Corruption and Inequality

Determining the moral limits of the market

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Introduction

Since the start of the current economic crisis in 2008, the subject of the market's reach has shifted from being mostly academic to one of the more relevant and prominent subjects to the general public. While the conflict between capitalism and communism in the twentieth century can be considered similar, as then too the disagreement was about how a market should operate and where a government is supposed to place limits and intervene. The incredible trust most western governments seem to have in the capitalist system since the end of the cold war has led to increased deregulations and more freedom for the market to operate than ever before. This deregulation is the direct cause for our current economic crisis, where the world's most prominent financial institutions have been left free to perform some very morally suspect practices, without a regard for the consequences to the public. Most people are left wondering how these practices could have been allowed for so long. While clearly of questionable morality, most of the practices that directly led to the current crisis were strictly speaking perfectly legal. To combat this development of markets that have been left too free in their operations and the problems it creates, is to rein them in by placing limits on what, where and how they operate. This is not limited to only the financial markets, the problem is much wider as we are developing what Michael Sandel calls a "market society."[1] What is needed is to formulate criteria with which to judge whether or not a specific good should be subject to the market and what are the requirements under which these goods may be transacted. Limits need to be placed on the market's operation. The question to be answered is: how do we determine these limits of the market?

In this paper I will try to answer this question. To do so, I will in the first three sections of this paper explore the methods of economics in determining the limits of the market. I argue that these are insufficient in properly determining market limitations. In the first section I will discuss the theory of market failure, the most commonly used tool in the field of economics to determine these market limits. Market failure is a general theory that allows for government intervention in those cases where the market fails to produce efficient results. But market failure only works as a justification for government intervention once the market has already failed; to properly formulate limits we need a normative theory, which is the subject of the second section. The authors Guido Calabresi and A. Douglas Melamed have done just that. They argue for a normative theory called the "transaction costs model" in which they divide entitlements into three categories on which certain rules apply. In the third section I will discuss how their theory fails to justify certain important moral distinctions, such as the difference between gift and sale or even provide proper argument against slavery. This is not necessarily a fault of theirs; these issues primarily result from limits in the economic and market rhetoric to formulate these distinctions properly, thus requiring an alternative approach with a different and wider rhetoric.

The alternative I propose is to approach the problem from the viewpoint of moral philosophy. In sections four and five I will discuss several methods of determining limitations to the market on the basis of moral arguments, starting with the theory of blocked exchanges as proposed by Michael Walzer. Walzer identifies a list of exchanges that are typically blocked in developed nations. He identifies that commodities tend to have more value to us than merely by their utility; commodities may also carry social values. In and of itself this is not a great problem, but it becomes problematic

[1] Michael Sandel, "What Money Can't Buy," in *The Tanner Lectures on Human Values,* delivered at Brasenose College, Oxford. May 11 and 12, 1998. http://baihua.org/user_image2/2011/11/1320205825_1.pdf (last referred on 8-7-2013).

once possession of these commodities is a requirement to function properly as a person. Walzer's theory is not without its own weaknesses, however, such as that these social values are a lot more contested than Walzer seems to imply in his work which leads him to committing a similar mistake as Calabresi and Melamed do.

Still, Walzer's work arguably forms the foundation for all philosophical discussion on this subject, him being one of the first to approach market theory from a moral philosophical point of view. Philosophers such as Michael Sandel build and improve upon his work. He too focuses on the values certain goods embody and how the market may threaten and corrupt them. Michael Sandel identifies two distinct arguments on the basis of which the market may be limited: the argument of coercion and the argument of corruption. The argument of coercion keeps to the ideal of consent, arguing that any exchange made where consent is not entirely freely given cannot be justified. The argument of corruption looks to how market forces may corrupt certain values within goods. This is considerably harder to argue than the coercion argument, as it relies on a plurality of ideals, rather than just the one. Still, in his treatment of the corruption argument Sandel faces the same problem as Walzer. Unlike Walzer however, Sandel seems very aware of the problem faced by the argument of corruption and proposes two distinct methods with which to argue the corruption of a good by the market, while avoiding the same problem.

In the last section of this paper I will first discuss Debra Satz' objections to the argument of corruption. Satz shows how even the argument of corruption as proposed by Sandel is lacking in some respect. She claims it is impossible to argue the corruption of a value due to market influences. Rather, such arguments will ultimately fall back to the coercive argument in order to argue limitations to the market. She finds that it is because of the inequality resulting from certain market transactions which provide reason for formulating a limitation. However, I will point out that Satz overlooks a certain difficulty within her own theory, namely that she must show how an entire class of people is negatively affected by the allowance of certain market transactions. Furthermore, her argument that transaction can only be prohibited due to a resulting inequality shows a view of moral consequentialism, which does not allow her to recognise that even if inequality was not a factor, we would still not like to engage in certain transactions. This would indicate a certain difference between those market transactions we would wish blocked and those we would not.

1. Market failure and limits

When discussing the limits of the market within the field of economics, one phrase that will inevitably be used is 'market failure'. Market failure is a theory primarily used within welfare economics to determine the point at which government intervention is justified in the market. Generally, the market is argued to be the most efficient and just method of allocating goods. When the market 'fails' to be efficient or just, then government intervention is needed. In the following paragraphs I will further explain the theory and justification behind market failure

One of the primary criteria economists apply when using economics in a normative sense is that of efficiency. In a market economy, individuals and companies will each influence the demand and supply of goods and services, which in turn results in a certain allocation of these same goods and services. This allocation will further lead to the production of different goods and services, which can be consumed by individuals, who experience welfare, or utility, from it. An allocation such as this is considered efficient when no other allocation is considered possible without (greatly) diminishing the utility of at least one individual.

There are two measures of efficiency often used in economics: Pareto efficiency and Kaldor-Hicks efficiency. An allocation is considered Pareto-efficient when utility is maximised without negatively impacting the utility of any one individual person. For example, when utility is increased for ten people at the cost of some utility of a single individual, that allocation of goods is no longer considered to be Pareto efficient. Conversely, if utility of even a single individual can be increased without decreasing the utility of any other individual, efficiency has increased and as such there is no economical reason not to pursue this new allocation of goods. The downside to this model of efficiency is that the criterion is rather restrictive, as almost no change in allocation will ever have zero negative results for anyone. That is why, rather than Pareto efficiency, Kaldor-Hicks efficiency is used more often.

Kaldor-Hicks efficiency solves the problem Pareto efficiency has by stating that an allocation is more efficient when overall utility is increased and where it is, theoretically, possible to properly reimburse the one whose utility is decreased. The key here is the term 'theoretically', as no reimbursement needs to be paid actually for a change in allocation to be Kaldor-Hicks efficient; what matters is whether the *total* utility is increased within a community and there is the *possibility* for reimbursement of decreased utility.

