

## THE COMMON GOOD OR THE GOOD OF ALL? Comment on M. Sandel's *The Tyranny of Merit*

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Every meritocracy performs two basic social functions. One is familiar and increasingly discussed—a meritocracy sorts and ranks people, establishing and then rationalizing hierarchy. Another function is less familiar but is, in fact, antecedent to the familiar one. A meritocracy underwrites the metric by which people are arrayed, establishing a shared, public frame of value—an answer to the question “What is merit?”—which is a necessary prerequisite for ranking people according to how they are measured in this frame. Different meritocracies can all aspire to rank and rationalize hierarchy but disagree about what constitutes the value, or merit, by which people should be ranked.

The meritocracy that dominates contemporary American social and economic life gives a distinctive answer to the foundational question “What is merit?” Other (earlier) meritocracies developed elaborate discursive accounts of what merit involved. For example, the Chinese exam-based meritocracy that began in the Tang dynasty grew central in the Song and endured for over a millennium, emphasizing literary style and classical erudition, and the Mongol empire built a meritocratic military elite based on bravery and martial skill. The contemporary United States, by contrast, embraces a *market* meritocracy, according to which merit is not elaborated discursively following one or another moral ideal but rather through the economic interaction between supply and demand. Markets establish a shared public frame of value in the United States today, as prices—including most importantly the price of labor, or wage—capture the conventional understanding of what things are *worth*. U.S.-American meritocrats also—now pursuing

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meritocracy's more familiar function—propose that people (at least in general) deserve their market returns, as in the common suggestion that businesses *earn* their profits and (more pervasively still) in the suggestion that workers *earn* their wages. Often, U.S.-American meritocrats fuse these two facets of market meritocracy into a single principle, as in the economist Gregory Mankiw's embrace of what he calls the “principle of just deserts,” which holds that “a person who contributes more to society deserves a higher income that reflects those greater contributions” and measures contributions according to market income, or “the value of what [the person] contributed to society's production of goods and services.”<sup>1</sup>

Michael Sandel's recent critique of meritocracy—in *The Tyranny of Merit: What's Become of the Common Good?*—takes aim at both facets of U.S.-American market meritocracy, although he prosecutes his attack on the idea that meritocracy rationalizes hierarchy more directly and at greater length than his attack on market meritocracy's peculiar conception of merit.<sup>2</sup> The title of Sandel's book announces its major theme. Meritocratic hierarchy is tyrannous precisely because it is not rationalizable—neither the rich nor the rest earn or otherwise deserve their market returns—and this makes meritocratic inequality into a form of dominance and subordination. People do not deserve their luck in the genetic and social lotteries—in the advantages or disadvantages that they inherit from their parents and the world—and market meritocracy only exacerbates the economic, social, and psychological effects of inequalities that it cannot justify. Sandel describes the mechanisms and prejudices—unequal schooling, skewed labor markets, smug credentialism—that, taken together, make meritocracy oppressive in these ways.

Sandel also documents a surprisingly widespread recognition among social and political thinkers that meritocrats are not entitled to their advantages. Rawls familiarly insists that people do not deserve their native talents or social advantages, and he adds (as Sandel quotes him as pointing out) that even a good character, including the inclination to hard work, “depends in large part upon fortunate family and social circumstances for which [a person] can claim no credit,” so that “[t]he notion of desert seems not to apply to these cases.”<sup>3</sup> Sandel also points out, more strikingly, that many libertarians agree with left-liberals on this point. Hayek, for example, acknowledges that a person's gifts do “not depend on any credit due to him for possessing them,” so that “the value which a person's capacities or services have for us and for which he is recompensed has little relation to

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1 See N. Gregory Mankiw, *Spreading the Wealth Around: Reflections Inspired by Joe the Plumber* 1–28 (Nat'l Bureau of Econ. Resch., Working Paper No. 15846, 2010), <https://doi.org/10.3386/w15846>; see also N. Gregory Mankiw, *Defending the One Percent*, 27 J. ECON. PERSPS. 21, 32–33, <https://doi.org/10.1257/jep.27.3.21>; N. Gregory Mankiw, *Yes, the Wealthy Can Be Deserving*, N.Y. TIMES, Feb. 15, 2014, at BU6, <https://www.nytimes.com/2014/02/16/business/yes-the-wealthy-can-be-deserving.html>.

