

## **Seminar: Ethics, Economics, and Law**

**Fall semester 2024, Tuesdays 3:45pm - 5:45pm**

**WCC Room 3019**

Professor Michael J. Sandel

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### [Course Syllabus](#)

**Course description:** Are there some things that money cannot or should not buy? If so, how should the law deal with these things? What are the moral limits, if any, that the law should impose on market exchanges? The course will examine a range of historical and contemporary uses of contracts and markets that raise morally difficult questions and consider various attempts to determine what kinds of goods are properly treated as commodities.

**Enrollment:** The course is cross-listed with the Law School and the Faculty of Arts and Sciences. Enrollment is limited to JD and LLM students assigned by the law school registrar and to Ph.D. students from the Faculty of Arts and Sciences (by permission of the instructor).

**Course requirements:** The seminar depends on the informed participation of all members in each week's discussion. Students who enroll in the seminar should be prepared to keep up with each week's readings, to post short response memos on the course discussion board each week (by Monday at 5:00pm), and to participate in class discussions. Response memos should address (in about 500 words) one of the assigned questions, with reference to key readings. A final paper of 12 pages (double-spaced) is due at 5:00pm on Dec. 10. (Please see paper topic options at the end of this syllabus.)

One-half of the course grade will be based on attendance, preparation (including weekly response memos), and participation in the seminar, and one-half will be based on the final paper. Ph.D. students in the Department of Government may, in consultation with the instructor, substitute a longer paper in fulfillment of the department's seminar paper requirement.

### **Seminar topics**

Sept. 3	Immigration, refugees, and citizenship
Sept. 10	Commodification and criminal justice
Sept. 17	Social media and the commodification of attention
Sept. 24	Futures markets: Betting on life, death, terrorism, and human capital
Oct. 1	Surrogacy and procreation
Oct. 8	Markets and employment discrimination
Oct. 15	[HLS classes do not meet]
Oct. 22	Environmental protection
Oct. 29	Investing in lawsuits, social impact bonds
Nov. 5	[Election day; HLS classes do not meet]
Nov. 12	The economic way of looking at life: For and against
Nov. 19	Markets, incentives, and moral norms
Nov. 26	Markets, medicine, and health
Dec. 3	Discussion of final paper topics and precis

**The following books are available at the HLS COOP and on reserve at the HLS library:**

Elizabeth Anderson, *Value in Ethics and Economics*

Daniel Hausman, Michael McPherson, and Debra Satz, *Economic Analysis, Moral Philosophy, and Public Policy*, 3<sup>rd</sup> edition

Michael Sandel, *What Money Can't Buy*

Debra Satz, *Why Some Things Should Not Be for Sale*

Michael Walzer, *Spheres of Justice*

### **Sept. 3 - Immigration, refugees, and citizenship**

Should countries sell the right to immigrate? Is there a principled distinction between selling the right to immigrate and foreign investor visa programs (‘Golden visas’)? What are the best arguments for and against a system of tradable obligations to admit refugees?

Gary Becker and Edward Lazear, [‘A Market Solution to Immigration Reform,’ \*Wall Street Journal\*, Mar. 2, 2013.](#)

Gary Becker, [‘Sell the right to immigrate,’ \*The Becker-Posner Blog\*, Feb 21, 2005.](#)

[‘The Price of Entry,’ \*The Economist\*, June 24, 2010.](#)

Teri Schultz, [‘Golden visas’: EU offers the rich bigger bang for the buck,’ \*DW\*, 17 March 2018.](#)

[‘The Best Citizenship and Golden Visa Programs for 2018,’ \*Corpocrat Magazine\*, May 16, 2018.](#)

Madeleine Sumption and Kate Hooper, [‘The Golden Visa: Selling Citizenship™ to Investors,’ \*Migration Policy Institute\*, Dec. 18, 2013.](#)

Ayelet Shachar, [‘Dangerous Liaisons: Money and Citizenship,’ in Ayelet Shachar and Rainer Bauböck, eds., \*Should Citizenship be for Sale?\* EUI Working Paper \(2014\).](#)

Peter Schuck, [‘Creating a Market for Refugees in Europe’ \*New York Times\*, June 9, 2015.](#)

Peter Schuck, [‘Refugee Burden-Sharing: A Modest Proposal,’ \*Yale Journal of International Law\* 22 \(2\), 1997, 243–297.](#) (Also ch.12 in Schuck, Peter. *Citizens, Strangers, and In-Betweens: Essays on Immigration and citizenship*, Westview Press, 1998.)

