allison Charette et al., *Projecting Trends in Severely Cost-Burdened Renters: 2015–2025*, ENTER. CMTY. PARTNERS, INC. & HARV. JOINT CTR. FOR HOUS. STUDIES 6 (2015), http://s3.amazonaws.com/KSPPProd/ERC_Upload/0100886.pdf [<http://perma.cc/R9FK-M4TA>].

37. See Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 AM. J. SOC. 88, 91 (2012).

38. See Jason DeParle, *Kicked Out in America!*, N.Y. REV. BOOKS (Mar. 10, 2016), <http://www.nybooks.com/articles/2016/03/10/evicted-kicked-out-in-america/> [<http://perma.cc/6A4E-EBVT>] (“Why are rents so high? Desmond points to exploitative landlords and their ability to ‘charge as much as they want.’ But owners don’t charge what they want. They charge what the market will bear.”).

B. Weak Version of the Claim: Market-Driven Exploitation

Though markets are traditionally treated as outside the realm of morality, an alternative tradition emphasizes the ways in which morality and markets are fundamentally linked. When Judge Skelly Wright declared that the installment contracts Ora Lee Williams had signed with Walker-Thomas Furniture, which provided that “Walker-Thomas would retain the right to seize all the items that Williams had purchased,” were unconscionable,³⁹ the veil of market neutrality was pulled back. Popular and political attacks on Wal-Mart for advising workers to seek various forms of welfare because their pay was so low similarly attest to the fact that market participants are sometimes held to a higher moral standard than legally required when it comes to business practices.⁴⁰ Indeed, the alternative tradition of seeing markets and morality as linked is also evident in the fact that the minimum wage continues to exist and gets periodically increased despite conservative claims that the minimum wage interferes with voluntary transactions and increases unemployment.⁴¹ Left-leaning employment law scholars argue that even if there may be some interference, economically inefficient wage limits can be justified because they protect the dignity and civil rights of workers.⁴² Progressive property law scholars emphasize that advocates for migrant workers can force even the owner’s celebrated exclusionary right to give way because “[p]roperty rights serve human values” and “[t]hey are recognized to that end and are limited by it.”⁴³ And most scholars likely

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39. Anne Fleming, *Remaking the “Law of the Poor”*: Williams v. Walker-Thomas Furniture Co. (1965), in *THE POVERTY LAW CANON: EXPLORING THE MAJOR CASES* 36 (Marie A. Failing & Ezra Rosser eds., 2016).
40. See generally Benedict Sheehy, *Corporations and Social Costs: The Wal-Mart Case Study*, 24 J.L. & COM. 1, 37-39 (2004); ARINDRAJIT DUBE & KEN JACOBS, *HIDDEN COST OF WAL-MART JOBS: USE OF SAFETY NET PROGRAMS BY WAL-MART WORKERS IN CALIFORNIA* 6 (2004), <http://laborcenter.berkeley.edu/pdf/2004/walmart.pdf> [<http://perma.cc/47ZE-2YYY>].
41. Compare Mark Wilson, *The Negative Effects of Minimum Wage Laws*, CATO INST. (2012), <http://object.cato.org/sites/cato.org/files/pubs/pdf/PA701.pdf> [<http://perma.cc/JPG9-QDTU>] (reviewing academic evidence pointing to the negative effects of minimum wage laws), with NAT’L EMP’T LAW PROJECT & CRY WOLF PROJECT, *CONSIDER THE SOURCE: 100 YEARS OF BROKEN-RECORD OPPOSITION TO THE MINIMUM WAGE* (2013), <http://www.nelp.org/content/uploads/2015/03/Consider-The-Source-Minimum-Wage.pdf> [<http://perma.cc/4AZL-3CXK>] (suggesting that dominant criticisms of minimum wage are not contextualized within prevailing economic or political conditions).
42. See Brishen Rogers, *Justice at Work: Minimum Wage Laws and Social Equality*, 92 TEX. L. REV. 1543 (2014); Noah D. Zatz, *The Minimum Wage as a Civil Rights Protection: An Alternative to Antipoverty Arguments?*, 2009 U. CHI. LEGAL F. 1.
43. State v. Shack, 277 A.2d 369, 372 (N.J. 1971); see also Ezra Rosser, *The Ambition and Transformative Potential of Progressive Property*, 101 CALIF. L. REV. 107, 115-26 (2013) (providing an overview of the progressive property school of thought).

