

# Moral Limits of the Market

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This paper looks at alleged 'blocked exchanges' where, it is claimed, there are moral reasons for reserving particular areas of life from the market. It has sometimes been argued that there are some goods which should not be distributed according to market principles, and that the reason for this is that there is something about the nature of these goods which makes market distribution particularly inappropriate. While I think that there are some goods of this sort I also think that they may be rarer than sometimes assumed. More often blocked exchanges are to be explained either in consequential terms, or in terms of the rules and institutional frameworks in which they are embedded. This raises the question of whether we should attempt to preserve such a non-market sphere, and if so why. One important case is that of trying to preserve the values of an associational practice. Yet even here the issues are complex and there can be arguments on both sides. Here I argue that although it is important to preserve a non-market sphere, it may be less important what is in it.

## Market Exchange, Blocked Exchanges and Externalities

A market transaction is a miraculous thing. If all goes well it creates a Pareto improvement; making both sides better off and no one worse off. In the face of this it may be hard to find reasons to contemplate reasons to limit market transactions. Of course questions arise if the exchange is against the interests of one of the parties. And again if it creates negative externalities - third party effects. But otherwise what reason can we have?

One much discussed reason is that free and voluntary transactions can, it is claimed, lead to injustice. I will not, however, pursue that directly here.

Rather I want to look at what has come to be termed 'blocked exchanges'; that there are some things that simply shouldn't be bought and sold. In recent years, the criticism that the market allows the purchase and sale of things that shouldn't be purchased and sold is especially associated with Michael Walzer. But of course this goes back to Marx, and through Marx to Shakespeare.

But can it be wrong to sell things between willing parties? Certainly some people think this. There are many common examples. The permissibility of selling one's own kidneys has been under discussion for some time now; selling oneself into slavery for much longer. The morality of selling one's baby has been a recent theme on Coronation Street. But in real-life there are genuine examples of things that used to be sold which now seem amazing to

us. In the nineteenth century, for example, it was possible to buy and sell a commission in the British Army. Officers were people who had bought their posts, and would sell them again. Now this is no longer the case, and the suggestion to reintroduce would be treated as some sort of parody of free market economics. But why?

Presumably the army was reformed because it was thought that this practice had pernicious externalities; presumably we started losing wars, or, at least, large numbers of people. Hence the principle of the market price has been replaced by a principle of fitness for purpose, which now generally permeates the entire world of work. Here, then, the argument seems to be that a market in which people can purchase posts will so clearly lead to bad consequences that this provides sufficient reason to prohibit the practice. Nowadays we may talk about equality of opportunity for its own sake, but its initial justification appears to have been to allow the rise of the meritocracy for the sake of the general good.

But can all blocked exchanges be understood in this way? Would selling kidneys or babies have disastrous consequences? Do we know this? And do such beliefs explain the positions of those who want to keep the exchanges blocked? If so, presumably were we able to devise forms of regulated markets to ensure good outcomes only, then the opposition should drain away. Yet this does not seem likely. The undesirability of third party effects do not seem to me to explain why I am resistant to a market in organs from

living donors. However the more I think about it, the more convinced I am that our - or at least my - intuitions in this area are unreliable. By this I don't mean that they are wrong, but that the *most obvious* explanation of why we hold them may not be the *best* explanation.

In what follows I will argue that there are many different reasons for questioning particular exchanges and thus, potentially, many types of blocked exchanges. Although I do think there are moral limits to the market, the moral reason for the limits are not always so obvious.

The most straightforward type of case is where strictly it should be impossible to purchase what is offered for sale, as the nature of the good is, for some reason, incompatible with the idea of a trade for money. Love, friendship, moral praise and salvation are common examples. Of course it is possible to buy services which superficially resemble love and friendship, and so on, but, some have argued, these goods themselves are conceptually not available for sale. If so, anyone offering such things is trying to pull off a fraud.

But is it so straightforward? Marx writes the following:

' I am ugly, but I can buy myself the most beautiful women. Consequently I am not ugly, for the effect of ugliness, its power of repulsion, is annulled by money.'

Although on a first reading one might think that Marx's point is about prostitution, Marx seems to have something else in mind. He seems to be suggesting that money makes an ugly person genuinely attractive, and he may well be right. Yet, he seems to suggest, this is morally problematic; as if one shouldn't become attractive on the basis of one's money. Indeed it seems implied that only one's looks should be relevant (a view one would not normally think of associating with Marx). But the implication is that anything else is a subversion or corruption.