Peter Yeung, [‘Super-rich Swiss village opts for £200,000 fine instead of accepting 10 refugees,’ \*Independent\*, 28 May 2016.](#)

Paul Thompson, [‘Inside the only village in Europe where immigrants are banned,’ \*Daily Mail \(UK\)\*, 27 May 2016.](#)

### **Sept. 10 - Commodification and criminal justice**

Is it morally objectionable to pay criminals not to commit murder, even if doing so reduces crime?

Is it objectionable in principle for states and the federal government to send convicted criminals to prisons owned and operated by for-profit companies, even if doing so saves money? Do the same considerations apply to immigration detention centers?

Is the prison consultant business objectionable? Should it be permitted?

Paying criminals not to kill

Aaron C. David, [‘Paying criminals to stay out of trouble,’ \*Washington Post\*, February 7, 2016.](#)

Jason Motlagh, [‘A radical approach to gun crime: paying people not to kill each other,’ \*The Guardian\*, 9 June 2016.](#)

## Private prisons

Brett C. Burkhardt, [“Private Prisons Explained,” \*The Conversation\*, March 20, 2017.](#)

Zusha Elinson, [“Trump’s Immigrant-Detention Plans Benefit Private Prison Operators,” \*Wall Street Journal\*, July 2, 2018](#)

Israeli Supreme Court case on private prisons: [Academic Center of Law and Business v. Minister of Finance \(2009\)](#). Read excerpt of the Court’s opinion, ¶25-39.

Malcolm Feeley, [“The Unconvincing Case against Private Prisons,” 89 \*Indiana Law Journal\* 1401 \(2014\)](#). Read Introduction, Section II, and Conclusion.

Association of Private Correctional & Treatment Organizations

<http://apcto.org/> (Various industry publications and articles in defense of private prisons)

## Prison consultants

Jack Hitt, [“Want to Do Less Time? A Prison Consultant Might Be Able to Help,” \*The New York Times\*, June 7, 2022.](#)

## **Sept. 17 - Social media and the commodification of attention**

In what sense do social media companies turn attention into a commodity? Is the commodification of attention objectionable? If so, on what grounds? Should targeted online advertising be banned? Should it be taxed? Should social media companies be required to pay a “data dividend” to those whose data they sell?

Tristan Harris, [“Big Tech’s attention economy can be reformed. Here’s how,” MIT Technology Review](#), Jan. 10, 2021.

<https://www.technologyreview.com/2021/01/10/1015934/facebook-twitter-youtube-big-tech-attention-economy-reform/>

Theodore F. Claypoole, [“Influence Peddling as Attention Economy Business Model,” \*The National Law Review\*, May 28, 2020.](#)

<https://www.natlawreview.com/article/influence-peddling-attention-economy-business-model>

Tim Wu, [“Blind Spot: The Attention Economy and the Law,” 2019](#)

[https://scholarship.law.columbia.edu/faculty\\_scholarship/2029/](https://scholarship.law.columbia.edu/faculty_scholarship/2029/)

Matthew Crain, [“How Capitalism”Not a Few Bad Actors”Destroyed the Internet,” \*Boston Review\*, Aug. 3, 2022](#)

<https://bostonreview.net/articles/how-capitalism-not-a-few-bad-actors-destroyed-the-internet/>

Nicholas Vinocur, [“The movement to end targeted internet ads,” \*Politico\*, April 2, 2021](#)

