Original Article

Work, welfare, and the values of voluntarism: Rethinking Anscombe's "action under a description" in postwar markets for human subjects

Laura Stark
Vanderbilt University, 2301 Vanderbilt Place, PMB #351665, Nashville, TN 37235-1665, USA.
E-mail: laura.stark@vanderbilt.edu

Abstract This paper documents an exchange for healthy human subjects of medical experiments brokered and carried out by a labor union (The United Mine Workers of America) and the federal government (The US National Institutes of Health). The organizations legally established the exchange in a 1960 contract; jobless people took part in the exchange throughout the decade; and the exchange served as a "prototype" for additional exchanges between NIH and organizations in blue-collar communities. The exchange was successful because the organizations negotiated two "dissonant descriptions" of the same action to manage two different audiences – one legal, one vernacular. The case engages three issues in cultural sociology. First, the episode illustrates how philosopher GEM Anscombe's concept of "action under a description" solves a puzzle embedded in studies of culture-in-action and offers a way to more systematically study symbolic action. Second, it demonstrates precisely how organizations, paradoxically, use the language of voluntarism to accomplish market goals. Third, it illuminates the terms of engagement with new commodities and markets in the age of biocapital and in doing so helps deepen understandings of moral markets.
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Action Under a Description: Welfare, Work, and Productive Dissonance

In 1960, the United Mine Workers of America signed an unusual contract. Union staff in the coal hills of Pennsylvania brokered an agreement with the

US National Institutes of Health (NIH) through which a union-owned clinic would receive money in exchange for union members who were out of work. Through the arrangement, jobless union members would move to the NIH research hospital in Bethesda, Maryland, where they would live for several months as healthy "human subjects" of government medical experiments. This paper examines the practices of valuation among staff in these two organizations, first, in the process of negotiating the contract and then in the process of circulating news of the exchange. Words have material consequences, and this paper compares the language that the organizations used to characterize the *kind* of activity the men would be undertaking in the exchange. My broader aims are to develop conceptual tools that address puzzles emerging from studies of culture-in-action and to explain how language practices can perpetuate economic inequalities (Eliasoph and Lichterman, 2003; Swidler, 1986).

Outside of the use of force, how could men move from their homes in rural Pennsylvania into hospital rooms in Bethesda, Maryland to become human subjects? This paper examines, first, the conditions under which they *could* go, legally; and second, the conditions under which they *would* go, practically – in short, to distinguish and compare the conditions that enable action (legally) and prompt it (practically). I argue that whereas organizations had to describe the men's activity as "voluntarism" to bring the exchange into being under the law, it was just as essential to describe the men's activity as "work" to bring it into being in practice. Rather than discard one action-description for another over time, however, the organizations simultaneously sustained two dissonant descriptions of the activity, each language directed at a different audience.

The union and NIH agreed to exchange money for men's time. Yet I show that, as they honed the legal details of the contract, negotiators on both sides of the table made concerted efforts to avoid describing the activity as work or the exchange as a job opportunity. Instead, they inserted the language of civic voluntarism, where the unemployed miners were imagined as the ones helping "humanity," as much as the ones being helped. Over the course of nine months, negotiators crafted a deal in which NIH would pay the union clinic twenty-five dollars per head for recruiting the healthy human subjects, plus 10 percent overhead for "administrative costs." NIH would also pay five dollars per "man-day" that the clinic agreed to pass on to the men, who would in addition get free food, a warm bed, and a health checkup if they moved from their homes in the Allegheny Mountains into a shared hospital room at the NIH Clinical Center.[1] My analysis shows how negotiators actively policed their language and scrubbed any legal communication of references to employment because of

[1] Memo from Associate Director of the Clinical Center [Clifton Himmelsbach] to Medical board members. 16 Sept 1960. Administrative files of the Patient Recruitment and Public Liaison Office, National Institutes of Health, Building 61, Bethesda, Maryland. (Hereafter PRPL).

regulations on welfare and on work that bound each organization. I argue that negotiators' references to voluntarism were a concession to legal constraints on employment as much as they were an ethical statement.

The organizations signed the legal contract in 1960, but a signed contract could not make men go. It was far from a foregone conclusion that the men, despite being unemployed, would move from their homes to a faraway hospital for little money and at risk of losing unemployment benefits, including union recall rights and government welfare compensation, all with potential health hazards that were discussed and described (however imperfectly) in the consent forms they would sign. In practice, the success of the exchange depended on the organizations providing not just an account, but an appealing account, of what kind of activity the men were undertaking. This was necessary both to recruit men for the exchange and to justify the arrangement to broader publics.

The obvious action-description was voluntarism. The organizations had just completed contract negotiations which made clear the importance of *not* describing the activity as work in order to manage policy constraints they each faced. In addition, voluntarism rang of civic altruism and in political terms suggested a choice that had been freely made, without coercion. Yet when addressing unemployed laborers and broader publics, staff of both organizations described the contracted activity as work and the money changing hands as wages. I document how the organizations used the language of employment both to recruit jobless men into the exchange and to build popular support for an exchange that, they worried, might seem suspect to American communities. The language of work had practical effect: NIH admitted its first unemployed miners as human subjects in the new year of 1961 and journalists celebrated the exchange in mass news outlets through the early 1960s. The organizations each articulated the activity as work – the same activity that they had recently agreed, in contract negotiations, was not work. NIH leaders called the arrangement "The Johnstown Plan," and, as they hoped, its material consequences rippled beyond that town. They went on to use the Johnstown contract as a model for additional contracts for human subjects with organizations in impoverished, economically depressed towns throughout the coal hills of Appalachia. The fact that NIH and UMWA chose systematically use the second, legally curious action-description of work when circulating information about the exchange, and that this description was effective, suggests that people placed high moral value on work, relative to voluntarism, in the specific local environment of Cambria County, and in the context of early-1960s America, which was in the midst of a postwar economic collapse and national debates about government support for the deserving and undeserving poor. By understanding the practices of these organizations as embedded in broader discursive fields, it is possible to predict the particular places (Appalachia) and the precise ways (emphasizing work, over voluntarism) that the Johnstown Plan had its enduring consequences as NIH replicated the exchange in other specific locales. By comparing the

languages of legal negotiation and vernacular circulation, I identify a process through which language facilitates novel practices within and across organizations.

This paper makes three interventions in cultural sociology. First, I use the episode to illustrate how philosopher GEM Anscombe's concept of "action under a description" solves a puzzle emerging from studies of culture-in-action and how it offers a way to more systematically study symbolic action (Anscombe, 1957, 1979). In the case I analyze, it can be tempting to explain the organizations' patterned choice of different action-descriptions as a purely instrumental decision. No doubt, both organizations wanted the exchange to succeed so they could get the resources they needed: money for the union and bodies for NIH. Yet cultural sociologists (myself included) insist that instrumental action is always also symbolic (Wuthnow, 1991). Anscombe is useful because her theory suggests how to study the symbolic dimension of action empirically, namely, by holding steady the instrumental dimension. "Since a single action can have many different descriptions," Anscombe writes, "it is important to notice that a man may know that he is doing a thing under one description and not under another" (pp. 11–12). Anscombe is pointing out that it is possible to isolate the symbolic value accorded different actions (e.g., volunteering or working) by studying how, when, and why one behavior is given multiple descriptions. A physical movement may be goal-directed, but people's description(s) of that movement reveal its symbolic meaning. Studying one behavior under multiple action-descriptions controls for the inevitable question of instrumentality and thereby pulls the symbolic dimension of an action, and the discourse surrounding it, to the fore. Already, scholars in other fields have influentially used Anscombe's theory of "action under a description" to show how, by assigning new or additional descriptions to people's behaviors, they can be pathologized or criminalized with extreme material repercussions. Scholars have shown, for example, how disciplining one's children, having satisfying sex, and expressing sadness, became child abuse, homosexuality, and depression (Davidson, 2001; Hacking, 2000; Martin, 2007). Building on this literature, my case shows how action-descriptions are not only replaced over time, but that an activity can simultaneously carry multiple descriptions within a given context and that the same individuals can hold multiple, dissonant descriptions of a given activity. I argue that actors' use of dissonant action-descriptions is patterned, not haphazard, and depends on the audience being addressed.

By elaborating Anscombe's approach, this paper refines foundational scholarship on the meaning of employment in the late-twentieth century that focuses on the moral attributes associated with workers, whether employed or jobless. Brian Steensland has traced how over time federal policymakers classified impoverished potential workers into the deserving and undeserving poor, and on this basis built welfare policies that perpetuated the structural

causes of socioeconomic inequality (Steensland, 2008). Michèle Lamont's classic comparative study of blue-collar workers in the US and France documents how industrial laborers used rhetorical strategies to make sense of their economic positions and to distinguish themselves from white-collar and unworthy workers through moral categories (Lamont, 2002). This interpretive scholarship has been influential because it upends Marx's classic explanation of political economy by dismantling the notion of "false consciousness" and instead explains how symbolic values help account for workers' compliance with systems that produce their own exploitation. Yet in accounting for the failure of historical materialism, this literature has emphasized the resolution of contradictions by documenting the winners and losers in cultural contests and has focused on uniformity of language within a given population and organization. By contrast, I explain the circumstances in which actors actively sustain dissonant languages, rather than resolve incompatibilities, and do so not out of disagreement, but because the contradiction is itself an organizational resource.

Second, I use this episode to display how organizations, paradoxically, use the language of voluntarism to accomplish market goals. In the case of the labor union, the rhetoric of voluntarism allowed it to fulfill their obligations to beneficiaries. The NIH transaction functioned as do-it-yourself welfare at a moment when the union had cut its promised unemployment benefits and before the advent of Medicaid, which became an important safety net for Pennsylvania's mining communities after the policy was introduced in 1965 given the area's high rates of unemployment and disability. In addition, the overleveraged union clinic that officially signed the contract also got operating funds. For its part, NIH got an essential resource for clinical research at a time when the agency restricted experimentation on "employees" and when employment under the civil service came with federal benefits. I argue that this episode registers a phenomenon endemic to late capitalism in which firms achieve market goals by strategically introducing discourses that encourage employees to imagine some work-related activities in terms of voluntarism and encourage people who might reasonably seem to deserve compensation to forego remuneration for their time, effort, or material resources. In the case I analyze, organizations encouraged the language of voluntarism both to provide (in the case of the union) and to avoid (in the case of NIH) promised benefits. More broadly, this case suggests how organizations use voluntarism to improve their corporate image.

Third, the human exchange that I analyze here marks an important shift in commodity and labor markets in the postwar period. I argue that the dissonant descriptions of what one was doing when serving in medical experiments – working, or decidedly not-working – consolidated in the 1960s and helped to set the foundation for the legal market in bio-labor that developed in subsequent decades. To be sure, this rhetorical dissonance was only one of the conditions of

possibility, but it was an essential piece of scaffold nonetheless. And more broadly, social scientists have observed important changes in the use and understanding of living organisms, including humans, during the transition from industrial capitalism in the eighteenth century to techno-scientific capitalism in the late-twentieth century (Cooper and Waldby, 2014; Rajan, 2006). This case study helps to illuminate the terms of engagement that made possible new commodities and markets in the age of biocapital – a period of large-scale production of commodities, such as data, tissue, and living bodies, that are manufactured through natural processes of living organisms and made possible through the postwar emergence of a biotech industry (Cooper, 2008, 2015; Jacobson, 2016; Kowal *et al*, 2013; Radin, 2013; Stevens, 2013; Swanson, 2014). In the 1960s, the exchange between NIH and the union did not constitute a labor market, as classically defined (Fligstein, 2001). Instead, the transaction was ancillary to the industrial labor market rather than part of it. By the 1980s, however, a legally protected labor market for human subjects had emerged (Abadie, 2010; Biehl and Petryna, 2011; Fisher, 2015; Petryna, 2009; Stark, 2012). By linking my cultural analysis to studies of biocapital, I hope to help specify the distinctive features and precise processes of biocapitalism and also to deepen understandings of moral markets, an important new approach in economic sociology (Akyel, 2013; Antal *et al*, 2015; Fourcade and Healy, 2007; Quinn, 2008; Zelizer, 2009).