Besides efficiency there is one other important criterion when judging the allocation of goods: the criterion of justice. Justice may seem like a strange criterion for economics to be concerned with, it is more often associated with philosophy and law. When discussing justice, economists will look at the resulting welfare distribution of any allocation of goods, from which can be decided whether or not government intervention is needed to adjust the welfare distribution. The exact nature of what is to be considered just is not something economists are particularly concerned with; they leave this subject open for politics to sort out. For economists, the criterion of justice is used to determine the most efficient allocation of goods within the limits of a given concept of justice.[2]

[2] A. Schram, H. Verbon, F. van Winden, *Economie van de Overheid, 2nd ed.* Schoonhoven: Academie Service, 1997. 1st edition, 1991. 24-25.

In both scientific discussion and the practice of market economies there is a strong reliance on and trust in the pricing mechanism to achieve the most efficient allocation of goods. This is based on what is known as the two fundamental theorems of welfare.

The first theorem states that under certain conditions, free competition on the market, where producers maximise profit and consumers maximise utility, will lead to an allocation of goods that is the most efficient. This theorem states that an interaction of individuals who act only in their own interests will bring about a collectively desirable result.[3]

Previously I stated, however, that not only efficiency is important, but that justice is an important criterion as well; which is where we touch upon the second theorem. The second theorem states that any efficient allocation of goods can be achieved by distributing wealth in a just manner, or any desired initial distribution for that matter, and allowing the market to take over. This theorem makes the case for the legitimacy of government intervention in the market; redistribution can allow a community to select an efficient outcome that has other desired features besides economic efficiency. When the market fails to achieve this desired efficient outcome or when the conditions for efficient free market competition are not met, this is when government intervention is required and we speak of market failure.[4]

Generally there are thought to be four situations in which markets tend to fail and government intervention is required. The first is in situations pertaining to public goods. There are certain goods for which it is nearly impossible to exclude individuals from its consumption and neither does the consumption of this good reduce its availability. These are goods where the benefits are or can be enjoyed by everyone equally; a simple example of such a good would be a public park. Because excluding the consumption of public goods only to those who have paid for it is so difficult and the consumption does not reduce the good itself in any way, the market is unlikely to provide these goods at all or efficiently. This is commonly referred to as the free rider problem.[5]

The second situation is of (excessive) externalities. The term externality is used when a transaction creates external costs for a third party, without these costs being factored into the pricing of the transaction. The costs imposed on the third party are the externality. As all individuals in the market pursue their own interests, and thus their own costs as well, these extra costs imposed on a third party will not be taken into account, resulting in inefficiencies. An example of this is a factory whose operation imposes costs on others in the form of pollution.

The third situation deals with monopolies or limited competition. To ensure an efficient allocation of goods and services through the market, it is important for prices to reflect both the cost-benefits of consumption and the cost-benefits of production; which will be the case when both consumer and producer have little to no influence on prices. This situation is only possible when there is competition within the market that establishes the price of products. In the case of a monopoly the producer is entirely capable of determining the price for its product, which will skew the way prices reflect costs and benefits. A situation such as this will require governmental price regulation.

The final situation has to do with information asymmetry. In order for the price mechanism to provide an efficient allocation of goods, proper information to the consumers is necessary, or at least enough to minimise risks due to lack of information. Consumers need to be informed properly

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[3] Ibid, 27.
[4] Ibid, 28.
[5] Russell Hardin, "The Free Rider Problem," in *The Stanford Encyclopedia of Philosophy* (Spring 2013 Edition), ed. Edward N. Zalta, http://plato.stanford.edu/archives/spr2013/entries/free-rider/ (last referred on 5-7-2013)

about the quality and production methods of goods to both minimise risks and in order to make proper judgements about which product will bring them the most benefit. In this case information is a kind of collective good which cannot be allocated properly through the market. This is why there is a legal obligation for producers to provide a list of the ingredients used in food products, for example. Such an initiative is unlikely to come forth from within the market, requiring government intervention to put such a regulation in place.[6]

Each of the situations discussed will (likely) result in market failure as a result of a decrease in efficiency if markets were to operate them, which justifies the government's involvement in these markets. It is through this model of market failure that most economists attempt to articulate the limits of the market. One such attempt is made by Guido Calabresi and A. Douglas Melamed, which I will discuss next.

[6] Ibid, 29-32.

2. Calabresi and Melamed's model

One of the issues with the market failure model is that it only provides a normative ground for government intervention only when market failure is either already occurring or soon will. One of the things Calabresi and Melamed attempted in their paper *Property Rules, Liability Rules, and Inalienability* is to formulate a normative theory which is capable of controlling externalities that prevent the market from functioning efficiently, so as to entirely avoid a state of market failure. They start with a certain conception of "entitlements", which they divide into three categories to which separate rules apply: property rules, liability rules and inalienability rules.

According to Calabresi and Melamed, entitlements are things a state or legal structure finds individuals to be entitled to. Whenever there are conflicting interests of two or more individuals, a decision on whom to "entitle," or favour, must be made. If no such decision is made, "access to goods, services, and life itself will be decided on the basis of 'might makes right'—whoever is stronger or shrewder will win."[7] Formulating basic rules on what people are entitled to and when is what the law does. These rules can then be divided into the aforementioned property, liability and inalienability rules.

Property rules are applied on most commonly traded goods and services in the market place; they concern the free transfer of ownership of entitlements between willing sellers and buyers. In other words, these are rules on the rights and obligations a person has on their property. Liability rules on the other hand concerns entitlements of which the transfer is regulated to some degree. The exact value of an entitlement may be decided by a government agency and the conditions of the transfer or ownership itself may be regulated as under liability rules. Historical buildings for example may be privately owned, but not destroyed; here ownership is regulated. Lastly, inalienability rules state that the sale of the entitlement is entirely prohibited. They define inalienability as follows: "An entitlement is inalienable to the extent that its transfer is not permitted between a willing buyer and a willing seller."[8] Calabresi and Melamed argue that property rules are efficient and desirable in most case, but the transfer of some entitlements within these rules may lead to market failure. In that case liability rules are applied; it serves as an exception to the property rule to counteract market failure in order to maintain efficiency. Yet even then there are entitlements the market transfer of which may result in market failure. Inalienability rules are in turn an exception to the liability rules in order to maintain market efficiency.

