

*What Money Can't Buy:  
The Moral Limits of Markets*

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LECTURE I.  
COMMODIFICATION, COMMERCIALIZATION,  
AND PRIVATIZATION

1. TIPPING THE TUTOR

It is a great honor and pleasure to be back at Oxford to give these lectures. It takes me back to the time when I first arrived here as a graduate student twenty-two years ago. There was a welcoming dinner for new students at Balliol. The Master at the time was Christopher Hill, the renowned Marxist historian. In his welcoming remarks he recalled his early days at Oxford as a young tutor, and he told us of his dutiful, but somewhat patronizing, upper-class students, one of whom left him a five-pound tip at the end of term.

Hill's point, I think, was that times had changed. *We* were not supposed to tip our tutors. Not that the thought had ever occurred to me before he mentioned it. But it does raise an interesting question: Why not? What is wrong with tipping the tutor? Nothing perhaps, if the tutor is an economist. After all, according to many economists, and also non-economists in the grip of economic ways of thinking, money is always a good way of allocating goods, or, I suppose, of expressing thanks.

I assume that Christopher Hill disapproved of the tip because he viewed the monetary payment as an indignity, as a failure to regard teaching with the proper respect. But not everybody views money and teaching in this way. Adam Smith, for one, did not. He saw nothing wrong with compensating university teachers according to market principles. Smith thought that teachers should be paid according to the number of students their classes attracted. For colleges and universities to pay teachers a fixed

salary, Smith wrote, is a recipe for laziness, especially where colleges and universities are self-governing. Under such conditions the members of the college are likely “to be all very indulgent to one another, and every man to consent that his neighbor may neglect his duty, provided he himself is allowed to neglect his own.”<sup>1</sup>

Where do you suppose Smith found the clearest example of the sloth induced by fixed salaries? “In the University of Oxford, the greater part of the . . . professors have, for these many years, given up altogether even the pretence of teaching.”<sup>2</sup>

These two different views of money and teaching, Christopher Hill’s and Adam Smith’s, bring me to the question these lectures seek to address: Are there some things that money can’t buy? My answer: sadly, fewer and fewer. Today, markets and market-like practices are extending their reach in almost every sphere of life.

Consider books. It used to be that the books in the window of the bookshop, or on the display table at the front of the store, were there because someone in the store—the manager or buyer or proprietor—considered these books to be of special interest or importance to prospective readers. Today, that is less and less the case. Publishers now pay bookstores, especially the big chain bookstores, tens of thousands of dollars for placement of their books in windows or other prominent places. I don’t know whether this is yet the case with Blackwell’s. I pray not.

But in many U.S. bookstores, the books you see up front, even the books that are turned face out on the shelves, are titles that the publisher has paid the store to display. It has long been the case that makers of pretzels, potato chips, and breakfast cereals have paid grocery store chains for favorable shelf space. Now, thanks

<sup>1</sup> Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), book 5, ch. 1, pt. 3 (New York: Modern Library, 1994), p. 821.

<sup>2</sup> *Ibid.*

partly to the rise of powerful superstores like Barnes and Noble, books are sold like breakfast cereal.<sup>3</sup>

Is there anything wrong with this? Suppose, under the traditional system, you go into a bookstore and look around for a book you have written, something that authors have been known to do. And you find your cherished work on some obscure lower shelf at the back of the store. Imagine that you bribe the owner of the store to put it in the window. If it is a bribe when you make this arrangement, is it any less a bribe when Random House does it to boost sales of really important authors, like O. J. Simpson or Newt Gingrich?

Consider a second example—prisons. Once the province of government, the incarceration of criminals is now a profitable and rapidly growing business. Since the mid-1980s, more and more governments have entrusted their inmates to the care of for-profit companies. In the United States, the private prison business is now a billion-dollar industry. Twenty-seven states and the federal government have contracted with private companies like the Corrections Corporation of America to house their prisoners. In the mid-eighties when the trend began, scarcely a thousand prisoners occupied private prisons. Today, more than 85,000 U.S. inmates are serving time in for-profit prisons. And the trend has spread to Britain, Australia, New Zealand, Canada, France, the Netherlands, and South Africa.<sup>4</sup>

Or consider a third example, the growing trend toward branding, marketing, and commercial advertising in spheres that once stood aloof from market practices. Once, “rebranding” was a device employed by companies that needed to change the image of a tired product line. Today, we hear of efforts by the Blair government to

<sup>3</sup> Mary B. W. Tabor, “In Bookstore Chains, Display Space Is for Sale,” *New York Times*, January 15, 1996, p. A1.

<sup>4</sup> Nzong Xiong, “Private Prisons: A Question of Savings,” *New York Times*, July 13, 1997.

“rebrand” Britain as “one of the world’s pioneers rather than one of its museums.” As the American media has reported, “Rule Britannia” is giving way to “Cool Britannia,” the new slogan of the British Travel Authority.<sup>5</sup>

The rebranding of Britain is not an isolated episode, but a sign of the times.<sup>6</sup> Last year the U.S. Postal Service issued a stamp of Bugs Bunny, a cartoon character. Critics complained that stamps should honor historic figures, not commercial products. But the post office is facing stiff competition from e-mail, fax machines, and Federal Express. So it now sees licensing rights as key to its future.

Every Bugs Bunny stamp that is bought for the love of it, rather than used to mail an envelope, earns thirty-two cents profit for the post office. And stamp collecting is the least of it. The licensing deal with Warner Brothers enables the Postal Service to market Looney Tunes ties, hats, videos, and other products at its five hundred postal stores across the country.<sup>7</sup>

Canada has also encountered the licensing craze. In 1995, the Royal Canadian Mounted Police sold to Disney the right to market the Mountie image worldwide. Disney paid Canada’s federal police \$2.5 million per year in marketing rights, plus a share of the licensing fees for Mountie T-shirts, coffee mugs, teddy bears, maple syrup, diaper bags, and other merchandise. Many Canadians objected. They claimed the Mounties were selling out a sacred national symbol to a U.S. corporate giant. “It’s not the price that rankles. It’s the sale,” complained an editorial in Toronto’s *Globe and Mail*. “The Mounted Police have miscalculated on a crucial point. Pride.”<sup>8</sup>

<sup>5</sup> Warren Hoge, “London Journal; Blair’s ‘Rebranded’ Britain Is No Museum,” *New York Times*, November 12, 1997.

<sup>6</sup> In this and the following three paragraphs, I draw upon Sandel, “Branded,” *New Republic*, January 19, 1998, pp. 10–11.

