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The Moral Limits of Communitarianism:

What Michael Sandel Can't Buy

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Michael J. Sandel. *What Money Can't Buy: The Moral Limit of Markets*. New York: Ferrar, Straus and Giroux, 2012. Pp. 244 +viii. Index.

Michael Sandel of Harvard teaches Government and, especially, justice, for which he is internationally known. His book is sweetly written, and offers a good occasion to examine the moral convictions of communitarians, and their distaste for the market.

One cannot but agree with Sandel that the study of markets should be remoralized. We should know why we believe, morally speaking, that bread should be allocated by a market but children should not. It's not enough to simply sneer, from left or right or middle. Even economists need to do the philosophical work. "Markets are not mere mechanisms," Sandel wisely observes. "They embody certain norms" (p. 64). "Market reasoning is incomplete without moral reasoning" (p. 81). He is correct to stand thus against the naïve *wertfrei* line which Samuelsonian economists value so much.

But the book does not do the work. Sandel is sophisticated about moral and political theory, yet his book is puzzlingly shallow. He does not provide, as he promises early on, moral reasoning, "a philosophical framework for thinking through" the "role and reach of markets" (p. 11). Instead he provides a tendentious assault, often veiled as mere reporting of what "some people" say (p. 20 and throughout), on what he claims is an unprecedented drive to price everything, "market triumphalism" (p. 14). He does battle with the more easily defeated utilitarian economists (Judge Richard Posner, for example), but ignores the best that has been thought and written on the merits of a commercial and innovative society (by John Tomasi in a recent book among many others). That is, Sandel doesn't raise the philosophical game of the people he is lecturing. Instead he plays to their least examined political dispositions—their disposition to mere fairness unanalyzed and their disposition to mere disgust unhistoricized.

He does, to his credit, give many interesting examples of the moral dilemma in choosing money over status or queuing to allocate things, from selling kidneys to buying baseball players. Yet surprisingly for someone who has taught over the years 15,000 students in his famous course, Moral Reasoning 22, Sandel's moral ideas in the book have no discernible connection to human moral thinking since Moses and Confucius and Socrates. The kids deserve better.

His moral thoughts in fact are two only, and thin versions even of these: that equality is good; and that the sacred can be corrupted by the profane. "The fairness objection [to what money should buy] asks about the inequality that market choices may reflect; the corruption objection asks about the attitude and norms that market relations may damage" (p. 110). That, philosophically speaking, is it.

About the first, fairness objection, Sandel repeatedly declares without a lot of further argument that "part of what's troubling about" whatever scheme to market something he doesn't want marketed "is the unfairness of such a system under conditions of inequality" (p. 71 and throughout). Such a "first objection" he says (or in this particular case the *Sacramento Bee* newspaper says), is "about fairness" (p. 36).

Sandel's analysis of equality as a moral principle does not get much beyond the school-yard taunt that such-and-such is "not fair." He uses for example the truncated logic that "scalping [of, say, tickets to Shakespeare in the Park or to campsites at Yosemite] is unfair to people of modest means, who can't *afford* to pay $150" (p. 36, italics supplied). The magic word here, uneconomic and unphilosophical, is "afford." Sandel tells a charming story of his old college teacher of economics praising his writings but then urging him *not* to reveal his [the teacher's] name to other economists. Perhaps the teacher was embarrassed by the uneconomic usage "afford."

"Afford" suggests literally that the person of modest means cannot pay for an item. I cannot "afford" to buy Oprah Winfrey's luxury house in Chicago, now up for sale at $2.8 million, even though it's a bargain compared with its earlier asking price of $6 million. That is to say, if I cashed in all my assets, and got the largest mortgage that I could persuade a bank to give me, and robbed a few convenience stores on the side, the $2.8 million would be literally unaffordable, beyond my means. It is, as the economists put it, outside my budget line.

But even a person of very modest means—say at the poverty line for his family of four, $23,050 annual income—can *afford* an expenditure of $150. The sum is far, far inside his budget line. After all, he affords an occasional harmless indulgence of a quart of ice cream for the kids or a movie for him and his wife, which add up in a year to a good deal more than $150.

What Sandel probably means, though he never says it, is that at such a poverty line the man of modest means would be pinched, whereas Oprah would scarcely notice the $150 (or for that matter the $2.8 million). To be sure. But there is no easy argument here, no three-second philosophical meal to be whipped up by merely mentioning the word. The man of modest means can *afford* to buy his daily bread, or even afford scalped tickets to Shakespeare (modest as may be his taste for the Bard: a point Sandel also slides by). To use the poverty of the man of modest means as a philosophical tool against markets you have to have a deeper argument than unanalyzed *afford*.

