



Invaluable Goods

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Invaluable Goods*

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I. Main Themes

ONE OF THE OLDEST critiques of economic thinking has been its perceived disregard of the deeper and more sacred aspects of life. Already in 1790, Edmund Burke, reflecting on the French Revolution, could say, “The age of chivalry is gone. The age of sophists, economists, and calculators is upon us; and the glory of Europe is extinguished forever.” Thomas Carlyle (1847, p. 235) warned in his best imitation of a prophet,

Never, on this Earth, was the relation of man to man long carried on by Cash-payment alone. If, at any time, a philosophy of Laissez-faire, Competition and Supply-and-demand, start up as the exponent of human relations, expect that it will end soon.

Carlyle was in fact much admired by Friederich Engels, and Carlyle’s influence appears in *The Communist Manifesto*, though with a twist:

The bourgeoisie has put an end to all feudal, patriarchal, idyllic relations. It has . . . left remaining no other nexus than between man and man other than naked self-interest, than callous “cash payment.” It has drowned the most heavenly ecstasies . . . into the icy waters of egoistical calculation. It has resolved personal worth into exchange value. . . . [The bourgeoisie] has converted the physician, the lawyer, the priest, the poet, the man of sci-

ence, into paid wage-laborers. [It] has torn away from the family its sentimental veil and has reduced the family relation to a mere money relation. (pp. 35)

Engels and Karl Marx gave particular stress to labor as a commodity in the capitalist system. Working for others became *alienation*, a loss of selfhood. This idea seems to have been very common at the time. John Ruskin, a great admirer of Carlyle, observed in an article criticizing the political economy and the actual economy (written in 1863 and included in a book published in 1871),

Everything else is bought and sold for Labour, but Labour itself cannot be bought nor sold for anything, being priceless. The idea that it is a commodity to be bought or sold, is the alpha and omega of Politico-Economic fallacy. (Ruskin 1898, p. 59)¹

Margaret Jane Radin has addressed her stimulating work to a critique of the

¹ Ruskin’s own theory of the labor market may be worth recording. “Similarly, vulgar political economy asserts for a ‘law’ that wages are determined by competition. Now I pay my servants exactly what wages I think necessary to make them comfortable. The sum is not determined at all by competition; but sometimes by my notions of their comfort and deserving, and sometimes by theirs. If I were to become penniless tomorrow, several of them would certainly serve me for nothing” (Ruskin 1898, p. xvii). It might also be worth noting that Carlyle vigorously defended slavery, and Ruskin in the middle of the American Civil War explains (though rather evasively) its virtues (pp. 164–72). Being against the market may lead to some surprising conclusions. As will be seen, Radin is aware of these dilemmas.

* *Contested Commodities*. By MARGARET JANE RADIN. Cambridge, MA: Harvard University Press, 1996. Pp. xiv, 279. ISBN 0-674-16697-3.

universality of the market. Her target is related to but perhaps a little different from that of the nineteenth century critics. They were primarily concerned with social relations; the market was (in theory or in practice) replacing all social relations. Radin is somewhat more in the spirit of individualism. Her concern is that actions which are essential to personal identity fall under the sway of the market and are measured by its criteria. Examples discussed at length are prostitution, the selling of body parts and of children, and, though less conclusively, the sale of labor. The particular preoccupations of feminism are prominent, but the principles and her reasoning are more broadly applicable.

Her analysis is not a simple condemnation of treating goods close to personhood as commodities. Rather, Radin tries to steer a middle ground. A basic part of her approach is the notion of "incomplete commodification," a recognition that some form of purchase and sale is called for but with restrictions of one kind or another. (She cites Elizabeth Anderson, 1993, among others who have argued along similar lines.)

Although the main question of the work is the extent to which individual personhood is threatened by the market, a second theme is more directly connected with social embedding. It is the argument that the very existence of discourse based on commodification has real consequences. Radin certainly does not go to the extremes of theories which regard our views of the world as socially constructed. But the view that the very way we talk about transactions affects the values we put on them is strongly presented. If society through its institutions or its research treats some actions as having a price, then those actions will be perceived differently even when they are not mediated through the market.

The form of Radin's analysis differs

from that used by most economists or most analytic philosophers in reasoning about values and policy. She very consciously employs the approach of the pragmatic tradition, as most especially exemplified by the work of John Dewey (1925). It is decidedly opposed to the idea of derivation of values from a small set of assumptions, as in utilitarianism. Rather, all relevant considerations are brought together, and a judgment is formed. In Dewey at least, if not in predecessors in pragmatism such as Charles Pierce and William James, the formation of value judgments is a social process; the outcomes are the result of widespread dialogue.

As a personal confession, I must own to a life-long difficulty in understanding pragmatic discussions of broad principles. When I was an undergraduate, Dewey was the most revered name in American philosophy and in liberal social thought in general. His intellectual honesty and breadth of knowledge look as impressive today as they did then.² But I could never understand the bases of his arguments. The key word seemed to be, "experiential." Everything seemed hazy, and it was hard to see why the opposites of some of his arguments were not equally plausible. I, at least, find myself always suspecting that the conclusions were arrived at first, and the arguments devised afterwards. I prefer to have some clear principles and then to deduce specific results. For one thing, one may come to find inconsistencies, and their resolution can be most enlightening.