<sup>7</sup> Nathan Cobb, “Trading Post,” *Boston Globe*, December 20, 1997, pp. D1, D3.

<sup>8</sup> Colin Nickerson, “Canadian Mounties Sign with Disney,” *Boston Globe*, July 15, 1995, p. 2.

The effect of the increasing commingling of government and commerce is more far reaching than one might imagine, in part because it works so well. Government, widely disliked, seeks to bolster its popularity, even its legitimacy, by leaning on popular images or icons of the commercial culture. Amidst widespread mistrust of government and dissatisfaction with politics, pollsters have found that the two most popular agencies of the U.S. federal government are the post office and the military. Not coincidentally, perhaps, both advertise heavily on television.

Not only governments, but also universities have gone into the business of licensing their brand names. In the late 1980s, Harvard University established a trademark and licensing office to monitor the commercial use of Harvard's name. One of its jobs is to crack down on unauthorized users, such as the poultry company in Korea that sold "Harvard" eggs in a carton that displayed a mortarboard and the promise that eating the eggs will make you as smart as somebody who goes to Harvard.<sup>9</sup>

Harvard's excuse for being in the licensing business is that a trademark must be used to be protected. So Harvard has been using it. In Japan, it licensed a line of clothing and accessories with the Harvard name, including horn-rimmed eyeglasses, khaki pants, and preppie blazers. So popular were these items that Japanese royalties brought Harvard as much as \$550,000 in one year. The competition is not far behind. Princeton has also opened up a product line in Japan.<sup>10</sup>

These three cases—the commodification of books, the privatization of prisons, the commercialization of governments and universities—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.

<sup>9</sup> "Harvard Eggs? Protecting the Name," *Harvard Magazine* (January–February 1998): 72.

<sup>10</sup> *Ibid.*, p. 73.

I'd like to argue in these lectures that this tendency is by and large a bad thing, a development that should be resisted. In explaining why this is so I would like to distinguish two objections to extending the reach of market valuation and exchange. Both figure prominently in arguments about the moral limits of markets. But they are often run together, and it is important to disentangle them.

## 2. TWO OBJECTIONS: COERCION AND CORRUPTION

The first objection is an argument from coercion. It points to the injustice that can arise when people buy and sell things under conditions of severe inequality or dire economic necessity. According to this objection, market exchanges are not necessarily as voluntary as market enthusiasts suggest. A peasant may agree to sell his kidney or cornea in order to feed his starving family, but his agreement is not truly voluntary. He is coerced, in effect, by the necessities of his situation.

The second objection is an argument from corruption. It points to the degrading effect of market valuation and exchange on certain goods and practices. According to this objection, certain moral and civic goods are diminished or corrupted if bought and sold for money. The argument from corruption cannot be met by establishing fair bargaining conditions. If the sale of human body parts is intrinsically degrading, a violation of the sanctity of the human body, then kidney sales would be wrong for rich and poor alike. The objection would hold even without the coercive effect of crushing poverty.

Each objection draws on a different moral ideal. The argument from coercion draws on the ideal of consent, or more precisely, the ideal of consent carried out under fair background conditions. 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.

The argument from corruption is different. It appeals not to consent but to the moral importance of the goods at stake, the ones said to be degraded by market valuation and exchange. The argument from corruption is intrinsic in the sense that it cannot be met by fixing the background conditions within which market exchanges take place. It applies under conditions of equality and inequality alike.

Consider two familiar objections to prostitution. Some object to prostitution on the grounds that it is rarely, if ever, truly voluntary. According to this argument, those who sell their bodies for sex are typically coerced, whether by poverty, drug addiction, or other unfortunate life circumstances. Others object that prostitution is intrinsically degrading, a corruption of the moral worth of human sexuality. The degradation objection does not depend on tainted consent. It would condemn prostitution even in a society without poverty and despair, even in cases of wealthy prostitutes who like the work and freely choose it.

My point is not to argue for or against prostitution, but simply to illustrate the difference between the two objections and also to illustrate the further part of my claim, which is that the second objection is not reducible to the first. The worry about corruption cannot be laid to rest simply by establishing fair background conditions. Even in a society without unjust differences of power and wealth, there would still be things that money should not buy.

I shall try to argue, in the remainder of these lectures, for the independence of the second objection. I hope also to show that it is more fundamental than the first. I shall proceed by considering a range of cases. Before turning to the cases, however, I want to emphasize an important qualification. Even if it can be shown that a particular good should not be bought or sold, it is a further question whether the sale of that good should be legally prohibited.

There may well be cases in which commodification is morally objectionable and yet, all things considered, the practice should not be banned. Prohibition may carry moral and practical costs that outweigh the good of preventing the practice. And there may be other, better ways of discouraging it. My question is not what forms of commodification should be legally restricted but what forms of commodification are morally objectionable. The moral status of a contested commodity should figure as one consideration among others in determining its legal permissibility.

### 3. THE CASE OF SURROGATE MOTHERHOOD

Having distinguished two different arguments against commodification, I now turn to one hotly contested case, that of commercial surrogacy. Contracts for “surrogate motherhood,” as the practice is commonly known, typically involve a couple unable to conceive or bear a child, and a woman who agrees, in exchange for a fee, to be inseminated with the sperm of the father, to carry the child to term, and to give it up at birth.

Some argue that commercial surrogacy represents an objectionable kind of commodification. How can such claims be assessed? Many arguments about commodification proceed by way of analogy. Those who oppose contracts for surrogate motherhood argue that they are morally tantamount to baby-selling. With commercial surrogacy as with baby-selling, a woman is paid a fee (typically \$10,000 in the surrogacy market), in exchange for relinquishing a child.

Defenders of commercial surrogacy must either resist the analogy or defend both practices. Those who dispute the analogy argue that commercial surrogacy is more like selling sperm than selling a baby; when a woman agrees to undergo a pregnancy for pay, she does not sell a preexisting child but simply allows another couple to make use of her reproductive capacity. And if it is morally per-

missible for men to sell their reproductive capacity, this argument goes, why is it not morally permissible for women to sell theirs?

I would like to consider both of those analogies. Each can help clarify the moral status of commercial surrogacy. As is often the case with reasoning by analogy, however, we may find that the intuitions that constitute our moral starting point do not emerge unscathed. Reflecting on the rights and wrongs of surrogacy may lead us to revise our initial views about the moral status of baby-selling and of sperm-selling.

