



© Alan Schein Photography/Corbis; © Ted Spiegle/Corbis

# Markets, Morals, and Civic Life

Michael J. Sandel

Introduction by Stanley Hoffmann

This presentation was given at the 1887th Stated Meeting, held at the House of the Academy on February 9, 2005.

Michael J. Sandel is Anne T. and Robert M. Bass Professor of Government at Harvard University. He has been a Fellow of the American Academy since 2003.

Stanley Hoffmann is Paul and Catherine Buttenwieser University Professor at Harvard University. He has been a Fellow of the American Academy since 1964.

## Stanley Hoffmann

It is a great honor for me to introduce my friend and colleague Michael Sandel, who is, in our complicated and sometimes fragmented department, an island of sanity, good humor, good judgment, and extraordinary productivity. He is also an amazing and legendary teacher – a man whose fairness, objectivity, and good sense are unflinching. I have known him for thirty years, and I continue to admire him for everything he has done, which has been really remarkable.

His first publication, based on his thesis, was a critique of John Rawls's liberalism. It is often described by readers as a choice for communitarianism against liberalism, which I think is a misreading. Sandel's critique was a choice of a certain brand of liberalism, one that took into account certain values that did not require it to be only a set of procedures or one that condemned liberalism to be neutral between the good and the bad. It tried to restore a kind of substantive liberalism that had existed before being somewhat abandoned.

Sandel's next book, *Democracy's Discontent*, was both a continuation of that theme and a searching examination of Supreme Court decisions. By enlarging his concerns to what capitalism has done to society and to American beliefs, it was, it seems to me, the springboard for the subject that has interested him in recent years.

It is the subject of tonight's lecture, which focuses on markets, morals, and civic life.

Once again, Sandel is concerned with the limits of liberalism and of economic institutions such as capitalism, as well as with the limits that globalization and capitalism should observe – not with what money can buy without too many people objecting, but with what it is that money should not be allowed to buy. The topic falls a bit between the cracks of business school professors, who often hate to raise ethical problems, and economists, who don't always know what ethical problems are!

## Michael J. Sandel

My topic tonight is "The Moral Limits of Markets." My question is: Are there some things that should not be bought and sold, and, if so, why? The proliferation of markets in recent years makes this issue difficult to avoid. Consider, for example, recent proposals to establish markets in organs for transplantation, the race among medical entrepreneurs to patent human genes and other life forms, the aggressive marketing of drugs as consumer goods, and the proliferation of for-profit schools, hospitals, and prisons. The rampant commodification, commercialization, and privatization of contemporary life give us reason to reconsider the moral limits of markets: Are there some things that money should not buy?

In order to address this question, I begin with a slightly different question: Are there some things money can't buy? Most people would agree that there are some things that money can't buy. Consider friendship. Suppose you want more friends than you have. Most of us wouldn't think of buying one. Why not? You don't have to be a moral philosopher to answer that question; buying a friend wouldn't work. A hired friend wouldn't be the same as a real one, though he or she might be a helpful therapist (which is akin to a friend, but not the same thing). Somehow, the money that seeks to buy the friendship corrupts it – or at least turns it into something else. So friendship is an example of something that money can't buy.

Take another example that may be close to the heart of this group: the Nobel Prize. Suppose you desperately want a Nobel Prize and decide, failing to get one in the usual way, to try to buy one. It wouldn't work. The Nobel Prize is the kind of thing that money can't buy; likewise the Most Valuable Player

## Are there some things that money can't buy?

award of the American League. You could buy the trophy if some winner were willing to sell it to you, but you couldn't buy the award. Money wouldn't work. Why not? In the case of friendship and in the case of the Nobel Prize, the market exchange immediately dissolves the good that you're seeking. The Nobel Prize is an honorific good. If word got out that the prize had been bought, the award would not convey or express the honor that people associate with the real thing.

These fairly obvious cases help us think about the related but different question: Are there some things money can buy, but shouldn't? Consider those goods that people might want and actually be able to purchase, but that raise at least a moral controversy: for example, a kidney or another organ. Some people defend markets in organ sales; others find such markets morally objectionable. Insofar as there is something wrong with buying a kidney through the market, the problem is not, as with the Nobel Prize, that the money somehow dissolves the good. The kidney will work (assuming a good match) regardless of the monetary exchange. So we need some kind of moral analysis in order to determine whether money should or shouldn't buy kidneys.