In the first section, I explain the conditions of possibility for the 1960 contract negotiations by setting it in national, international, and historical context. In the next section, I follow organization staff to the negotiating table and show how these broader contexts implied precise organizational constraints and shaped staffs' sensibilities going into negotiations. In the subsequent two sections, I document that union and NIH stakeholders actively sustained, rather than quashed, mutually contradictory descriptions of the activity, first, in negotiating the contract, and then in circulating the news of the contract. I show how the dissonant discourses allowed the organizations to align their goals but still persuade multiple audiences that this novel exchange was legitimate – one audience legal, one vernacular. In doing so, I clarify the symbolic meaning of work and voluntarism, and demonstrate how Anscombe's concept of action under a description can be put to use for productive, empirical analysis. In the empirical sections, my evidence comes from US government archives, union archives, and an original "vernacular archive" I created with more than one hundred former scientists and human subjects at the NIH Clinical Center, as well as from a first-time release of records from the Clinical Center that I requested under the Freedom of Information Act.[2] In the conclusion, I return to

[2] The audio and transcripts of interviews, as well as images, documents, and other materials from former "normal controls," and the materials included in the FOIA release are archived in the Vernacular Archive of Normal Volunteers (VANV) publicly available online through Harvard University's Countway Library of Medicine. <https://dataverse.harvard.edu/dataverse/vanv>.

these three interventions to elaborate theories of culture in action and to explain practices of markets, organizations, and inequality in late capitalism.

"The Johnstown Plan": Science, Labor, and Exchanges for Bodies in Postwar Context

In the summer of 1960, leaders of the United Mine Workers of America contacted NIH science-administrators to propose an arrangement in which unemployed union members might be enrolled in medical experiments in exchange for money – an exchange that would come to be called "the Johnstown plan." The eventual agreement was not a *fait accompli*, but a social achievement made possible through careful use of and heated debates over language. The union and NIH had tried to arrange such an exchange four years earlier and had failed. In 1956, the UMWA's Executive Medical Assistant had contacted the director of NIH's Clinical Center and, as he relayed to scientists, UMWA "suggested that program directors in need of patients for research purposes could very easily place a scientific speaker on the program of staff meetings held in any of [UMWA's] clinics or of their three hospitals." Although the Clinical Center was the US government's premier research hospital, it was unusually difficult to get patients to move to the NIH Clinical Center, as union leaders knew, because, by federal mandate, anyone admitted to the hospital had to be enrolled in medical experiments. Patients could not stay at the Clinical Center for treatment alone, and, to the disappointment of local suburbanites, it was not there to serve the community. The hospital was built with federal money for research, and specifically "clinical" research, which is to say knowledge about the human body where any treatment was only a bi-product of experiments.

In 1956, UMWA suggested scientists could also tap the union clinics as a source not only of sick patients, but people who were likewise difficult to find: healthy people for medical experiments at the Clinical Center on NIH's terms. The UMWA representative proposed that NIH scientists might draw both sick and healthy people for research from the union's "clinics… in neighboring states," including Pennsylvania, West Virginia, Kentucky, and Virginia.[3] Playing out the possibilities, the UMWA representative went further, and "suggested that programs of scientific interest would be of sufficient importance to invite county medical society groups to attend these staff meetings, increasing the possibility of patient recruitment far beyond the United Mine Workers welfare beneficiaries."[4] NIH scientists were interested. But before the plan got off the

[3] Meeting minutes. 14 Feb 1956. Folder Meetings 3-1-4, Box 31. RG 511(NIH), NARAII. (Also MedBoard).

[4] Meeting minutes. 14 Feb 1956. Folder Meetings 3-1-4, Box 31. RG 511(NIH), NARAII. (Also MedBoard).

ground in 1956, it received "bad press" that derided and derailed the arrangement. The historical record is unclear on the source of the criticism or the precise nature of the critique, but it appeared to come from the side of the union communities.[5]

The failure of the first attempt of such an exchange in 1956 was an object lesson for the UMWA staff in 1960. Their earlier experience taught them that the terms in which the arrangement was described would enable it to succeed or doom it to fail. In the summer of 1960, the Deputy Director of the NIH Clinical Center, Dr. Clifton Himmelsbach, got a tip from Dr. Gordon Meade, a specialist in tuberculosis and the clinical director of the UMWA's network of floundering hospitals (Griner, 1993). Meade explained that the city of Johnstown, Pennsylvania was stifled with work-ready men with time on their hands and little money in their pockets. Recent financial misfortunes of the union and its members could be a boon for clinical researchers, Meade explained. Part of Himmelsbach's job as Deputy Director of the Clinical Center was to get sick and healthy patients for clinical research. His interest was piqued so Meade told him the next step was to call Harold Mayers. From his office at the UMWA's national headquarters in Washington, DC, Mayers had worked for more than a decade as a hospital consultant for the UMWA. He lived nearby the Clinical Center's Bethesda address, in neighboring Chevy Chase, Maryland. At the turn of the 1960s, the union health administrators and federal science-administrators were part of a tight social network, which smoothed the programs they developed together, including the Johnstown Plan.

Himmelsbach called Mayers at the UMWA's Washington office and was prepared with details. Himmelsbach explained how the men would be used, parroting the four mimeographed pages that one of NIH's Clinical Directors, a top leadership position, had handed Himmelsbach two months earlier about the specific gaps in NIH's National Institute of Mental Health "procurement."[6] The Clinical Director explained to Himmelsbach that NIMH scientists needed men who could relocate to Bethesda for the better part of a year and be physically confined at times, though the studies would take no more than 20 h per week, and in some weeks no time at all. "During the bulk of time that a volunteer would not actually be involved in the study, he would be free to leave the ward and to avail himself of the local Clinical Center facilities and those offered by the nearby metropolitan area." By "free" to leave the doctor meant that they

[5] Himmelsbach to Masur. 15 Aug 1960. Memo "Conversation with Mr. Harold Mayers of United Mine Workers Association on August 9, 1960." PRPL.

[6] Cordon memo. 22 June 1960. PRPL. This memo specifies that the men would be living on the fourth floor and the exam rooms were on the third and second floors. "Two special rooms off the unit—one on 2-West and one in 3 N-250—are frequently used at present, because they are equipped with one-way vision mirror, and adjoining rooms contain non-portable electronic analyzing and recording equipment." Szára *et al* (1966) also states the men were telling each other about the effects of the drug being studied since they received the drug one at a time.

would be sometimes able to leave but always had to get written passes to exit the building and often had to get permission to leave their wards if they were on mental health studies. This particular proposal (for studies of drugs for mental illness) described one among many areas of research in which the miners would ultimately be used, such as heart research.

Mayers told Himmelsbach the UMWA would be happy to accommodate NIH's procurement needs. But there was a catch – speaking, as Mayers made clear, "as an interested individual and not as an official representative of the UMW." The UMWA's Welfare Fund had been stung by the repercussions from the previous attempt to coordinate just such an arrangement with the Clinical Center in 1956. The details of the drama are lost to history, but the important point to note is that the failed attempt in 1956 had been painful enough that it endured in institutional memory though 1960. From the UMWA perspective, the moral of the story was not that the exchange was a bad idea. The lesson was rather that the union could broker an arrangement but should avoid appearing to have a direct role in any actual exchange. Himmelsbach got the message: "in view of the past history of unfortunate publicity which had made impossible a previous attempt at cooperation, it would be necessary to completely eliminate any association of the UMW with the proposal…"[7] On this point, the union was adamant. "He pointed out again," Himmelsbach explained to his boss, "that this would also involve the necessity for having some outside organization act as the actual sponsor."[8] Where the union needed secrecy, though, NIH needed a paper trail in light of a burgeoning market for malpractice insurance for doctors and rising cost of medical litigation. Documents could be carried into the courtroom not only to defend NIH's case – but also to incriminate, the more conventional worry of the union.[9] From the perspectives of NIH budget offices, documents also made it possible to move money from one bank account to another.

Himmelsbach was keenly aware he needed more healthy human subjects for NIH scientists' research. "[P]rograms requiring normal volunteers have never been adequately supplied," he explained in 1960. "Many approved projects have not been activated and those activated have had about 20 percent fewer participants than required."[10] In Bethesda, science-administrators hoped to add

[7] Himmelsbach to Masur. 15 Aug 1960. Memo "Conversation with Mr. Harold Mayers of United Mine Workers Association on August 9, 1960." PRPL.

[8] Himmelsbach to Masur. 15 Aug 1960. Memo "Conversation with Mr. Harold Mayers of United Mine Workers Association on August 9, 1960." PRPL.

[9] Himmelsbach to Billstone. 22 Aug 1960. "I do hope that some member of the group will see fit to document the history of its development as we go along, and later report it as the 'Johnstown plan.' I am sure that with the inevitable growth of clinical research throughout the country, the need for guidance in obtaining normal volunteers is going to be substantial." PRPL.

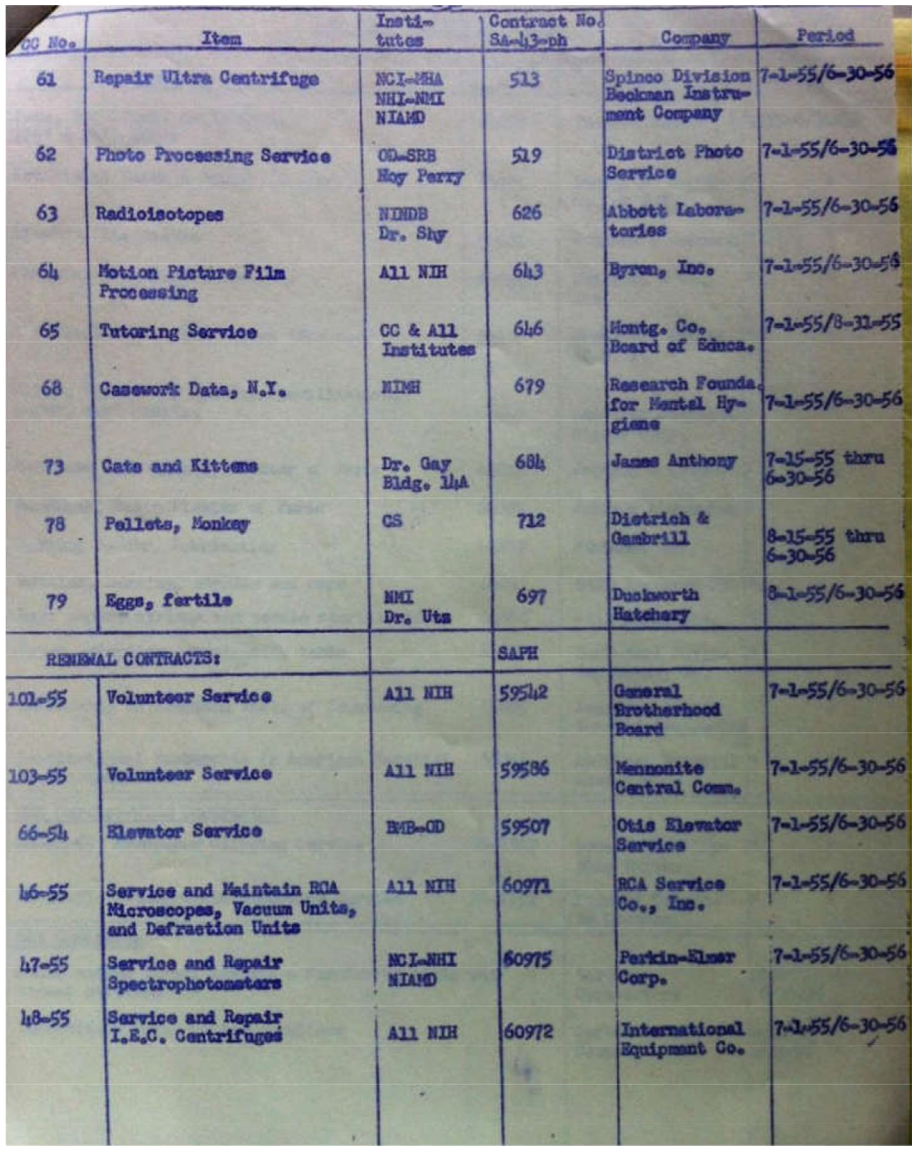
[10] Meeting minutes. 14 Sept 1960. Folder: Minutes of the medical board April 14 1959 – March 28 1961. Box 1. Accession 0791, Clinical Center Office of Medical Services, 1953–87. National Library of Medicine, Bethesda, Maryland. (Hereafter MedBoard).