<https://www.politico.eu/article/targeted-advertising-tech-privacy/>

Gilad Edelman, [“Why Don’t We Just Ban Targeted Advertising? WIRED, March 22, 2020](#)

<https://www.wired.com/story/why-dont-we-just-ban-targeted-advertising/>

Ashley Johnson, [“Banning Targeted Ads Would Sink the Internet Economy,” Jan. 20, 2022, Information Technology & Innovation Foundation, 700 K Street NW, Suite 600 Washington, DC](#)

<https://itif.org/publications/2022/01/20/banning-targeted-ads-would-sink-internet-economy/>

Paul Roemer, [“A Tax That Would Fix Big Tech,” \*New York Times\*, May 6, 2019](#)

<https://www.nytimes.com/2019/05/06/opinion/tax-facebook-google.html>

Laura Hautala, [“Get paid for your data? California governor wants tech companies to show you the money,” \*USA Today\*, Feb. 5, 2019.](#)

<https://www.usatoday.com/story/news/2019/03/03/get-paid-your-data-californias-governor-says-yes-but-critics-wonder-if-penalizes-poor-and-alienates/3022249002/>

Eric A. Posner and E. Glen Weyl, "Want Our Personal Data? Pay for It." *Wall Street Journal*, April 20, 2018.

[https://www.wsj.com/articles/want-our-personal-data-pay-for-it-1524237577?st=fe1sj4tl515bp2z&reflink=desktopwebshare\\_permalink](https://www.wsj.com/articles/want-our-personal-data-pay-for-it-1524237577?st=fe1sj4tl515bp2z&reflink=desktopwebshare_permalink)

## **Sept. 24 - Futures markets: Betting on life, death, terrorism, human equity**

Is it objectionable to profit from death, or to bet on when someone will die? What is the moral status of death bonds, viatical contracts, internet death pools, life insurance, and terrorist futures markets?

Is it objectionable for an investor to buy a share in a student's future earnings? Do income share agreements amount to the buying and selling of equity in a person?

### Life insurance

Michael Sandel, *What Money Can't Buy: The Moral Limits of Markets*, ch. 4.

Ellen E. Schultz and Theo Francis, "Valued Employees--Worker Dies, Firm Profits," *Wall Street Journal*, April 19, 2000.

Charles Duhigg, "Late in Life, Finding a Bonanza in Life Insurance," *New York Times*, December 17, 2006.

Matthew Goldstein, "Profiting from Mortality," *Business Week*, July 30, 2007, pp.44-51.

Viviana A. Zelizer, *Morals and Markets: The Development of Life Insurance in the United States* (Columbia University Press, 1979), pp. 61-65, 91-117.

### Terrorist futures

Bradley Graham and Vernon Loeb, "Pentagon Drops Bid For Futures Market; Investors Could Bet on Terrorism, Coups," *Washington Post*, July 30, 2003.

James Surowiecki, "Damn the Slam PAM Plan!," *Slate Magazine*, July 30, 2003.

Adam Meirowitz and Joshua A. Tucker, "Learning from Terrorism Markets," *Perspectives on Politics*, Vol. 2, No. 2 (Jun., 2004), pp. 331-336.

### Income share agreements

Michael Schmidt, "New Exotic Investment: Latin Baseball Futures," *New York Times*, Nov. 18, 2010.

Luigi Zingales, "The College Graduate as Collateral," *New York Times*, June 13, 2012.

Douglas Belkin, "More College Students Selling Stock in Themselves," *Wall Street Journal*, Aug. 5, 2015.

Mitchell E. Daniels, Jr., "Could Income-Share Agreements Help Solve the Student Debt Crisis?," *Washington Post*, August 20, 2105.

Shu-Yi Oei and Diane Ring, "Human Equity? Regulating the New Income Share Agreements," *Vanderbilt Law Review*, vol. 68, 2015.