It's not entirely unanalyzed—though Sandel's analysis would perhaps further embarrass his teacher of economics. Sandel makes a supporting argument much heard on the left that "market choices are not free choices if some people are desperately poor or lack the ability to bargain on fair terms" (p. 112). "The law, in its majestic equality," noted Anatole France, "forbids the rich and the poor alike to sleep under bridges, to beg in the streets, and to steal bread." Yet an economist could tell Sandel, and France, that "bargaining on fair terms" has little to do with how incomes arise, that is, how people get into or out of poverty. True, many well-intentioned and *bien-pensant* folk believe it does. Because they do, most of them accept for example that going down and joining the union made workers better off, by giving them better bargaining power against the bosses, even though the historical evidence is crushing that unionization did not make workers better off (rising productivity did).

Having desperately poor people is a moral problem in itself, regardless of the alleged lack of "bargaining power." The moral problem has been partly solved in many countries from 1800 to the present by commerce and innovation, previously blocked. If power, and not the supply of their labor relative to demand, were actually the problem the poor faced, the bosses with their superior bargaining power would drive down their wages to nil. Even $23,050 a year is not nil.

By international standards the US poverty line of $23,050 corrected for exchange rates is around the average of world income, and is deemed a comfortably middle-class income in India. Why does the fact matter? Because Sandel does not answer why we Americans should ignore the desperation of people earning $1 a day in Chad, and attend instead to the "unfairness" of charging for Shakespeare tickets in Central Park. It is a moral failure of communitarianism that it weighs our fellow New Yorkers or Angelinos, our community, so much more higher than other poor people in the world, ignoring the good for Chadians or Bangladeshis that a commercial and innovative society would do. Sandel does not note that the introduction of free markets in Sahel-grown cotton (as against European and American protection for "our" farmers) or the reception of the First World's garbage (as the economist Lawrence Summers once suggested in vulgar but sound reasoning) would ameliorate a most terrible lack of affordability. That is, Sandel does not face the actual, moral problem—which is poverty, real poverty, the depths. Instead he recommends that we fiddle with prices and create queues for Shakespeare in the Park.

The indirection—fiddling instead of solving—is morally indefensible. Fifty years ago the economists Milton Friedman on the right and James Tobin on the left suggested that we give at least the American poor a minimum income, and stop fiddling with the prices of housing and of bread and the like. It's a good moral idea, which the French have implemented (along with a good deal of fiddling, *hélas*). Poverty would be alleviated (at least State-side), and markets would be left to do their job of making the social pie as large as possible. Such a separation of a policy about income from a policy about the market is a standard analytic ploy in economics. Sandel's teacher at Amherst did not get it across to him.

In high theory the separation of welfare from allocation is called the Hicks-Kaldor Criterion, and it is, to put it mildly, not above moral criticism. But to stride past the economic analysis is to ignore the actual moral problem—poverty—and its most direct solution. A *New Yorker* cartoon back in the 1960s showed a parked bank truck, with the guards handing money to people out of big sacks. Said one onlooker to another, "Well, at last the War on Poverty has gotten under way!" Yes. The comparable policy for the $1-a-day wretched of the earth is to allow capitalism to rip, which is what China has been doing since 1978 and India since 1991, with vastly more gain to the poor than from communitarian policies.

Sandel's superficial philosophy ignores too, a slippery-slope objection to allocating goods outside the price system. If charging tolls on congested highways is "unfair to commuters of modest means" (in Sandel's repeated formulation of his First

Principle, p. 20), what is to stop us from concluding that charging for bread and housing and clothing and cable TV and Fritos is "unfair"? Nothing. The unanalyzed dictum that it is "unfair" that I do not have a 100-foot yacht (really, I do find it troubling) would slope down to allocation by state direction for everything. North Korea. One can devise moral dicta to stop the slip down the road to serfdom. But Sandel does not tell his readers what the counter-dicta might be. He leaves his class to conclude that unadorned "unfairness" is a moral and political taunt suitable to discussions among grownups.

And Sandel ignores the moral issue of the *source* of unequal incomes, that is, what has famously been called, since Robert Nozick articulated it in 1974, the Wilt Chamberlain Example. Suppose Chamberlain gets from 4 million people willingly 25 cents each to watch him perform hook shots. Wilt ends up a millionaire, able to "afford" a moderately big yacht. If the source of high incomes is legitimate—Fred Astaire's feet, Jane Austen's pen—why shouldn't such people have preferred access to goods, even necessities? Professor Sandel's lectures here summarized give no reply. Indeed, as argued in 1971 by John Rawls (Sandel is well known in philosophical circles for attacking Rawls as insufficient communitarian), if a Carnegie or a Gates innovates in such a way that even the least among us is made better off, then the prices, including the profits that evoked their innovation should be left alone, shouldn't they? What's the beef?