the Johnstown Plan to NIH's existing program for recruiting healthy human subjects for clinical experiments: NIH's Normal Volunteer Patient Program. Through this program, over the previous five years NIH had brought healthy civilians to the NIH Clinical Center after it opened in 1953. As part of a government agency, NIH leaders had to sign contracts with organizations in order for money to change hands – including money to "purchase" the time of healthy people for medical experiments ("man-time" in NIH parlance). Until 1959, NIH had signed only two contracts for healthy human subjects, both with Anabaptist church organizations, namely, the Mennonite Church and the Church of the Brethren. The churches had added the NIH Normal Volunteer Patient Program to a menu of options it offered Anabaptists hoping to volunteer for several months or years in humanitarian service projects out of religious inclination or because they were pacifists drafted during the Korean War. Starting in 1954, one placement option for Anabaptists was to live inside the NIH Clinical Center as a human subject of medical experiments (Campbell and Stark, 2015).

Himmelsbach had a difficult task in the context of postwar medical law and popular sentiment. In the 1950s, the NIH Normal Volunteer Patient Program was novel in that it established a large-scale, anonymous, civilian market for healthy human subjects. Prior to World War II, medical experiments on healthy people were done on two types of people: those with a debt to the state, such as soldiers and prisoners, and those with an intimate relationship to researchers, such as family members and students. Because of changes in the scale, scope, and funding of medical research after World War II, NIH science-administrators had sought to create a system that would allow them to get a new, indispensable medical resource – a consistent supply of large numbers of healthy, previously unknown, civilians for their medical experiments.

The exchange NIH created in the 1950s is unusually important because NIH was distinctively situated within the federal government, which meant that the official policies they set for exchanges for human subjects were as good as law. NIH science-administrators legalized transactions of federal money for man-time by applying a familiar mechanism, namely legal contracts, to a new practice, namely payment for human clinical materials that the agency had previously used to buy animals and other research supplies (Figure 1).

NIH's exchange should not be understood simply as one useful case that might be generalized to other settings, but rather as a precedent that set the legal and cultural possibilities for other organizations in postwar America. From NIH's perspective, the 1950s exchange of money for man-time constituted a "closed market" for human subjects – to the extent that the financial transactions appeared to be based on choice by large numbers of anonymous civilians, rather than on coercion by the state or intimates. From an analytic perspective, however, the exchanges constituted neither a labor market nor a commodity market. There was no competition nor robust system of regulation



CC No.	Item	Institutes	Contract No. SA-43-ph	Company	Period
61	Repair Ultra Centrifuge	NCI-MHA NHI-NMI NIAMD	513	Spinco Division Beckman Instrument Company	7-1-55/6-30-56
62	Photo Processing Service	OD-SRB Roy Perry	519	District Photo Service	7-1-55/6-30-56
63	Radioisotopes	NIMDB Dr. Shy	626	Abbott Laboratories	7-1-55/6-30-56
64	Motion Picture Film Processing	All NIH	643	Byron, Inc.	7-1-55/6-30-56
65	Tutoring Service	CC & All Institutes	646	Montg. Co. Board of Educa.	7-1-55/8-31-55
68	Casework Data, N.Y.	NIMH	679	Research Founda. for Mental Hygiene	7-1-55/6-30-56
73	Cats and Kittens	Dr. Gay Bldg. 14A	684	James Anthony	7-15-55 thru 6-30-56
78	Pellets, Monkey	CS	712	Dietrich & Cambrill	8-15-55 thru 6-30-56
79	Eggs, fertile	NMI Dr. Uts	697	Duckworth Hatchery	8-1-55/6-30-56
RENEWAL CONTRACTS:			SAPH		
101-55	Volunteer Service	All NIH	59542	General Brotherhood Board	7-1-55/6-30-56
103-55	Volunteer Service	All NIH	59586	Mennonite Central Comm.	7-1-55/6-30-56
66-54	Elevator Service	B&B-OD	59507	Otis Elevator Service	7-1-55/6-30-56
46-55	Service and Maintain RCA Microscopes, Vacuum Units, and Defraction Units	All NIH	60971	RCA Service Co., Inc.	7-1-55/6-30-56
47-55	Service and Repair Spectrophotometers	NCI-NHI NIAMD	60975	Perkin-Elmer Corp.	7-1-55/6-30-56
48-55	Service and Repair I.E.C. Centrifuges	All NIH	60972	International Equipment Co.	7-1-55/6-30-56

Figure 1: The US National Institutes of Health used the legal instrument of the procurement contract to purchase "voluntary service" of people who agreed to be human subjects of medical experiments throughout the postwar decades. The NIH had conventionally used procurement contracts to purchase materials for research, such as radioisotopes, fertile eggs, animals (e.g., "cats and kittens") and food for experimental animals. The contract to procure unemployed laborers in 1960 was modeled on NIH's first procurement contracts with the General Brotherhood Board, i.e. Church of the Brethren (contract number 101-55) and with the Mennonite Central Committee (contract number 103-55). Source: "1956 Continuing contacts," Folder: Contracts, Box 15, Central Subject File, 1954-1957, Record Group 511: NIMH, National Archives and Research Administration II, College Park, MD. (Location summary: Stack 130, Row 70, Compartment 19-20; 20-21, Shelf 1-6, Record ID A1 entry 16).

(Fligstein, 2001, pp. 53–56). I argue, however, that NIH's contracts set the legal foundation for the large-scale, anonymous, civilian labor markets for human subjects that developed when the private pharmaceutical industry expanded in later decades (Biehl and Petryna, 2011; Fisher, 2009, 2015; Petryna, 2009).

The language that NIH used to create and expand the Normal Volunteer Patient Program bears the marks of the historical context in which the program took shape. For NIH science-administrators, new legal questions came to the fore during the 1950s and new worries about the public perception of medical experiments. In the 1950s, the moral valences attached to the figure of the "human guinea pig" were in flux. During the 1940s, human guinea pigs were heroic figures, bravely suffering for the sake of others (Herzig, 2006; Lederer, 1995; Leopold and Gardner, 1958; Tucker, 2008). Americans created clubs for human subjects ("guinea pig societies"); the US government stamped "guinea pig units" on the lists of men used in federal human experiments during World War II (Bateman-House, 2009).[11] Both human subjects and the researchers who used them referred to them in these terms. Yet by the mid-1950s, the meaning of human guinea pigs took on a sinister tone. "As a special favor, if you can possibly avoid using the 'guinea pig' label, please do so," the Clinical Center's Information Officer asked one Anabaptist group in 1954. "There is a Buchenwald connotation in the phrase which is totally false, and we are doing everything possible to discourage it."[12] If the moral meaning of "human guinea pig" was in flux, the meaning of Buchenwald was settled. It was the German town where the Third Reich built a labor camp that carried out human experiments on prisoners.

NIH's language of voluntarism during the 1960 contract negotiations instantiated the agency's concern to safeguard the reputation of medical experiments, given the need for support among the taxpayers who funded scientists' research and among the communities from which human subjects would be recruited. Yet NIH did so as much because the agency was testing new legal terrain, not only out of moral leadership, as it often argued. To be sure, scientists at NIH and across the United States were aware of the 1947 Nuremberg Code, which codified the rules for the ethical treatment of human subjects of experiment. Indeed, American researchers had written the Nuremberg Code and led the prosecution at Nuremberg (Annas and Grodin, 1992; Weindling, 2004). Yet the Code was regarded as an articulation of what American scientists already knew and a chastisement to the abusive Nazi doctors. To American researchers, the Code was addressed to authoritarian regimes and criminals. It was not addressed to democratic researchers in free

[11] See also the Peace Collection at Swarthmore College archives.

[12] Hardy (Information Officer, CC) to Kliewer (Information Services, MCC). 2 August 1954. Folder: National Institutes of Health, 1954. Series: MCC correspondence, IX-6-3. Mennonite Central Committee Archives, Goshen, Indiana.

states, who they thought had good judgment by definition, and as a result, the Code had little effect on American medical research in practice. At the time, there were no federal regulations for the treatment of human subjects: the National Research Act, which first mandated "institutional review" of research, passed in 1974 (Stark, 2012). There was little legal precedent to guide scientists' use of healthy human subjects: the phrase "informed consent" was first used in a judicial ruling on a sick patient in 1957 and an internal audit of studies that year showed NIH scientists rarely got signed consent (Faden and Beauchamp, 1986; *The Final Report of the Advisory Committee on Human Radiation Experiments*, 1996).[13] There was little concern about structural inequalities in medical recruitment: the *Washington Star* only broke the story of the Tuskegee Syphilis Experiments in 1972, even though findings from the studies had circulated in the scientific literature for decades (Jones, 1993; Reverby, 2009; Stark, 2014a).

The circumstances that predicated NIH's language of voluntarism in the 1960 contract negotiations came in part from the agency's concern that its medical researchers would get a bad reputation undeservedly, not that its medical researchers would badly treat human subjects, and its specific concern was with the novel practice of experimenting on healthy, previously unknown civilians, as much as with the familiar practice of experimenting on sick people. The agency took several steps to safeguard its reputation as it started the unusual practice of signing contracts for healthy, civilian strangers to use in experiments. First, it created a "trustee organization" (Shapiro, 1987) a group within the agency that would safeguard its reputation and smooth functioning. As the Clinical Center was set to open, the hospital's science leaders created a committee to review studies on all healthy people, but on sick patients only if the studies involved "unusual hazard" (Kutcher, 2009; McCarthy, 2008; Stark, 2012). Their distinction between type of patient (healthy versus sick) and level of hazard (hazardous and routinely risky) reveals the strangeness of doing research on anonymous healthy civilians at the time. Second, they crafted recruitment materials for human subjects that anticipated negative views rather than assumed supportive audiences. A 1950s brochure to recruit healthy human subjects started with a puzzle: "'Why on earth do you admit healthy people to your hospital?' is a question frequently asked by visitors to the Clinical Center at the National Institutes of Health (NIH), Bethesda, Maryland."[14] The

[13] Memo. 18 Oct 1960 attached to Feb 1965 meeting minutes. Folder: October 13 1964–Jan 25, 1966. Box 1. MedBoard. NIH administrators only systematically required written consent in the 1960s (as opposed to oral or tacit consent), and the audit of 1957 records was retrospective. "A recent review of 52 records of normal control patients discharged from July 1, 1956, to May 11, 1957, disclosed infrequent evidence of such informed consent…As a matter of fact, there is evidence that occasionally normal controls are started on new studies without notification or explanation of any kind."

