

COMMENT

## If you can do it for free, there's some way to do it for money

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### Abstract

*Markets without Limits* defends the claim that there are no inherent limits to markets, in the sense that if something may permissibly be given away or exchanged outside of market or for free, then there is some realistic and plausible way of structuring a market that makes it morally permissible to exchange it for money. This paper reviews the basic strategy of the book, and then responds to criticisms from Geoffrey Hodgson's recent review. Hodgson claims to have identified counterexamples to our main thesis, which we dispute.

**Key words:** Markets; moral limits; transactions

*Markets without Limits* defends the thesis that if it is morally permissible to do or give away something for free, then there is some realistic and plausible way to do or exchange that thing for money. It is not a book defending free markets, as we leave open the possibility that perhaps every market should be (heavily) regulated. It is not a book about what should or should not be legal either. Some anti-commodification theorists think certain markets (such as markets in sex) should be legal even though they think they are always immoral. We leave open that some markets (such as buying and selling votes) should be illegal even though we can identify cases where they would be morally good (such as paying philosopher Loren Lomasky to vote his conscience rather than abstain during a close election).

Hodgson (2020) says that the title may be misleading, as we say there are some limits to markets. He is correct. However, to be clear, we identify three different kinds of possible limits to markets:

- (A) *Limits Due to the Principle of Wrongful Possession:* There are some things that people inherently should not have – indeed, that should not even exist – and, as a consequence, people should not buy or sell.
- (B) *Incidental Limits to the Market:* There are cases where particular people should not sell particular things – things that normally would be permissible to sell – because of special circumstances, such as that they promised not to sell those items, or the items will be dangerous in these special circumstances, or because they have pre-existing duties that require them to do something else other than engage in buying or selling.
- (C) *Inherent Limits to the Market:* There are some things that people are normally allowed to own or possess in some way, but which should not be for sale.

Our book defends the view that there are no limits of type C, but *Markets without Inherent Limits* was too clunky for a title.

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Our main strategies for defending the no-inherent-limits thesis are through clarification, attrition, a general challenge, and finally debunking. What we mean by clarification is that many times objections to markets in something turn out not to be objections to markets, but to the thing itself. This is so for child pornography, assassination, slavery, dog fights, and dangerous votes, for example. Exchanging these things for money doesn't make them bad, the thing itself is bad. You should not buy and sell slaves, but that's not because markets make slavery bad; you should not gift slaves either.

It turns out many cases where anti-commodification theorists oppose a market are cases like this. Indeed, some of Hodgson's objections to our thesis are cases like this, and thus are not really objections to markets *per se*. For instance, he asks us to imagine a case where a Ph.D. student has a paper accepted at a journal (Hodgson, 2020: 3–4). She offers to make her advisor a co-author for \$1,000. Hodgson says that this is morally wrong, and we agree. But, contrary to Hodgson, we think it would also be morally wrong to make the same offer as a gift, as a way of expressing gratitude. Whatever other conditions or criteria might be relevant to making someone a co-author, substantive contribution to the paper is a necessary condition. So, if someone did not make a substantive contribution, they ought not to be made a co-author. There are standards that make it appropriate for someone to be a co-author, and doing it for any reason apart from those standards is dishonest. It's the same for the Nobel Prize, for example – you can't buy it, and you can't gift it, unless the independent standard for deserving it is met. Being a co-author or a Nobel Prize recipient without earning it is a kind of lie. And whether you lie from the most noble of motives like gratitude or love, or from base motives like a greedy desire for money is beside the point. That certain academic fields routinely do this does not make it any better; it just means that certain academic fields are behaving dishonestly.

Similar remarks apply to legacy admissions. Hodgson (2020: 7) expresses a number of substantial worries about universities' practice of granting preferential treatment to legacy students. For instance, he worries that admissions should be based on merit, rather than implicit willingness to pay extra in the form of increased donations. Now, in the book, we argue there are some hidden or less obvious upsides to legacy admissions (Brennan and Jaworski, 2016: 135–138). Part of what universities sell to students is the student body; students pick schools in part because of who their peers will be. Legacy students are there partly to help socialize certain students into upper and upper-middle-class mores. But let's put that aside. For the sake of argument, assume that universities should admit students on the basis of academic merit, narrowly construed, and nothing else. If so, then it is wrong to admit legacy students on the assumption that they and their parents will donate more to the university. But notice that, again, the wrong is located in failing to adhere to that independent standard. If a university refused all donations and offered free tuition, it would still be wrong to grant preferential admissions for any reason other than narrowly-construed merit. So, you may not do it for money because you may not do it for free.

Our second strategy is attrition: We identify seven different kinds of objections to commodification and then show that these objections fail, either in general or in specific cases where commodification theorists make them (e.g. Brennan and Jaworski, 2015).