In some cases, baby-selling may actually be better than contract pregnancy. Consider the following case, a true story, reported last year in the *New York Times*: Dr. Thomas J. Hicks was a country doctor in a small Georgia town. He had a secret business selling babies on the side. Jane Blasio, now a thirty-two-year-old Ohio resident, was one of those babies. In 1965, her adoptive parents, a tire maker and his wife, drove eight hours from Akron, Ohio, paid the doctor \$1,000, and drove home with a new baby daughter. Included in the purchase price was a fake birth certificate listing the buyers as the birth parents.<sup>11</sup>

Mrs. Blasio discovered Dr. Hicks's sideline business while combing through country birth records many years later, searching for the identity of her birth mother. It turns out that the doctor, who died in 1972, sold some 200 babies between 1951 and 1965.

Baby-selling is not normally a respectable business, but Dr. Hicks's version did have a morally redeeming aspect. Childless couples were not his only clientele. Unmarried pregnant girls from Chattanooga to Atlanta also made their way to his clinic in the north Georgia mountains. Abortions were illegal at the time, but Dr. Hicks was known to perform them. Sometimes he persuaded

<sup>11</sup> The remarkable story of Dr. Hicks was reported by Rick Bragg, "Town Secret Is Uncovered in Birth Quest," *New York Times*, August 23, 1997, pp. A1, A7. I draw, in the discussion that follows, on Sandel, "Baby Bazaar," *New Republic*, October 20, 1997, p. 25.

the young women to carry their babies to term, which created the supply that met the demand of his childless customers.

It is difficult to condemn the doctor's morally complicated practice. It can be argued that the moral wrong of selling a child was outweighed in his case by the moral good of avoiding an abortion and placing an unwanted child with loving parents. In any case, compare Dr. Hicks's black market in babies with contemporary commercial surrogate motherhood.

Compared to Dr. Hicks's homespun enterprise, commercial surrogacy, a \$40 million industry in the United States, is big business. Professional baby brokers advertise for couples who want a child and also for women willing to give birth through artificial insemination for pay. The broker draws up a contract specifying the payment to the birth mother, typically \$10,000 plus medical expenses. She agrees to be impregnated with the father's sperm, to carry the pregnancy to term, and to relinquish the child and all parental rights. For his efforts, the broker collects a \$15,000 fee, bringing the cost per child to more than \$25,000.

Like all commercial contracts, surrogacy promises benefits to both parties. Infertile couples can acquire a baby who bears the genetic imprint of the father and raise it as their own. Surrogate mothers, meanwhile, can earn \$10,000 for nine months' work and give the gift of life to a grateful couple.

But contract pregnancy does not always work out so happily. Sometimes the surrogate mother changes her mind and wants to keep the baby. That is what happened in the celebrated "Baby M case," a surrogacy case that went to court in New Jersey.<sup>12</sup>

The surrogate mother, Mary Beth Whitehead, fled to Florida with her baby rather than surrender it to William and Elizabeth Stern. They were the couple who had paid her to conceive it. A lower court in New Jersey ruled that the contract was valid. A deal was a deal, and the birth mother had no right to break the agree-

<sup>12</sup> In re Baby M., 217 New Jersey Superior Court, 313, 1987.

ment simply because she changed her mind. The New Jersey Supreme Court disagreed, however, and invalidated the contract. It granted custody to the father, Mr. Stern, but voided the adoption by his wife and declared Mrs. Whitehead the legal mother, entitled to visiting rights.<sup>13</sup>

On what grounds did the respective courts justify their rulings? The lower court argued, implausibly in my view, that in contracting with Mrs. Whitehead, Mr. Stern did not really buy a baby—he had, after all, contributed the sperm—but simply hired a woman to perform a service for a wage. But this strained distinction overlooks the fact that the contract not only required Mrs. Whitehead to bear the child: it also required that she renounce her parental rights. In fact, the contract even included a product guarantee: If the baby were born abnormal, the Sterns would not have to take it, though they would be obliged to provide financial support.

The New Jersey Supreme Court invalidated the contract and compared commercial surrogacy to baby-selling: “This is the sale of a child, or at the very least, the sale of a mother’s right to her child, the only mitigating factor being that one of the purchasers is the father.”<sup>14</sup> But if contract pregnancy is morally equivalent to baby-selling, the question remains whether our repugnance to baby-selling is well founded. What is wrong with letting people buy and sell babies if they choose?

There are two possible answers to this question, answers that take us back to the two objections to commodification in general. One answer worries about coercion or other flaws in the act of consent, while the other worries about corruption of the moral goods and social norms associated with pregnancy, childbearing, and parenthood.

Those who oppose surrogacy and baby-selling in the name of consent claim that the choice to bear a child for pay is not as

<sup>13</sup> *Matter of Baby M*, 537 Atlantic Reporter, 2d series, 1227 (New Jersey 1988).

<sup>14</sup> *Ibid.*, p. 1248.

voluntary as it seems. They argue that surrogacy contracts are not truly voluntary because the birth mother is unlikely to be fully informed. Since she cannot be expected to know in advance the strength of the bond she will develop with her child during pregnancy, it is unfair to hold her to her bargain once the baby is born.

In the Baby M case, the lawyers for the Sterns argued that Mary Beth Whitehead's consent was informed because she had had previous children of her own. But it is not clear that previous pregnancies supply the knowledge relevant to a surrogacy contract. The distinctive feature of such a contract is that it requires a woman to bear a child and then relinquish it. Bearing a child to love and raise as one's own does not necessarily inform a woman about what it would be like to bear a child and give it up for money.

The second objection to surrogacy contracts does not depend on finding a flaw in the act of consent. It holds that even a truly voluntary, fully informed agreement to sell a baby lacks moral force because certain things should not be bought and sold. This was the position of the New Jersey Supreme Court, which stated, "There are, in a civilized society, some things that money cannot buy."<sup>15</sup> This argument maintains that we should not regard ourselves as free to assign whatever values we want to the goods we prize. Certain modes of valuation are appropriate to certain goods. Treating children as commodities degrades them by using them as instruments of profit rather than cherishing them as persons worthy of love and care. Contract pregnancy also degrades women by treating their bodies as factories and by paying them not to bond with the children they bear.

Elizabeth Anderson advances a compelling version of this argument. "By requiring the surrogate mother to repress whatever parental love she feels for the child," Anderson writes, surrogacy contracts "convert women's labor into a form of alienated labor."

<sup>15</sup> *Ibid.*, p. 1249.