Now whatever we think about this particular example, the interesting thing about it is its form. The idea seems to be that there is a proper ground for finding someone attractive. An attempt can be made to replace this ground with money, but whether or not this is successful, it is, nevertheless, problematic. We saw two variants of the alleged problem. First it could be conceptually impossible, or second it is possible but corrupt. How, though, can we understand this notion of corruption? The problem is made more difficult by the thought that it would now seem deeply corrupt to sell a commission, yet apparently it was once common practice.

We can achieve a degree of illumination from Michael Walzer who argues that there are several 'spheres of justice' each distributing goods specific to that sphere, and regulated by its own principles, which are derived from the particular socially relative 'social meaning' of the good in question. Although

many have questioned Walzer's relativism, the British army example may provide it with some support.

One prominent example from Walzer is the relation between political power and money. Walzer points out that in many societies, including his own, not only can money help you towards political power, political power can help you towards money. Such interference between the spheres Walzer thinks of as tyranny. This may put it a little strongly, but certainly we view it as corrupt. It seems easier, however, to say that to use politics to become rich is a misuse of political power than to say that to use money to gain political office is a misuse of money. Rather, it seems, that ideally we want politics to be screened off from commercial matters, even if we have happened to have been rather unsuccessful in this respect. And perhaps this turns out to have some things in common with the army case after all. We don't want a political system which may lead to disaster, or even disregard of the citizens' interests, and letting politics and money mix too closely is going to be bad for almost all of us. So despite earlier appearances perhaps even this case could possibly be explained in terms of third party effects. Consequently it is not impossible that even this paradigm example of blocked exchanges has less to do with the intrinsic nature of the good - political power - and more to do with the pernicious effects of letting it be sold.

Let us consider some other examples. When I first started working at UCL the University sold parking permits at a very cheap price to anyone who wanted

one. Unfortunately, though, there were very few parking spaces, and to get one required getting to work before the scientists; that is around 7.45. which is what I used to do. If you missed a space, the only alternative short of returning home, was to park in the NCP for about ten pounds a day. At that time I was reading a certain amount of economic theory and it struck me that by getting my space early I had gained possession of a scarce resource. Consequentially there could be money to be made. Suppose I let it be known that at around 9.30 I would be willing to give up my space to another, for the price of, say, five pounds. Possibly when they had got over the shock of the offer, I would find a willing buyer. This would be a Pareto improvement - I would be better off, the purchaser would be better off and no one, it seems, would be harmed. But if I had actually done this, and the University authorities discovered it, I would probably have been fired for misconduct.

There are many similar examples. Suppose in the rush-hour you are on a crowded tube train and a businessman in a hand-made suit offers you a fiver for your seat. What would you think? Or suppose it isn't you who is offered the money, but the person next to you. And suppose the transaction is completed to the apparent satisfaction of both parties. What would you think of that? One can almost hear the murmurs of disapproval going round the carriage.

Or consider ticket touting. Many find this a highly dubious activity, and it is true that it is often mixed in with various forms of deceit. But where it isn't it

can be hard to say precisely what is wrong with it, as in the car park example or the seat on the tube example. It is hard to say that there is anything in the nature of these goods themselves that leads us to wish to block their exchange. Do we really want to say that market transactions corrupt the social meaning of parking; sitting down on the train; or going to entertainment events? Or even, like the army and politics, that they all have serious third party effects? Actually, in themselves, they all seem rather trivial.

Now the funny thing about the car park example is that a few years after I joined UCL the management decided to change to a new scheme, issuing permits for particular spaces at market price. The space I used to park in turned out to be one of the premium ones (well it was in the front quad, just by the portico) and was up for one thousand five hundred pounds a year. By that time I had changed my habits anyway and was not interested in a space. And of course there was a lot of grumbling, and some insistence amongst the highest paid staff that they should receive a pay rise to compensate for the cost of parking. But within a year or so this was the established system and as far as I know it was accepted as a reasonable, if somewhat opportunist policy.

Consider, too, the seat case. Many forms of public transport offer more than one class of comfort where more money buys you a better seat, or a better chance of a seat. It is true that there could be reasons for wondering whether

such provision violates some principle of equality, expressing and reinforcing unjustified social privilege. Yet the disapproval likely to attach to making a private additional payment for a seat on the tube train seems to go further than any disapproval about differential ticket pricing. Rather it goes to a sense that such things just shouldn't be done.

My explanation of these cases starts from the observation that where a good is scarce, any society needs a rule for its distribution. Often we use a rule which has an element of 'first come first served'. But this is not the only possibility. Charging a market-clearing price is another. What we see in the car parking and seat cases is that when a rule is in force, we do not take kindly to someone who tries to operate as if another rule was in place. It is not that parking spaces and seats should not be distributed on market pricing principles. Rather that when another rule is in place it is unfair, or possibly exploitative, to subvert it for your own ends, even if it does no-one any harm. This is a third party effect of sorts, but very different to the other examples we have seen. Were we to replace the rule wholesale with another one, then once we have got over transitional effects, we would get used to it easily enough.