2 MICHAEL J. SANDEL, *THE TYRANNY OF MERIT: WHAT'S BECOME OF THE COMMON GOOD?* (2020).

3 *Id.* at 130 (quoting JOHN RAWLS, *A THEORY OF JUSTICE* 104 (1971)).

anything that we can call moral merit or deserts.”<sup>4</sup> Hayek’s last point is worth elaborating, because it sweepingly and powerfully undermines any connection between merit and desert. Even if people could be said, in some mysterious way, to be responsible for their raw capacities, they cannot possibly deserve the fact that the market happens to value those capabilities and not others. At most, Sandel notes, their advantage “reflects the happy coincidence of the skills a person has to offer with the abilities the market demands.”<sup>5</sup>

Sandel’s minor theme takes up market meritocracy’s second feature—the way in which markets establish a shared frame of value that fixes what things are worth. This comes out, although in a way that is less confident and more plaintive, in the book’s imploring subtitle—*What’s Become of the Common Good?*—Sandel expressly rejects the idea that prices reflect value or measure any meaningful sense of worth. He argues, further, that the broader tradition of liberal thought within which meritocracy has arisen also rejects any equivalence between market and moral values, even if it does not always state the rejection crisply or wear it on its sleeve.

Here Sandel references Frank Knight, who (notwithstanding his skepticism of the New Deal’s rising social welfare state) developed what Sandel calls “perhaps the most devastating critique of the idea that market outcomes reflect moral desert.”<sup>6</sup> The center of Knight’s critique, in Sandel’s reconstruction, is an outright rejection of “the view, familiar among economists, that there is no judging tastes.”<sup>7</sup> Rather than insisting that “it is impossible to rank some wants as higher or worthier than others,”<sup>8</sup> Sandel says, Knight recognized that “the ethical significance of satisfying . . . wants depends on their moral worth.”<sup>9</sup> In Knight’s own words,

[w]e cannot accept want-satisfaction as a final criterion of value because we do not in fact regard our wants as final; . . . [rather,] our most difficult problem in valuation is the evaluation of our wants themselves and our most troublesome want is the desire for wants of the “right” kind.<sup>10</sup>

Market meritocracy fails to rationalize hierarchy not just for the familiar reason that people don’t deserve their merit but also for the less familiar, but more sweeping, reason that the market’s conception of merit is itself ungrounded—that the price of things tells us nothing about what they are really worth.

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4 SANDEL, *supra* note 2, at 128 (quoting F.A. HAYEK, *THE CONSTITUTION OF LIBERTY* 94 (1960)).

5 *Id.* at 132.

6 *Id.* at 137.

7 *Id.* at 140.

8 *Id.*

9 *Id.* at 138.

10 *Id.* (quoting FRANK HYNEMAN KNIGHT, *THE ETHICS OF COMPETITION* 34 (1997)).

Sandel's embrace of these arguments underestimates the ideological power of market valuations, however, and also the moral and political pressures that give markets this power. Although Sandel is not wrong to think that market prices fail to measure moral worth, his target is considerably more ideologically compelling, and also more resilient, than he credits. Taking down market meritocracy's measure of merit requires deeper arguments than Sandel produces, and erecting an alternative measure of the common good poses a greater challenge than Sandel imagines.

Market prices command allegiance because they address a profound and troubling problem. People value different things for different reasons, and the depth of their disagreements about ultimate value—what Rawls has called the fact of reasonable pluralism<sup>11</sup>—means that they cannot turn to deliberation to resolve this value conflict by weighing the reasons behind it. Markets owe their ideological power to the fact that they sidestep this difficulty, establishing prices as a shared frame of value by aggregative rather than discursive mechanisms that operate not through judgment so much as will. Sandel's critique of market value neglects this fundamental contribution. It is one thing to unmask the inadequacies of market valuations, but quite another to elaborate a credible alternative that is a moral match for the pluralism that gives market measures of value their enduring charisma. This difficulty accounts for the prayerful tone of Sandel's plea to reorient ourselves toward the common good.