## **Oct. 1 - Surrogacy and procreation**

Should commercial surrogacy be legally permissible? Should surrogacy contracts be legally enforceable? Is surrogacy morally analogous to baby-selling? Can a case be made for using markets to allocate children? Assess the arguments for and against surrogacy advanced by Judge Sorkow (Superior Court, Chancery Division) and Judge Wilentz (Supreme Court of N.J.) in the Baby "M" cases.

Should there be a free market in eggs and sperm? Is the use of cash incentives for sterilization morally objectionable?

Lorraine Ali and Raina Kelley, "The Curious Lives of Surrogates," *Newsweek*, April 7, 2008.

Cheryl Miller, [“Outsourcing Childbirth,”](#) *Wall Street Journal*, April 25, 2008.

Amelia Gentleman, [“India Nurtures Business of Surrogate Motherhood,”](#) *New York Times*, March 19, 2008.

Chhavi Sachdev, [“Once the place to go for surrogacy, India tightens control over its baby industry,”](#) *PRI*, April 7, 2018.

Rama Lakshmi, [“India to propose a ban on commercial surrogacy, ending a lucrative business,”](#) *Washington Post*, Aug. 24, 2016.

Abantika Ghosh, [“Surrogacy Legislation: Is Woman a Child-Producing Machine?”](#) *Indian Express*, September 2, 2016.

Tabassum Barnagarwal, [“Surrogacy Bill: Disappointed Women from Poor Families Stare at a Lost Livelihood,”](#) *Indian Express*, August 31, 2016.

Elizabeth M. Landes and Richard A. Posner, [The Economics of the Baby Shortage,”](#) 7 *JOURNAL OF LEGAL STUDIES* (1978).

Richard A. Posner, [“The Regulation of the Market in Adoptions,”](#) 67 *BOSTON UNIVERSITY LAW REVIEW* (1987).

Margaret Jane Radin, [“What, if Anything, Is Wrong with Baby Selling?”](#) 26 *PACIFIC LAW JOURNAL* (1995).

Elizabeth Anderson, “Is Women’s Labor a Commodity?” in *VALUE IN ETHICS AND ECONOMICS*, ch. 8.

Michael J. Sandel, [“The Baby Bazaar,”](#) *THE NEW REPUBLIC*, October 20, 1997.

[In re Baby M, 217 N.J. Super. 313 \(1987\).](#)

[Matter of Baby M, 537 A.2d 1227 \(N.J. 1988\).](#)

Richard A. Epstein, [“Surrogacy: The Case for Full Contractual Enforcement,”](#) *Virginia Law Review*, vol. 81, Nov. 1995.

Sonia F. Epstein and Polina N. Whitehouse, [“Inheriting the Ivy League: The Market for Educated Egg and Sperm Donors,”](#) *The Crimson*, April 30, 2020.

Tamar Lewin, “Egg Donors Want Room to Name Their Price,” *New York Times*, Oct. 17, 2015.

Jacoba Urist, “How Much Should a Woman Be Paid for Her Eggs?” *The Atlantic*, Nov. 4, 2015.

Cecilia M. Vega, “Sterilization Offer to Addicts Reopens Ethics Issue,” *New York Times*, January 6, 2003.

Michelle Cottle, [“Say Yes to CRACK,”](#) *New Republic*, August 23, 1999, pp. 16-18.

## **Oct. 8 - Markets and Employment Discrimination**

Can employment discrimination be justified on grounds of satisfying the preferences of customers? If so, under what circumstances? Does it make a difference whether the discrimination involves race or gender? Are there some consumer preferences that are morally illegitimate for a business to serve? If so, how should the law respond?

Steven Greenhouse, “Going for the Look, but Risking Discrimination,” *New York Times*, July 1, 2003.

Robert Barro, “So You Want to Hire the Beautiful. Well, Why Not?,” *Business Week*, 03/16/98.

Karyn Spellman, “Hooters guys? No way...,” *The Boston Globe*, November 16, 1995.

Peter Passell, “An Ugly Subject: The Prejudice Against Hiring Homely People,” *The New York Times*, Jan. 27, 1994.