agree that while slavery and other forms of racialized oppression have lengthy histories of being integral to the structure of markets in the United States, such forms of market-approved oppression are still subject to moral judgment.⁴⁴ As this last example demonstrates, the line between which practices are treated as natural and which are widely understood as exploitative is constantly evolving, but the claim that markets are inherently neutral cannot be sustained for long.⁴⁵

Evicted makes a compelling case that landlords are able to derive considerable profit from low-income housing and that they have tremendously more power than their tenants. Landlords enjoy the benefits of rules that privilege their position vis-à-vis their tenants—benefits that are made all the more powerful because these rules are treated by landlords, tenants, and courts alike as the natural way the landlord-tenant relationship should be governed. In the 1970s, debate among leading academics about the significance and desirability of changing the terms of the landlord-tenant relationship through the implied warranty of habitability raged over the pages of books and leading law journals.⁴⁶ Reading these debates today, the optimism among progressive scholars that landlord-tenant law might redistribute wealth to the poor seems hopeless-

44. Indeed, when it comes to particularly egregious past wrongs, morality may demand that reparation payments be made. See generally Alfred L. Brophy, *The Cultural War over Reparations for Slavery*, 53 DEPAUL L. REV. 1181 (2004) (examining the controversial nature of and arguments against reparation); Ta-Nehisi Coates, *The Case for Reparations*, ATLANTIC (June 2014), <http://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/> [<http://perma.cc/5ATK-RY54>] (arguing that America should give reparations to African-Americans).

45. Indeed, with reduced information costs and ever-deeper explorations into supply chains uncovering the hidden costs of particular products and markets, the trend probably lies in the direction of increasingly recognizing the relationship between markets and morality. See Ezra Rosser, *Offsetting and the Consumption of Social Responsibility*, 89 WASH. U. L. REV. 27 (2011) (arguing that offsetting offers a valuable mechanism for individuals to correct for the harms of consumption).

46. To review these debates chronologically, see RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* 259-63 (1972); Bruce Ackerman, *Regulating Slum Housing Markets on Behalf of the Poor: Of Housing Codes, Housing Subsidies and Income Redistribution Policy*, 80 YALE L.J. 1093 (1971); Neil K. Komesar, *Return to Slumville: A Critique of the Ackerman Analysis of Housing Code Enforcement and the Poor*, 82 YALE L.J. 1175 (1973); Bruce Ackerman, *More on Slum Housing and Redistribution Policy: A Reply to Professor Komesar*, 82 YALE L.J. 1194 (1973); Charles J. Meyers, *The Covenant of Habitability and the American Law Institute*, 27 STAN. L. REV. 879 (1975); and Richard S. Markovits, *The Distributive Impact, Allocative Efficiency, and Overall Desirability of Ideal Housing Codes: Some Theoretical Clarifications*, 89 HARV. L. REV. 1815 (1976). The debate did not end in the 1970s, but it became less pronounced and moved to the pages of less significant journals.