Calabresi and Melamed argue that liability and inalienability rules can be justified by way of external costs. They use an example of pollution, in which one party, Taney, wishes to sell his property to a second party, Chase, who is a polluter. As Chase is a polluter, the transaction would bring costs to a third party, Marshall, whose land will decrease in value due to Chase's polluting. There are several ways to attempt a solution to this problem through a liability rule. Marshall could for example pay Taney not to sell his land or, alternatively, the government could levy a tax on property sales to polluters in order to counterbalance the damages, etc. However, in most cases there are more damaged parties than just one involved which would increase the transaction costs to actually pay for the damages, possibly to the point where it would cost more than the actual damage

[7] Guido Calabresi, A. Douglas Melamed, "Property Rules, Liability Rules, and Inalienability: One View of the Cathedral," in *Harvard Law Review* 85 (1972), 1090.
[8] Ibid, 1092.

inflicted. In that case, Calabresi and Melamed write: “[b]arring the sale to polluters will be the most efficient result because it is clear that avoiding pollution is cheaper than paying its costs.”[9]

In the given example external costs are expressed in monetary value: pollution decreases the value of third parties’ property. In another example, Calabresi and Melamed explore an external cost they refer to as “moralisms”. They describe moralisms as a type of external costs which do not lend themselves properly to a “collective measurement which is acceptably objective and nonarbitrary,”[10] meaning external costs which cannot objectively be expressed in monetary terms. The way Calabresi and Melamed approach and describe moralisms, they seem to conceive of a person’s moral values as nothing more than another marketable good to which a monetary value can be assigned, albeit not objectively or externally.

The example Calabresi and Melamed use in this case is one where Taney wishes to sell himself into slavery; or take undue financial risks; or sell a kidney. Allowing Taney to perform any of these transactions would harm Marshall; “simply because Marshall is a sensitive man who is made unhappy by seeing slaves, paupers, or persons who die because they have sold a kidney.”[11] Similarly to the previous example of pollution, Marshall could pay Taney to not engage in the transaction, but the same problems will occur as with previous example: there are too many Marshall’s, resulting in too high a cost in proportion to the damage. Calabresi and Melamed suggest that, similarly to the previous example, the state could intervene by objectively valuing the damages incurred by Marshall and requiring Chase to pay for those costs. They point out that the problem with moralisms, however, is that they cannot be objectively valued, thus such liability rules are not appropriate. Calabresi and Melamed explain as follows:

> In the case of Taney selling land to Chase, the polluter, they were inappropriate because we knew that the costs to Taney and the Marshalls exceeded the benefits to Chase. Here, though we are not certain of how a cost-benefit analysis would come out, liability rules are inappropriate because any monetization is, by hypothesis, out of the question. The state must, therefore, either ignore the external costs to Marshall, or if it judges them great enough, forbid the transaction that gave rise to them by making Taney's freedom inalienable.[12]

Besides the previous two rules provided, liability and inalienability, for limiting or prohibiting a sale, Calabresi and Melamed argue for two additional circumstances: self paternalism and true paternalism.

Self paternalism concerns cases where an individual restricts his own freedom of action so as not to succumb to momentary temptations in favour of long term goals. An example of self paternalism is the story of Ulysses tying himself to a mast so as not to succumb to the sirens’ call. Calabresi and Melamed, however, argue that this kind of paternalism is not “in any real sense paternalism.”[13] It only serves to relinquish short-term freedom of choice in favour of long term goals; it is something that is voluntarily imposed on oneself.

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[9] Ibid, 1111.
[10] Ibid, 1111.
[11] Ibid, 1112.
[12] Ibid, 1112.
[13] Ibid, 1113.

True paternalism on the other hand refers to restrictions imposed by others in the best interest of an individual or group. Calabresi and Melamed explain: "[p]aternalism is based on the notion that at least in some situations the Marshalls know better than Taney what will make Taney better off."[14] True-paternalism supposes a situation in which it is judged by others that an individual is at the time unable to employ proper judgement on what is truly in their best interest; this can be, for example, due to lack of certain information or inebriation. What matters most in true paternalism when prohibiting a sale is not the resulting damages to the party involved, but rather that one party engaged in the transaction is unable to judge properly what is or is not in his or her own best interests, prohibiting even the discussion of the transaction. Unlike self-paternalism, true-paternalism is not necessarily pareto-efficient. "[T]he most efficient pie is no longer that which costless bargains would achieve, because a person may be better off if he is prohibited from bargaining."[15] This description they give actually directly contradicts their previous description of self paternalism. I will discuss this in more depth shortly.

What Calabresi and Melamed have developed is a normative theory based on, and working in the confines of, market failure. However, in discussing moralisms and paternalism they go beyond the limits of market failure and market rhetoric, the problems of which are the subject of the next section.

[14] Ibid, 1113.
[15] Ibid, 1114.

3. Problems of the economics argument

Many people regard the argument presented by Calabresi and Melamed as a reasonable and desirable way to determine the limitations of the market, given the prevalence of similar arguments in politics; in which economic efficiency is a common argument for government policy, especially in the more right wing parties. In this section I will argue that their argument is lacking in certain respects and that it has rather undesirable consequences for the way we think about human relationships and society as a whole.

One such problem can be found in the first example Clabresi and Melamed present, in which Taney wishes to sell his property to Chase, who is a polluter. Margaret Jane Radin remarks that the argument Calabresi and Melamed present in the discussion of their example evokes a vision of universal commodification. She describes universal commodification as presenting a very "one-dimensional world of values."[16] In this perspective, everything that is desired or valued is considered a commodity. This includes everything from physical goods and services to personal attributes and government. Anything anyone is willing to sell would be subject to market exchange and all social interactions are conceived of as market exchanges. These characteristics can easily be found in the presented example, because the same kind of argument applies to gift transfers, yet only sales are mentioned in the example. This serves as an indication that gift transfers are sales as well, albeit ones where the payment is delayed; it suggests that all human interactions are sales of some kind. Furthermore, Calabresi and Melamed describe the damages wholly in market rhetoric, describing the damage of pollution in monetary terms rather than in terms of damage to health. Even if they were to use health as a reason to discourage the transaction, they would again translate the damage to health in terms of money, as health damages produce healthcare costs.

The lack of distinction between gift and sale is most apparent in the way Calabresi and Melamed define 'inalienability': "An entitlement is inalienable to the extent that its transfer is not permitted between a willing buyer and a willing seller."[17] The problem with this is that there is an important distinction between a gift and sale, even among items commonly regarded as inalienable. One such good is organs: transfer by gift is commonly accepted and even encouraged, but transfer by sale is not. In this case, organs are inalienable only when transferred in market transactions, not as gifts. This inability to distinguish between gift and sale originates from the tendency of market rhetoric to adhere to a world view of universal commodification. A gift, as described in market rhetoric, is simply the exchange of one item for something less tangible than money, such as the expectation of reciprocity, favour or the ensured continuation of the relationship. In reality, this is not how we regard gift exchanges. It seems impossible to really apply market or economic rhetoric to explain gift giving; as something that is not an exchange at all, rather gifting is an expression of the relationship between two persons. The distinction between a gift and a sale is a subtle but profoundly important one; the nature of the exchange and our reaction to it may change significantly depending on whether it is a sale or a gift. Take for example sex. Sex as a gift in a relationship has a profoundly different nature than sex as a sale. The act itself is the same in both cases, yet the meaning and value of the two differs dramatically. Yet market rhetoric would simply degrade sex as a gift to an economic transaction in the relationship between the two relevant parties; in a world of universal commodification there is no difference between prostitution and sex between consenting lovers.