The surrogate's labor is alienated "because she must divert it from the end which the social practices of pregnancy rightly promote—an emotional bond with her child."<sup>16</sup>

Anderson's argument brings out a controversial feature of the corruption argument against commodification. To object that market valuation and exchange of a good corrupts its character is to assume that certain things are properly regarded and treated in certain ways. Thus Anderson invokes a certain conception of the proper end of pregnancy and childbearing. To know whether a good should be subject to market exchange, according to this view, we need to know what mode of valuation is fitting or appropriate to that good. This is different from knowing how much the thing is worth. It involves a qualitative, not just a quantitative judgment.

Such judgments are bound to be controversial, even threatening. Part of the appeal of markets is that they do not pass judgment on the intrinsic worth of the things people buy and sell. Different people evaluate goods differently, and the market leaves them free to act on their own valuations. It is sometimes thought to be an advantage of consent-based objections to commodification that, unlike the argument from corruption, they avoid passing judgment on the intrinsic worth of the things being exchanged or the modes of valuation appropriate to them.

Despite this apparent advantage, however, the consent-based argument fails to address the most morally troubling features of commercial surrogacy. For it is precisely the deliberate, voluntary character of contract pregnancy that makes it worse than some instances of baby-selling. Dr. Hicks's black market in babies responded to a problem that arose independent of market considerations. He didn't encourage the unwed mothers whose babies he sold to become pregnant in the first place. Had he done so, had he advertised and recruited the women to become pregnant, bear a

<sup>16</sup> Elizabeth S. Anderson, "Is Women's Labor a Commodity?" *Philosophy & Public Affairs* 19 (Winter 1990): 81, 83.

child, and give it up for money, then his baby-selling business would be far more objectionable than it was. It would be as objectionable as the commercial surrogacy business carried on today in full public view.

The argument from corruption, which draws our attention to modes of valuation appropriate to certain goods and social practices, may also prompt us to reconsider the moral implications of the analogy between surrogacy and sperm-selling. This analogy is typically invoked in defense of surrogacy. If men should be free to sell their reproductive capacity, the argument goes, shouldn't women also be free to sell theirs? Isn't it unfair, isn't it discriminatory, to allow one but not the other?

Here may be a case where, on reflection, the moral force of the analogy works in the other direction. If, prompted by the surrogacy case, 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. Such qualms are heightened by the brazen way in which the market for sperm has become commercialized.

From time to time, there appears in the Harvard student newspaper, the *Crimson*, an advertisement stating that "the largest sperm bank in the United States is looking for donors." Those who qualify are promised thirty-five dollars per specimen, up to three times a week. For relatively little effort, eligible Harvard men can make \$105 per week selling sperm.

It is no accident that Cryobank, Inc., locates its sperm banks near Harvard and MIT in the east and Stanford and Berkeley in the west. Its marketing materials play up the prestigious source of its sperm. A monthly catalog offers customers a physical and ethnic profile of each donor, including his major field of study. "It's not the Sears, Roebuck catalog," a company manager told the *Boston Globe*, "but it's a place to start."<sup>17</sup>

<sup>17</sup> Sally Jacobs, "Wanted: Smart Sperm," *Boston Globe*, September 12, 1993, pp. 1, 39.

The marketing of Ivy League sperm commodifies the male reproductive capacity in much the way commercial surrogacy commodifies pregnancy. Both treat procreation as a product for profit rather than a human capacity to be exercised according to norms of love, intimacy, and responsibility. A further example illustrates the point.

Several years ago there was a scandal surrounding a doctor named Cecil Jacobson, an infertility specialist in Virginia. He didn't have a donor catalog. Unknown to his patients, all of the sperm he used to inseminate his patients came from one donor—Dr. Jacobson himself. Genetic testing proved that at least fifteen of the babies conceived at his clinic bore his genetic imprint. Columnist Ellen Goodman described the bizarre scenario: “Had his patients known what was happening between the time the doctor left the examining room and his return with a vial of sperm, I suspect they would have leapt off the table. At least one woman who testified in court was unnerved at how much her newborn daughter ‘looks just like him.’”<sup>18</sup>

It is possible, of course, to condemn Dr. Jacobson for failing to inform the women in advance. But Goodman glimpsed another moral of the story: “The clamor over this case comes in part from a change in attitudes towards fathers. We are, finally, uneasy, about the disconnection between men, sperm, and fatherhood. We are trying to strengthen the lines between male sexuality and responsibility, fathers and children. Dr. Jacobson gave his infertility business the, uh, personal touch. Now the rest of us are in for a round of second thoughts on sperm donation.” Perhaps, Goodman concludes, fatherhood should be something you do, not something you donate.<sup>19</sup>

<sup>18</sup> Ellen Goodman, “The Father of Them All,” March 3, 1992, reprinted in Goodman, *Value Judgments* (New York: Farrar Straus Giroux, 1993), pp. 309–11.

<sup>19</sup> *Ibid.*, p. 311.

#### 4. PLURALITY AND COMMENSURABILITY

The argument from corruption has a distinctive feature that holds consequences for the way the debate about commodification should proceed. Unlike the argument from coercion, the argument from corruption will be different in each case. The reason is as follows: The argument from coercion always appeals to the ideal of consent, whereas the argument from corruption appeals to the character of the particular good in question. In the cases of surrogacy, baby-selling, and sperm-selling, the ideals at stake are bound up with the meaning of motherhood, fatherhood, and the nurturing of children. Once we characterize the good at stake, it is always a further question whether, or in what respect, market valuation and exchange diminishes or corrupts the character of that good.

Although the goods at stake will vary, it is nonetheless possible to identify one general feature of arguments from corruption that are leveled against commodification: All call into question an assumption that informs much market-oriented thinking. This is the assumption that all goods are commensurable, that all goods can be translated without loss into a single measure or unit of value.

The thesis that all goods are commensurable is familiar from at least some versions of utilitarianism, notably Benthamite utilitarianism. All arguments from corruption against commodification resist this claim. It does not seem to me possible, in general, to prove or refute the thesis of commensurability, which is one of the reasons that arguments by analogy play such an important role in debates about commodification. But it is reasonable to question the idea that all goods can be captured in a single measure of value, and to illustrate this doubt, I would like to close this lecture with one other story that I remember from the days, over two decades ago, when I was studying here in Oxford.

Back in those days, the men's colleges and the women's col-

leges were not yet mixed. And the women's colleges had rules against overnight male guests. These rules were rarely enforced and easily violated, or so I was told. But by the late 1970s, pressure grew to relax these rules and it became a subject of debate among the faculty at St. Anne's College. The older women on the faculty were traditionalists. They were opposed to change on conventional moral grounds. But times had changed, and they were embarrassed to state the real grounds for their objection. So they tried to translate their argument into utilitarian terms.