ly naïve.⁴⁷ As Professor David Super showed in a recent law review article and as Desmond shows throughout *Evicted*, the implied warranty is largely dead letter law.⁴⁸ It does not protect tenants from eviction and the main question courts ask is whether a tenant is behind in rent, not if there are questionable conditions in the unit. Similarly, although former law professor and current mayor of Providence, Rhode Island, Jorge Elorza, argued that rent control measures should be used to protect poor communities from absentee landlords,⁴⁹ it is the opposite view, that rent control is unfair that has prevailed since the 1970s.⁵⁰ Perhaps most notably, most courts and participants in the housing system appear to have accepted and normalized the fact that the poor are unrepresented in our adversarial system. One needs only examine the lack of progress on this front to see the extent of judicial and legislative ambivalence. In an article length op-ed aptly titled “The Courts Have Failed the Poor,” published by the *New York Times* in 1969, Judge J. Skelly Wright argued that “the cards are . . . stacked against [the poor man],” explaining that “where property rather than liberty is at stake, the indigent, under prevailing legal doctrine, has no right to a lawyer and consequently is likely to go unrepresented.”⁵¹ Nearly half a century later, the cards continue to be stacked against the poor. There is still no civil *Gideon* and, despite the creation over the last two decades of state-level access-to-justice commissions, funding for legal assistance to the poor remains woefully inadequate.⁵²

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47. Its contemporary progressive counterpart, the argument for recognizing a right to housing, seems just as naïve and doomed to failure. See Tim Iglesias, *Our Pluralist Housing Ethics and the Struggle for Affordability*, 42 WAKE FOREST L. REV. 511, 540-49 (2007) (presenting the housing-as-a-human-right idea and the reluctance of courts and legislatures to recognize the right). Although other countries have recognized a right to housing, it seems unlikely that the United States will do the same. See *Gov't of Republic of S Africa v. Grootboom*, 2000 (11) BCLR 1169 (CC) (S. Afr.) (recognizing the housing rights of squatters).
48. See Super, *supra* note 23; see also Lee Harris, *Judging Tenant Protections: The Evidence from Enforcement of Landlord Penalties*, 42 U. MEM. L. REV. 149, 152 (2011) (finding that, despite legal changes benefiting tenants, “landlords fare surprisingly well in small claims courts, in spite of pro-tenant protections”).
49. Jorge O. Elorza, *Absentee Landlords, Rent Control and Healthy Gentrification: A Policy Proposal to Deconcentrate the Poor in Urban America*, 17 CORNELL J. L. & PUB. POL'Y 1 (2007).
50. See Zachary Bray, *The New Progressive Property and the Low-Income Housing Conflict*, 2012 B.Y.U. L. REV. 1109, 1142-43 (2012); see also Richard A. Epstein, *Rent Control and the Theory of Efficient Regulation*, 54 BROOKLYN L. REV. 741, 742 (1988) (attacking rent control as a taking from the landlord).
51. J. Skelly Wright, *The Courts Have Failed the Poor*, N.Y. TIMES MAG., Mar. 9, 1969.
52. See *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, LEGAL SERVICES CORP. 1 (2009), <http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/JusticeGapInAmerica2009.authcheckdam.pdf> [<https://perma.cc/R89G-NS6N>] (reporting nationwide legal service corporation-

Landlords reap benefits beyond just the legal power dynamic between landlord and tenant. As Desmond explains, the success of the landlords in *Evicted* also reflects the high demand for housing and the consequent strength of the low-end rental market. Tobin could “transform an utterly trashed trailer into a rent-generating machine in a matter of days—and for next to nothing.”⁵³ Sherrena and similar landlords with access to cash or credit could take advantage of the fact that while “property values fell (and with them mortgage and tax bills),” “rents remained high.”⁵⁴ As Desmond notes, “When it came to return on investment, it was hard to beat owning property in the inner city.”⁵⁵ It is worth emphasizing, as Desmond has done following publication of the book, both the profit margins enjoyed by landlords and the “extractive” nature of the low-income rental market:

I tried very hard to capture perspectives of tenants and landlords too. Their jobs can often be hard and tricky, and writing them off as greedy or demonizing them really gets us away from the harder conversation that we need to have. One of the questions that I thought was really important to ask was, just how much money are they making? The profit margins are not small. That raises a question: To what extent can we address poverty without addressing the fact that some people make a lot of money off the poor?