Or turn to the most fundamental philosophical argument (as against the schoolyard, communitarian argument from "afford") for allowing the price system to get on with the job. It was articulated first in 1962 by James Buchanan and Gordon Tullock, following the game theorist John Harsayi, and popularized by Rawls in his book a decade later. Suppose that behind a veil of ignorance of where you or I would end up in some future system of markets and creative destruction, or their communitarian opposites, we are asked to decide what constitution we would agree to. Go ahead, choose: neo-liberal markets or communitarian interventions. Suppose, as in fact happened in Holland and then Britain in the seventeenth and eighteenth centuries, we pretty much agree to the Bourgeois Deal—you let me, a *bourgeoise*, make a fortune inventing the coffee trade or very cheap steel or a computer operating system, and in the third act of the economic drama I'll make *you* (all) rich by historical and international standards: $129 a day per person in the United States in 2010 as against $6 a day in the same prices in 1800 and $1.40 a day now in Zimbabwe and less in North Korea. The Deal is not in the first act egalitarian, which is as far as Sandel's economic and philosophical analysis reaches. Yet by the third act it has been powerfully enriching for the poor, satisfying a Buchananite-Rawlsian standard of improving the lot of the worst off. The daily incomes per person in the average country that has agreed to the Bourgeois Deal has risen, in real, inflation-corrected terms, from an appalling $3 a day in 1800 worldwide on average (and likewise since the caves) to $100 a day now (thus the UK)—and much higher if one properly allows for the much higher quality since 1800 of travel and medicine and economic analysis.

The poor have benefited the most from capitalism. The sheer, first-act, unanalyzed equality that Sandel advocates would have killed the modern world and kept us in the appalling poverty of the human condition down to 1800. In fact in some countries it did, such as India after 1947, under Gandhi-plus-London-School-of-Economics egalitarianism, the "License Raj" and "the Hindu rate of growth," as the Indians themselves bitterly described their communitarian economy. When I talk to friends who think like Sandel I worry that their dispositions will kill, quite unintentionally, the only chance for the world's poor to achieve the scope for a full human life.

Sandel is not untutored. He knows such arguments, I imagine, and anyway they are not rocket science. Perhaps he tells them to the kids in the fifth week of his course. I hope so. But in the present book, the better to cast doubt on a neo-liberalism he detests, he has chosen not to reveal the other side, and to rely instead on a non-philosophical notion of schoolyard fairness as a First Principle. It is as though he has contempt for the common reader, and is unwilling to assume that she could adjudicate the serious arguments, pro and con, if they were presented.

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His Second Principle, and his much better argument for what money can't buy, is that it can cause the Sacred to be spoiled by the Profane. Sandel does not actually use the theological words. He would have benefitted from studying theology, and would have gotten further in his moral philosophy. Since he has elsewhere nice things to say about the religious tradition, I suppose he could get serious about the sacred and profane, if he would only work at it.

Meanwhile, though, his theory remains at the *simpliste* level of an unanalyzed contrast between the two, up vs. down. His only analysis is that "we corrupt a good, an activity, or a social practice whenever we treat it according to a lower norm than is appropriate to it" (p. 46). Sensible. But Sandel provides no *philosophical* framework for deciding what is lower, and *why* we are disgusted when professional ethics in banking, say, is corrupted by sheer maximization of profits.

One framework, for example, might be the "virtue ethics" common to the West and the East since the sixth century BCE. It would note that some goods (devotion to God, to parenthood, to philosophical analysis) are neither self-goods arising from the virtues of prudence and temperance or other-goods arising from the virtues of justice or human love. They are *tertia,* giving point to human lives. Perform the mental experiment, as Aquinas did in the 1250s, and as Elizabeth Anscombe did in the 1950s during the revival of virtue ethics (a feat performed mainly by female British analytic philosophers, together with a few honorary women such as Alasdair Macintyre). Imagine a life *without* the transcendent virtues of hope (having a project) or faith (having an identity) or spiritual love (having a reason to strive towards God or Baseball or Science). As the early Anglican theologian Richard Hooker put it in 1593, "Man doth seek a triple perfection. . . . For although the beauties, riches, honors, sciences, virtues [i.e., powers], and perfections of all men living, were in the present possession of one; yet somewhat beyond and above all this there would still be sought and earnestly thirsted for" (*Of the Laws of Ecclesiastical Polity*, First Book, XI, 4).