[14] Recruitment flier, 195[4], US National Institutes of Health. Clinical Center Collection. Office of NIH History, NIH. Bethesda, Maryland.

brochure reveals that NIH sensed the public was puzzled by, if not hostile to, the prospect of human experiments on healthy people. By anticipating popular sensibilities, NIH was able to provide answers convenient for their recruiting program. Third, NIH tightly managed the public image of medical experiments. In the 1950s, the agency passed policies on working with journalists, created its own information clearinghouses and publications, and monitored media coverage of the Clinical Center. In the 1950s, mass-market publications, such as the *Saturday Evening Post*, ran many enthusiastic pieces on experimentation at the Clinical Center.[15] NIH leaders simultaneously spurred on positive media coverage of the program because scientists needed more human subjects as the agency grew, and yet kept any journalists cleared to cover the program on a tight rein. NIH's media management channeled the terms available to journalists to articulate and explain the Johnstown exchange, once it was added to the NIH program.

Thus, at the end of the 1950s, NIH science-administrators had a keen sense that medical experimentation on healthy civilians was a freighted proposition because it was uncharted legal terrain and because of the new need to take into account popular opinion on medical experiment. As NIH sat poised for contract negotiations, in September of 1960, the NIH clinical directors met and discussed that it would be difficult yet essential "to sustain the current high regard of the public for human experimentation. It is easy to recall that the quality of respect and regard that we now enjoy is quite fragile." They felt that "It is also important for the investigators to bear in mind the high importance and the essentiality of the normal volunteers to scientific progress in elucidating the nature of diseases. Truly, the constitute (sic) a most precious resource and one which we should protect with care."

Sentiment aside, NIH administrators worried about the legal status of experimentation on healthy people as they pursued the Johnstown Plan. "Legally, we are in a curious position because the law has not faced up to the facts of life as far as 'human experimentation' is concerned. Actually, 20th Century research is operating in an 18th Century legal climate since the term 'experimentation' is equated more with malpractice rather than with controlled clinical trials. Consequently, the physician experiments at his own risk." To protect themselves legally, scientists should be sure to document they had consent from their human subjects, NIH leaders advised. "If there be a truly soft spot in our program," the Clinical Center's deputy director judged, "this is it."[16] At NIH, all contracts for human subjects had to be approved by the Office of General Counsel and get the sign-off of the NIH Director.

[15] The Medical Board tracked, reported and discussed in meetings news stories on the Clinical Center, e.g., Meeting minutes, 1965 April 27. Folder: October 13 1964–Jan 25, 1966. Box 1. MedBoard.

[16] Meeting minutes. 14 Sept 1960 Folder: Minutes of the medical board April 14 1959–March 28 1961. Box 1. MedBoard.

Thus both the union and NIH were alert to the material consequences of linguistic descriptions of action – both under the law and among vernacular audiences. They had tried to create the arrangement once and failed, and sensed more broadly that the jury was still out on the status of medical experiment both in federal courts and in the court of public opinion. They succeed in 1960 in part, I show, because they sustained dissonant descriptions of joblessness, which allowed the organizations simultaneously to retain the legal benefits of unemployment – for the jobless workers as well as for the organizations – and to enroll jobless workers and publics into support for the exchange, previously seen as questionable.

Ethical concerns no doubt help to explain the language of voluntarism in legal and popular accounts of medical experimentation, yet this single explanation – ethical imperative – has been over-determined among scholars after the birth of modern bioethics. The focus on the politics of individual choice and motivation does not alone account for the full meaning of the postwar language of voluntarism. By linking the organizations to their broader discursive fields, I show in the next section, the language of voluntarism usefully filled a linguistic void for both organizations that was created by state incentives to avoid figuring jobless union members as "workers."

How Federal Policies Created Organizational Constraints on "Employment"

NIH's Clifton Himmelsbach followed union instructions to call "a friend" in Johnstown, Thomas Berret, a local union staffer. Over the summer of 1959, NIH and UMWA arranged the necessary conditions to bring the organizations to the negotiating table for a potential exchange. Some of the issues, though essential to resolve, were specific to the immediate circumstances. For example, to deal with the issue of who would front the contract, and therefore need to be at the negotiations, Himmelsbach had passed on the name of the point person on one of NIH's two existing contracts for "normal controls," which was with the national organization for the Church of the Brethren, headquartered in Elgin, IL in case Berret "wished to seek sponsorship from that quarter." Berret offered a contingency plan: Johnstown's local County Mental Health Association, which had at least one union ally on its Board of Trustees and which union members' families used regularly. ("A splendid sponsoring agency," Himmelsbach replied with relief: "we would be pleased to deal with an organization of this nature.") Himmelsbach and Berret also needed to figure out how to align NIH scientists' ideal men with the actual men the union had available bubbling forth from the coal mines. Berret confessed, "It would be much easier to find men in the age range of 40–50 than in the age range of 25–40," which was the range that Himmelsbach had requested on scientists'

behalf, "but it would still be possible."[17] Older men would suffice, but Himmelsbach might have to draw the line at missing body parts. "He wondered if individuals with minor amputations or with 'mild silicosis' would be acceptable," Himmelsbach reported to his NIH colleagues. "I told him that I would let him know."

The most important issue was that of money – not the amount, but its status. This points to the importance of policies regarding "employment" in shaping how the organizations could conceptualize and would ultimately describe the kind of action the exchange constituted in legal terms. There was little Himmelsbach could do about the dollars and cents: the NIH maximum rate was five dollars per day, the standard set during the Anabaptist contract negotiations five years earlier. Himmelsbach insisted the money was a "per diem," which shows the importance to NIH of describing the activity in terms of service and stipends – not employment. But Berret was operating in a world of work and wages, so his intuition was that the negotiations would be about pay. "He raised a question about unemployment compensation and I indicated in no uncertain terms," Himmelsbach reported, "that we could not consider these individuals to be employed while in residence here."[18]

This section shows that both the union and the federal agency negotiated within organizational constraints that came from their responses to federal policies on employment and shaped how they described the action of getting money for man-time in relation to "employment" during the eventual contract negotiations. For the union, three legal factors were at play. The Commonwealth of Pennsylvania's welfare policy, the union's other contract agreements with steel companies, and its formal obligations to jobless beneficiaries caused union negotiators to describe the money the jobless men received as a stipend, not as pay, and to frame their time at NIH as an activity while unemployed, not as work. On their side, NIH negotiators faced three legal constraints as well. The US government's benefits and protections for members of the civil service, federal restrictions on using employees as human subjects, and NIH's existing contracts for human subjects prompted negotiators likewise to insist the jobless people receiving NIH money were volunteers, not employees, who were getting a stipend, not pay.

UMWA: Unemployment, Welfare, and Jobless Benefits

The UMWA saw the contract with NIH as a way to deliver the welfare benefits it promised to unemployed members who had lost their jobs in the industrial

[17] Himmelsbach Memo. 9 August 1960. "Subject: Possible Normal Controls From Johnstown, Pennsylvania." PRPL.

[18] Himmelsbach to Berret. 10 Aug 1960 PRPL Himmelsbach offered to visit and to bring Maginnis. Himmelsbach told Berret also that he hoped "it will be possible for you to visit the Clinical Center and become acquainted first-hand with our facilities, personnel, and programs."

labor market – while also retaining state unemployment payments for jobless workers and generating revenue for the union itself. From the time it was settled, Johnstown had been a company town: a place where most goods and services were provided by the same employers that had originally enticed residents to move into relative isolation for work (Laslett and Fishback, 1996; Whittle, 2007). The cities of southwestern Pennsylvania, like Pittsburgh, are monuments to the American traditions that have set personal wealth in close proximity to the extreme poverty it sustained. (After the legendary Johnstown Flood in 1889, Carnegie rebuilt the broken dams. Major philanthropies continue to fund art museums that showcase the visual critiques of capitalism that were forged from the steel belt by native sons like Andy Warhol.)

The Johnstown economy had gone into a major recession in 1958 at the same time the US economy had tipped downward, presaging the financial market's long contraction of the 1960s. Circumstances in Johnstown were especially bleak. Most US policymakers in the years around 1960 felt that a national unemployment rate that ranged between 5 and 7 percent created a serious risk of poverty (Steensland, 2008, p. 44). Unemployment rates in Johnstown rose to around 20 percent in the late 1950s and stayed there through 1964 (Whittle, 2007). Johnstown was the hub of Cambria County, which had a total population of 200,000 in 1960. Pennsylvania as a whole was relatively well off: 17 percent of the state's residents were in poverty. By contrast, Cambria County, at 26 percent poverty rate, topped even the unusually high US poverty rate in 1960 (22 percent).[19]

Job prospects were poor in the area in the late 1950s because manufacturers needed less coal and steel after their big client – the US government – cut orders for warships, airplanes, and other battle trappings at the end of World War II. Although military threats still loomed, the United States shifted away from the conventional machinery of war and towards nuclear weapons, which resulted in less defense work for the steel and coal industries (Creager, 2013; Judt, 2006). New technologies made matters worse for the mining industry, and the situation in Johnstown by the end of the 1950s was evidence of their effect. The invention of diesel engines for trains and other new technologies pushed resources like coal from the market. Automated technologies produced more output in less time – and with fewer demands – than people (Strohmeyer, 1994). And the machine industry added physical injury to the insult of job loss. In the Johnstown area, most mining went on underground rather than in the open air (as in strip mining, for example). Inside the mining shafts, machines created

[19] US Census data for 1960. Accessed Dec 26, 2014. I thank Erin Kelly for locating these data. Poverty rates in 1960 census:

Cambria County, PA: 25.63 percent (51,000/200,000)
PA poverty rates in 1960 census: 16.99 percent
US poverty rates in 1960 census: 22.10 percent.

extra coal dust, which workers inhaled. Through the 1960s, US government officials did not recognize "black lung" as a legitimate disease classification because causality was difficult to prove clinically, though decades' worth of epidemiological evidence from miners in the US and UK suggested a connection between mining and lung disease. The paradox of coal mining was that laborers went to the doctor so they could return to the source of their illness, which was also the source of their income: the mines (Derickson, 1996, 1998; Hecht, 2012; Murphy, 2006; Rosner and Markowitz, 1989, 2006).

US Steel and Bethlehem Steel were the two big employers in Johnstown. On the national scene, US Steel was a dominant American steel producer by any metric, and Bethlehem Steel was the largest of the small steel producers known as "little steel." Bethlehem Steel was a large force in the regional economy. As a result, there was a substantial effect on Johnstown when the company began cutting workers steadily in the late 1950s, a trend that has continued to the present. Between 1957 and 2000, the average annual number of employees at Bethlehem Steel decreased tenfold (Strohmeyer, 1994).

In July 1959, the United Mine Workers called a strike, which lasted into the new year of 1960. It was the longest strike in the steel industry's history, and still holds the record. In Johnstown, the strike, in tandem with the decreased demand for coal and steel plus the turn toward automated mining, produced a hopeless economy that rippled through the 1960s. In everyday life, this meant that the staple employers in Johnstown – mining companies – either laid off or never hired workers. Young people chose to settle elsewhere and longtime residents moved out (Whittle, 2007) (Personal communication with Jon Darling, Aug 19, 2015).