A brief account of how markets fix prices reveals their ideological power. When market prices in an exchange economy reach equilibrium, each trader prefers their holdings over any other bundle of goods that they could afford, at these prices. Moreover, the competitive equilibrium lies within the core of the economy.<sup>12</sup> That is, no coalition of traders can improve on their equilibrium allocations (as assessed by their own values) by taking their joint endowment out of the market and allocating that endowment among themselves according to some principle other than individually optimizing subject to the price structure. Markets therefore settle, so to speak, so that prices and allocations reciprocally support each other. And the prices around which markets settle establish a shared, public frame of value, which is common knowledge among all traders. (The contrast to barter is revealing here, as barter produces terms of trade that apply only to the direct parties to each exchange and in this sense remain private.) Finally, each trader will best promote their private values and preferences by adopting the price structure to organize the terms of their economic exchanges. Equilibrium prices thus establish a public framework of relative value that is commensurate with traders' private valuations. And where intractable pluralism renders discursive agreement impossible, price commensuration is the best—the most public—account of the good on offer.

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11 See generally JOHN RAWLS, *POLITICAL LIBERALISM* (1993).

12 See Gerard Debreu & Herbert Scarf, *A Limit Theory on the Core of an Economy*, 4 INT'L ECON. REV. 235 (1963).

Price commensuration, moreover, implements an important conception of the formal equality of persons, really a conception of equality of status. Prices reflect an egalitarian balance among all persons' values. The price of something literally equals what others must give up, as measured from their several equally considered points of view, for its owner to possess it. Furthermore, competitive prices arise among traders acting as price-takers—no participant in a competitive market possesses any market power, and even though the rich can own more at prevailing prices, they cannot exert any control over what these prices are. The contrast to monopoly is revealing: monopolists can manipulate prices, which is why we accurately speak not only of monopoly rents but also of monopoly *power*. This renders monopoly prices like a private language, so that monopoly does not just cause misallocation—it also undermines commensuration.<sup>13</sup>

Money becomes a universal measure of value: each person values money for what it can buy them at prevailing prices, and prices are set from everyone's perspective. Marx, who called prices the “wooing glances cast at money by commodities,”<sup>14</sup> was mistaken to think an antecedent agreed-on base value is required to make sense of prices. Instead, prices establish value equivalences without any underlying foundation in a base value that the others are equivalent in virtue of sharing. Price commensuration thus constitutes a freestanding value frame. Once again, this is connected to price commensuration's moral achievement: it is because price commensuration can proceed without foundations that it can establish a formally egalitarian resolution to otherwise intractable value disagreement—a shared public perspective on commercial exchange.

Finally, price commensuration's moral achievement expands and contracts with the scope of the goods subject to market pricing. A social order might limit market exchange to goods that possess value only insofar as they are wanted. In such a society, price commensuration would extend only to balancing brute preferences, and price would remain a residual metric of value. But the societies in which markets flourish take a very different approach. Markets in these societies trade and price any number of goods—housing, medical care, education, even art—that are desired for being valuable. Where markets tread, price commensuration follows; and so prices, in such societies, commensurate among not just brute preferences but values, including values that those who hold them

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13 Of course, the formal equality of price-taking and the fact that each trader equally optimizes their holdings subject to their budget constraint do not secure substantive equality, either of the value of overall holdings or of surplus shares in particular exchanges. The failure of substantive equality does not undo the price-commensuration's formal equality, however, or undermine its moral value. The monopolist stands in a *qualitatively* distinctive relation to the price system. But the difference between the relations to prices of the rich and the poor is not qualitative but merely *quantitative* and hence does not undermine price commensuration. Prices continue equally to reflect all traders' values and thus continue to commensurate—to establish a shared perspective on market exchanges.

14 KARL MARX, 1 CAPITAL ch. 3 para. 2a.

regard as deeply reasoned and important. This is no accident but rather a self-conscious commitment, commonly expressed through the familiar ideal of freedom of contract. That ideal affirms the broad scope of markets as a matter of principle, often grounded in anti-paternalist ideas about individual sovereignty that are close cousins to the conception of formal equality of status at the root of price commensuration.