Sandel does, again, give many good examples of the danger from slipping the profane market into matters best left to a sacred, somewhat beyond yet earnestly thirsted for. His book is mainly raw examples—scores and scores of them. We can agree in 2012 that parenthood is sacred, and therefore selling children is nowadays regarded as disgusting, and even "trafficking in the right to procreate promotes a mercenary attitude towards children that corrupts parenthood" (p. 71). Paying a child to read a book may give her the idea that reading books is "a way of making money [though in truth it is], and so erode, or crowd out, or corrupt the love of reading for its own sake" (p. 61). Paying for the daily paper is one thing; paying to have a second child in China is another (though again it is notable that Sandel does not reflect on the direct solution, which would be to drop the One Child Policy itself; he believes, with many on the anti-economic left, expressed in eugenics, that the community has an interest in stopping births).

His examples suggest why the growing fashion for what the professor of economics Robert Frank calls approvingly "libertarian paternalism," the "nudging" that the professor of law Cass Sunstein has brought into the Obama administration, might be mistaken. "If cash can cure us of obesity," Sandel asks rhetorically, channeling the nudgers, "why cavil about manipulation?" "One answer," Sandel notes, "is that a proper concern for our physical well-being is part of self-respect," and that "paying people to take their meds does little to develop [the proper concerns for one's physical well-being]. . . and may even undermine them" (p. 59). Yes.

Here he sounds indeed sweetly libertarian, since self-respect is one of the chief goods of a market society—in which it is *not* the community that takes all care of all of us. He might have reflected, as Tomasi does in his book, about the self-respect that comes from earning one's way. Minimum-wage laws that prevent people from working might undermine self-respect, by making unskilled people into wards of the community. But Sandel, following his teaching plan of superficial philosophy combined with numerous unanalyzed and politically slanted examples, does not reflect.

Sandel is persuasive, admittedly, when he goes after the *naïfs* of Prudence Only, especially my fellow Chicagoans such as the economist Gary Becker and the alarmingly productive federal judge Posner or the freakonomics writers Steven Leavitt and Stephen Dubner. Sandel is right that what is called "agency theory," which has taken over American graduate schools of business in the past forty years, is naïve in declaring that all we need is incentives, like trained seals. We also need professionalism and judgment and history and norms, as the bankers have recently learned. But going after the Chicagoans is like shooting fish in a philosophical barrel.

Yet Sandel offers no *philosophical* standard for the bankers or for his students. One can readily agree that buying grades in school or buying honorary degrees, or paying for a friend's advice or a husband's sexual services, are viewed nowadays by "some people" as immoral. But why exactly, professor? Once upon a time all such things were for sale. In the European Middle Ages one could buy almost anything—wheat and iron, yes, but also husbands, marketplaces, kingdoms, eternal salvation. Sandel claims repeatedly that "market triumphalism" is a novelty. But that's bad history, albeit the sort that most people believe: that in olden days we were pure and fair, and now we are capitalist and corrupt. The golden age of allocation by fairness and disgust was not olden days but 1933-1968. Before 1933 markets ruled, in China and India as much as in England and Italy.

Sandel worries properly that the market can crowd out the sacred. A corporate market in, say, instruction in elementary classrooms can crowd out unbiased teaching about capitalism. Yet Sandel does not tell his own classroom that state schools can crowd out unbiased teaching about, say, the environment.

And what about crowding *in*? A society in which goods are allocated by race or gender or Party membership is not obviously superior in moral terms to one in which prices rule. Sandel declares that "we must also ask whether market norms will crowd out non-market norms" (p. 78). But he provides no philosophical analysis of how we would answer the opposite crowding, as when non-market norms of Jim Crow in the Sandelian golden age crowded out the market norm that a black person's money is as good at a lunch counter as a white person's. A market society is by no means contemptible ethically, if one actually looks into the ethical effects and thinks about them. The French spoke in the eighteenth century of *doux commerce*, the civilizing effect of markets introduced into societies of status or isolation.

What then? This: Sandel has not treated his students and his readers morally. He has given them many, many examples tending, he thinks, to confirm their uncritically Progressive biases. But he has withheld from the students the moral philosophy that would allow them the dignity of an intellectual choice.

Over the front door of the late-medieval city hall in the Dutch city of Gouda is the motto of the first modern economy, the first large society in which commerce and innovation instead of state regulation and social status were honored. It says, *Audite et alteram partem* – Listen even to the other side. It's good advice for a society of the bourgeoisie, and for a classroom of the philosophers.