Another example is baby-selling. Years ago, Judge Richard Posner wrote a controversial article suggesting that perhaps we should consider a market to allocate babies for adoption. Many people hold the view that children should not be subject to market exchange. As in the kidney case but unlike the friendship and Nobel Prize cases, buying a baby does not dissolve the good the buyer seeks to acquire. If there were a market in babies for adoption, people who paid the going price would still acquire a child. Whether such a market is morally objectionable is a further question.

As a way of thinking about what sorts of goods money shouldn't buy, I want to suggest that there may be a connection between the obvious cases, in which the monetary exchange spoils the good being bought, and the controversial cases, in which the good survives the selling, but is arguably degraded, corrupted, or diminished as a result.

We can explore this connection by considering some cases intermediate between the friendship case and the kidney case. If you can't buy friendship, what about tokens of friendship or expressions of personal relations? In China, the Tianjin Apology company performs such a service for money. If you need to apologize to someone – an estranged lover or business partner with whom you've had a falling out – and you can't quite bring yourself to do so in person, you can go to this company, pay a fee, and they will apologize for you. The motto of the company is, "We say sorry for you." A Chinese sociology professor told the *New York Times* that the company responds to the fact that, given the cultural complexity of apologies in China, many people are "apologetically challenged." As described in the *Times*, the company's twenty employees are all middle-aged, college-educated men and women "who dress in somber suits. They are lawyers, social workers, and teachers with 'excellent verbal ability' and significant life experience, who are given additional training in counseling."

Apologies are a good example of an intermediate case. If someone you cared about or someone you were angry with sent you a bought apology, would you be satisfied? It might depend on the circumstances, or perhaps even the cost. Would you consider a very expensive apology more meaningful than a cheap one?

Now consider an intermediate case akin to the Nobel Prize: an honorary degree. One might think that an honorary degree by definition can't be bought, for the same reason one can't buy a Nobel Prize. But some honorary degree recipients are philanthropists who have contributed large sums to the college or university bestowing the honor. Are such degrees bought, in effect, or are they genuinely honorific? It can be ambiguous. If the college's reasons were baldly stated, the transparency would dissolve the good. Suppose the citation at commencement read: "We confer honorary degrees to distinguished scientists and artists for their achievements. But we award you this degree in thanks for the ten million dollars you gave us to build a new library." That probably wouldn't even count as an honorary degree. Of course, citations are never written that way. They speak of public service, philanthropic commitment, and dedication to the university's mission – an honorific vocabulary that blurs the distinction between an

## If word got out that the Nobel Prize had been bought, the award would not convey or express the honor that people associate with the real thing.

honorary degree and a bought one. So an honorary degree is an intermediate case.

Similar questions can be asked about the buying and selling of admission to elite universities. Such universities don't hold auctions for admission, at least not explicitly. Harvard and Yale could increase their revenues if they sold seats in the freshman class to the highest bidder. But even if they wanted to maximize revenue, they probably wouldn't auction off all the seats because then the honorific aspect of admission would be washed away. Suppose most of the places were allocated according to merit, but a small number of places were quietly made available – this gets close to actual practice – to "legacy" admits, or to applicants politely described as "development" admits. Several years ago, *The Wall Street Journal* reported that, as it was mounting a capital campaign, Duke University set aside a hundred seats in the freshman class for children of wealthy families capable of donating large amounts to the university. Duke acknowledged the practice and suffered some embarrassment when the story appeared. But the admissions policy apparently did help Duke complete a successful capital campaign that raised two billion dollars. The episode illustrates the double character of college admission – as a form of honor and recognition that money can't buy, but also as a form of access and opportunity that universities can sell, provided they do so discreetly. When admission is known to be bought and sold, the honorific aspect of the good is eroded. This makes it an intermediate case – a good that money can (sometimes) buy but arguably shouldn't.

This analysis of the goods that money apparently can buy but arguably shouldn't directs our attention to one moral objection to certain market exchanges – the objection that money can degrade or corrupt the good at stake. It is important to distinguish this objection from another familiar argument

against the buying and selling of certain goods, an argument that focuses on the coercive aspect of some market relations. The argument from coercion points to the injustice that can arise when people buy and sell things under conditions of severe inequality or dire economic necessity. According to this argument, some market exchanges are objectionable because they aren't really voluntary, or at least not as voluntary as market enthusiasts suggest. For example, an impoverished peasant may agree to sell his kidney or his cornea in order to feed his starving family. We may object to the sale on the grounds that his agreement isn't truly voluntary; he's coerced by the necessities of his situation.

The argument from corruption, by contrast, points to the degrading effect that market valuation has on certain goods and practices. Even where no coercion or inequality is involved, some moral and civic goods are diminished or corrupted if bought and sold for money. For example, if the sale of human body parts is intrinsically degrading, a violation of the sanctity of the human body, kidney sales are wrong for rich and poor alike. The objection would hold even if there were no crushing poverty in the background.