Andrea Gerlin, “The Male Gynecologist: Soon to be Extinct?,” *THE WALL STREET JOURNAL*, February 7, 1996.

[Diaz v. Pan American World Airways \(1971\).](#)

[Wilson v. Southwest Airlines \(1981\).](#)

Robert Post, [“Prejudicial Appearances: The Logic of American Discrimination Law,”](#) *California Law Review*, Jan. 2000, Vol. 88.

Kimberly A. Yuracko, [“Private Nurses and Playboy Bunnies: Explaining Permissible Sex Discrimination,”](#) *California Law Review*, Jan. 2004, Vol. 92, pp.149-213.

### Optional reading

Richard A. Epstein, [\*Forbidden Grounds: The Case Against Employment Discrimination Laws\*, pp. 283-309.](#)

Deborah L. Rhode, [\*Justice and Gender\*, pp. 92-107.](#)

## **Oct. 22 - Environmental Protection**

Does putting a price on nature strengthen or weaken the case for protecting it? What are the best arguments for and against a global market in pollution credits that countries can buy and sell? Does the use of tradable pollutions permits and “carbon offsets” erode the norms that support environmental protection? Should policy-makers employ cost-benefit analysis to determine the appropriate level of environmental protection? Is there any reason in principle why markets cannot capture the values associated with environmental protection?

Is it wrong to buy the right to shoot an endangered species, even if doing so will help fund wildlife conservation?

Hiroko Tabuchi, ["Switzerland is Paying Poor Nations to Cut Emissions for It,"](#) New York Times, Nov. 8, 2022.

Antoly Kurmanaev, ["To Escape Debt Trap, Belize Pledges to Protect Its Reef,"](#) New York Times, Nov. 8, 2022.

Dieter Helm, [“Failing to put a value on nature condemns it,”](#) *The Guardian (UK)*, 23 November 2015.

George Monbiot, [“The UK government wants to put a price on nature, but that will destroy it,”](#) *The Guardian (UK)*, 15 May 2018.

Richard Conniff, [“What’s Wrong with Putting a Price on Nature?”](#) *environment360*, Oct. 18, 2012, [at](#).

Don J. Melnick, et al., [“Make Forests Pay: A Carbon Offset Market for Trees,”](#) NY Times, Jan. 19, 2015.

Thomas Michael Power and Paul Rauber, [“The Price of Everything,”](#) *SIERRA*, Nov.-Dec., 1993.

Daniel M. Hausman and Michael S. McPherson, [\*Economic Analysis and Moral Philosophy\*, pp. 9-16, 197-208, 215-219.](#)

Michael Sandel, [“It’s Immoral to Buy the Right to Pollute,”](#) *New York Times*, December 15, 1997, and replies by Steven Shavell, Robert Stavins, Sanford Gaines, and Eric Maskin, *New York Times*, December 17, 1997.

Mark Sagoff, [“Controlling Global Climate: The Debate over Pollution Trading,”](#) *PHILOSOPHY AND PUBLIC POLICY*, vol. 19, Winter 1999.

Elizabeth Anderson, *VALUE IN ETHICS AND ECONOMICS*, ch. 9.

Pope Francis, [ENCYCLICAL LETTER LAUDATO SI’™: ON CARE FOR OUR COMMON HOME](#), 2015.

[See especially paragraphs 10-11, 20-22, 102-118, 139, 156-162, 170-172, 190-192, 203-215, 224-225.]

Joseph Heath, [“Pope Francis’s Climate Error,”](#) *New York Times*, June 19, 2015.

Frank Ackerman and Lisa Heinzerling, [\*Priceless: On Knowing the Price of Everything and the Value of Nothing\*](#) (New Press, 2004), ch. 4, 7.



Cass R. Sunstein, ["Cost-Benefit Analysis and the Environment,"](#) *Ethics*, vol. 115, January 2005, pp. 351-385.

Amy Sinden, ["Cass Sunstein's Cost-Benefit Lite: Economics for Liberals,"](#) 29 *Columbia Journal of Environmental Law*, 2004, pp. 191-241.