To support laborers and their families in the area of healthcare, UMWA started its "Welfare and Retirement Fund" in 1948, and filled its coffers with revenue from a federally negotiated levy that mining companies had to pay: five cents for every ton of coal had to go towards improving miners' health and work conditions (Derickson, 1996). The Welfare Fund was a well-intended, ill-fated, distinctly American necessity. Over the course of the twentieth century, the US government created a healthcare system that made citizens dependent on their employers for care. Starting in 1935 with Franklin Roosevelt's Social Security Act, the US government enacted plans to help people stave off poverty and its effects, especially poor health, but they did so in a limited way that did little to help blue-collar workers. The 1935 Act did create government income-support plans for people who were too old to work or were temporarily unemployed, but it excluded other low-income people – including those who were underpaid or chronically unemployed – because lawmakers aimed to avoid the appearance of having created a broad public assistance program (Béland, 2005; Steensland, 2008, pp. 52–78). Most critically and under pressure from the medical lobby, lawmakers removed the original third piece of the bill – universal medical insurance (Hoffman, 2013; Quadagno, 2006; Starr, 2013). By the 1930s, medical care was expensive enough that few individuals could afford the

cost of treatment or hospital stays without it. US lawmakers continued to rely on private organizations' health insurance offerings for all but the most destitute people. During World War II, the US federal government limited the amount companies could pay employees to prevent inflation, but allowed companies to compete for good workers in the tight wartime labor market by offering luxurious fringe benefits, such as health insurance (Starr, 1982, p. 311). Yet most employers offered private pension and health insurance programs only to professional and middleclass workers. Left unprompted, employers neglected to offer affordable, complete benefits to factory workers, miners, and other laborers. In later decades, US lawmakers failed to pass policies that would help people avoid poverty and its consequences, like poor health.

When the US economy went into recession – first in 1957 briefly and again in 1960 for several years – the Kennedy administration pushed job creation rather than programs to prevent poverty and low income, a federal policy decision that the union had to manage. The Kennedy approach was largely ineffectual, later critics would argue, because it did not account for "structural unemployment," that is, the fact that some people were at a disadvantage in getting a job even when they were available because of employment discrimination both subtle and overt (e.g., based on race, gender, and age) or because of the limitations of their social position (geographic location, level of education) (Steensland, 2008, pp. 44–47). Unions inserted themselves here (Mulcahy, 1996, 1988). With hundreds of thousands of members, most unions negotiated decent health insurance plans with private insurers – and did so with the unprecedented help of employers, who were weary and increasingly disreputable after postwar strikes.

There was one exception. Where most unions outsourced health coverage to private insurers in the context of federal policies, United Mine Workers bankrolled ten hospitals, bought several coalfield clinics, and hired their own doctors on salary. The idea was that the union would create its own healthcare delivery system, rather than turn to private insurers. Through the UMWA system, miners were able to go to specific clinics, though they were not necessarily the nearest or best. Derickson records that UMWA's unique healthcare delivery system "took place within an antagonistic framework of community attitudes in many areas, where union-related hospitals and clinics were viewed with suspicion" (p. 251).

Labor economists and policymakers across the country waited to observe the fate of UMWA's distinctive healthcare delivery system. In less than a decade, the Welfare Fund was clobbered by its own initiative. The hospitals were bleeding money, and the union sold all ten hospitals in less than a decade in a deal supervised by the federal Office for Economic Opportunity (Derickson, 1996).[20]

[20] "Report: Supporting paper for proposed Appalachian regional hospital budget for period July 1 1965 to June 30, 1966." No date. Folder: Appalachia. Box 1: "Absence from office" through "budget." Entry: Subject Files, 1965–1969. RG381: Office of Economic Opportunity. National Archives and Research Administration, College Park, MD.

Because of their unique response to federal healthcare policy, the Welfare Fund was in dire financial straits by 1960. The Welfare Fund was therefore unable to provide promised benefits of healthcare and of financial support in the event of death, disability, and job loss. In 1954, the Fund had stopped giving cash benefits to disabled miners and widows, and in 1960, as the US economy convulsed, the Fund cut pensions from 100 dollars to 75 dollars per month. The same year, it suspended healthcare benefits for miners who were out of work, which compounded the ill effects of job loss, and the union instead relied on state government support for jobless miners, which required "unemployment" to qualify. By 1961, the Fund's expenses outstripped its income by 17 million dollars (George, 1996; Myers, 1967; Ploss, 1981, pp. 97–100). As a powerful player within the industrial labor market, the union was seeking to accomplish its market-based goals – namely, to deliver promised health, retirement, and job-loss benefits for industrial workers and to generate revenue for the organization itself through the proposed exchange with NIH. For the union, it was important in legal matters to avoid describing the action enabled through the exchange as "employment."

NIH: Not Employment as a Federal Requirement

By the end of the 1950s, NIH science-administrators for legal, logistical, and scientific reasons wanted to recruit healthy human subjects who were, specifically, not employed. Legally, the US government offered a range of benefits and protections to civil servants. Thus, employment was a costly and cumbersome prospect for the US government, and as state actors, NIH negotiators responded to federal policies by insisting that healthy human subjects, though given money from NIH, were not federal employees. This legal issue also shows the importance for NIH of channeling NIH payments to human subjects through "procurement" contracts with organizations on the model of other science materials, rather than through direct recruitment of individuals on the model of employment. More locally, NIH scientists were constrained by a second policy. The US federal government restricted NIH scientists from using NIH employees as healthy human subjects. In 1954, the NIH Office of General Counsel explicitly banned the use of employees in medical research unless employees took personal leave time. In addition to liability concerns, NIH lawyers saw it as inappropriate use of federal workers' time. Finally, NIH science-administrators had passed a policy in 1954 specifically restricting participants in the Normal Volunteer Patient Program from having "gainful employment."[21] It was a reactive policy. One Anabaptist normal control had taken a job off campus as a janitor and had

[21] Memo "gainful employment of conscientious objector volunteer patients." 3 Jan 1955. PRPL See also Meeting Minutes. 1 Sept 1956. MedBoard: "Information for Normal Control Patients.—It was reported that a question had been raised as to whether or not the proposed document on the 'Information for Normal Control Patients' should include a statement of our policy with regard to conscientious objector volunteer patients accepting gainful employment while patients at the

neglected to collect his urine that scientists needed for studies. The aim of the NIH policy was to ensure that healthy human subjects were available for experiments on demand. By the time NIH was negotiating the union contract, the potential Johnstown recruits were *de facto* required to be unemployed.

Thus, NIH restricted healthy human subjects from outside employment and would not consider them "employed" as human subjects, and yet NIH actively sought human subjects who *wanted* to be employed because scientists regarded it as a sign of normalcy. As of 1959, NIH only had contracts with and thus could only recruit normal controls from two organizations, both Anabaptist church groups. The Anabaptist normal controls came to NIH through church service programs, which were akin (though not identical) to missionary service programs. NIH scientists struggled to reconcile Anabaptist normal controls' apparent desire to serve as human subjects (to witness the suffering of Jesus) with the capitalist mentality and metric endemic to NIH. Scientists started to attribute their puzzling research findings to the questionable normalcy of their normal controls, and began to suspect that the Anabaptist human subjects were poor stand-ins for the average healthy person they were meant to represent. According to NIH scientists, the "normal" Anabaptists' patterns of seeming pathology stemmed from the broader fact that they placed such high moral value on service, since "in our culture a normal young person is more likely to pursue an uninterrupted course of education or gainful occupation self-advancement, than to dedicate a year or two of his or her life to community service." While needing to avoid language of employment for legal audiences, NIH also wanted in practice to get normal controls who wished to work. What is more, NIH scientists suspected that the "Mennonite Central Committee and the Brethren Service Commission have a real problem finding sufficient volunteers for their world-wide service programs during the colder months. Not infrequently their most normal and effective volunteers are sent into the field to positions of independent responsibility, while 'placement problems' are assigned to NIH. The result is that there are not enough volunteers assigned to NIH and there is a high prevalence of psychopathology among those who come here."

Thus for NIH, the potential Johnstown contract had special appeal in addition to the brute fact of miners' availability. The exchange implied that potential recruits had an appropriate, indeed healthy, relationship to the paid labor force – an affection for a capitalist political economy and a preferred status as workers. NIH assumed unemployment was a predictable, if unfortunate, outcome of a well-functioning American economy. Compared to the Anabaptists, the potential Johnstown recruits were living by-products of late

Footnote 21 continued
Clinical Center. The Medical Board at its meeting on December 14, 1954 recommended not to allow Normals to work outside of the Clinical Center."

capitalism, not resisters to it. Their orientation to the paid labor force signaled their normalcy and thus their good quality as "normal controls" in medical experiments, stand-ins for the human ideal-type in their typicality. Their orientation to the labor market was as important as the issue of body parts. The potential Johnstown recruits might have been unemployed – and were *de facto* required to be unemployed to move for months to the Clinical Center – yet their joblessness, imposed not chosen, signaled to scientists their appreciation of the paid labor force.

Joblessness was required to live at the Clinical Center, and unemployment was literally a sign of health. Thus, with the Johnstown miners, NIH administrators felt they had struck a rich vein of research materials, a natural resource created by late capitalism itself that would yield more human subjects like them: people from impoverished American towns. To NIH administrators, Johnstown represented a type of arrangement that NIH could reproduce with a new set of organizations, or "institutional forms." The potential Johnstown contract was important to NIH because it was the first that exemplified "an institutional form supported by the bulk of the private and public agencies of the community which must deal with the impact of the socio-economic concomitants of employment limitations."[22] NIH leaders recognized in Johnstown the possibility of using the quality of a local economy as a criterion for targeting towns, then identifying contract organizations, and ultimately recruiting people who might want to join the Normal Volunteer Patient Program. Federal policies and prior experience informed NIH's triumvirate of requirements all orbiting the issue of employment: that the healthy human subjects were not employed, they would not be employed, but they wanted to be employed nonetheless.

Negotiating the Contract: Avoiding "Employment" for Legal Audiences

NIH's Clifton Himmelsbach flew from Washington to Johnstown in August and September of 1960 for a series of meetings that would eventually result in a signed contract. The process of negotiation during the fall of 1960 gives evidence of the legal terms in which the exchange was possible. These legal conditions yielded the literal linguistic terms in which the organizations could describe the activity. Although the planned activity involved giving men money in exchange a service, both organizations were operating in the context of government policies regarding employment that created a disincentive for each organization to recognize the activity as "employment." The contract negotiations show that the language of voluntarism was an effort to avoid the language of employment in legal circumstances, as much as a positive effort to appear ethical.

[22] Meeting minutes. 14 Sept 1960. MedBoard.

At the end of August 1960, Himmelsbach walked into the Johnstown City-County Clinic on Main Street, the union clinic that the UMWA's Thomas Berret had suggested. When Himmelsbach arrived, it had only been ten days since he had hung up the phone with Berret in Johnstown. In the meantime, Himmelsbach had mailed Berret and other staff at the UMWA Welfare Fund in Johnstown some documents to give them a sense of what the exchange might entail: NIMH scientists' proposal for research, NIMH's information flier for healthy human subjects, the Clinical Center handbook specially written for normal controls, a description of the Clinical Center including religious services at the hospital, the Church of the Brethren's "application for Christian service," the church's own leaflet for the NIH normal controls program, and a flattering human-interest story recently published in the *Saturday Evening Post* about the intrepid scientists and sporting Anabaptist volunteers at the Clinical Center.[23]

This first meeting was a strategy session. The UMWA's Welfare Fund host for Himmelsbach and the Welfare Fund's representatives at the meeting were its local rehabilitation administrator and his wife, who also was a nurse for the Fund. The UMWA had also invited the staff representative of the other powerful union in the area, United Steelworkers of America. In addition, UMWA invited the major employer that both unions typically worked with (or against, as the case may be), namely, Bethlehem Steel Company. It was useful that the Bethlehem Steel representative at the meeting was also chair of the City-County Clinic's Board of Trustees, the group that would ultimately have to approve any contract with NIH, if it were to be the front organization. From the local governments, Himmelsbach met representatives from the county's Bureau of Public Assistance and the state's Bureau of Vocational Rehabilitation. Finally, and not to be overlooked, the director of the modest clinic where they all sat had joined the meeting, too. The clinic director could be the lynchpin in the quiet arrangement if he agreed to the day-to-day details of the plan and allowed his clinic to be named on the contract as the sponsoring agency. Since the UMWA wanted to work out an arrangement with NIH but refused to be named on the contract that NIH required, it was essential to both organizations to find some individual to lend a signature and an organization that could appear on the contract. The Church of the Brethren seemed to have declined to front the Welfare Fund's arrangement, so Himmelsbach was "anxious" since it was uncertain that the director would allow his Johnstown City-County Clinic to appear on the dotted line. But there was reason for optimism: this clinic was part of the Welfare Fund's system and was also funded in part through extramural grants from NIMH.