The line in the book “the hood is good” is something that’s totally validated. I went in with a question: Why would someone own and operate property in the inner city? And I left, after doing this data analysis, thinking: Why wouldn’t you do it? The profit margins can be quite rewarding. I think that means that if we want to fix poverty, we have to address the fact that poverty isn’t just a product of low income. It’s a product of extractive markets.⁵⁶

funded programs only serve half of those who come for help because of insufficient resources).

53. DESMOND, *supra* note 1, at 173.

54. *Id.* at 151; see also Badger, *supra* note 24 (“The landlord is a shrewd businesswoman. She sees opportunity in the foreclosure crisis, buying up ‘other peoples’ failures’ and converting them into lucrative rentals. She knows that a two-bedroom in Milwaukee’s segregated inner-city rents for about as much as a two-bedroom in a nicer part of town. But properties in nicer neighborhoods cost more to buy, so the financial returns on rent in the ghetto are far better.”).

55. DESMOND, *supra* note 1, at 152.

56. Gillian B. White, *America’s Insidious Eviction Problem*, ATLANTIC (Mar. 1, 2016), <http://www.theatlantic.com/business/archive/2016/03/eviction-matthew-desmond-housing/471375/> [<http://perma.cc/D47J-YD7Z>]; see also Matthew Desmond: “*Evicted*”, DIANE REHM SHOW (Mar. 7, 2016, 11:00 AM ET, at 11:34:06), <http://thedianerehmshow.org/shows/2016-03>

The basic calculation of landlords is the same as it is for nearly all businesses: profit is a function of lowering costs and increasing revenue. And as Sherrena and Tobin know well, “Rent is only modestly cheaper in poorer areas, but landlord expenses are much lower. Profit margins are not small. The system allows people to pull a lot of money from these folks.”⁵⁷

The nature of Sherrena and Tobin’s business invites comparisons with their customers. As Barbara Ehrenreich highlights in her review of *Evicted*, “The landlord who evicts Lamar, Lorraine and so many others is rich enough to vacation in the Caribbean while her tenants shiver in Milwaukee. The owner of the trailer park takes in over \$400,000 a year. These incomes are made possible by the extreme poverty of the tenants . . .”⁵⁸ At some level, of course, the Occupy Movement, by challenging the country’s increasing inequality and by connecting the high incomes of the top one percent to the relative hardships and stagnation of the poor and middle classes, was making a similar argument. Unlike Wall Street bankers or corporate lawyers, the relationship between landlords and the poor is more personal. Landlords come to expect that they will collect back rent when their tenants get tax refund checks in February.⁵⁹ Landlords know that when their properties need repairs, they can rely “on two desperate and on-hand labor pools: tenants themselves and jobless men.”⁶⁰ As Desmond adds provocatively, “the biggest drug kingpin in the city would have been envious of the massive cash-paid labor force urban landlords had at their disposal.”⁶¹ Perhaps the best example in *Evicted* of the intimacy and imbalance in the landlord-tenant relationship is when a house fire caused by an overturned lamp destroys one of Sherrena’s duplexes and claims the life of a tenant’s eight-

-07/matthew-desmond-evicted [http://perma.cc/M47H-QQT9] (“You know, we have to think about how poverty isn’t just a result of low incomes, jobs and joblessness, it’s also a result of extractive markets. You know, some people make money off poor folks, some people make quite a lot of money off poor folks.”).

57. *How Our Housing System Perpetuates Poverty: Spotlight Interview with Matthew Desmond of Harvard University*, SPOTLIGHT ON POVERTY & OPPORTUNITY (Mar. 22, 2016), <http://spotlightonpoverty.org/spotlight-exclusives/how-housing-perpetuates-poverty/> [http://perma.cc/HP5X-MGPD].

58. Barbara Ehrenreich, *Matthew Desmond’s ‘Evicted: Poverty and Profit in the American City’*, N.Y. TIMES (Feb. 26, 2016), <http://www.nytimes.com/2016/02/28/books/review/matthew-desmonds-evicted-poverty-and-profit-in-the-american-city.html> [http://perma.cc/F4R8-H6AJ].