By way of further illustration, consider again the practice of ticket touting. Tickets for some very popular sporting events, for example, are sold at below market clearing price, as they tend to be sold at a price established by custom, rather than one based on the attractiveness of the particular fixture.

This is a case where allocation is based on first come first served, subject to paying the required price. Tickets sometimes sell out early and the conditions are ripe for a black market, which comes into being. Consider, for example rugby internationals at Twickenham. Tickets often change hands at much above face value, and touting is commonplace, which generates both approval from anyone prepared to pay over the odds for a ticket and disapproval from others.

One good thing about the current system is that current ticket prices mean that the event is affordable to a wider section of the population than would otherwise be the case. But suppose Twickenham decided to outdo the touts by putting all tickets up for auction on ebay, with the auction closing the day before the game. Although there would be protests at first, we might come to think that this is a reasonable way to allocate tickets. After all we are used to auction pricing in many other contexts. Sotheby's and Christies are not expected to give the sale item to the first bidder. If it is right that we could easily flip from one allocation rule to another, then we can see that there is a species of blocked exchange that has little or nothing to do with the nature of the item traded. Rather, we have a rule for allocating a scarce good, and we sometimes treat this rule as unquestionable, almost as a sacred taboo. Yet we would have no difficulty in switching to a new system with a different allocational rule, provided it is generalised and applies to all. This is a type of conventional or contingent blocked exchange. It reveals one type of moral limit to the market, but not one rooted in the nature of goods.

The confusion between blockages being rooted in the nature of the goods, and being rooted in other social factors, is a common one, and one I have made myself before. And allocation rules are not the only social factors in play. Here is a quite different case, from the sphere of compensatory justice. Many years ago I read a detective story which featured an elderly American couple who were extremely proud of their new Cadillac. One morning they came downstairs and went to their locked garage only to find a dead body in their locked car. Naturally they called the police who took away the body and car for forensic tests. A week later, they wrote to the Police Department saying that because of the unpleasant surroundings of the car they couldn't face having it back, and suggested that the police department replace it. Only this time they'd like one in white with a red trim, please, which shouldn't cost any more. The Department replied with a curt note saying that they could have the car back when the tests were finished. But imagine now that the tests did indeed destroy the car and the police accept that they have a duty to replace it. And suppose that the white one is actually cheaper, so supplying it would be a Pareto improvement; everyone would be better off. Still, it seems to me, there is a duty only to replace it with one of the original colour. Somehow it seems wrong to ask for anything else; as if it is a misunderstanding of the situation. Of course once the request is made, it would be rather churlish of the police to decline it. But that doesn't mean that they have any duty.

But again it would be absurd to conclude that this shows us anything about

the proper grounds for the distribution of Cadillacs. Rather it seems to be an application of a little noticed axiom of deontic logic which we could call the inalienability of duty. If A has a duty to provide B with x, and B would rather have y, and y is cheaper or easier for A to supply, nevertheless A has no duty to provide B with y.

In all of this we have come no closer to the idea that some goods should be protected from the market because of the nature of the goods themselves. The most plausible cases are those where there is something in the nature of a good itself such that selling it destroys the good. Love and friendship may remain the best candidates.

Another form of argument that there are areas of life which should be kept free from the market starts from the observation that much of what we find of value in our lives comes not from the market, or from the state, but from voluntary associations: things people do for themselves and others but for non-commercial reasons. Clubs, associations, and less formal groupings of friends and family networks fall into this area. In our own time the internet is the perfect example. Although there is now a great deal of commercial use of the internet, and it is also used for state and other governmental purposes, there is still a huge amount of material put on the internet simply because people think it is worthwhile to do so. Why do people think it worthwhile? It is hard to say, in other terms, but clearly it of great value to many people, giving them a sense of purpose and connectedness with others.

The argument here is that there are values intrinsic to voluntary associations, or, in MacIntyre's terms, practices. Russell Keat has made this argument about the limits to the market. Practices have their own traditions, excellences and virtues. Keat is particularly exercised by the market's role in supplying cultural goods. Once the market gets a foothold, commercial values will corrupt the practices, the traditions will be forgotten and the virtues will wither in pursuit of money. This argument has been made recently on behalf of two state organisations masquerading as voluntary associations: the BBC and the Universities.