Everyone in the room was either sympathetic or enthusiastic towards a potential exchange. Yet they all also had sincere concerns that consolidated their description of the kind of activity men would be undertaking in terms of

[23] Himmelsbach to Billstone, Dir City-Co Clinic Johnstown. 12 Aug 1960. PRPL.

voluntarism, not employment. Their concerns were the concrete manifestations of abstract government policies regarding the benefits and prohibitions of employment and unemployment. First, they were concerned about the logistical issues of exchanging time for money, which were especially complicated for people who were unemployed. When workers were laid off, the unions typically paid them an unemployment benefit for several months (though the Welfare Fund was in the process of cutting its benefits). The state government allowed them to earn no more than $200 dollars per month (around $18,000 annually in the present day) and still collect public assistance. For its part, Bethlehem Steel offered jobs first to miners whose had been fired, in order of seniority, before hiring new workers. Here were the problems: any money unemployed workers took in, including money from NIH, would be subtracted from the state welfare payment – which might be a good idea for workers nearing the end of the time that they qualified for public assistance, but ill conceived for others. (It would be a brilliant financial move for the state's bureau of public assistance, whose representative expected his bosses "to look kindly on the proposal.") Regardless, to collect any public assistance, the workers had to be physically present in Johnstown to sign for it. Plus, if the men were in Bethesda and could not return to work if companies offered them a job, they would lose their "recall rights" altogether.[24] Revealingly, Himmelsbach used the register of voluntarism in his report on the trip a few day after he returned. He explained to his supervisors that his agenda had been to figure out "how best to recruit from this group, how to arrange for sponsorship [of the contract], and what effects such service would have on welfare entitlements of those individuals willing to serve as volunteers." Note that Himmelsbach referred to the men as "individuals" and "volunteers" in keeping with his earlier insistence "in no uncertain terms, that we could not consider these individuals to be employed while in residence here."

Another matter of negotiation was who would recruit the miners, likely a logistical hassle and freighted issue in light of the looming knowledge of "previous bad press." The tentativeness of the negotiators suggests that they regarded the exchange of men for money as a delicate proposition – an activity with which they were not eager to associate their organizations, even though they wanted the contract to come through. The clinic director leveraged his position as the potential signature on the contract to pass the task to someone else. Only if someone else around the table was willing to recruit the miners, then he would be willing to put pen to paper as sponsoring organization.[25] Bethlehem Steel's representative declined. He was unwilling to refer workers directly to the exchange after the company laid them off. That said, many men applied for work

[24] Memo from Himmelsbach. 23 August 1960. "Report of Trip to Johnstown, Pennsylvania by Dr. C. K. Himmelsbach and Mr. W.W. Maginnis." PRPL.

[25] Page 3. Memo from Himmelsbach. 23 August 1960. "Report of Trip to Johnstown, Pennsylvania by Dr. C. K. Himmelsbach and Mr. W.W. Maginnis." PRPL.

at his company but failed the aptitude test. He offered that the Bethlehem Steel personnel office could refer men with low aptitude who the company would not hire. For their part, the government agencies said they could help recruit, but the men they referred would be questionable candidates as normal controls. "Poor nutrition" was the concern of the Bureau of Public Assistance, though perhaps a poorly nourished man could still qualify as a Normal, the representative wondered. The Bureau of Vocational Rehabilitation only saw men who were referred because they were unhealthy. To signal his support for the exchange, though, the agency representative offered to share the medical records of people whom they had denied care because their disability was not "of sufficient significance." This euphemism left ample room for interpretation (and imagination) for newcomers to the coal town, like Himmelsbach, so the others clarified what such a disability might look like. "There were many slightly disabled persons who, while unable to work in a 30-inch coal vein, are otherwise in very good condition," one explained. They only suffered from "such disabilities as a stiff knee, 'back trouble,' a below-the-knee amputation, and so on."[26]

The discussion ran on for hours. It was the end of the work week and the five o'clock hour was approaching – the time when consensuses are born. It was agreed: the clinic would sign the NIH contract to send unemployed workers to the Clinical Center and the others would recruit the men. The government agencies and company representatives would find out with certainty the effect this arrangement would have on workers' unemployment benefits and their recall rights. They also agreed they would withhold most of the men's NIH-funded money while they were at the Clinical Center and award it when their time there had ended, most likely because each organization's own financial interests in the deal would be met only if the men actually served as human subjects. In the decades since 1960, the practice of withholding compensation has come to be seen as unethical because it functions as an incentive against dropping out of an experiment, a way of limiting the freedom of participation. At the time, they registered this detail as a financial matter, rather than as a contradiction of NIH's assurance that the agency would act ethically.

The afternoon's strategy session had ended with the decision that Himmelsbach should attend the meeting of the clinic's Board of Trustees when they gathered to consider approving the plan since it was not a foregone conclusion that the Board would approve. Himmelsbach could be helpful in "encouraging them to react favorably to the proposal." For their part, Himmelsbach's new allies at the meeting each promised "to back this position" they had just forged.[27] They

[26] Page 3. Memo from Himmelsbach. 23 August 1960 "Report of Trip to Johnstown, Pennsylvania by Dr. C. K. Himmelsbach and Mr. W.W. Maginnis." PRPL. Allegheny Airlines Flight 302 was scheduled to leave at 12:23 pm and return Flight 106 was scheduled to leave at 7:12 pm.

[27] Himmelsbach "Memo for the record" 16 September 1960. PRPL. The memo states that "At the request of Mr. Laurie Billstone, I met with the Board of Trustees of the City-County Clinic, Inc., Johnstown, Pennsylvania for the purpose of describing to them the normal control program and

set the Trustees meeting for September 9 and agreed none of them would break rank.

Two weeks later, Himmelsbach flew again to Johnstown for the meeting with the clinic's Trustees, which several of the allies he established in the first meeting also attended. This time the meeting included many of the same figures from the previous meeting, additional company managers and union staff, as well as community representatives: a Catholic priest, a school superintendent, and four women defined for the most part by their marital status ("wife of…," "widow of…"). They raised the expected set of concerns – the effects on public assistance and unemployment compensation, as well as the capaciousness of the category of "normal control" in terms of the "permissible deviations from normalcy." In the time since the first meeting two weeks earlier, Himmelsbach and his allies had anticipated problems, gathered information, and worked in advance to counteract them. They said in the meeting that questions of welfare payments would likely be moot. Most men were at the end of their time on public assistance and anyhow would not be present to sign for it. The issue of recall rights was malleable and Bethlehem Steel had made a special policy "to extend the recall rights of those individuals who happen to be recalled to employment while serving as normal controls in the Clinical Center."[28] The deal would be of their making, and so they could revise rules and make new ones to accommodate critics' concerns. As for normalcy, the Clinical Center used a pragmatic definition of the term, what I call "nonce normalcy." People were accepted into NIH's Normal Volunteer program if they fit the bill for a particular scientific study – lower legs or none. The Trustees also raised unexpected logistical questions about how the men would get to Bethesda, for example, and some creative suggestions as well, including "the possibility of using prisoners from local jails."[29] Then, a motion to approve the plan was forwarded, seconded, and passed unanimously, amended only with the specification that the Trustees give themselves the authority to sign a contract.

Himmelsbach had a draft of the contract within days, and it is instructive to observe how he classified the money and the men. He had promised the other stakeholders that "the contract will provide a per capita fee of $25, plus $5 per diem for service by normal volunteers at the Clinical Center, with a ten per cent overhead for administrative costs."[30] In other instances, Himmelsbach referred

Footnote 27 continued
encouraging them to react favorably to the proposal that the City-County Clinic serve as the sponsor for normal volunteers from the Johnstown area."

[28] Memo from Associate Director of the Clinical Center [Himmelsbach] 16 September 1960. "Report of Trip to Johnstown, Pennsylvania, on September 9." PRPL.

[29] Memo from Associate Director of the Clinical Center [Himmelsbach] 16 September 1960. "Report of Trip to Johnstown, Pennsylvania, on September 9." PRPL.

[30] Memo from Associate Director of the Clinical Center [Himmelsbach] 16 September 1960. "Report of Trip to Johnstown, Pennsylvania, on September 9." PRPL.

to the money as a "stipend," but never as pay or wages. The Johnstown clinic signed the final contract in November of 1960.

The exchange satisfied practical legal exigencies for all parties. The money offset the unemployment payment the workers would have gotten through Pennsylvania state public assistance. The arrangement would also fill in for the benefits that many laborers had expected, until recently, to get from the UMWA's Welfare Fund in the event of unemployment. The UWMA's financial crisis – and the decision to cut promised benefits to members who had been paying dues and premiums based on these promises – anticipated unions' crumbling reputations and memberships through the 1970s amid charges of long-term, widespread corruption (Goldfield, 1987; Rosenfeld 2014). In the 1960s, however, this unusual contract was a boon for union leaders and state agencies – as well as union members, they hoped. Through this legal arrangement, the Pennsylvania state government got to save money on unemployment payouts; the union got to save face; and NIH administrators got research materials for their clinical scientists in Bethesda, Maryland.

Publicizing the Exchange: Invoking "Employment" with Vernacular Audiences

The signed contract was good news for its negotiators, but it was only the first step. Legally the path was laid but now they needed men to tread it and American communities to cheer them along. It was up to the union, the state agencies, and the steel company to convince men to move from their homes for several months into a hospital faraway to be the subject of medical experiments, with acknowledged health risks and modest compensation. It was up to NIH, as well as the union, to manage perceptions of the exchange in Johnstown and in American communities, home of the taxpayers and electorates supporting NIH. It might seem sensible that the organizations would rely on the language of voluntarism to describe the action given the legal incentives and policy restrictions that inclined both organizations to insist that the men were not employed and that the exchange did not constitute work. In 1960, the organizations had just completed contract negotiations which made clear the importance that the activity *not* be described as work, plus the language of voluntarism chimed with ethical mores. Yet both organizations propagated the language of work to describe the activity the men would be undertaking. At a time when the distinction between the deserving and the undeserving poor was being sharpened, it was not an innocent choice to describe the exchange of man-time for money in terms of work. Instead the description served a rhetorical function (Harrington, 1962; Katz, 2013).

Within weeks of the contract being signed, the UMWA Welfare Fund's medical administrator for the Johnstown area told the UMWA's district president about the new exchange, which up to this point existed only on paper.