59. See DESMOND, *supra* note 1, at 197 (“When the first of the month came, commas once again returned to Sherrena’s bank account. It wasn’t any ordinary month either; it was February, when tenants received tax credits and wrote big rent checks.”).

60. *Id.* at 136.

61. *Id.* at 141.

month-old child.⁶² Though her tenants suffered tremendously, the fire saved Sherrena from having to evict a troublesome handicapped tenant and ultimately netted her an insurance windfall.⁶³ Even when a house fire claims the life of a child living in their buildings, landlords can benefit financially.

One of the background assumptions of law and economics is that individuals enter markets as equal participants.⁶⁴ But when it comes to understanding the landlord-tenant relationship, this background assumption is descriptively inaccurate. Throughout *Evicted* we see how tenants, rather than being equal participants, have their lives shaped by the traits, whims, and even mood changes of their landlords. “The power element is key,” Desmond explains, adding, “Sometimes landlords in the book behave admirably, and sometimes they behave callously. But it doesn’t come down to the personal attributes of landlords. It comes down to the system that provides landlords with a lot of power over low-income tenants.”⁶⁵ This power disparity plays out in a variety of ways. Women, who tend to avoid their landlords when behind in rent, are more likely to be evicted than men, who tend to negotiate and engage with their landlords.⁶⁶ More generally, the landlords in *Evicted* exercised “considerable discretion over whether to move forward with an eviction, extending leni-

62. *Id.* at 200-203.

63. *Id.* at 203.

64. As Professor A. Mitchell Polinsky explains, “Economists make assumptions for the obvious reason that the world, viewed economically, is too complicated to understand without some abstraction.” A. MITCHELL POLINSKY, *AN INTRODUCTION TO LAW AND ECONOMICS* 2 (3d ed., 2003). The assumption that economic actors enter as equal participants takes a number of different forms, but micro-economics is largely based on building out from individual preferences to the supply and demand curves. Economists employ “[t]he concept of man as a rational maximizer” in order to “explain reality” and to make predictions about the future. RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* 4, 16 (7th ed., 2007). In practice, as Judge Posner explains, the guiding principle of much of law and economics is utilitarianism, which “by aggregating utility across persons, . . . treats people as cells in the overall social organism rather than as individuals.” *Id.* at 12. Not only does individual identity get subsumed into the larger model of the market but economists treat the individual preferences that the model aggregates “as *exogenous*, which means that they are determined outside the economic system.” ROBERT COOTER & THOMAS ULEN, *LAW & ECONOMICS* 22 (4th ed., 2004). Ability to pay is not irrelevant to law and economics as it shapes individual preferences, but it is secondary: the law and economics’ approach “assumes that, in combining values across people, the appropriate measuring rod is willingness to pay.” DAVID D. FRIEDMAN, *LAW’S ORDER: WHAT ECONOMICS HAS TO DO WITH LAW AND WHY IT MATTERS* 22 (2000). Put differently, willingness to pay is treated as an exogenous input and the connection between willingness to pay and structural barriers are not typically explored.

65. Nance, *supra* note 27.

66. DESMOND, *supra* note 1, at 128; *see also* Desmond, *Eviction and the Reproduction of Urban Poverty*, *supra* note 37, at 110-16.

ency to some and withdrawing it from others.”⁶⁷ Reflecting on Tobin’s eviction practices, Desmond mused, “The power to dictate who could stay and who must go; the power to expel or forgive: it was an old power, and it was not without caprice.”⁶⁸ While it is true that landlords cannot evict so long as rental payments are made on time, it is also the case that the rental market structure itself can give landlords a remarkable degree of control over the fate of their tenants. When landlords themselves face pressure in the form of either regulatory oversight tied to conditions or the possibility of a nuisance citation, they “often pass[] the pressure on to their tenants” through the use of evictions to reestablish control.⁶⁹