[16] Margaret Jane Radin, *Contested Commodities*, 2nd ed. (Cambridge: Harvard University Press, 2001), 2.
[17] Calabresi-Melamed, 1092.

The same type of worldview is employed by Calabresi and Melamed when they discuss moralisms in the example where Taney wishes to sell himself into slavery. They claim the justification for the prohibition of slavery is only because it would harm Marshall in some way. However, if Marshall was to like slavery, and with him enough others, the justification for the prohibition of slavery would no longer carry any weight and be invalid. Radin argues:

> On a deeper level, the argument disturbingly suggests that the inalienability rule against slavery would not be justified if the rule were inefficient. If enough of the 'Marshalls' liked slavery, so that the prohibition would be a cost rather than a benefit to them, slavery would be inefficient and therefore, at least according to this argument, acceptable. Anyone who has no qualms about this argument bears witness to a (literally) demoralizing triumph of market methodology.[18]

The argument Calabresi and Melamed present is not capable of providing a clear and coherent case for why certain morally objectionable transfers are prohibited. Instead, they rely on a roundabout argument that is focussed solely on economics.

The problems created by this theme of efficiency persist, when Calabresi and Melamed discuss the two forms of paternalism. The inclusion of paternalism is perhaps the most awkward in their entire text, because they manage to contradict themselves within the space of a few sentences. In their description of self-paternalism they state: "no one knows better than the individual what is best for him or her."[19] This is the reason why they consider self-paternalism to be essentially pareto-efficient. This statement serves to express a certain degree of moral subjectivism. But this directly contradicts their discussion of true-paternalism when they state: "Paternalism is based on the notion that at least in some situations the Marshalls know better than Taney what will make Taney better off."[20] This idea of paternalism further complicates things in conjunction with their conception of moralisms as externalities. If some things are to be prohibited because they impose external moralist costs on others, it is impossible to know if anyone's preferences are wrong. Radin shows how the paternalism-efficiency argument collapses into the moralism-externality argument. "By imposing paternalistic restraints, the argument then would go, we are benefiting people whose subjective moral beliefs include the 'knowledge' that others would be better off if restrained, and who attach subjective value to seeing them better off."[21] If the same logic Calabresi and Melamed applied so far is used, then the only reason for imposing paternalistic restraints is because some people are "damaged" when they see others worse off than they could be. These people have a "moralism" towards seeing others as well off as possible. In this way, Calabresi and Melamed's paternalism is nothing more than their moralism-externality argument.

The argument Calabresi and Melamed present only really remains coherent up to their discussion of liability rules. While the character of universal commodification has some possibly unwanted implications, such as a lack of distinction between gift and sale, they could very well bite the bullet and accept these. It is when they start their discussion on moralisms that the limitations of the market rhetoric they use are really clear. They attempt to explain moral values and judgements in

[18] Radin, 24.
[19] Calabresi-Melamed, 1113.
[20] Ibid, 1113.
[21] Radin, 25.

terms of efficiency, even while morality has nothing to do with efficiency. This is like using the tools of mathematics to explain historical artefacts; using mathematics will not be able to provide a coherent explanation the way archaeology can. A similar lack of coherence on the subject further escalates in Calabresi and Melamed's inclusion of paternalism. Not only do they directly contradict themselves, if paternalism abides by the same rules Calabresi and Melamed previously established, their argument collapses into their moralism-efficiency argument. The problem is that they attempt to explain moral arguments through a rhetoric which is wholly unsuitable for it. This is a result of welfare economics' roots in utilitarian philosophy, where welfare economics replaces the primary utilitarian value of utility (happiness) with the value of money. In the previous slavery example, utilitarian morality faces the exact same problem that economics faces; if slavery manages to produce more utility than it removes, utilitarianism will be unable to argue a reason against the institution of slavery. The tools permitted to the field of economics however are unable to properly approach, let alone solve, these problems. This is exactly why the models created from the view of economics such as the one by Calabresi and Melamed ultimately fail to coherently formulate limitations on the market. In order to coherently formulate limitations on the market only using economic efficiency is simply insufficient, the subject has far too many consequences for conceptions of justice and morality; which are subjects of moral philosophy, not economics. Therefore, rather than economics, formulating market limitations is a role better suited for moral philosophy.

4. Walzer's moral argument of blocked exchanges

Within moral philosophy, one of the first and most influential authors who made an attempt at determining the moral limits of the market is Michael Walzer in his book *Spheres of Justice*. One of the things Walzer attempts to do in regards with money is to determine the scope of the sphere in which money holds influence; i.e. the scope of the market.

In the approach Walzer uses, the market is not a neutral institution which merely serves to distribute goods. The market has the ability to change and degrade the non-monetary value, the meaning, of goods as well. To that end, Walzer argues that some goods have a social meaning far beyond any monetary value. The meaning of these goods, the social value they possess, requires a limit on the role the market plays in the distribution of these goods. Depending on the specifics of a given good's social values, these goods should either be distributed equally to all members of a given society, under certain conditions or they should not be distributed at all. These goods should not be distributed through the market, because the market distributes goods only based on a person's ability and willingness to pay a specified sum of money. For the market, there is no principled reason not to distribute drugs or organs so long as someone is willing to pay a certain sum of money for them.

Walzer uses these social goods to identify a list of exchanges for which exchange on the market is blocked, known as his list of blocked exchanges. Walzer explicitly lists fourteen of these blocked exchanges. On this list is the expected block on illegal items and criminal justice, it further ranges to include the sale of persons, political office and power, honours and even membership to relationships, such as friendship and love. While an exhaustive list to be sure, he does recognise it is in no way definitive, recognising he may well have omitted important categories. Most important is that in so far as there exists a market in the goods Walzer lists, this is a black market and its transfers are performed sneakily and illegally.