## *Are there some things money can buy, but shouldn't?*

Or consider the two familiar objections to prostitution. Some people argue against prostitution on the grounds that it's rarely, if ever, truly voluntary. They argue that those who sell their bodies for sex are typically coerced, whether by poverty, drug addiction, or other life circumstances. Other people object to prostitution on the grounds that it's intrinsically degrading, a corruption of the moral worth of human sexuality. The degradation objection doesn't depend on tainted consent; it would condemn prostitution even in a society without poverty, even in cases of wealthy prostitutes who like the work and freely choose it.

Each of these objections points to a different moral ideal. The argument from coercion points to the ideal of consent and worries about consent being impaired by the necessity of someone's circumstances. It is not, strictly speaking, an objection to markets as such, only to markets that operate under

conditions of inequality severe enough to create coercive bargaining conditions. The argument from coercion offers no grounds for objection to the commodification of goods in a society whose background conditions are fair. The argument from corruption points to a different moral ideal. It appeals not to consent, but to the moral importance of the goods that are said to be degraded by market valuation and exchange. The objection from corruption is intrinsic in the sense that it can't be met by altering the background conditions to make them more equal; it applies under conditions of equality and inequality alike and points to certain intrinsic goods as being somehow diminished or corrupted. We have seen how those two different arguments arise in the cases of organ sales and prostitution.

I would like to suggest that, of the two arguments, the argument from corruption, though more difficult to establish, is more fundamental. Because it appeals to the intrinsic character of certain goods and practices, it can best help us articulate what is troubling about many of the contemporary cases of excessive marketization and commodification.

Consider the debate about contracts for surrogate motherhood. In the case of "Baby M," a childless couple employed a broker to hire a surrogate mother. They signed a contract promising the surrogate \$10,000 plus expenses to carry the child to term and to give the newborn baby to the couple. In the end, the surrogate mother chose to keep the child, and the courts had to decide whether to enforce the contract. A lower court held that the baby should be turned over, but the New Jersey Supreme Court, which finally decided the case, stated that the contract was invalid. Drawing on the argument from coercion, it maintained that the contract was not truly voluntary because the surrogate mother lacked full and adequate information. Since she could not have known what it would be like to carry, bear, and then give up a child, the agreement lacked informed consent. But the court also objected to commercial surrogacy on broader grounds that illustrate the argument from corruption: "In a civilized society," the court stated, "there are some things that money cannot buy."

Now why is it that babies should not be bought and sold, even with untainted consent? Underlying the court's reasoning is the notion that we should not regard our-

*There may be a connection between the obvious cases, in which the monetary exchange spoils the good being bought, and the controversial cases, in which the good survives the selling, but is arguably degraded, corrupted, or diminished as a result.*

selves as free to assign whatever values we want to the goods we prize. The claim is that certain modes of valuation are appropriate to certain goods. Treating children as commodities degrades them by using them as instruments of profit rather than cherishing them as persons worthy of love and care. Contract pregnancy also degrades women by treating their bodies as factories and by paying them not to bond with the children they bear.

Elizabeth Anderson advances a compelling version of this argument. "By requiring the surrogate mother to repress whatever parental love she feels for the child," Anderson writes, surrogacy contracts "convert women's labor into a form of alienated labor." The surrogate's labor is alienated "because she must divert it from the end which the social practices of pregnancy rightly promote – an emotional bond with her child."<sup>1</sup>

Anderson's argument brings out a controversial feature of the corruption argument against commodification. To object that market valuation and exchange of a good corrupts its character is to assume that certain things are properly regarded and treated in certain ways. Thus Anderson invokes a certain conception of the proper end of pregnancy and childbearing. To know whether a good should be subject to market exchange, according to this view, we need to know what mode of valuation is fitting or appropriate to that good. This is different

---

1. Elizabeth S. Anderson, "Is Women's Labor a Commodity?" *Philosophy & Public Affairs* 19 (Winter 1990): 81, 83.

from knowing how much the thing is worth. It involves a qualitative, not just a quantitative judgment.

In controversial cases, of course, people disagree about how to value the goods in question. There are two ways of justifying such judgments – one is to reason by analogy; the other is to reason directly from a certain conception of the good. What would an argument by analogy look like for the surrogacy case? It would begin by asking whether surrogacy is morally analogous to baby-selling, as the New Jersey Supreme Court concluded, or whether, as many of my students maintain, it is more like sperm-selling, a commonly accepted practice.