Our third strategy is to offer a general challenge: We ask readers to consider, when they object to a market, whether they are objecting to all possible sales, or simply to contingent features of a particular market. We claim that we can always find a plausible way to construct a market which avoids their particular objections. For instance, if someone complains that kidney sales could exploit the poor, this objection would not apply to letting the two of us, the rich and not desperate authors, sell our kidneys. Our fourth strategy is debunking intuitions: After we defeat all the substantive philosophical objections to markets, we then note that nevertheless people have persistent gut feeling that some markets are wrong. We investigate the psychology of this, and find that these gut feelings are projections of disgust reactions which are further influenced by people's underlying ideologies. (For instance, Tetlock (2000) finds that Marxists are disgusted by routine market transactions, such as the sale of toothbrushes.) We argue that these intuitions are not to be trusted because disgust is an unreliable source of moral knowledge.

A note on the meaning of ‘markets’. Hodgson (2020: 2) rightly complains that our definition of markets is not quite right. One exchange does not make a market. However, we are not trying to help ourselves to a definition that makes our job easier. On the contrary, as we say in the book, we want to meet anti-commodificationists on their own terms, and so used the same broad definition they did. In general, we let any particular person we argue against define the word ‘market’ however they please, and then argue on behalf of commodification using their definition. But this could have been clearer.

There are a few cases where Hodgson thinks we have conceded the other side where, on the contrary, we have not. For instance, Hodgson (2020: 4) reads us as saying that the Haifa daycare case indeed shows that markets corrupt. On the contrary, we argued that this study is highly problematic. For one, it’s problematic that anti-commodification theorists use this example and make inferences about what this means regarding our character, when there are many empirical studies that directly test how markets affect our character and motivation. In general, the evidence appears to show that markets ameliorate and improve our character (Brennan and Jaworski, 2016: 85–144). However, oddly, philosophers who want to argue that markets corrupt generally cite only two studies: the Haifa case, and another highly ambiguous hypothetical survey of Swiss citizens. So, they are cherry-picking.

Further, the cherries they pick are not very good. Another problem with the Haifa case, we say, is that money means something. That is why the case is ambiguous. Consider: Haifa parents thought they were causing significant harm and distress when they picked up their children late, and so they tried to avoid doing so. But when the daycare imposed a financial penalty, they originally imposed a very small fine. This might mean, as anti-commodificationists say, that introducing a financial penalty crowded out people’s moral motives and instead caused them to see this as yet another arms-length transaction. However, we think it’s more plausible that the small penalty communicated that the harm was actually very small. Parents might have reasoned thusly: ‘I thought that picking up my kids late was a big deal. But it turns out that the daycare thinks it is made whole by a few dollars, so I was wrong to think that. It turns out not to be a big deal at all, so I’ll worry about it less’. Attaching a small penalty to something communicates that it is a small harm. Both are plausible interpretations, but the study does not differentiate between them and so gives little support for the crowding out thesis.

Similarly, Hodgson (2020: 4) notes that we are not prepared to offer our spouses money for sex or household chores. But that is not because we think all such markets between spouses are wrong. Rather, we identify actual cases where spouses do buy and sell such things, and in which it improves rather than harms their marriages (Brennan and Jaworski, 2015). In some cultures, paying for sex is expected, and communicates respect. We also identify a case where a married couple, both of whom were educated in decision theory, buy and sell each other’s services because they recognize that putting a price on things disciplines them to be more honest. Complaining is cheap, but money is not. We, the authors, would be happy to have marriages that worked this way. So, again, even if not all marriages work this way, it is fine for them to do so (Brennan and Jaworski, 2016: 66–67).

Related, Hodgson (2020: 3–4) wonders about whether we may buy and sell true love. He claims that it simply cannot be sold, as a matter of metaphysical fact. If that’s right, then this cannot be a counter-example to our thesis. If it is metaphysically impossible to buy and sell it, then the question of whether it is permissible does not arise, anymore than the question of whether it would be permissible to buy and sell squared circles.

However, we can imagine a case where someone develops a love serum. Drinking it causes a person to fall in love with whoever gave them the serum. Imagine Ann loves Bob, but Bob does not love her back. Suppose it is permissible for Bob to fall in love with Ann, say by taking long walks on the beach, going out to dinner, and allowing biology to do its thing. Indeed, Bob recognizes that were he to start dating Ann, he would probably fall in love with her. However, Ann is pressed for time – she wants love now! So, she offers to pay Bob £10,000 to drink the serum, or, if you like offers to pay £10,000 to Bob’s favorite charity for him to drink the serum. Here, it’s unclear to us why this would be morally wrong.

It might even be morally better. When we examine the actual chemical reactions and psychological underpinnings of 'love', we should probably be somewhat disenchanted by the whole process. And this is because love turns out to be similar to Nobel Prizes, co-authorship, and admission to college in this respect: there are independent standards, 'the right reasons', that determine when it is and when it is not permissible to fall in love. If we want to condemn Ann and Bob, we should then also condemn most relationships, as few people fall in love for 'the right reasons' when we look closely.