If men stay overnight, they argued, the costs to the college will increase. How, you might wonder? Well, they said, they'll want to take baths, and that will use up hot water. Furthermore, they argued, we'll have to replace the mattresses more often. (This is a true story.) The reformers met these arguments by adopting the following compromise: Each woman could have a maximum of three male overnight guests a week, provided that the guest paid fifty pence a night to defray the costs to the college. The day after the compromise was adopted, the headline in the *Guardian* read, "St. Anne's Girls: Fifty Pence a Night." It wasn't long before the parietal rules were waived altogether, and so was the fee. But the story calls into question the thesis that all goods are commensurable, that all values and virtues can be translated without loss into monetary terms. That is a thesis that the argument from corruption also rejects.

## LECTURE II.

### MARKETS, MORALS, AND THE PUBLIC SPHERE

#### 1. OBJECTIONS TO THE ARGUMENT FROM CORRUPTION

The argument that commodification corrupts or degrades certain goods raises two difficulties that do not confront the argument from coercion. One is that the argument from corruption has to be

made in a different way, case by case. 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. The argument from coercion, by contrast, does not have to be defended in a different way each time. It points to a single ideal—the ideal of consent—not a plurality of ideals. The form of the argument is always the same: What seems like a free exchange of goods or services for money is not truly voluntary, because economic coercion, or economic necessity, is operating in the background.

The second difficulty follows readily from the first: Since the argument from corruption points not to consent but to the moral worth of particular human goods, the question arises how the case for these goods can be established, especially in the face of competing moral and religious convictions. Recall the argument against commercial surrogacy advanced by Anderson. She claims that certain modes of valuation are “fitting” or “proper” to certain kinds of goods. This argument has, at least to some, a worryingly Aristotelian aspect, for it depends on attributing to certain social practices a characteristic purpose or end. Arguments of this kind are subject to two familiar objections: 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, for example, there are fewer and fewer things that money can buy these days, we might simply conclude that the meaning of our social practices is changing in this respect. The critical role of an appeal to proper modes of valuation is lost. 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.

Is it possible to argue that markets corrupt or degrade certain goods, without lapsing into conventionalism or essentialism?

How can such arguments proceed in the face of disagreement about purposes and ends? One way of proceeding, as I suggested above, is to argue by analogy—to begin with moral intuitions we have about certain practices, and to see whether or not the practices in question are relevantly similar. We considered, for example, whether commercial surrogacy was more like baby-selling or more like sperm-selling. The argument by analogy was saved from conventionalism by the fact that moral intuitions functioned as starting points for reflection, subject to revision as the argument unfolded. The initial intuitions against baby-selling and for sperm-selling were called into question in the course of reflecting on the similarities and differences between those practices and commercial surrogacy. Another way of proceeding is to begin with a certain conception of the good and then to explore its consequences for morally contested cases of commodification, and also commonly accepted ones. In the course of reflecting, we may find reason to revise our judgments about the cases or about the conception of the good that provides the starting point.

## 2. REPUBLICAN CITIZENSHIP

I turn now to three cases that concern markets and the public realm. Rather than begin with analogies and then tease out the conception of the good at stake, as in the surrogacy case, I'd like to proceed in the opposite direction—to begin by describing a certain conception of the good and then to explore its consequences for certain familiar market-oriented policies and practices. The cases I have in mind are: (1) military service, (2) voting, and (3) the distribution of income and wealth. I would like to argue that there is reason to limit the role of markets in governing these three practices more severely than we are accustomed to do. In each case, an excessive role for markets corrupts an ideal the practices properly

express and advance—namely, the ideal of citizenship as the republican tradition conceives it.

According to the republican conception of citizenship, to be free is to share in self-rule. This is more than a matter of voting in elections and registering my preferences or interests. On the republican conception of citizenship, to be free is to participate in shaping the forces that govern the collective destiny. But in order to do that, and to do it well, it is necessary that citizens possess or come to acquire certain qualities of character, or civic virtues.<sup>1</sup>

The emphasis on civic virtue sets republican political theory apart from two other familiar theories of citizenship. One such theory is interest group pluralism, which conceives citizens as persons who are free to identify their interests and to vote accordingly. A second theory is the liberal conception of citizenship, which emphasizes toleration and respect for the rights of others. The liberal conception of citizenship allows for the inculcation of certain civic virtues, but only those necessary to liberal principles themselves, such as the virtues of toleration and equal respect. The republican conception of citizenship, by contrast, seeks to cultivate a fuller range of virtues, including a moral bond with the community whose fate is at stake, a sense of obligation for one's fellow citizens, a willingness to sacrifice individual interests for the sake of the common good, and the ability to deliberate well about common purposes and ends.

What justifies the republican conception of citizenship? There are two versions of republican political theory, and each gives a different answer. Modest versions of the republican conception hold that civic virtue matters instrumentally; unless citizens attend to the public good, it is not possible to maintain a political society that accords each person the right to choose and pursue his or her own ends. More robust versions of the republican tradition,

<sup>1</sup> For a fuller discussion, see Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, Mass.: Harvard University Press, 1996), pp. 4–7, 25–28.

by contrast, view self-government and the virtues that attend it as an essential part of human flourishing. According to this view, to participate in politics is not just a means to securing a regime that enables people to seek their own ends; it is also an essential ingredient of the good life. For strong republicans, deliberating about the common good under conditions where the deliberation makes a difference calls forth human capacities—for judgment and compromise, for argument and reflection, for the taking of responsibility—that would otherwise lie dormant. On this view, the purpose of politics is to call forth and cultivate distinctive human faculties that other pursuits, such as work or art, do not cultivate in the same way. With this conception of citizenship in mind, we can now consider how commodification corrupts the good of self-government in three domains of public life.

### 3. MILITARY SERVICE

Military service can be allocated in different ways, some involving the market, others not. Conscription allocates service without the use of markets. In its simplest version, it fills places according to a lottery of eligible citizens. A second way of allocating places in the military was employed by the Union during the American Civil War. It introduced market principles, but only to a point. In the first American draft, enacted in 1863, those who were called but who did not want to serve could hire a substitute to take their place. Many draftees advertised for substitutes in the newspapers, offering amounts from a few hundred dollars up to fifteen hundred dollars. The system was less than a resounding success. There were widespread protests. In the New York draft riots a thousand people died. Congress tried to quell the protest by amending the policy by setting a flat fee for exemption. If you were drafted and didn't want to serve, you could pay a three-hundred-dollar fee to

the government. You didn't have to bother finding someone else. Three hundred dollars in those days was equivalent to one year's wages for a laborer.<sup>2</sup>

A third way of filling the ranks of the military carries market principles one step further. Rather than draft people and then allow the market to operate, the present-day American all-volunteer army uses market principles from the start. The term "volunteer" is something of a misnomer. Soldiers do not volunteer in the way that people volunteer to work in the local soup kitchen on Thanksgiving—that is, to serve without pay. The volunteer army is a professional army, in which soldiers work for pay. It is voluntary only in the sense that all paid labor is voluntary. No one is conscripted, and the job is performed by those who agree to do so in exchange for money and other benefits.