Rather than pursue the argument by analogy, I'd like to explore the argument that proceeds from a certain conception of the good. In order to do so, let's turn to two controversial cases of commodification: military service and voting. I would like to argue that there is reason to limit the role of markets in governing these practices more severely than we are accustomed to do. In each case, an excessive role for markets corrupts an ideal the practices properly express and advance – namely, the ideal of citizenship as the republican tradition conceives it.

According to the republican conception of citizenship, to be free is to share in self-rule. This is more than a matter of voting in elections and registering my preferences or interests. On the republican conception of citizenship, to be free is to participate in shaping the forces that govern the collective destiny. But in order to do that, and to do it well, it is necessary that citizens possess or come to acquire certain qualities of character, or civic virtues.

The emphasis on civic virtue sets republican political theory apart from two other familiar theories of citizenship. One such theory is interest-group pluralism, which conceives citizens as persons who are free to identify their interests and to vote accordingly. A second theory is the liberal conception of citizenship, which emphasizes toleration and respect for the rights of others. The liberal conception of citizenship allows for the inculcation of certain civic virtues, but only those necessary to liberal principles themselves, such as the virtues of toleration and equal respect. The republican conception of citizenship, by contrast, seeks to cultivate a fuller range of virtues, including a moral bond with the community whose fate is at

stake, a sense of obligation for one's fellow citizens, a willingness to sacrifice individual interests for the sake of the common good, and the ability to deliberate well about common purposes and ends. With this conception of citizenship in mind, we can now consider how commodification corrupts the good of self-government in two domains of public life.

How should military service be allocated? Traditionally, there are two answers to this question: by conscription or by the labor market. During the Civil War, the Union army was raised by an interesting hybrid of the two. There was a system of conscription by lottery, but those who were called to serve and didn't want to fight could hire a substitute. Andrew Carnegie reportedly hired a substitute for about \$300, which was less than he spent in a year on fancy cigars. In the face of protests such as the New York City Draft Riots, Congress eliminated use of the outright market but allowed a commutation fee: you could pay \$300 to the government and be exempt from service.

Most people find the Civil War system troubling. They argue that it is unfair for the affluent to hire the less fortunate to fight and die in their place. But if that is an objectionable feature of the Civil War system, what about our all-volunteer army? From the standpoint of market reasoning, the paid, volunteer army is the best alternative, while conscription is the worst. But there are two objections to the volunteer army. One is that, in a society with unequal opportunities, the decision to enlist may not be truly voluntary. If poverty and economic disadvantage is widespread, the choice to serve may simply reflect the lack of alternatives. When Congressman Charles Rangel recently proposed reinstating the draft, he argued that those who fight in the Iraq War are disproportionately drawn from among the lower middle class and particularly from among African Americans. Sociologist Charles Moskos, an advocate of universal national service, points out that in Princeton's class of 1956, from which he graduated, 450 of 750 graduates served in the military, while last year only three of Princeton's thousand graduates served. So it's easy to appreciate the objection that the all-volunteer army is not as voluntary as it seems.

A second objection to letting people buy their way into and out of military service holds that, even in a society where the

*Even where no coercion or inequality is involved, some moral and civic goods are diminished or corrupted if bought and sold for money.*

choice of work did not reflect deep inequalities, military service should not be allocated by the labor market, as if it were just another job. According to this argument, all citizens have an obligation to serve their country. Whether this obligation is best discharged through military or other national service, it is not the sort of thing that people should be free to buy or sell. To turn such service into a commodity – a job for pay – is to corrupt or degrade the sense of civic virtue that properly attends it. A familiar instance of this argument is offered by Rousseau:

As soon as public service ceases to be the chief business of the citizens and they would rather serve with their money than with their persons, the state is not far from its fall. When it is necessary to march out to war, they pay troops and stay at home....In a country that is truly free, the citizens do everything with their own arms and nothing by means of money; so far from paying to be exempted from their duties, they would even pay for the privilege of fulfilling them themselves....I hold enforced labor to be less opposed to liberty than taxes.<sup>2</sup>

Rousseau's argument against commodifying military service is an instance of the argument from corruption. It invokes the republican conception of citizenship. Market advocates might defend the volunteer army by rejecting the republican conception of citizenship, or by denying its relevance to military service. But doesn't the volunteer army as currently practiced implicitly acknowledge certain limits to market principles, limits that derive from a residual commitment to the ideal of republican citizenship?