At least, this is how prices and, therefore, values are set in a perfectly competitive pure exchange economy. Actual markets, of course, depart from the ideal and price things in ways that reflect investment and production and also, critically, politics and power. Regulations fix what qualities and quantities of goods may be traded, for example; unions and capitalists insert themselves in exchange relations to exercise pricing power; and central banks fix the price of money and hence of all else including, critically, the wage. Perhaps most damningly, as I have argued in *The Meritocracy Trap: How America's Foundational Myth Feeds Inequality, Dismantles the Middle Class, and Devours the Elite*,<sup>15</sup> meritocratic hierarchy is now itself impinging on market meritocracy's valuations. Superordinate workers have bent the arc of innovation to remake labor markets in their own image, to value precisely the training and skills that only elites can afford to get. This feedback loop between meritocratic hierarchy and meritocratic valuation undermines both enterprises. Elites cannot invoke market competition to argue that they deserve their unequal advantages, because they have skewed market-competition in their own favor. And elites cannot invoke market wages to claim that their skills have exceptional value, because these skills can command high wages only against the backdrop of antecedent inequality and hierarchy. Merit is, as I have said elsewhere, revealed to be a sham, "an artificial construction, built to valorize the exploitation of [elite] human capital, and, in this way, to launder an otherwise offensive distribution of advantage."<sup>16</sup>

Nevertheless, the ideological power of market valuation endures even in the face of all these departures from the ideal and continues to cast a wide spell. Some examples from the traditions that Sandel also engages reveal just how wide. Hayek insisted on the distinction between acceptable regulation, which might influence market prices but does not take direct aim at prices or make prices the direct object of political choice, and planning, which seeks directly to fix what is valuable and, for this reason, inevitably responds to intractable disagreement about value by embracing one or another form of authoritarianism.<sup>17</sup> Rawls included income and wealth (and hence, by implication, the market prices that convert income and wealth into other goods) among his list of primary goods.<sup>18</sup> And Ronald

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15 See generally DANIEL MARKOVITS, *THE MERITOCRACY TRAP: HOW AMERICA'S FOUNDATIONAL MYTH FEEDS INEQUALITY, DISMANTLES THE MIDDLE CLASS, AND DEVOURS THE ELITE* (2019).

16 *Id.*

17 See generally F.A. HAYEK, *THE ROAD TO SERFDOM* (1944).

18 See RAWLS, *supra* note 3, at 92.

Dworkin insisted that markets and market prices, far from being inimical to justice and economic equality, are essential to both—because without them it becomes impossible to know who has how much and, therefore, what equality requires.<sup>19</sup>

Of course, these concessions to market valuations may be mistaken—as my arguments in *The Meritocracy Trap* suggest, I myself believe that they are mistaken. But the mistakes, even granting that they are mistakes, are not casual or capricious, but instead reflect the depth of the problem—reasonable pluralism—that market valuations address and the inadequacy of all of the familiar alternative solutions. Market meritocracy, to adapt a distinction from Rousseau, promises to erect a measure of the good of all that saves society from the need to reach agreement on the common good. Prices promise to commensurate disagreements about value without needing to resolve them. Sandel suggests, and I have also argued, that the jig is up—that rising meritocratic inequality undermines the credibility of market measures of value. But it is one thing to see that the incumbent order has gone wrong and quite another to know how to build a replacement.

Sandel's gestures—right at the end of the book—about how to go about a new politics of the common good do not seem (to me, at least) to light the required way forward. His discussion of the dignity of work—with its emphasis on Pope John Paul II's Encyclical *On Human Work* and his virtue ethics–inflected account of “contributive justice”<sup>20</sup>—directly invokes some of the most controversial conceptions of value abroad. And, as Sandel himself concludes, “[i]t would be unrealistic to expect that such a debate would produce agreement; the common good is inescapably contestable.”<sup>21</sup>

The consequences of this difficulty are direr than Sandel recognizes. All the problems that markets arose to address endure today, and this unyielding fact of pluralism accounts for the plaintive tone of Sandel's subtitle. Sandel prays for a new politics of the common good. But there is a very real sense in which market meritocracy's turn to the good of all—its deep failings included—arose from the ashes of the very politics that Sandel now seeks to call forth.

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19 See Ronald Dworkin, *What Is Equality? Part 2: Equality of Resources*, 10 PHIL. & PUB. AFFS. 283, 283–345, 284 (1981).

20 SANDEL, *supra* note 2, at 209–14.

21 *Id.* at 214.