Although Walzer argues from an idea of social goods, the list he develops is not the result of a specific principle of morality. It is a list established through his observation of the kinds of blocked exchanges as they have been established in the contemporary United States. When he determines the scope of the sphere in which money should operate and what social goods should be subject to it, the answer he provides is: "a range of goods that has always been marketable, whatever else has or has not been: all those objects, commodities, services, beyond what is communally provided, that individual men and women find useful or pleasing, the common stock of bazaars, emporiums and trading posts."[22] Walzer finds a further value in commodities, beyond their simple economic value. Commodities may provide comfort or security in the place we call home or serve to differentiate or express ourselves; commodities "are our anchors in the world."[23] He argues that this object-relationship is not something new to our modern, more commercial, society; it is something more constant in the history of human society.

The fact that commodities can have social value attached to them does produce a problem in industrialised society, namely that "money buys membership."[24] There are many commodities and activities that have over the years become so common place their possession has become the norm. These commodities and activities, however, still cost money to acquire, so that a certain amount of

[22] Michael Walzer, *Spheres of Justice*, (Oxford: Basil Blackwell, 1985) 103.
[23] Ibid, 104.
[24] Ibid, 105.

money is required to achieve the norm. The inability for some people to buy some of these will result in a sort of alienation from the rest of society. Walzer writes:

> Unless we can spend money and deploy goods at levels beyond what is required for subsistence, […] we suffer a loss more serious than poverty itself, a kind of status starvation, a sociological disinheritance. […] Unless we own a certain number of socially required things, we cannot be socially recognized and effective persons.[25]

An example of such a luxury item is a personal computer and internet access. Currently the internet has become so widespread in most western societies that the inability to freely and easily access the internet severely limits one's ability to fully function in society. This is especially true for the younger generation where access to a computer and the internet are nearly a requirement for a proper education. So too for job applications, which more and more often need to be submitted online. Even tax returns require a computer and internet access nowadays. Not having this item then creates a social inequality.

The equality of individual members in a society is one of the primary principle on which modern democracy is built, and is often cited by authors such John Rawls[26] as a requirement for justice. The plumber's vote is just as valuable as the banker's (or so it should be, but that is a different discussion) and both are equally as much a member of society. However, if full membership and participation is subject to financial forces, this basic principle is undercut. Walzer writes:

> Economic failure, whatever loss of esteem comes with it should never have the effect of devaluing citizenship in either the legal or the social sense. And if it does have that effect, we must seek for remedies.[27]

The remedies in this case are the previously mentioned blocked exchanges. Blocking these specific exchanges minimises the power money has on people's ability to participate in society as full members. It serves to "tame 'the inexorable dynamic of a money economy,' to make money harmless—or, at least, to make sure that the harms experienced in the sphere of money are not mortal, not to life and not to social standing either."[28] Thus the exact criteria for determining blocked exchanges are those wherein there is a threat to a person's ability to function and be recognised as a full member of a given society. Walzer concludes that "[g]iven the right blocks, there is no such thing as a maldistribution of consumer goods. [..] So long as yachts and hi-fi sets and rugs have only use value and individualized symbolic value, their unequal distribution doesn't matter."[29]

Walzer makes a strong case here in regards to the social value of some commodities and the membership it buys. It's easy to imagine some luxury good which merely by ownership provides membership to some exclusive social group. For example, while all phones will have the same general utility, certain brands become associated with a certain image. The Apple iPhone for example is in terms of pure utility not superior to any of its competitors. However, Apple has created an image of the iPhone with which certain people would like to be associated; by owning an iPhone you can

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[25] Ibid, 105-106.
[26] See John Rawls' *A Theory of Justice.*
[27] Ibid, 106.
[28] Ibid, 107
[29] Ibid 107-108.

enter this social group of iPhone users. Not owning an iPhone then automatically excludes you from this social group. There is nothing wrong with excluding people from certain groups based on whether they own an iPhone or not. It becomes problematic, however, once owning an iPhone becomes a normative requirement to be a proper member of a society. While there are not many commodities that currently have such strong social value as to entirely exclude persons from being considered fellow citizens, there is a certain norm for luxury items people are expected to possess. While owning an iPhone is itself not necessarily a norm, owning a mobile phone generally is. The same expectation is held with respect to owning a computer and having access to the internet. This being considered the general norm in a society, the inability to abide to this norm not only excludes one from engaging in certain social interactions for which these items are necessary, it may also serve to cultivate a sense of inadequacy in the individual. There are few goods that really have the capacity to influence whether a person is capable of being a full and proper member of a society, outside of basic goods physically needed for survival. Two examples that spring to mind are a home and a job. Both are required to be a full member of society, and each is necessary to have the other; a home is needed to have a job, and employment is needed to have a home. To lose either for an extended period may result in a state where both are lost permanently, a state from which recovery is increasingly difficult. In essence, the homeless are exactly those individuals disenfranchised, because of their inability to maintain possession of certain required commodities.

While I agree with Walzer in regards to the social value of commodities and how this may influence a person's ability to properly function in a society, I disagree that it is to the extent as he claims. Walzer implies that being a moral person may also be dependent on financial ability. He writes the following:

> Unless we can spend money and deploy goods at levels beyond what is required for subsistence, […] We become aliens in our own homeland—and often in our own homes. We can no longer play our parts as parents, friends, neighbors, associates, comrades, or citizens. […] Unless we own a certain number of socially required things, we cannot be socially recognized and effective persons.[30]

Walzer claims here that to be a good parent, friend or neighbour, etc. a certain level of financial ability is required.

While relationships have certain norms associated with them which may cost money to abide to, that is not what we judge someone's ability to be a good friend or parent on. Friendship, for example, has some expectations of reciprocity when one friend treats another to something. To reciprocate this gesture of friendship in kind, money is required. But if it is understood in the relationship that one party has a weaker financial position than the other, the inability to provide this reciprocity on the same financial level is not a reason for relinquishing the relationship. The virtue by which a good friendship is judged is not the financial ability to reciprocate gestures that require money. We judge a good friend on their ability to provide companionship, trust, understanding and other goods we associate with being part of friendship and 'what friends are for'. To support this, Judith Andre states that an essential element to friendship is "spontaneous mutual appreciation"[31] and Elizabeth Anderson claims that the goods of friendship, and all personal relationships, are "trust,

[30] Ibid, 106.
[31] Judith Andre, Blocked Exchanges: A Taxonomy, in *Ethics* 1 *(1992),* 32.

loyalty, conviviality, sympathy, affection, admiration, companionship, and devotion."[32] A person's ability to provide these goods in a relationship is what his ability to function in that relationship is judged on; whether someone is a good friend or not. This holds true for all the relationships Walzer mentions. Important to note though is that a parental relationship, unlike the other relationships, contains a legal obligation to provide for the children, which does require money. Again however, the ability to provide for a child is not necessarily one on the basis of which someone can be judged to be a good parent; a parent who only provides money to whomever takes care of the children cannot really be considered a good parent.