To be a practical success, the exchange had to be put into action, and the medical administrator explained how the union could carry out the exchange in practice. As he described the activity of exchanging men and money, he invoked both the language of voluntarism and of employment – depending on the rhetorical demand of the sentence. "Dear Mr. Ghizzoni," the letter began:

> "The National Institutes of Health in Bethesda, Maryland has asked our help in locating 'normal' volunteers for control groups for research in certain diseases now being conducted there. As a specific example, a study is being carried on in the Institute of Mental Health, and we have been trying to help find white males between the ages of twenty-five and forty-five as normal controls in a study of schizophrenia. This area, and specifically this office, have been asked to participate because of the relatively large numbers of unemployed men here in this age range.
>
> 'Normal controls' accepted for this study would be expected to give their services from the date of acceptance until approximately June 30, 1961. In return, they will receive full maintenance in handsome surroundings, plus $5.00 per day for the time put in the study. In addition, transportation to and from Bethesda will be furnished by the Institute. It should be mentioned, however, that participation is entirely voluntary and may be terminated as the volunteer sees fit should he decide he could not go on.
>
> Locally, the City County Clinic, of which you are a Board Member, I believe, is acting as the sponsoring agent. An applicant receives an initial psychological and medical screening and, if acceptable to the Institute, would be transferred to Bethesda at the earliest possible time. Because of the nature of the studies, certain disabilities are ruled out, but by and large the medical requirements are not stringent.
>
> There are many reasons why we feel this is a worthwhile objective:
>
> 1. We are certain that there are many unemployed coal miners in this age group who would like to be more useful to themselves and others during their lay-off.
> 2. Since all maintenance costs are borne at the Institute, the $5.00 allowance is completely unencumbered.
> 3. With all the tremendous amount of work going on at the National Institutes, it is an extremely exciting place to be, and we think it entirely possible that job prospects which are not now in the picture might appear to the volunteers during their stay there.
> 4. The National Institutes of Health have been of tremendous service to many miners and their families in the past, and will continue to be for some time to come. Our beneficiaries have received the highest type of care, and those fortunate enough to have been sent there are loud in their praise of the Center.

> If you agree this is a worthy objective, I would like to ask your help in passing the word along to the various local unions, especially those that are hardest hit by the present unemployment, to inform all interested men to get in touch with us here for further details. I shall be very happy to talk further about it if you like."[31]

In terms of voluntarism, he referred to men's decision to go as an act of political freedom and also, in a different register, referred to it as an act of civic voluntarism in which the men would be helping NIH. Yet in terms of employment, he referred to the exchange as a form of jobless benefit for people whose essential trait was their position relative to the labor market, and also as a source of job prospects, like a low-pay internship. Specifically, he described the men in terms of the labor market as "unemployed coal miners," and "unemployed men." The exchange offer them a chance to pursue NIH "job prospects" that Himmelsbach had specifically cautioned against. Yet he also cast them as "volunteers" who would be "giving their services" to be "more useful to themselves and others" through an organization that has already been "of tremendous service" to the union. He was harkening to the uncommon but heavily publicized occasions in which NIH treated (experimentally) sick union members and their family members as part of the agency's public mission. Thus, the activity was "worthwhile" and "worthy."

In describing the money changing hands, the union medical administrator adopted NIH's language of voluntarism in describing the money as an "allowance." From the NIH perspective, classifying the money as a "stipend" would also have been appropriate, as Himmelsbach commonly did himself. From the NIH perspective, the money could not, however, be described in terms of employment. He clarified the money was "unencumbered," meaning they would get in immediately, which is to say when their time at NIH was over rather than in future years. The aim was to draw a distinction with the support the UMWA Welfare Fund had promised members in the event of job loss – and had recently cut.

The letter circulated widely around Johnstown and in the process of circulation, the union amplified the description of the activity as work, over voluntarism. The district president immediately passed on the letter to his area board members. "If you find any men that are out of work and who would like to take this job with the National Institutes of Health in Bethesda, Maryland, for $5.00 a day and full maintenance, please have them get in touch with Dr. Arestad."[32] Himmelsbach's insistence on the language of "stipend" was lost in

[31] Arestad to Ghizzoni. November 28, 1960. UMWA District Two collection. Indiana University of Pennsylvania. Special Collections, Indiana, PA.

[32] John Ghizzoni to "To the board members (sic) of district 2, United Mine Workers of America." 1 December 1960. UMWA District Two collection. Indiana University of Pennsylvania. Special Collections, Indiana, PA.

translation, or perhaps never taken seriously in the first instance. For the union, the activity was legible as work and indicates the symbolic value they assigned to the activity itself – and anticipated laborers would as well.

Thus the union cultivated a second, dissonant description of the activity for vernacular audiences, and the multivalent meaning of the activity had practical effects: The first men arrived at the Clinical Center in January 1961. To be sure, the exchange did not appeal to all miners, and the specific biographies of the miners are largely lost to history – the advantage and disadvantage of patient privacy rules, which serve to protect medical institutions from liability as much as to shield study participants from incursions on their privacy. Nonetheless, NIH was a live option for scores of miners and the fact that many miners ultimately opted to go NIH, despite its drawbacks, suggests the virtue associated with the activity of work net of its financial value.

In the everyday life of the Clinical Center, researchers and "normal controls" shared a patterned language to describe the kind activity they had undertaken, and the description varied by the organizational source of the human subjects.[33] For contemporaries, the striking feature of Anabaptist communities was their commitment to voluntarism, a spirit of service to mankind that verged on the pathological, according to NIH doctors (Campbell and Stark, 2015). For visitors to Johnstown, however, the striking feature of the place was not its Tocquevillian spirit of voluntarism, but its aura as a place on a collective job hunt. In this setting, the NIH exchange was rendered primarily as a form of quasi-employment, rather than as a voluntary service program, as it was for Anabaptist communities.

One researcher, for example, went to Johnstown several times in 1961 to get men for his and his colleagues' human experiments on psychotropic drugs and to follow up with one who complained he had long-term effects from the experiment after he returned to Johnstown. The aim of the study was to create a "model psychosis" to understand the underlying biochemical causes of psychosis; in other words, to make the men psychotic to figure out what brain chemicals cause people, like those with schizophrenia, to become psychotic. Retrospective oral history interviews should be read with a critical lens, but it is nonetheless useful to see the terms the researcher chose to describe Johnstown and its residents. In a 2014 oral history interview, he explained to me his travel from Bethesda. "I went up there to try to explain what we were recruiting people for. I think it was an economically depressed time for Johnstown, and

[33] Broad evidence of this claim is available in VANV, which includes letters and other documents from the time period with more than 100 former participants in the Normal Volunteer Patient Program and scientists who experimented on them, as well as retrospective oral history interviews I conducted with them. I have been unable to locate any Johnstown miners, but the archive does include materials from other research participants and scientists who knew the Johnstown miners. See specifically the individual collections of Carson Good, Lawrence Rockland, and Steven Szára: <https://dataverse.harvard.edu/dataverse/vanv>.

probably that whole area of Pennsylvania." He spoke with people who recruited miners for the exchange, not with jobless workers directly. "I'd fly. You know it's maybe an hour and a half flight. I'd fly up there, meet with people, I'd explain about the program, what would happen with them, etcetera, etcetera, etcetera and then I'd fly home at night." He eventually got a group of ten jobless miners for their research. I asked him what they were like. "They were generally not too educated, kind of hard up economically." For this former researcher, the men were legible in terms of their relationship to the economy. This researcher, like others at NIH at the time, figured the Johnstown men in terms of work and lack thereof (Stark, 2014b). In one published study using the men, he and his co-authors reported findings that were contrary to all other work on psychotropic drugs and they attributed the findings in part the men's status as unemployed laborers who, by extension, had a low level of education compared to the people most other researchers had used in their studies (Szara *et al*, 1966). "Most psychotropic drug studies were done on professionals, researchers' colleagues, artists," they explained in a 1966 article. By contrast, their human subjects, they reported, "were unemployed men from an economically depressed mining area." This characteristic, they suggested, might explain their usual findings. "As a group, they were culturally deprived, and there was little interest in introspection, philosophy, music, art, etc." To the contrary, they found the drug experience to be "an unpleasant one, three of them markedly so. There was no enthusiasm in the group for a repetition of the experience and several subjects stated emphatically that they would leave the Clinical Center before submitting to it again. We could detect very little that might be called mystical or philosophical in our subjects' drug reactions and noted no upsurge of artistic inclination following the drug experience." (p. 327). In the vernacular understandings in the Clinical Center, outside of legal contracts, the unemployed workers were understood to be engaged, unlike the Anabaptists, in a kind of quasi-employment, even if the work was "unpleasant" and for some "markedly so."

For its part, NIH also used the media to teach the reading public to describe the exchange as akin to work, despite the agency's insistence on avoiding the language of work for legal audiences. NIH had at the time – as it does today – stringent policies for press management that required approval of journalists' visits and limited photography. Popular articles about NIH are useful, then, because they are products that have been heavily managed and carefully crafted by NIH. In 1963, the *Washington Post* ran an article on the NIH Normal Volunteer Patient Program that highlighted the Johnstown exchange (Figure 2). The journalist reported, "At present NIH has an arrangement whereby a few select unemployed miners and steelworkers from Johnstown, Pa., an economically depressed area, are accepted as volunteers and paid for their services." The article was not an expose but instead celebrated the arrangement. "This takes the men off of relief rolls, gives them

Figure 2: In 1963, an article in the *Washington Post* profiled one union member living in the NIH's Clinical Center as a human subject, explaining that, "William Bowers left his wife and seven children in Johnstown, Pa., where he was one of hundreds of unemployed steelworkers. At NIH he receives a small salary, which goes to his family. In his spare time he looks for permanent work in the area." Griffith, P., 1963. Wash. Post.

something constructive to do and provides an opportunity to learn new skills." The US government was debating legislation designed to provide a safety net for what would become, in 1965, Medicaid. At the time, debates about who

would be protected in the poverty legislation and what would be required as a condition of federal assistance turned on distinctions between the deserving and the undeserving poor.

The article was accompanied by a photo of William Bowers, who "had left his wife and seven children in Johnstown, Pa., where he was one of hundreds of unemployed steelworkers. At NIH he receives a small salary, which goes to his family. In his spare time he looks for permanent work in the area" (Griffith, 1963). The possibility of being "unemployed" yet receiving a "salary," of being a "volunteer" yet getting "paid," as described in the article, is evidence of the dissonant action-descriptions consolidated in the 1960s that helped to create and sustain formal labor markets for human subjects in later decades. NIH's efforts to publicize the exchange in Johnstown and among wider publics took shape within a broader discursive field riven by debates over national, state, and corporate support for unemployment in which the deserving poor were distinguished, in highly gendered terms, from the undeserving poor – those who valued work and were therefore themselves worthy of support, and those who purportedly exploited welfare programs. In these circumstances, joblessness was a character test, not only a moment of financial hardship. The pressure to pass this character test was especially acute for men with families, since the debates built on midcentury assumptions that the ideal domestic unit was a nuclear family with a male breadwinner, who was considered financially responsible for his brood. A visible show of desire to be working demonstrated virtue, and disinterest in work signaled lazy irresponsibility – which was an unfair but nonetheless palpable character test for jobless men in a local economy in which no jobs were available, the unemployment rate in Johnstown stuck for years at unprecedentedly high rates over 20 percent.

Bowers is also evidence of sociologists' recent observation that the traditional design of studies in present-day social science research based on workers and on income would be improved by research designs that better capture the dynamics of income instability and job insecurity (Western *et al*, 2012). Rather than long-term unemployment, during the postwar period the nature of employment itself – often temporary, piecemeal, and unreliable – has been a main driver of economic inequality, not simply because it comes with lower income, but because such work comes with poor employment benefits and disrupts family and social support systems, creating broad-scale structural disadvantages with long-term effects, like poor health and late-age poverty (Hollister, 2011; Neckerman and Torche, 2007). These labor market conditions, considered by some a product of neoliberal policies, have proved to be fertile terrain for the recent development of unregulated markets for bio-labor.

For both organizations, the Johnstown exchange had succeeded – in law and practice. Throughout the 1960s, scientists used unemployed men in studies for which they were considered particularly valuable, and in other studies for which

they were considered as good as any other type of "normal control." Eventually, scientists' supply of Johnstown men dwindled, though it was not a failure of persuasion and was instead a recovery of the local economy, which NIH administrators viewed with mixed feelings.[34] "Because of the economic recovery of the Johnstown, Pennsylvania, areas we can no longer use the Johnstown City-County Clinical as a sponsoring resource," NIH administrator, Delbert Nye, anticipated in 1965. "In the past we were able to attract the unemployed laborer here as a volunteer but with the boost in the area's economy this source has all but 'dried up.'" Despite his prediction, the following year thirteen Johnstown residents came to NIH as human subjects, which was in part made possible by including women in the exchange.