The power of landlords over tenants does not end at eviction. After an eviction, landlords can seek a secondary judgment for damages attributable to their prior tenants, and, since few tenants attend court to contest their landlord’s claims, Desmond reports that the landlord’s accounting “usually [goes] unchallenged.”⁷⁰ Although many tenants are judgment proof, those tenants who later manage to start crawling out of poverty must repay these docketed judgments, compounded at twelve percent annually.⁷¹

Landlords have power not only in their individual relationships with tenants but also in their role shaping urban life. Tenant screening practices ensure that better neighborhoods are shielded from both poverty and criminality while the opposite is true of bad neighborhoods.⁷² Landlords help create these neighborhoods and, according to Desmond, are also “major players in distributing the spoils” associated with concentrating social goods and social problems in distinct areas.⁷³ Desmond goes on to explain that the practices of landlords serving the poor are similar to the practices of other businesses:

Some landlords neglected to screen tenants for the same reason payday lenders offered unsecured, high-interest loans to families with unpaid debt or lousy credit; for the same reason that the subprime industry gave mortgages to people who could not afford them; for the same reason Rent-A-Center allowed you to take home a new Hisense air condi-

67. DESMOND, *supra* note 1, at 128.

68. *Id.* at 129.

69. *Id.* at 45.

70. *Id.* at 102.

71. *Id.* at 103.

72. *Id.* at 89.

73. *Id.*

tioner or Klaussner “Lazarus” reclining sofa without running a credit check. There was a business model at the bottom of every market.⁷⁴

On the one hand, none of the businesses Desmond lists are held in high esteem. Payday lenders, subprime lenders, and rent-to-own operators all receive a fair amount of criticism and are occasionally targets of government regulation.⁷⁵ On the other hand, the fact that landlord practices at the low end of the rental markets can be so easily compared to practices in other markets suggests two possibilities: either the “exploitation” label is appropriate for all such market actors, meaning that large numbers of participants, not just landlords, are guilty of exploiting poor individuals, or “exploitation” can best be understood as something structural that makes it inappropriate to ascribe the majority of the fault to individual bad actors.

The challenge when it comes to structural exploitation is that, as the focus shifts from individual participants to the market, it becomes harder to identify causation. For example, once particular landlords are thought of as largely beyond the scope of moral judgment except in the most general sense that they participated in an exploitative market, it is nearly impossible to assign fault. We run once again into the perpetual problem: do we blame those who profit off the poor or the poor themselves for being vulnerable to such exploitation? The most we can say is that the low end of the housing market is exploitative, with blame diffusing to all of society. With many victims but without a bad actor to vilify, claiming exploitation, although provocative, arguably does little to solve the housing problems of the vulnerable poor. Even Desmond’s proposed solution—a vast expansion of the voucher program⁷⁶—risks being dismissed as too pie-in-the-sky. Although one review of *Evicted* noted that a “universal voucher program could potentially snuff out exploitation in the private rental market,”⁷⁷ similar ideas have been unsuccessfully floated before.⁷⁸ Though the mortgage

74. *Id.* at 90.

75. See Michael H. Anderson, *An Economic Perspective on Subprime Lending*, 89 CHI.-KENT L. REV. 53, 53-59 (2014) (describing these industries and the ways they are regulated); Creola Johnson, *Payday Loans: Shrewd Business or Predatory Lending*, 87 MINN. L. REV. 1, 3-4 (2002) (discussing the payday lending industry and arguing that many payday lenders engage in predatory practices). *But see* Jim Hawkins, *Renting the Good Life*, 49 WM. & MARY L. REV. 2041, 2044 (2008) (defending the rent-to-own industry against tougher consumer protection regulations).

76. *Id.* at 308.

77. *Badger*, *supra* note 24.