Buying the right to kill an endangered animal

Richard Conniff, ["A Trophy Hunt That's Good for Rhinos,"](#) *N.Y. Times*, Jan. 20, 2014.

C.J. Chivers, ["A Big Game,"](#) *N.Y. Times Magazine*, August 25, 2002.

Optional readings:

Bruce A. Ackerman and Richard B. Stewart, ["Reforming Environmental Law: The Democratic Case for Market Incentives,"](#) 13 *COLUMBIA JOURNAL OF ENVIRONMENTAL LAW* (1988).

Robert B. Stewart, ["Controlling Environmental Risks Through Economic Incentives,"](#) 13 *COLUMBIA JOURNAL OF ENVIRONMENTAL LAW* (1988).

Lisa Heinzerling, ["Selling Pollution, Forcing Democracy,"](#) 14 *STANFORD JOURNAL OF ENVIRONMENTAL LAW* (1995).

### **Oct. 29 - Investing in lawsuits, social impact bonds**

Should people with no interest in a lawsuit be allowed to invest in it? Does the buying and selling of legal claims constitute the commodification of justice? If so, does this make it objectionable?

Should "social impact bonds" be encouraged by government policy? Should they be permitted? Is there a morally relevant distinction between social impact bonds and the privatization of social services?

Litigation finance

Binyamin Appelbaum, ["Investors Put Money on Lawsuits to Get Payouts,"](#) *New York Times*, Nov. 14, 2010.

Binyamin Appelbaum, ["Taking Sides in a Divorce, Chasing Profit,"](#) *New York Times*, Dec. 5, 2010.

Mattathias Schwartz, ["Should You Be Allowed to Invest in a Lawsuit?,"](#) *New York Times Magazine*, Oct. 25, 2015.

Sara Randazzo, ["Litigation Financing Attracts New Set of Investors,"](#) *Wall Street Journal*, May 15, 2006.

Drew Hasselback, ["The Gavel Gamble: Litigation Emerges as an Asset Class,"](#) *Financial Post (Canada)*, April 29, 2016.

Jeremy Bentham, ["Letter XII: Maintenance and Champerty,"](#) in *Defence of Usury*, 1818.

Burford Capital, ["Litigation Finance is not Champerty,"](#) 2013.

Bentham IMF website.

Vicki Waye (2014) ["Litigation Risk Transfer and Law Firm Financial Arrangements,"](#) *Legal Ethics*, 17:1, 107-131

Corey Kilgannon, ["They Were Unjustly Imprisoned. Now, They're Profit Centers,"](#) *New York Times*, Nov. 27, 2022.

Social impact bonds

**John C. Williams, ["Letting Investors Take a Shot at Curing Social Ills,"](#) *Wall Street Journal*, Sept. 23, 2014.**

**Tracy Palandjian and David Gergen, ["A New Public Finance Tool to Help the Most](#)**

[Vulnerable,â€ Time, Feb. 16, 2016.](#)

Eduardo Porter, [â€Wall St. Money Meets Social Policy at Rikers Island,â€ New York Times, July 29, 2015.](#)

Nathaniel Popper, [â€Success Metrics Questioned in School Program Funded by Goldman,â€ New York Times, Nov. 3, 2015.](#)

Kenneth A. Dodge, [â€Why Social Impact Bonds Still Have Promise,â€ New York Times, Nov. 13, 2015.](#)

Michael J. Casey, [â€Profits meets philanthropy in â€pay-for-successâ€™ investments,â€ Wall Street Journal, June 29, 2015.](#)

Jessica Toonkel, [â€Wall Street not giving up on U.S. social impact bonds,â€ Reuters, July 28, 2015.](#)

Liz Farmer, [â€Are Governments â€Paying for Failureâ€™ with Social Impact Bonds?â€ Governing, August 2015.](#)

Dexter Whitfield, [â€Alternative to Private Finance of the Welfare State,â€ 2015.](#)