Compare these three ways of allocating military service—conscription, conscription with a buy-out provision (the Civil War system), and the market system. Which is most desirable? From the standpoint of market reasoning, the Civil War system is preferable to a system of pure conscription because it increases the range of choice. Those who are conscripted but who do not want to serve have the option of buying their way out, and those who are not conscripted but who want the job can buy their way in. From the standpoint of market reasoning, however, the volunteer army is better still. Like the Civil War system, it enables people to buy their way into or out of military service. But it is preferable to the Civil War system because it places the cost of hiring soldiers on the society as a whole, not just on the unlucky few who happen to be drafted and must therefore serve or hire a substitute to take their place.

So from the standpoint of market reasoning, the volunteer army is best, the Civil War system second best, and conscription

<sup>2</sup> On the Civil War draft, see James M. McPherson, *Battle Cry of Freedom* (New York: Oxford University Press, 1988), pp. 600–611; and Guido Calabresi and Philip Bobbitt, *Tragic Choices* (New York: W. W. Norton, 1978), pp. 158–67.

the least desirable way of allocating military service. But there are at least two objections to this line of argument. One is that we cannot prefer the volunteer army without knowing more about the background conditions that prevail in the society. The volunteer army seems attractive because it avoids the coercion of conscription. It makes military service a matter of consent. But some of those who serve in the all-volunteer army may be as averse to military service as those who stay away. If poverty and economic disadvantage is widespread, the choice to serve may simply reflect the lack of alternatives. This is the problem of the poor persons' army. According to this objection (an instance of the objection from coercion), those who buy their way in, or fail to buy their way out, are conscripted by the lottery of economic necessity.

The difference between conscription and the volunteer army is not that one is compulsory, whereas the other is not; it is rather that each employs a different form of compulsion—the state in the first case, economic necessity in the second. Only if people are similarly situated to begin with can it be said that the choice to serve for pay reflects people's preferences, rather than their limited alternatives.

The actual composition of the American all-volunteer army seems to bear out this objection. Thirty percent of the U.S. army troops who were sent to fight the Gulf War were African Americans, almost three times the percent of African Americans in the population as a whole. The enlistment rates for children of the richest fifteen percent of the population are one-fifth of the national average.<sup>3</sup> So it is easy to appreciate the force of the objection that the volunteer army is not as voluntary as it seems.

It is worth pointing out that this objection can in principle be met without doing away with the all-volunteer army. It can be met by making the background conditions of the society sufficiently equal so that people's choice of work reflects meaningful

<sup>3</sup> Larry Tye, "All-Volunteer Force No Mirror of Society," *Boston Globe*, February 2, 1991, pp. 1, 3.

consent rather than dire economic necessity. In this case as in others, the argument from coercion is not an objection to the commodification of military service as such, only to commodification that takes place under certain unfair background conditions.

A second objection to letting people buy their way into and out of military service is independent of the first. It holds that, even in a society where the choice of work did not reflect deep inequalities in life circumstances, military service should not be allocated by the labor market, as if it were just another job. According to this argument, all citizens have an obligation to serve their country. Whether this obligation is best discharged through military or other national service, it is not the sort of thing that people should be free to buy or sell. To turn such service into a commodity—a job for pay—is to corrupt or degrade the sense of civic virtue that properly attends it. A familiar instance of this argument is offered by Jean-Jacques Rousseau: “As soon as public service ceases to be the chief business of the citizens and they would rather serve with their money than with their persons, the state is not far from its fall. When it is necessary to march out to war, they pay troops and stay at home. . . . In a country that is truly free, the citizens do everything with their own arms and nothing by means of money; so far from paying to be exempted from their duties, they would even pay for the privilege of fulfilling them themselves. . . . I hold enforced labor to be less opposed to liberty than taxes.”<sup>4</sup>

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

<sup>4</sup> Jean-Jacques Rousseau, *The Social Contract* (1762), trans. G. D. H. Cole, book 3, ch. 15 (London: J. M. Dent & Sons, 1973), p. 265.

Consider the difference between the contemporary volunteer army and an army of mercenaries. Both pay soldiers to fight. Both entice people to enlist by the promise of pay and other benefits. The U.S. army runs television commercials that make the job seem as attractive as possible. But if the market is an appropriate way of allocating military service, what is wrong with mercenaries? It might be replied that mercenaries are foreign nationals who fight only for pay, whereas the American volunteer army hires only Americans. But if military service is just another job, why should the employer discriminate in hiring on the basis of nationality? Why shouldn't the U.S. military be open to citizens of any country who want the work and possess the relevant qualifications?

The logic of the market could be extended to challenge the notion that armies should be run by the government. Why not subcontract military functions to private enterprise? In fact, the privatization of war, like the privatization of prisons, is a growing trend. Private corporations that hire mercenary forces play an increasing role in conflicts around the world. Sandline International is a London-based company registered in the Bahamas. It was hired by Papua New Guinea last year to put down a secessionist rebellion. Papua New Guinea's prime minister hired Sandline for \$32 million to crush rebels his own army was unable to defeat. "I am sick and tired of our boys coming back in body bags," he said.<sup>5</sup>

Sandline, in turn, subcontracted with a South African-based company euphemistically named Executive Outcomes, which supplies and trains the soldiers. "Executive Outcomes has racked up an impressive record of military victories for its customers," reports the *Boston Globe*. "Equipped with Russian attack helicopters, heavy artillery, and battle-hardened veterans recruited from the troops that defended South Africa's former white supremacist

<sup>5</sup> Colum Lynch, "Soldiers for Hire Tempt War-Wearry," *Boston Globe*, March 8, 1997, pp. A1, A12. See also Raymond Bonner, "U.S. Reportedly Backed British Mercenary Group in Africa," *New York Times*, May 13, 1998; and David Shearer, "Outsourcing War," *Foreign Policy* (Fall 1998): 68–80.

government, Executive Outcomes has waged war on behalf of the governments of Angola and Sierra Leone.”<sup>6</sup>

In 1989, the United Nations proposed the International Convention against the Recruitment, Use, Financing, and Training of Mercenaries. But only ten nations have signed it, and two of them, Angola and Zaire, have already violated it. The United States did pressure the South African government to restrain the role of Executive Outcomes in Angola. But the American principled position was complicated by the fact that the United States then lobbied the Angolan government to hire a competing U.S. firm, Military Professional Resources Inc., to train the Angolan armed forces.<sup>7</sup>

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

#### 4. VOTING

The commodification of military service is controversial in a way that the commodification of voting is not. No one defends the out-

<sup>6</sup> Lynch, “Soldiers for Hire.”