Consider the difference between the contemporary volunteer army and an army of

---

2. Jean-Jacques Rousseau, *The Social Contract* (1762), Book III, Ch. XV, trans. G. D. H. Cole (London: J. M. Dent & Sons, 1973), 265.

mercenaries. Both pay soldiers to fight. Both entice people to enlist by the promise of pay and other benefits. But if the market is an appropriate way of allocating military service, what is wrong with mercenaries? It might be replied that mercenaries are foreign nationals who fight only for pay, whereas the American volunteer army hires only Americans. But if military service is just another job, why should the employer discriminate in hiring on the basis of nationality? Why shouldn't the U.S. military actively recruit soldiers from among citizens of other countries who want the work and possess the relevant qualifications? Why not create a foreign legion of soldiers from the developing world where wages are low and good jobs are scarce?

The logic of the market could be extended to challenge the notion that armies should be run by the government. Why not subcontract military functions to private enterprise? In fact, the privatization of war is a growing trend. Private corporations play an increasing role in conflicts around the world and form a large part of the U.S. military presence in Iraq.

The cases we have considered pose the following challenge to the commodification of military service: If the Civil War system is objectionable on the grounds that it allows people to buy their way out of a civic obligation, isn't the volunteer army objectionable on similar grounds? And if military service is just another job to be allocated by the labor market, is there any principled distinction between the volunteer army and private military forces? All three policies – the Civil War system, the volunteer army, and the mercenary forces – offend the republican conception of citizenship. Our unease in each case is best articulated and justified by the argument from corruption, which presupposes in turn the republican ideal of citizenship.

Finally, consider voting. Nobody advocates the outright purchase and sale of votes. But why is buying and selling votes objectionable? And what are the consequences for commonly accepted electoral practices that are arguably analogous to the buying and selling of votes? What exactly is the moral difference between a Tammany Hall politician who bribes people to vote with cash and Thanksgiving turkeys and a candidate who promises the electorate a tax cut if elected? There are at least three possible answers to this question.

*To know whether a good should be subject to market exchange...we need to know what mode of valuation is fitting or appropriate to that good. This is different from knowing how much the thing is worth. It involves a qualitative, not just a quantitative judgment.*

First, it might be argued that the tax cut comes from public funds whereas the outright bribe comes from private funds or party coffers. But this makes the tax cut worse; if the voters must be paid off, isn't it better that it be done with private money than with taxpayer dollars? Second, it might be observed that the promise won't be kept, so it won't exert as much influence as an outright bribe. But this argument suggests perversely that the moral superiority of the campaign promise for the tax cut is rooted in the fact that the politician who makes it can't be relied upon to keep his or her word. In any case, if voters are skeptical about whether the promise will be kept, they can simply assign it a discounted value. A promise of a \$500 tax cut with a 50 percent chance of being enacted would be worth \$250. But this wouldn't make it justifiable. Finally, it might be argued that a campaign promise is public and available to everyone, whereas the bribe is secret and offered only to certain people. But many campaign promises are also targeted at particular groups. In any case, if bribes are wrong just because they're offered to some and not to others, why not universalize them? If there were an open market in votes, then the secrecy would fall away and everybody would be free to buy and sell at the going rate.

The reason none of these distinctions succeeds is that they share the mistaken view that the purpose of democracy is to aggregate people's interests and preferences and translate them into policy. And this brings us back to the fundamental conception of the good bound up with the republican idea

of citizenship. According to the interest-based theory of politics, citizens are consumers and politics is economics by other means. But if the consumerist theory of democracy is right, then there is no good reason to prevent or ban the buying and selling of votes. Our reluctance to treat votes as commodities should lead us to question the politics of self-interest so familiar in our time. It should lead us to acknowledge and affirm the civic ideals implicit but largely occluded in contemporary democratic practice.

My argument tonight has been directed mainly against those who think that freedom consists of the voluntary exchanges people make in a market economy, regardless of the unequal background conditions that may prevail. My primary targets are libertarian philosophers and laissez-faire economists. But I also mean to challenge those liberal consent theorists who believe that if only we made society more fair, so that market choices were free rather than coerced, we would no longer have to worry about commodification. Both groups are wrong, because both overlook the dimensions of life that lie beyond consent, in the moral and civic goods that markets do not honor and money cannot buy. ■

---

© 2005 by Stanley Hoffmann and Michael J. Sandel, respectively.



**Stanley Hoffmann and Michael J. Sandel (Harvard University)**



**Robert Mann (MIT) and Alan Morse (Brookline, Massachusetts)**



**Warren Kantrowitz (Brookline, Massachusetts), Bruce Mazlish (MIT), and Gerald Holton (Harvard University)**



**Lucian Pye, Robert Bishop, and Dick Williams (MIT)**