Mark Rosenman, [â€Why Let Financial Institutions Profit From Financing Services for the Needy?,â€ Chronicle of Philanthropy, Dec. 12, 2013.](#)

Mark Rosenman, [â€How Social Impact Bonds Put Private Profit Ahead of Public Good,â€ PBS Newshour, Feb. 19, 2014.](#)

Jon Pratt, [â€Flaws in the Social Impact Bond/Pay for Success Craze,â€ Nonprofit Quarterly, 2013.](#)

Louis-Philippe Rochon, [â€Social Impact Bonds: Another Attempt at Privatizing Government?,â€ CBC News, Jun 20, 2015.](#)

[Optional: Websites promoting social impact bonds]

[Center for American Progress website.](#)

Rockefeller Foundation website.

[Goldman Sachs website.](#)

## **Nov. 12 - The economic way of looking at life: For and against**

What, according to Becker, is â€the economic way of looking at life,â€ and what are its normative implications? What is Epsteinâ€™s argument for the claim that all values are commensurable? On what grounds does Anderson reject the commensurability of values? Whose view is more persuasive? What are the similarities and differences in the arguments of Anderson, Satz, Walzer, and Sandel for the moral limits of markets? Which, if any, do you find convincing?

### Readings:

Gary S. Becker, [â€The Economic Way of Looking at Life,â€ Nobel Lecture, Dec. 9, 1992.](#)

Richard A. Epstein, [â€Are Values Incommensurable, or Is Utility the Ruler of the World?,â€ 1995 UTAH LAW REVIEW, pp. 683-715.](#)

Elizabeth Anderson, [â€The Ethical Limits of the Market,â€ in Anderson, VALUE IN ETHICS AND ECONOMICS, ch. 7.](#)

Michael J. Sandel, *What Money Canâ€™t Buy: The Moral Limits of Markets*, ch. 2.

Debra Satz, *Why Some Things Should Not Be for Sale*, chs. 3, 4.

Debra Satz, [â€The Egalitarian Intuition,â€ Boston Review, June 25, 2012.](#)



Michael Walzer, SPHERES OF JUSTICE, chs. [1 \(linked here\)](#), [4 \(linked here\)](#), [13 \(linked here\)](#).

## **Nov. 19 - Markets, incentives, and moral norms**

To what extent does the use of market mechanisms change social norms? Is there a moral difference between a fee and a fine? If so, is this difference relevant to public policy and law? Are altruism and solidarity, like commodities, depleted with use?

Fred Hirsch, [The Social Limits to Growth](#) (Harvard University Press, 1976), ch. 6.

Daniel M. Hausman and Michael S. McPherson, [Economic Analysis and Moral Philosophy](#), pp. 9-16, 197-208, 215-219.

Lior Jacob Strahilevitz, [“How Changes in Property Regimes Influence Social Norms: Commodifying California’s Carpool Lanes,”](#) 75 *Indiana Law Journal* (2000).

Uri Gneezy and Aldo Rustichini, [“A Fine is a Price,”](#) *Journal of Legal Studies* 29, January 2000, pp. 1-17.

Dennis Robertson, [“What Does the Economist Economize?”](#) in Robertson, *Economic Commentaries* (1956), pp. 148-154.

Albert Hirschman, [Rival Views of Market Society](#) (Harvard University Press, 1992), ch. 6.

Michael Sandel, *What Money Can’t Buy: The Moral Limits of Markets*, ch. 3.

## **Nov. 26 - Markets, medicine, and health**

What should be the role of markets in medicine and health care? Does the use of market incentives for doctors, hospitals, drug companies, and organ donors erode norms that should govern the practice of medicine? What is medicalization, and what is its relation to the commodification of health?

Is there anything wrong with health insurers offering discounts to policy-holders who agree to wear Fitbits or other wearable devices that send data about exercise, diet, sleep, and other behavior to the insurance company? Should employers be allowed to make similar offers to their workers? Does it matter whether the employer gives bonuses for wearing the devices or imposes fines for not wearing them?