However, the biggest problem Walzer faces is a result of his reliance on the social meanings of goods. Walzer uses the social meaning of goods to determine whether a good should be subjected to the market; if the social meaning of a good requires it to be distributed equally it should not be distributed through the market. However, as Debra Satz points out, "[m]any social meanings are contested."[33] Even within smaller communities there is bound to be disagreement on the social meaning of a good, let alone on a national level. Satz cites an example Walzer uses: he claims that the social meaning of health care requires it be distributed equally. This is not a universally held position, especially in the contemporary USA, where the general consensus seems to be that health care should be distributed through the market, except in those cases where it causes market failure. Satz argues:

> If we disagree with this position it does no good to cite the social meaning of health care as the reason for our disagreement, because it is precisely the social meaning (and its implications) that is here in dispute.[34]

At best, Walzer can adopt the view that social meaning is determined collectively; if the majority of people agree on a specific meaning for a good, that is the meaning then associated with that good. This, however, creates the same problem as the approach undertaken by Calabresi and Melamed. Because the social meaning of a good is decided by majority rule, this also determines whether that good should or should not be exchangeable on the market. So again, if the majority will agree that there is nothing objectionable with slavery, transactions in slaves would have to be allowed in this model. This problem further means that Walzer's theory can never actually be implemented in any real political fashion for limiting the market. Politics should not simply serve the opinions of the majority; it should serve to shape it as well. The discussion on legalising same-sex marriage is an excellent example of this. What matters is not what the majority wants, but rather what serves the ideals of society; which in most modern democracies are equality and justice.

So it seems Walzer faces the same problem in formulating market limits as Calabresi and Melamed, albeit he has less unpleasant consequences for the conceptions of gifts and moral values. What is most important in Walzer's work is that he identifies two key aspects of the market in relation to morality: its capacity to corrupt non-market values and to create inequality. It is on these capacities of the market that Michael Sandel builds his argument.

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[32] Elizabeth Anderson, "The Ethical Limitations of the Market," in *Economics and Philosophy* 6 (1990), 186.
[33] Debra Satz, *Why Some Things Should Not Be for Sale*, (New York: Oxford University Press, 2010) 81.
[34] Satz, 81

5. The market's corruption of non-market values

In his lectures entitled *What Money Can't Buy*, Michael Sandel describes a distressing development in western societies: the apparent transition from a market-economy into a market-society. Very little cannot be bought, and this number of items seems to shrink by the day. He provides many examples of the market spreading to more and more spheres of public life, from influencing the books that are read and incarceration to commercializing government itself. Sandel claims these examples "illustrate one of the most powerful social and political tendencies of our time, namely the extension of markets and of market-oriented thinking to spheres of life once thought to lie beyond their reach."[35] There are two major objections Sandel uses to argue against this development: the objection of coercion and the objection of corruption, each corresponding to either the market's ability to corrupt or create inequality as identified by Walzer.

The objection of coercion concerns itself with the injustice of market transactions committed to in conditions of economic necessity or severe inequality. One important aspect of the market for which market proponents argue is the freedom provided through the market; supposedly everyone is equal and fully free, because money has the exact same value for everyone. However, the reality is that some things are simply necessary to survive and those in the weakest financial position may be forced to do things to make money they would otherwise not do. This is an objection often cited against prostitution. Most often, prostitution is not something done voluntarily. Those who sell sexual acts are typically coerced to do so, either through economic necessity, drug addiction or some other unfortunate circumstance.[36] In cases such as this, the market, instead of offering greater freedom of choice, limits or forces a particular choice.

Sandel does note that the objection of coercion is not necessarily an objection to the market itself. He writes:

> It is not, strictly speaking, an objection to markets, only to markets that operate against a background of inequality severe enough to create coercive bargaining conditions. The argument from coercion offers no grounds for objecting to the commodification of goods in a society whose background conditions are fair.[37]

What this objection is concerned with is the kinds of conditions that are necessary for a market transaction to be considered just. Determining what goods should or should not be part of the market is the concern of the objection of corruption.

In order to determine which goods should or should not be subject to the market, the objection of corruption appeals to the inherent moral importance of certain goods. The idea is that market influences may threaten the integrity and priority of certain values, because the market is itself concerned only with use values, relegating all others to a secondary position. To return to the example of prostitution; the objection of corruption here is that by selling sex you degrade the moral value of human sexuality. Usually sex is exchanged on a basis of mutual respect, love or attraction of some sort. Prostitution however disregards these values in favour of purely economic ones. The

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[35] Michael Sandel, "What Money Can't Buy."

[36] While many surveys do support this conclusion, such as a survey performed for the Journal of Public Health in 2004, this conclusion is only in regards to street level prostitution. http://jpubhealth.oxfordjournals.org/content/26/2/147.full.pdf+html (last consulted on 20-7-2013)

[37] ibid, 94-95.

objection of corruption would still be valid in a world where the objection of coercion would not, it states that sex is inherently something that should not be subject to market influence.

Unlike the objection of coercion, the objection of corruption needs to be argued specifically on a case by case basis; “It must be shown how, in each case, market valuation and exchange degrades or corrupts important values or ends that non-market practices may embody.”[38] Quite unlike the coercive objection which does not have a plurality of ideals, only the single ideal of free consent. From this difficulty directly flows a second difficulty: since the objection of corruption points to the moral worth of goods rather than a single ideal of consent, how can the case for these goods be established, especially considering the many competing moral ideologies? Sandel shows two objections resulting from two possible solutions to this problem:

> If we derive the fitting or proper way of regarding goods from the social meanings that prevail in a given society at a given time, we run the risk of lapsing into conventionalism. […]If, however, we derive the fitting or proper way of regarding goods from some notion of the essential nature of the practices in questions, we run the risk of essentialism—the idea that the purposes and ends of social practices are fixed by nature.[39]

So in order to determine the proper limitations of the market, it is necessary to argue that markets corrupt certain goods, without the argument falling back into either conventionalism or essentialism.

Conventionalism I have shown the problems of with Walzer, essentialism brings a host of other problems to the table. Essentialism makes an Aristotelian claim that there is an essential nature to certain goods. This requires an argument for each individual good on what its essential and *fixed* nature is. The problem then is that it seems very unlikely that there is a fixed nature for anything, considering how much things seem to change over the ages. For example, what is considered justice is quite different now to the conception of the ancient Greeks. A more flexible approach than essentialism provides is necessary for the purpose of market limitation.