78. Cf. Robert C. Ellickson, *The False Promise of the Mixed-Income Housing Project*, 57 UCLA L. REV. 983 (2010) (arguing that vouchers are better than project-based housing assistance); Alexander Polikoff, *Racial Inequality and the Black Ghetto*, 1 NW. J. L. & SOC. POL’Y 1, 10-15 (2006) (proposing a significant expansion in funding for housing vouchers).

tax deduction is treated as largely unassailable, there is little appetite among politicians or the public to fund a massive expansion in the number of housing vouchers for the poor.⁷⁹ Waitlists for vouchers are incredibly long if they are not closed,⁸⁰ and the Department of Housing and Urban Development regularly must beat back political attacks on the Department's very existence.⁸¹ In this environment, Desmond's voucher solution is perhaps overly utopian, but it is not without substance. Desmond's choice to push for increased funding instead of for reigning in landlords highlights once again the structural nature of the exploitation experienced by the poor.

Ultimately, the question of whether or not Desmond's exploitation claim can be sustained depends on what version of the claim is embraced. While it is hard to assert that landlords—even if they at times act somewhat heartlessly—bear individual responsibility for exploiting the poor, it is possible to make a relatively robust argument in support of the market-based version of the exploitation claim. The market, combined with a legal structure that largely supports the interests of landlords in collecting rent over the interests of tenants in adequate conditions, exploits the inability of the poor to make meaningful demands on landlords.

79. Political will is more important than cost when it comes to increasing the number of vouchers, as Desmond highlighted in an interview after the book was published:

An expansion of the aid does not necessarily require an enormous expansion of spending. Yes, it will cost money, but we have it. We also need to have an honest conversation about the fact that we have a housing assistance program—in the form of homeowner tax benefits—for the middle class and the rich. We spend far more on that than we do on housing assistance for the needy. If we continue to tolerate this level of poverty in our cities, and go along with eviction as commonplace in poor neighborhoods, it's not for a lack of resources. It will be a lack of something else.

Nance, *supra* note 27 (quoting Desmond).

80. See, e.g., Brandon M. Weiss, *Residual Value Capture in Subsidized Housing*, 10 HARV. L. & POL'Y REV. 521, 523 (2016) (reporting that “in 2010, an estimated crowd of 30,000 assembled in Atlanta to obtain an application for federal housing assistance—successful applicants merely gained admission to the local housing authority's *waitlist*”); Petula Dvorak, *In D.C., A Public-Housing Waiting List with No End*, WASH. POST (Apr. 11, 2013), http://www.washingtonpost.com/local/in-dc-a-public-housing-waiting-list-with-no-end/2013/04/11/6073e7d2-a2cc-11e2-9c03-6952ff305f35_story.html [<http://perma.cc/8UDN-Z4PK>].

81. See, e.g., Josh Barro, *Romney Is Right: Abolish HUD*, FORBES (Apr. 16, 2012, 10:52 AM), <http://www.forbes.com/sites/joshbarro/2012/04/16/romney-is-right-abolish-hud> [<http://perma.cc/4WWN-NFVS>]; Max Ehrenfreund, *Ted Cruz Forgot To Mention He Wants To Get Rid of this Really Big Part of the Government*, WASH. POST. WONKBLOG (Nov. 10, 2015), <http://www.washingtonpost.com/news/wonk/wp/2015/11/10/heres-the-agency-ted-cruz-forgot-he-wants-to-abolish/> [<http://perma.cc/E5F9-4TUK>].

CONCLUSION

Americans, like the tenants profiled in *Evicted*, have “a high tolerance for inequality.”⁸² Landlords and tenants alike share the sense that eviction should follow non-payment. This belief can be attributable in part to an intuitive appreciation for private property (*This is myyy property!*⁸³) but it might also reflect a societal belief that market worth and personal worth are linked.