<sup>7</sup> *Ibid.*

right purchase and sale of votes. But why is it objectionable? And if it is, what are the consequences for commonly accepted electoral practices that come perilously close to the buying and selling of votes?

Reformers have long worried about the role of money in politics.<sup>8</sup> So also did George Washington Plunkitt, the boss of the Tammany Hall political machine in New York. The problem with money in politics, he said, is that there is never enough to go around.<sup>9</sup> In recent years, however, there has been plenty to go around, at least in American politics. The last U.S. presidential campaign cost \$800 million. There have been attempts, of course, to reduce the power of money in politics. Underlying these attempts is the worry that the present system of financing American political campaigns comes close to bribery. But even the debate over campaign finance leaves untouched a deeper corruption, and that is the politics of self-interest itself.

Consider the widely accepted practice of conducting democratic politics as if it were about aggregating and responding to interests. If it is wrong for moneyed interests to bribe politicians with campaign contributions, isn't it also wrong for politicians to bribe voters with campaign promises directed at their pocket-books? Some bribes are more explicit than others. In Plunkitt's day, ward heelers distributed money, meals, and favors to bring the people to the polls. These days, it is more respectable to buy votes wholesale than retail. Retail vote-buying is bribery, but wholesale vote-buying is commonly accepted in the name of interest group politics.

The following example lies somewhere between the two: In the state of Washington a few years ago, casino promoters had a ballot measure seeking public approval of casino gambling. The measure

<sup>8</sup> I draw in this section on Sandel, "Votes for Sale," *New Republic*, November 18, 1996, p. 25.

<sup>9</sup> See William L. Riordon, *Plunkitt of Tammany Hall* (New York: E. P. Dutton & Co., 1963), p. 76.

provided that, if the referendum passed, ten percent of the profits from the casinos would be paid to those who voted in the election.<sup>10</sup> Was this a bribe, or was it a legitimate instance of interest group politics? Proponents argued that state governments often receive a portion of casino profits, and for that matter the profits of any industry that operates in a state; the Washington measure simply cut out the middleman and offered the money directly to the people.

Candidates' campaign promises often work in a similar way. In the early eighties, the U.S. Supreme Court heard a case involving a candidate for county commissioner in Kentucky. The candidate had promised that, if he were elected, he would lower the salary of his office. His opponent charged that this pledge violated a state law barring candidates from offering constituents a financial inducement for their vote.<sup>11</sup>

The Supreme Court rejected the challenge. It ruled that the promised salary reduction did not constitute a bribe. Why not? The reasoning of the court displays the moral confusion at the heart of the politics of self-interest. Justice William Brennan wrote the opinion. A state "may surely prohibit a candidate from buying votes," he sated. "No body politic worthy of being called a democracy entrusts the selection of leaders to a process of auction or barter." Brennan then asserted but did not defend a sharp distinction between buying votes and appealing to voters' self-interest. Our "tradition of political pluralism" assumes "voters will pursue their individual good through the political process," he wrote. Personal benefit "has always been, and remains, a reputable basis upon which to cast one's ballot."<sup>12</sup>

But what is the moral difference between a politician who buys

<sup>10</sup> Timothy Egan, "Hedging Bets on Democracy, Casinos Offer Cash to Voters," *New York Times*, August 18, 1995, pp. A1, B7.

<sup>11</sup> *Brown v. Hartlage*, 456 U.S. 45 (1982).

<sup>12</sup> *Ibid.*, pp. 54, 56.

votes and a politician who panders to voters' self-interest? Both offer a financial reward in exchange for a vote. If it is disreputable to sell my vote to a party boss for \$500, why is it reputable for me to cast my vote for the sake of a \$500 tax cut? There are at least three possible answers to this question, three ways of distinguishing the bribe from the promise of a tax cut:

(1) It might be argued that the tax cut comes from public funds, whereas the bribe comes from private funds, or from party coffers. But this makes the tax cut worse. At least those casinos in Washington were offering their inducements from private profits, not from state funds. If voters must be paid off, isn't it better that it be done with private money than with taxpayer dollars?

(2) Perhaps the difference is that a campaign promise may not be kept, and so will exert a lesser influence on voters than an outright bribe. But this suggests, perversely, that the moral superiority of the campaign promise consists in the fact that the politician who makes it cannot be relied upon to keep his or her word. In any case, if voters are skeptical that the promise will be kept, they can simply assign it a discounted value that reflects their degree of uncertainty. The promise of a \$500 tax cut with a fifty percent chance of being enacted would be worth \$250. But this would not make it any more justifiable.

(3) Or maybe the difference is that a campaign promise is public and available to everyone, while a bribe is secret and offered only to certain people. But many campaign promises are also targeted at particular groups or have highly differential effects. In any case, if bribes are wrong just because they are offered to some and not to others, then why not universalize them? If votes could be bought and sold openly, if there were an open market in votes, then the secrecy would fall away, and everyone would be free to sell at the going rate. The \$800 million that Bill Clinton and Robert Dole squandered on bumper stickers and attack ads could go directly to the people.

The reason that none of these distinctions succeeds is that they share the mistaken view that the purpose of democracy is to aggregate people's interests and preferences and translate them into policy. According to this theory, citizens are consumers, and politics is economics by other means. If this theory of democracy is right, then there is no good reason to prohibit the buying and selling of votes. Our reluctance to treat votes as commodities should lead us to question the politics of self-interest so familiar in our time. It should also lead us to acknowledge and affirm the republican ideals implicit but occluded in contemporary democratic practice.