Sandel shows that there are two methods that avoid the trappings of conventionalism and essentialism. The first method he describes is the argument from analogy; “to begin with moral intuitions we have about certain practices, and to see whether or not the practices in question are relevantly similar.”[40] This may sound conventionalist at first glance, but the starting intuitions are also subject to revision as the argument develops. The other method he describes is by starting from a certain conception of the good and to “explore its consequences for morally contested cases of commodification, and also commonly accepted ones.”[41]

Sandel makes use of the argument from analogy by challenging our intuitions in the case of the selling of babies and selling of sperm with respect to commercial surrogate pregnancy. One of the objections levied against commercial surrogacy is that a woman selling her reproductive capacity is similar to selling a child. The reason we do not allow the selling of children is because in that case a human being becomes a commodity, that corrupts its human value. As such, commercial surrogacy should not be allowed. Yet at the same time the selling of sperm is allowed; which is essentially men selling their reproductive capacity for money. Why should women not be allowed the same freedom, to sell their reproductive capacity through commercial surrogacy? Here, the argument from analogy

[38] ibid, 106.
[39] ibid, 106.
[40] Ibid, 107.
[41] Ibid, 107.

may be used to challenge our intuition on the permissibility of sperm selling. “If […] we conclude that certain modes of valuation are proper or fitting to certain kinds of goods, we may come to question the moral permissibility of sperm sales.”[42] Of course, the same argument may be turned around in order to argue for the permissibility of the selling of children. What is most important about this method is that it challenges certain conventional moral assumptions and may serve to revise these assumptions when necessary. This way the argument of corruption will not fall prey to conventionalism.

The second method Sandel describes is a bit more complicated. Sandel starts by formulating a republican ideal of citizenship and freedom. Sandel describes that according to the republican ideal “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.”[43] One way to justify this ideal is that self-governance and its associated virtues are necessary for human flourishing. Politics then is intended to serve the self-interests of the citizens. Using this conception of a good, it is possible to analyse why we do not allow a market in votes for example.

Since we do not allow a market in votes, why then do we allow practices that seem to resemble just that? Large and rich interest groups may use their financial power to influence politics directly, which we call lobbying. Yet when an interest group goes directly to a politician and promises money in exchange for certain policy changes it is called bribery. Similarly, it is not allowed for a politician to promise a lump sum of money in exchange for votes, but at the same time promising a tax cut is common practice. If politics really does exist to serve the interests of the voters there should be nothing wrong with any of these examples. If however we maintain that a market in votes should not be allowed, it may mean that we need to change our definition of citizenship and politics. Sandel concludes:

> Our reluctance to treat votes as commodities should lead us to question the politics of self-interest so familiar in our time. It should also lead us to acknowledge and affirm the republican ideals implicit but occluded in contemporary democratic practice.[44]

The fact that Sandel concludes a reassessment on the notion of good from which he started stops it from falling into the trappings of conventionalism. With this, Sandel provides a theory which can applied to formulate market limitations, without the problems faced by previous attempts such as those by Calabresi and Melamed and Walzer. While his preference for a republican ideal of citizenship is arguable, the actual methods with which market limitations can be formulated are comprehensive enough to be applied in practice.

[42] Ibid, 102.
[43] Ibid, 108.
[44] Ibid, 118.

6. Objection to the corruption argument

Sandel argues strongly that the market should be limited because of its corruptive ability on non-market values. Unlike the coercion argument, the corruption argument is capable of arguing directly against a commodity's market transfer, on the basis of its moral importance. Debra Satz argues the exact opposite, claiming only the coercion argument can really serve to limit the market as the corruption argument can easily collapse back into coercion.

Central to the corruption argument is that the market threatens the integrity and primacy of certain non-market values in some way. Exactly why is this objectionable? One reason has to do with equality and human flourishing. As Walzer claimed, certain values that are part of social goods require that they should be distributed equally, because they are equally needed across society. Allowing the market to distribute such goods disproportionately affects the financially weakest, since it is more difficult for this group to procure these goods. Satz argues that it is not the corruption of goods that is objectionable; it is the inequality resulting from this corruption that is really the problem. Furthermore, distribution through the market does not (necessarily) corrupt the value of a good, nor does the market value of a good determine or replace any of the non-market values a good may have. Satz explains:

> Markets are typically instrumental mechanisms for achieving our ends; a market price is rarely the direct expression of our evaluative attitudes toward a good. […] a religious person can buy a Bible without believing that its price expresses her views about its worth.[45]

In the case of commercial surrogate pregnancy for example, one of the objections may be due to its effects on our view of the bond between mother and child. The objection is that by turning the reproductive labour of a woman into a commodity, it serves to corrupt the very nature of motherhood or that it results in a view of children as producible objects. According to Satz, neither argument is capable of providing sufficient grounds to oppose commercial surrogacy.

The objection of the mother-child bond holds that the relation between a woman and her foetus is fundamentally different from that of a worker and his product. During the pregnancy and childbirth, the mother will bond with the unborn child. Commercial surrogacy does not respect this bond. But Satz argues that by simply introducing a market valuation does not diminish the non-market value of a good. Furthermore, the development of such a bond is not a necessity of pregnancy. Although this maternal bond may develop in most cases, this is not always the case. Satz points out: "not all women bond with their foetuses. Some women abort them."[46] There is no standard for which emotions are proper to a pregnancy.

Similarly, Satz argues against the claim that commercial surrogacy results in the commodification of children. Commercial surrogacy may allow prospective parents to "shop" for characteristics they want their child to have. This brings a commercial attitude into a sphere where this is not proper. A child should be loved and cared for unconditionally by its parents, not because of them having the most desirable characteristics. Satz points out that the critics who use this argument must defend a claim about the relationship between the market and love. Satz argues: "In particular they must claim that […] love will be conditional on the child's having the 'right' set of physical

[45] Satz, 82.
[46] ibid, 122.

characteristics."[47] However, the reasons prospective parents enter the market of commercial surrogacy is in order to have a child. While the shopping attitude may be problematic, it only serves to express a certain preference the parents have. There is no reason to believe their love and care for the child is dependent on these characteristics.

Ultimately, Satz argues that the only legitimate reason for objecting to commercial surrogacy is due to the resulting inequality between men and women. Satz mentions three ways how commercial surrogacy contributes to gender inequality.

1: "Contract pregnancy gives others increased access to and control over women's bodies and sexuality."[48]
2: "contract pregnancy contributes […] by reinforcing negative stereotypes about women as 'baby machines'[49]
3: "contract pregnancy raises the danger, […] that motherhood will be defined in terms of genetic material, in the same way as fatherhood."[50]

Because of these three reasons, the argument of corruption is unable to properly argue against commercial surrogacy. Commercial surrogacy serves to create an inequality between men and women, and as Sandel already argued: market transactions committed to under inequality are not just. Thus it is an argument of coercion that ultimately serves to limit commercial surrogate pregnancy, not an argument of corruption.