Moreover, the broader "Johnstown Plan" was a legal and practical success, as well as the particular Johnstown exchange. From the outset, NIH envisioned the Johnstown Plan as a model exchange for a specific type of community. Given the large investment of time and coordination that went into contract negotiations for the exchange and recruiting men, NIH administrators imagined it "a prototype," a template they could reuse for similar situations since this exchange was unlike any other that NIH had made to date.[35] In 1964, President Johnston declared a War on Poverty and in July of 1965, Johnson created the Office of Economic Opportunity. In 1965 NIH administrators signed a series of new contracts for human subjects with organizations funded by OEO. The three new contracts were with organizations "located in the socio-economic-geographic area known as 'Appalachia,'" Nye described in the annual report. "The need for these new sponsoring resources is simple and direct, namely to recruit the older [middle-age] volunteer who our existing resources were/are unable to provide in adequate numbers." After Johnstown, NIH did sign contracts with sending organizations in poor Appalachian mining communities, including the Women's Club of Beckley, West Virginia; The Council of the Southern Mountains in Berea, Kentucky; and the Women's Club of Williamson, Williamson, West Virginia.[36] Although the economic recovery of Johnstown had reduced the number of people entering its exchange, the other exchanges modeled on Johnstown filled in for the loss. Nye explained that "the 'Appalachia' resources should more than adequately compensate for the Johnstown loss."[37] The exchange became a practical reality, not only a legal fiction, through the organizations' implicit cultivation of a second dissonant description of the activity in terms of employment, which reverberated

[34] NVPP annual report 1965. PRPL. See also FOIA release materials included in VANV.

[35] Meeting minutes. 14 Sept 1960. Folder: Minutes of the medical board April 14 1959–March 28 1961. Box 1. MedBoard.

[36] NVPP hand written draft "fiscal year report, July 1, 1964-June 30, 1965." PRPL. FOIA.

[37] NVPP annual report 1965. PRPL. See also FOIA release materials included in VANV: <https://dataverse.harvard.edu/dataverse/vanv>.

alongside the language of voluntarism. The description of the action as work appealed to vernacular audiences given the broader discursive field in which the language was understood and therefore in which the action could be described.

Conclusion: Action Under Dissonant Descriptions

In 1960, United Mine Workers of America brokered an arrangement with the US government in which unemployed men in Johnstown, Pennsylvania would serve as human subjects in medical experiments at the NIH Clinical Center. The organizations used two different languages to describe the *kind* of activity constituted through the exchange: one that tagged the activity as voluntarism and a second that cast it in terms of employment. This case shows how and why the organizations consistently sustained dissonant descriptions of the activity, and it foregrounds the broader consequences of dissonant descriptions.

A successful exchange would be one in which it was not only legally possible for men to go to NIH, but also, importantly, one that jobless men actually used and American communities endorsed in practice. I show that the organizations made the exchange a success both in law and in practice by sustaining dissonant descriptions of the activity. They did so to manage the legal constraints that demanded the exchange not constitute employment, and the simultaneous social imperative that jobless men demonstrate their desire to be employed at a time of intense public debate that distinguished the deserving from the undeserving poor (Harrington, 1962; Moffitt, 2015). As I show, the description of the activity varied by the audiences the organizations addressed. For legal audiences, the organizations cultivated the action-description of "voluntarism" to accommodate pre-existing legal and regulatory obligations. When circulating the news of the exchange, it seemingly would have been intuitive and legally appropriate to describe the activity as volunteering. It is remarkable, then, that the organizations systematically described the men's activity in terms of "work" when circulating news about the contract. The organizations did so, I argue, because putting unemployed men to work had greater symbolic worth in the context of an economically depressed industrial town and in the broader American political arena of the early 1960s. In contrast to their approach for legal audiences, the organizations tacitly endorsed the action-description of "work" when addressing vernacular audiences, given their hope of recruiting people into the exchange and assuring American taxpayers of the worthiness of the activity. When seen in these broader discursive fields, the case shows that organizations' use of the seemingly ethics-based language of voluntarism was also a technique to manage legal constraints that both organizations faced on employment and its benefits. In short, the valence of political freedom that can be associated with voluntarism, was, at its origin in this medical-legal contract, as much an effort to assign a name to a long-term, contractual paid activity that could not be called

employment, as much as it was an effort to convince American communities of the ethical acceptability a new, morally freighted activity.

The organizations' systematic choice of language was no doubt instrumental. Whether they described the exchange as work or as voluntarism, union and NIH staff had ends in mind. Both wanted to get and retain a resource (money, bodies), and each operated with specific constraints. But there are many ways to get paid and this case explains how the exchange could come into being, not only in law but in practice – namely, because the organizations sustained two dissonant descriptions of one activity.

This insight explains a familiar but little explored observation in cultural sociology: that is, that one activity can be described in multiple ways with seemingly different moral resonances and material consequences. For example, in his comparative study of national rates of blood donation, sociologist Kieran Healy, noticed that national blood-collection regimes "do not simply increase or decrease the donation rate along a sliding scale. They shape the kind of activity that blood donation is" (Healy, 2000). My analysis demonstrates how Anscombe's concept of "action under a description" can account for co-existing, even rival, action-descriptions and thereby clarify the symbolic dimension of instrumental action.

To return to the three aims announced at the outset, this article suggests how Anscombe's concept of action under a description can be used to develop a theoretically driven method and, in doing so, clarify mechanisms through which language reaps material consequences. In my analysis, seemingly unrelated debates about welfare and civic engagement in the 1960s were not separate discussions, nor were they a mark of transition from one description to another, nor the result of a political feud among competing actors operating purely instrumentally. Instead, the discussions were productive, structured, actively cultivated, and sustained "dissonant descriptions," each necessary to make the exchange a reality. By applying Anscombe's approach to the case of the Johnstown exchange, my analysis shows that blue-collar workers assigned symbolic value not only to a particular type of work, such as industrial work, but to the general activity of work itself. Whereas other cultural sociologists have shown that blue-collar labor is given high symbolic value among working-class communities, my analysis showed the lines of demarcation between work and an alternative description, voluntarism, that suggested work itself had – and perhaps continues to have – great symbolic value among working-class Americans. This case aids the effort to pull under one canopy literatures on voluntarism from across the socio-economic spectrum and, in doing so, to consider how class shapes the relative moral worth people assign to unpaid labor (Eliasoph, 2013; Lichterman, 1996). Finally, Anscombe's focus on action-descriptions makes clear that fundamental analytic categories of cultural analysis, such as "voluntarism," are always already value laden and amplifies

the call for great care among scholars when using the term as an analytic category (Vaisey, 2009; Vaisey and Miles, 2014).

Second, my analysis documents how both NIH and UMWA used the language of "voluntarism" to accomplish market goals. The language of voluntarism in the postwar period was in part an effort to prompt people to fill in for the welfare state, but it was also an effort to create new organizational practices by maneuvering around the limitations of labor law (Clemens, 2010). The Johnstown exchange shows precisely how the descriptions of actions that organizations develop both aid their own goals on financial markets and produce downstream consequences when volunteer time and materials are commodified. In this case, the language of voluntarism allowed the union to provide its promised welfare benefit to jobless members, and also allowed NIH scientists access to a necessary resource for clinical research: healthy human bodies. The language of voluntarism – with the insinuation that an activity is an individual choice undertaken out of altruism rather than for compensation – has produced durable practices within organizations that serve their economic ends (Barman, 2016; Mears, 2015). When put to work by corporations in the past decades, communal scientific goods – such as individuals' DNA samples or pooled datasets – have functioned as the raw materials for private profits, as seen with pharmaceutical companies and biotechnology firms (Cooper, 2008; Lakoff, 2006; Stevens, 2013).[38] For example, through blood-donation programs vendors and hospitals buy and sell the blood that individuals give for free, often as part of corporate charity initiatives. In addition, activities such as completing online surveys or participating in hackathons may be described in terms of voluntarism, but this broad-based, uncompensated investment of time and knowledge can nonetheless create new commodities for firms (Irani, 2015). The language of voluntarism is also commonly used in the sphere of employment, for example, to encourage employees to participate in workplace charity events or to entice students to accept unpaid internships, which in turn bolster organizations' image and productivity (Barman, 2016; Jain, 2013; King, 2008; Lasker, 2016). Thus the Johnstown case illuminates a broader practice – that is, a language practice – through which organizations use "voluntarism" to fulfill economic obligations or enhance market position. It points to questions for additional analysis in cultural sociology, such as: What mechanisms do firms use to encourage voluntarism? When do organizations' efforts to persuade fail? What are the repercussions for workers who resist appeals to civic voluntarism in corporate space? How does contract labor inflect voluntarism? And how might these frames vary by class?

[38] Scholars have also shown how poverty itself serves as a corporate resource, for example, by developing "the precariat" as consumers of financial instruments like microloans that drive and perpetuate the economic systems that create poverty (Elyachar, 2012; Roy, 2012; Standing, 2011).

Third, the case of the Johnstown exchange serves as a springboard for analysis of new commodity and labor markets that exchange and produce living bodies, tissues, and bio-data in the present day. Commodities of industrial capitalism differ from bodily products associated with "biocapitalism," such as organs, blood, semen, ova, tissue, DNA, and entire organisms (i.e., babies, animals, plants). Scholars typically identify three factors that distinguish these commodities: either the commodities can never fully be abstracted from the "laborers" who produce them because their financial value depends on retaining the link to the commodity's living source; or they enable a second, compounding commodity, such as "information," (Stevens, 2013) that has additional, independent financial value; or they rely on natural processes (typically reproduction) of life forms to create the product. Many of the activities involved in biocapitalism are morally freighted because they give financial value to sacred objects and provide profits for parties distant from the material source. The case of the Johnstown Plan helps to solve a puzzle of how labor and commodity markets under biocapitalism persist despite staunch criticism. My analysis suggests how exchanges under biocapitalism operate as formal markets and yet rely on the language of altruism and voluntarism to function. The current market for human subjects, I suggest, is sustained, despite criticism, because the activity of serving as a human subject has come to be conceptualized both as altruistic behavior and as work. The current formal labor market for human subjects emerged in the 1980s and is different from the Johnstown exchange in that in the present day it functions as a quasi-labor market: a set of job opportunities in a given line of work with some formal regulation. Nonetheless, as I showed, organizations can adopt the language of "voluntarism" not only out of ethical commitment but because of legal restrictions on work. It is worth noting that much like the Johnstown exchange, the current market for human subjects disproportionately includes people with low levels of education, unsteady job prospects, and poor social safety nets.

It is perhaps especially apparent that the dual discourses of work and voluntarism entrench and uphold socio-economic inequalities in exchanges for sacred objects (such as babies, blood, or body parts) and for sentimental activities (such as caring work and emotional labor). Yet regardless of the object or activity, for better and for worse, organizations can align their interests and persuade multiple audiences by casting one action under multiple descriptions. Through language, they can bring into being new organizational practices, new economic possibilities, and new forms of precarity.

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About the Author

Laura Stark is on faculty at Vanderbilt University and is an Associate Editor of the journal *History & Theory*. Laura's first book, *Behind Closed Doors: IRBs and the Making of Ethical Research*, was published in 2012 by University of Chicago Press. Her current research explores how a market for healthy civilian "human subjects" emerged in law, science, and popular imagination in the postwar period. It is based on a vernacular archive she created with more than 100 "normal control" research subjects and scientists who took part in postwar experiments at the US National Institutes of Health, which is now archived at Countway Library for the History of Medicine. Stark works on social theory and the intersections of science, morality, and the modern state in global context.

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