### 5. THE GAP BETWEEN RICH AND POOR

The third example has to do with a condition that increasingly afflicts public life in a great many Western democracies, including the United States. It is a condition that partly reflects and partly deepens the tendency toward thinking of politics in market terms. The condition is the growing gap between rich and poor. In the 1990s, the gap between rich and poor in the United States has approached levels unknown since the 1920s. From 1979 to 1996, the bottom 40 percent of the population experienced a net loss in household income, while the top 5 percent gained almost 50 percent.<sup>13</sup>

The distribution of wealth also displays increasing inequality. In 1992, the richest 1 percent of the American population owned 42 percent of total private wealth, up from 34 percent a decade earlier, more than twice the concentration of wealth in Britain.<sup>14</sup>

<sup>13</sup> Richard B. Freeman, "Unequal Incomes," *Harvard Magazine* (January–February 1998): 64.

<sup>14</sup> David R. Francis, "New Figures Show Wider Gap between Rich and Poor," *Christian Science Monitor*, April 21, 1995, p. 1, citing a study by economist Edward N. Wolff. See also Edward N. Wolff, *Top Heavy* (New York: Twentieth Century Fund Press, 1995).

Someone recently calculated that the total wealth of the entire bottom 40 percent of the American population equals the wealth of one man, Bill Gates—over \$40 billion.

What, if anything, is wrong with the growing gap between rich and poor? The answers to this question illustrate the different moral concerns lying behind the two objections to commodification. The argument from coercion, which derives from consent-based theories of politics, views the problem as one of distributive justice. From this point of view, too much inequality in the basic structure of society undermines the fairness of agreements people make—to undertake certain jobs, for example, at a given wage. In a sharply unequal society, people are not truly free to choose and pursue their values and ends.

But there is another objection to the growing gap between rich and poor. This objection, an instance of the argument from corruption, draws on the republican conception of freedom. The republican tradition teaches that severe inequality undermines freedom by corrupting the character of both rich and poor and destroying the commonality necessary to self-government.<sup>15</sup> The argument goes back to Aristotle. He held that persons of moderate means make the best citizens. The rich, distracted by luxury and prone to ambition, are unwilling to obey, while the poor, shackled by necessity and prone to envy, are ill suited to rule. A society of extremes “lacks the spirit of friendship” self-government requires. “Community depends on friendship,” he wrote, “and when there is enmity instead of friendship, men will not even share the same path.”<sup>16</sup> Rousseau argued, on similar grounds, that no citizen should “be wealthy enough to buy another, and none poor enough to be forced to sell himself.” A

<sup>15</sup> I draw in this discussion on Sandel, *Democracy's Discontent*, pp. 330–32.

<sup>16</sup> Aristotle, *The Politics*, trans. and ed. Ernest Barker, book 4, ch. 11 (1295b) (London: Oxford University Press, 1946), pp. 180–82.

democratic state should “allow neither rich men nor beggars,” for these two estates “are equally fatal to the common good.”<sup>17</sup>

The argument from corruption directs our attention to the civic consequences of the gap between rich and poor so pronounced in our time. From the standpoint of the republican conception of citizenship, the danger is this: The new inequality does not simply prevent the poor from sharing in the fruits of consumption and choosing their ends for themselves; it also leads rich and poor to live increasingly separate ways of life. As Robert Reich has pointed out, affluent professionals gradually secede from public life into “homogeneous enclaves,” where they have little contact with those less fortunate than themselves.<sup>18</sup> The children of the prosperous enroll in private schools, or relatively homogeneous suburban schools, leaving urban public schools to the poor. Public institutions cease to gather people together across class and race and instead become places for the poor, who have no alternative. As municipal services decline in urban areas, residents and businesses in upscale districts insulate themselves from these effects. They hire private garbage collectors, street cleaners, and private police protection unavailable to the city as a whole.

The commodification of policing offers a dramatic instance of the trend toward privatization. By 1990, the U.S. Labor Department found that, for the first time, more Americans were employed as private security officers than as public police officers.<sup>19</sup> The *Economist* reports that Americans now spend about \$40 billion a year on public police, and \$90 billion a year on private security services. In Britain, the number of private guards has grown from about 80,000 in 1971 to 300,000 today, about twice the number

<sup>17</sup> Rousseau, *Social Contract*, book 2, ch. 11, p. 225.

<sup>18</sup> Robert B. Reich, *The Work of Nations* (New York: Alfred A. Knopf, 1991), pp. 249–315.

<sup>19</sup> *Ibid.*, p. 269.

of public police officers. Similar proportions obtain in Canada and Australia.<sup>20</sup>

On the republican conception of citizenship, the public realm is not only a place of common provision but also a setting for civic education. The public character of the common school, for example, consists not only in its financing but also in its teaching. Ideally, at least, it is a place where children of all classes can mix and learn the habits of democratic citizenship. Even municipal parks and playgrounds were once seen in this way—not only as places of recreation but also as sites for the promotion of civic identity and community. Today, even children's recreation is subject to the relentless forces of privatization and commodification. Instead of investing in public parks, parents can now make use of franchised "pay-per-use" playgrounds. For \$4.95 per hour, they can take their children to private play centers in suburban shopping malls. "Playgrounds are dirty," said the owner of one such firm. "We're indoors; we're padded; parents can feel that their child is safe."<sup>21</sup>

Growing inequality is a problem from the standpoint of fairness, as theories of distributive justice explain. But it also does damage to the sense in which democratic citizens share a common life. This damage, this loss, is best captured by the argument from corruption. Here is a case where shifting the terms of philosophical argument may suggest new political possibilities. A politics that emphasizes the civic consequences of inequality may hold greater promise of inspiring the reconstruction of class-mixing public institutions than a politics that focuses on individual choice.

My argument in these lectures has been directed primarily against those who think that freedom consists in the voluntary

<sup>20</sup> "Policing for Profit: Welcome to the New World of Private Security," *Economist*, April 19, 1997, p. 21.

<sup>21</sup> Elizabeth Rudolph, *Time*, November 4, 1991, p. 86. See also Mickey Kaus, *The End of Equality* (New York: Basic Books, 1992), p. 56.

exchanges people make in a market economy, regardless of the background conditions that prevail. Libertarian philosophers and political theorists, rational choice economists, and adherents of the “law and economics” movement are the most obvious targets of my investigation. Also implicated, however, are a group of unindicted co-conspirators. These are the liberal consent theorists who think that the commodification and privatization of public life can be addressed simply by adjusting the background conditions within which markets operate. According to the co-conspirators, there is nothing wrong with commodification that fair terms of social cooperation cannot cure; if only society were arranged so that people’s choices to buy and sell things were truly voluntary, rather than tainted by unfair bargaining conditions, the objection to commodification would fall away. What that argument misses are the dimensions of life that lie beyond consent, in the moral and civic goods that markets do not honor and money cannot buy.