Satz has a valid objection to the corruption argument in that it is indeed difficult to argue goods possess certain corruptible values without facing the problems of essentialism or conventionalism, as Sandel already pointed out. Her position that transactions such as commercial sexual or reproductive services should be prohibited as a whole, due to the resulting inequality, is, however, lacking in some respect. The argument established by Satz relies on the point that allowing certain transactions damages the equality of an entire class of people. In her review of Satz' book, Cecile Fabre points out that Satz' position "depends for its plausibility on an account of collective unstructured wrongdoing, whereby individual agents may be deemed to act wrongly by doing x even if doing x, taken on its own, is not wrongful but is part of a wider practice whose effects are wrongfully harmful to others."[51] To prove this plausibility is perhaps even more difficult to achieve than a good's corruption due to market influences. It is like stating that due to the abhorrent conditions in Chinese iPhone production factories, owning an iPhone somehow damages the well-being of Chinese people as a whole. This is simply not a claim you can reasonably make. At best you could say that it is detrimental to those directly involved with the iPhone production, not the whole of the Chinese people. The same holds for commercial reproductive and sexual services; only those directly involved may be harmed, not an entire class of citizens.

Furthermore, Satz' position that the corruption argument collapses into the coercion argument indicates a consequentialist view of morality. The only reason a transaction may be forbidden is because of the resulting inequality, which is the result of corruption as well. Thus market transactions in goods such as reproductive and sexual services, organs or voluntary slavery would

[47] Ibid, 123.
[48] Ibid, 128.
[49] Ibid, 130.
[50] Ibid, 131.
[51] Cecile Fabre, "Why Some Things Should Not Be for Sale Review by Cecile Fabre," in *Ethics* 2 (2011), 472.

have to be allowed if any resulting inequality can be eliminated. Now, let's forget about how this could actually be achieved and let's just suppose we live in a world where this is true. Would we then view transactions of this kind the same as any other labour transaction? Could we require someone to try finding work as a prostitute or to sell an organ before giving them unemployment benefits? You could argue that there is still inequality because that person is forced by financial need into these jobs he or she would not otherwise wish to do. But how is this any different from our current system? We currently expect people to go work jobs such as picking up trash or fast food service if they are unable to find other work, even if they otherwise would never wish to do these jobs. Reasons for this could be because they are overqualified or for ideological or religious reasons, a vegetarian could, for example, still be expected to work for a butcher if no other work is available. Why is it acceptable to force people to perform these kinds of jobs, but it is unacceptable to force them into prostitution or organ selling? It is because these kinds of transactions in sex or organs have a moral value associated with it; a value that gets corrupted when influenced by market forces. It is not as if the transfer of these goods or activities needs to be prohibited as a whole, to prohibit sex for example would be problematic to say the least. What is needed is that these goods and activities are simply not transferred through the market, which is a result of the values associated with these goods. Therefore the coercion argument fails in translating the moral significance of the transaction itself. It is not a resulting inequality or even the commodity that is transferred which we find objectionable in certain market transactions; it is the market transaction of these commodities that we find objectionable. This is why the argument of corruption is the more effective method in determining the limits of the market.

Conclusions

In order to determine the best theory with which we may formulate limitations to the market I first explored how the subject of market limits may be approached from the field of economics. The theory of market failure is often used in the field of economics as a normative tool to justify government intervention in the market once they fail. This is, however, a tool used to adjust markets when they are already (close to) failing. In order to avoid the state of market failure altogether, Calabresi and Melamed attempt to argue for a normative theory by which the limits of the market may be established. They argue for the property, liability and inalienability rules with which the highest economic efficiency may be maintained. Their reliance, however, on the standard economic values of cost efficiency is what ultimately shows the inadequacy of an economic approach to this problem. This is made especially clear when Calabresi and Melamed discuss moralisms and paternalism. They are, for example, entirely incapable of articulating a proper prohibition on practices, such as slavery, which are generally considered to be immoral. The reason they are not capable of doing this is that they approach a problem that is more morality or justice, with the tools and mind-set of economists. Which is ultimately why this subject is better suited for moral philosophers rather than economists.

Arguably, Walzer provides a significant foundation for moral thought on market limitations. First he formulates a list of generally blocked exchanges and looks at what these all have in common. What Walzer claimed is that goods have social values attached to them in a society that go beyond their mere utility. There is nothing inherently wrong with market goods having these values attached to them, but it becomes problematic once the ownership of such goods is considered to be the norm. When these goods become a requirement for people to function effectively as persons, it means that functioning as a person becomes dependent on financial ability. The greatest point of criticism to be levied against Walzer is that these social values are highly contested; even in very small communities there is disagreement on the social values of certain goods. At best, Walzer can take a conventionalist stance by accepting the social value the majority recognises. This, however, results in a similar problem as the one created by Calabresi and Melamed, where a transaction is only prohibited because the majority of people do not like it.

Walzer does provide an important insight from which others may develop further theories, this being his recognition of the market's capacity for corrupting non-market goods and creating inequality. Michael Sandel uses this insight and formulates two arguments with which market limits may be formulated: the argument of coercion and the argument of corruption. The argument of coercion is focused on the proper conditions of a market transaction, stating that transactions made under significantly unequal conditions cannot be justified. This argument is insufficient to establish that a certain commodity may or may not be transferred on the market; that is the subject of the corruption argument. By looking at whether the non-market values of a commodity can be corrupted due to market influences, it can be determined whether or not this commodity should be traded on the market. Sandel does, however, recognise the difficulty of successfully arguing that market influences may corrupt non-market values. There are two ways in which this can be done. The first is to start with moral intuitions and by way of analogy examine whether or not similar practices are relevantly similar. The second method is to start with a specific conception of the good, and to examine further the consequences this good has on different morally contested and uncontested practices.

Satz criticises Sandel's approach. She argues that it is impossible to establish that the market corrupts certain values. To argue this, certain claims have to be proven, such as the claim that commercial surrogate pregnancy change children into a producible commodity. These claims of corruption can never be truly proven or argued for; therefore the only proper argument for market limitations is through the argument of coercion. Satz claims that only whether an exchange promotes inequality or coercion can be proven, not whether a value is corrupted. Satz, however fails to recognise that for the coercion argument to limit the market, she needs to show how a certain market transaction serves to have a negative impact on an entire class of people, not just on those directly involved. Furthermore, if Satz' argument is to be believed, market transactions in sex, reproduction or organs would be perfectly acceptable if it does not produce any inequality as a result. I argue on the contrary that even if inequality is no longer an issue, we still would prefer not to engage in these market transactions. This serves to show a distinct difference between those transactions and others; there is an associated value that we do not want to be subjected to market forces. While Satz is right that the argument of corruption is difficult to prove, Sandel has already provided just such a method with which to show exactly how the market may corrupt the value of the goods subject to it.

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