If you don't like the Ann and Bob case, consider an alternative: On the TV show *The Bachelor/Bachelorette*, it is common for the Bachelor or Bachelorette to say to other contestants something like this: 'Intellectually, I know you are a perfect partner for me. You have everything I want in a partner. But I simply don't feel sparks'. Suppose they are sincere when they say this. When this is so, the mind knows best but the heart does not react the right way. Here, it seems not only permissible, but recommendable to drink the love serum, as it would get the heart where it needs to be. Why rely on dumb biology? But if it's permissible to drink the love serum in this case, why would it not also be permissible to drink it for £10,000?<sup>1</sup>

Let's consider one last case. We argue that what makes markets in votes bad is the content of the vote, not the market itself (Brennan and Jaworski, 2016: 183–194). If we paid everyone to vote for what is in fact the most just policy, we would be doing the world a favor and deserve praise, not blame. Further, we think that voting the wrong way – say for a racist candidate or for Brexit – is morally wrong even when it is done for free (Brennan, 2009). Voting for injustice is bad for its own sake; it doesn't make it become good when people chose to do this for free, rather than for money.

In response, Hodgson offers this objection:

This argument would not allow for the selling of any vote, but morally permissible votes only. An ethical vote is one that is 'justifiably' expected to promote justice. But they gave us little guide to what justice means, or what kind of confirmation is entailed. There are different claims concerning what is just. Some people think that justice is promoted by capital punishment. Others deem all killing as immoral. Socialists believe that justice is promoted by the common ownership of the means of production. Others see that as the road to ruin. And so on. Not all these positions are 'justifiable'. And who decides? And how? In practice, it would be difficult or impossible to adjudicate over compliance to the *Principle of Ethical Voting*. (Hodgson, 2020: 6)

This is a general, common concern we see amongst non-philosophers. It captures the desire to move from 'in principle' reasoning, which is our books primary style, to practical concerns, including the question 'Who is to decide?' But we recognize the claims that: 'if X is morally correct, then we ought to do X'; and, 'if O is morally bad, then we ought not do O', as being true and substantive. That it's hard to figure out the Xs and Os is not an objection to the truth of 'if O is morally bad, then we ought not do O'. Because notice that this applies everywhere. People dispute not just what counts as ethical voting or what counts as justice, but every other aspect of ethics. Indeed, right now, Hodgson and we are disputing what it is permissible to buy and sell, and why. He says that we cannot say some votes are wrong because people disagree about what counts as wrongful voting and it's impossible to adjudicate this issue; we could respond that he cannot say anything is wrong to buy or sell because people disagree about what counts as wrongful commodification and it's impossible to adjudicate this issue. Hodgson should see this as being on equal footing, but unlike Hodgson, we don't think it is impossible to adjudicate these issues, even if we cannot convince everyone to agree with us.

The objection Hodgson raises against our Principle of Ethical Voting is problematic in part because he comes close to simply gainsaying it. But it is problematic in part because the mere presence of disagreement, even interminable disagreement, does not tell us that there is no truth of the matter.

<sup>1</sup>We first used this example in Brennan and Jaworski (2018). This piece considers at length various legitimate reasons why a person might want to purchase love even if they think all things equal gifted love is better.

Indeed, when we examine *why* people vote as they do and how they attach themselves to different ideologies, the seeming fact of persistent disagreement seems especially untroubling. Instead, it turns out people are overwhelmingly innocent of ideology, that most expressions of ideology are insincere, and that most people are simply parroting whatever their party says today (Achen and Bartels, 2016; Kinder and Kalmoe, 2017; Mason, 2017). If people were perfectly rational and well-informed and yet still disagreed, that would be troubling and suggest there is no truth of the matter (how could there be if they are perfectly well-informed and yet disagree?), but in fact people are badly informed and highly biased. And disagreement is not troubling to there being a fact of the matter when disagreement is uninformed and biased.

While we were writing this response to Hodgson (2020), we were asked to put together a second edition of the book, which we plan on doing. We are grateful to Hodgson's critique because it will give us an opportunity to better address many of his concerns, and to be clearer about what we mean. For example, it is obvious to us that we need to offer a clearer definition of a 'market', and that maybe we need to say a bit more about what we mean by the title of the book, 'Markets without Limits'. Since the book has attracted attention outside of the discipline of philosophy, we may also need to better explain and justify the way philosophers treat 'in principle' kinds of arguments, and why 'who is to decide?' is not a rejoinder to them. We thank Hodgson for spending time reading our arguments, and finding it worthwhile to offer a critique. We consider both an honor, and are glad we didn't have to pay him for it (although insist it would have been permissible if we had).

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