By looking at the eviction phenomenon from the perspective of both tenants and landlords, *Evicted* allows readers to question the supposed neutrality of market interactions. The stories of tenants Arleen, Scott, Doreen, and Lamar provide a rare window into the struggles of poor families grappling with housing insecurity.⁸⁴ The notion that the low-income housing market can be understood as a series of voluntary transactions among equals is undercut by the relative power of landlords and the desperation of tenants. What makes Desmond’s exploitation claim hard to accept is not that he fails to provide evidence of such exploitation, but that we as a society are not prepared to accept such evidence. It is customary in the wake of an emergency to call on businesses to refrain from exploiting the emergency through price gouging. The same notion does not seem to apply when it comes to poverty; we fail to recognize that housing emergencies do not cease being emergencies simply because they are of a continuing nature.⁸⁵ Instead, we treat housing insecurity as an individual failing not meriting market protections or corrections, even when those harmed include children.⁸⁶ But it is worth recalling that history is replete with examples of moments when society decided to change standard understandings of the market to protect the vulnerable. Comfortable in our own historical moment, we look back with self-satisfaction at big and little changes: ending slavery, prohibiting child labor, inventing the implied warranty of habitability, ending self-help evictions, and so on. Yet faith in markets makes recognition of wrongs to the poor, including poor children, difficult in the current moment.

82. DESMOND, *supra* note 1, at 182.

83. Desmond describes how landlords, as part of a training session on property management, were told by the facilitator to repeat this mantra. *Id.* at 91 (emphasis and misspelling in original).

84. For a summary of many of the tenant and landlord stories included in *Evicted*, see Ezra Rosser, *Laying the Foundation: The Private Rental Market and Affordable Housing* (unpublished manuscript, forthcoming FORDHAM URB. L.J. 2017).

85. See *id.* at 285-86 (“Poverty could pile on; living it meant steering through gnarled thickets of interconnected misfortunes and trying not to go crazy. There were moments of calm, but life on balance was facing one crisis after another.”).

86. See DeParle, *supra* note 38 (“The children in *Evicted* have hellish lives.”).

Evicted makes two major contributions. First, it helps readers understand the lives and choices of poor tenants and their landlords. As inequality has risen, the middle class and the rich are increasingly separated from the poor, both in terms of their life experiences and the spaces they occupy in cities. The poor are treated as “the other,” with cities doing their best to separate them from the more fortunate, raising the probability that instead of sympathy they will encounter blame and misunderstanding.⁸⁷ Desmond’s empathetic and well-rounded portrayal of poor tenants works to counter this tendency towards social distancing. For most readers, the most lasting feature of *Evicted* likely will be its many personal narratives. Second, by framing the low-income housing market in terms of “exploitation,” Desmond challenges the supposed neutrality of markets. The idea that markets are either inherently good or that morality should be separated from how markets are understood is part of the mythology of markets. Though Desmond does not clarify whether his argument is that the poor are exploited by individual landlords or by the market, the fact that *Evicted* makes such a strong claim creates space to challenge the assumption of neutrality that dominates both scholarly and popular understandings of markets.

The recognition of the connection between markets and morality opens the possibility of a more enlightened and humane approach to housing and to poverty. Hopefully at some point in the future, society will look back with horror at the extent to which “the [U.S.] accepts as ordinary a depth of poverty that is extraordinary and cruel.”⁸⁸ As Desmond writes in the last paragraph of *Evicted*:

This degree of inequality, this withdrawal of opportunity, this cold denial of basic needs, this endorsement of pointless suffering—by no American value is this situation justified. No moral code or ethical principle, no piece of scripture or holy teaching, can be summoned to defend what we have allowed our country to become.⁸⁹

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87. See, e.g., Sara Rankin, *The Influence of Exile*, 76 MD. L. REV. (forthcoming 2016), <http://ssrn.com/abstract=2754254> [<http://perma.cc/HH77-AQP9>].

88. DeParle, *supra* note 38.

89. DESMOND, *supra* note 1, at 313.

EXPLOITING THE POOR: HOUSING, MARKETS, AND VULNERABILITY

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