Richard M. Titmuss, [The Gift Relationship](#), pp. 231-32, 267-74.

Kenneth J. Arrow, [“Gifts and Exchanges,”](#) *Philosophy and Public Affairs*, vol. 1, no. 4 (Summer 1972), pp. 343-362.

Richard A. Epstein, [“The Market Has a Heart,”](#) *Wall Street Journal*, February 21, 2002.

Carl Elliott, [“Guinea-Pigging,”](#) *The New Yorker*, January 7, 2008.

Cari Romm, [“The Life of a Professional Guinea Pig,”](#) *The Atlantic*, Sept. 23, 2015.

Abigail Zuger, [“For a Retainer, Lavish Care by ‘Boutique Doctors,’”](#) *New York Times*, Oct. 30, 2005.

Michael Sandel, *What Money Can’t Buy: The Moral Limits of Markets*, pp. 25-35.

Marcia Angell, [“The Truth about the Drug Companies,”](#) *New York Review of Books*, vol. 51, July 15, 2004.

Peter Conrad and Valerie Leiter, [“Medicalization, Markets and Consumers,”](#) *Journal of Health and Social Behavior*, vol. 45 (2004), pp. 158-176.

Kalman Applbaum, [“Pharmaceutical Marketing and the Invention of the Medical Consumer,”](#) *PLoS Medicine*, 3 (2006).

Chloe Reichel, [“Direct-to-consumer drug advertising spikes demand,”](#) May 2, 2018.

Tracking health data, driving habits

Tara Siegel Bernard, [“Giving Out Private Data for Discount in Insurance,”](#) *New York Times*, April 8, 2015.

Christina Farr, [“Weighing Privacy vs. Rewards of Letting Insurers Track Your Fitness,”](#) NPR, April 9,

[2015.](#)

Parmy Olson, [“Wearable Tech is Plugging into Health Insurance,” \*Forbes\*, June 19, 2014.](#)

Parmy Olson, [“More Bosses Expected to Track their Staff through Wearables in the Next 5 Years,” \*Forbes\*, June 1, 2015.](#)

Anna Wilde Mathews and Timothy Martin, [“Penn State Employees Protest Wellness Effort,” \*Wall Street Journal\*, Aug. 15, 2013.](#)

Reed Abelson, [“Employee Wellness Programs Use Carrots and, Increasingly, Sticks,” \*NY Times\*, Jan. 24, 2016.](#)

### **Final paper topic options**

**Option 1: Write a paper addressing the readings and questions we discussed in the week on “the economic way of looking at life,” illustrating your argument with examples discussed in the course.**

**Option 2: Write a paper advancing an argument about the moral limits of markets, through an analysis of two or three of the issues discussed in the course. Those who would like to analyze an issue related to commodification that was not discussed in the course may do so in consultation with Professor Sandel.**

#### **The economic way of looking at life: For and against**

What, according to Becker, is “the economic way of looking at life,” and what are its normative implications? What is Epstein’s argument for the claim that all values are commensurable? On what grounds does Anderson reject the commensurability of values? Whose view is more persuasive? What are the similarities and differences in the arguments of Anderson, Sandel, Satz, and Walzer for the moral limits of markets? Which, if any, do you find convincing?

#### **Readings:**

Gary S. Becker, “The Economic Way of Looking at Life,” Nobel Lecture, Dec. 9, 1992.

Richard A. Epstein, “Are Values Incommensurable, or Is Utility the Ruler of the World?,” 1995 UTAH LAW REVIEW, pp. 683-715.

Elizabeth Anderson, *Value in Ethics and Economics*, ch. 7.

Michael J. Sandel, *What Money Can’t Buy*, ch. 2.

Debra Satz, *Why Some Things Should Not Be for Sale*, chs. 3, 4.

Debra Satz, [“The Egalitarian Intuition,”](#) Boston Review, June 25, 2012.

Michael Walzer, *Spheres of Justice*, chs. 1, 3, 4, 13.