As a more general question, why should we think that cultural goods are more appropriate left within voluntary associations? Possibly one argument is that they should be made available to all, but the market cannot guarantee this. This is important and I will return to it. But is this so clear? Certainly in recent years certain arrears of life have changed their status from voluntary associations to commercial organisations. Think of the Olympic movement. Not long ago you would have been banned for life if you accepted payment. Now top athletes earn good money. Has this made sport worse? We can argue about the details, if we were so minded, but it is hard to make out the case that sport is now corrupted. Changed, yes, corrupted no. Might we not say the same thing about education? Cultural goods?

Does this mean that everything should be supplied on the market. This does not follow from what I have said. From the fact, if it is a fact, that it is not the case that anything in particular should be reserved from the market, it does not follow that everything should be supplied on the market. In fact, I think there should be a rather large non-market sphere. But rather perversely, I am coming round to view that it may not matter so much what is in the market sphere and what is not.

Let us ask, first of all, why we should have a non-market sphere at all? Let us approach this by considering what is probably the most famous example of all: Titmuss's famous blood donation example. Titmuss compared the British system of the 'gift relation' where blood is given, not sold, with the US system in which a substantial amount of blood is purchased.

Titmuss saw two advantages in the donation system. First, he claimed, you got better blood. Second, the practice encouraged feelings of social solidarity. Now the first is contingent, and has been contested. It is said that commercial blood banks responded much more quickly to HIV infection, for example. The second seems undeniable. For example, after a major crisis, such as 9/11, you may find blood donation drives even in countries without such a tradition, as a way of expressing grief and solidarity with the victims. And it seems appropriate that blood should have such a role, as it is a 'good' with such symbolism and resonance. Nevertheless is it so clear that we could not have chosen some other good, either as well or instead? In some countries people

take on the duty to keep the roadside that borders their property immaculately clean, as a civil duty. Is that better or worse than blood donation?

These cases look primarily at the supply side of the transaction, in terms of the quality of good and the implications of supplying it on a voluntary basis. Yet we also need to look at the consumption side too. Here I want to look at two arguments for reserving a range of goods from the market.

The first is perhaps the more obvious. If all goods are available only on a market basis, those who have not made an economic success of their lives will be excluded from almost everything else too. Allowing non-market provision can make available a normal range of fulfillments available to a broader range of people. From free concerts in the park, to free medical care an economically unsuccessful life can still be relatively secure and full of enjoyment, even if choice is more restricted. Some of these goods will be provided by the state, some by voluntary associations for their own sake, and some by individuals out of a sense of civic duty.

A second argument concentrates on the public sector, and compares two types of economic relation. The first, in the market, is what we can call 'the deal-making society', in which you go into each transaction looking for the best deal you can. If you do not get what you expected, or are given poor value, you have a right to complain, and perhaps, go to law. The second is

less easy to characterise but might be thought of as 'taking the rough with the smooth' or the 'swings and roundabouts' society. In this case the idea is that there are general rules or policies of distribution which sometimes yield good results and sometimes bad, but rather than judging each transaction on its merits we should judge the practice as a whole.

This 'rough with the smooth' attitude is, in general, the attitude we are encouraged to take with respect to public services. For example, someone may know that some of her taxes go to pay for public libraries, which she never uses, and so in that sense is getting a bad deal. She would never join the library if it was a private service. However perhaps she has an ailment which requires expensive medication which she gets on the national health system, and thereby receives a subsidy. So do the standards of the deal-making society she is being 'over-charged' for one good and 'under-charged' for another. In the 'rough with the smooth' society she just never does the calculations. Here the thought is that it is possible that we can all be better off if we take the rough with the smooth and goods are supplied publicly. In some cases we win, in some cases we lose, but we win overall in two ways. First, the administrative costs of individual pricing would make a private system more expensive, and second we gain in social solidarity.

Now the first of these is a contingent claim and one many will think false, believing that individual pricing encourages efficiency in other ways. However it is likely to be true for some goods and false for others, and where it is true

this is a good reason for having public provision in that area. But social solidarity - a sense that we are all in this together - is encouraged by keeping the public sector large. However the positive effects of this will drain away of the sector as a whole is thought to be inefficient and wasteful: there needs to be at least belief in net gain.

Of course some individuals will not gain materially. And if they dwell on this, and let it affect them too much, they will not gain in other ways. So we need to maintain a difficult balance. If we are to achieve the best results, we need to be able to ask whether, as a whole, public services give good value, while *not* asking 'do they give *me* good value?'. What is even worse is the question 'do I get good value from each public service?' Once this last question is commonplace public services will be vulnerable, and our potential loss will be very great. Hence we need to preserve a public sector and subject it only to some sorts of scrutiny if we want it to be a vehicle of social solidarity as well as efficient provision.

In conclusion, I think we have very good reason for resisting market imperialism. But this will rarely be because of the intrinsic nature of any good makes distribution by market norms inappropriate.