² I cannot refrain from expressing my gratitude and that of many of my left wing fellow students to Dewey for his uncompromising honesty in exposing Stalin's show trials of 1935-37. This was not easy at a time when, in the presence of the Great Depression, many intellectuals saw a new hope in the Soviet Union. But to Dewey truth came first; and he (with the great aid of the late Sidney Hook) showed that the trials must be rigged and therefore that the Stalin regime was based on lies. This saved many of us from ever being misled.

When a particular policy issue is at stake, then indeed I would expect that a more fluid kind of argumentation is valid. No limited set of principles is apt to exhaust all considerations with regard to a policy issue of considerable complexity. Even if the principles are to be taken as fully valid, their application to a particular situation will usually be complex. But I have found a good deal of difficulty in following Radin's reasoning on general principles.

I will do my best to follow her approach, not mine. But I must state this caveat to let the reader understand my limitations.

II. A Digression on Commensurability

Before going into more detail on Radin's positions, there is one persistent mode of expression of hers that needs some comment. As may be supposed, one aspect of a contestation of commodities is the commensurability or incommensurability of values. In the usual discourse of economists, commensurability is expressed through a utility function or preference ordering. Usually, a hypothesis of continuity is added to forbid lexical preferences, in which one commodity is, in a sense, infinitely preferable to another. Radin appears to recognize this meaning but usually takes commensurability and therefore commodification to have a much stronger meaning: everything is expressible in money terms. Thus

[f]or anyone committed to a commodified conceptual scheme, and thereby committed to commensurability of value, there is no mystery about which of two items is more valuable; it is the one with the higher price tag. (pp. 8-9)

Elsewhere, a broader meaning of commensurability is permitted.

It is possible to have commensurability without money equivalence. This happens if values are deemed commensurable in terms of a

utility function but the utility function is not reducible to dollars, or if values can be definitively ranked in terms of one another but cannot be translated into dollars. (p. 119)

A bit later, she refers to

some utilitarian views that do not reduce utility to wealth. Such views treat incommensurabilities that we have been formerly committed to as instead commensurable. *This is a form of reductionism that can engender the kind of erosion of personhood that I have said is the basis for thinking of commodification as potentially harmful.* (p. 120; emphasis added)

It is, of course, no part of utility theory that everything has a price. To be sure, when commodities are infinitely divisible and indifference surfaces are convex, then *marginal* variations in commodity use are commensurable with each other and therefore with money or income, thought of as generalized purchasing power. But the typical examples designed to show the absurdity or immorality of assigning a money value to activities are based on finite changes.

The statement that parents would not sell a child at any price is in no way inconsistent with ordinary economic theory.

A good case for analysis is acceptance of increased risk of death for a price. The study of this relation has become, indeed, a standard way of estimating the value of a life for use in benefit-cost analysis (see the classic paper of Sherwin Rosen and Richard Thaler 1976). It is not surprising that up to a certain point, an increase in the probability of death will be accepted in exchange for suitable compensation but that when the probability is sufficiently high, no price is sufficient for the risk to be undertaken. High risks do not have a monetary equivalent. This fact is not only not in contradiction to ordinary economic thinking but is actually a consequence of standard expected-utility theory. (The implication requires that utility functions be

bounded, but this is itself implied in the standard derivations of expected-utility theory.)

The frequency with which Radin refers to monetary equivalence might make her arguments totally unpalatable to economists, because they will feel she is attacking a position they do not hold. But I do not wish to stress this point. As the italicized quotation above makes clear, her arguments rest for the most part on rejection of the commensurability implied in the use of a common utility function for all human activities.

III. *Personhood and Commodities*

Radin's fundamental thesis is that the principle of treating every activity as a commodity is deeply offensive at some level to all of us, at least when we are not acting in our professional capacity. We do regard some kinds of things as so much part of us as to be inalienable.³ Indeed, Radin takes this to be unarguable and is concerned rather with its foundation. Her first few chapters are devoted to the rejection of alternative formulations in the literature. Her own theory is developed in Chapter 5. It is concerned with the idea of personhood, with what it means to have the "integrity and continuity of the self required for individuation" (p. 55). Radin distinguishes between *personal property* that is "bound up with the self in a way that we understand as morally justifiable" and *fungible property* "not implicated in self-constitution." These terms are not dichotomous

but "rather mark the end points of a continuum" (p. 58). Personal property is incommensurable, fungible property commensurable.

There is a brief interesting discussion of the relative importance of stability and flexibility in the development and maintenance of the self (pp. 60-63); both are needed, both are harmful in excess. Put another way, the question is how much is taken as intrinsic to the person and how much is alterable (fungible). Radin to some extent identifies stability with inalienability and flexibility with contract but wants "to find a way to express [flexibility] in terms other than those of commensurability and commodification." This leads to an attempt to describe a "thicker" theory of the person, in which Radin draws on the list of "limits and capabilities that define our humanness" developed by Martha Nussbaum (1988, 1992). I will not review this list in detail, except to note that some of them reflect very current concerns and that some matters of great concern to many are omitted. For example, there is no mention of a need for and capability of transcendence as expressed in religion, yet surely 95 percent even of those living are believers. To Radin, the most important limit to human development on the list is early infant development; other theories of morality (Kant, Bentham) start with beings that are fully developed morally and practically. (This raises the question, mentioned but not fully explored by Radin, of considering many issues of family life from the viewpoint of the child; see Section VI below for some further remarks). But other functionings are also necessary for full personhood.

As noted earlier, Radin holds that goods need not be dichotomized as commodities or not; they can be incompletely commodified (see especially Ch. 7). Her especial example is work, where

³ I cannot help recalling a skit by University of Chicago graduate students in economics in 1947 or 1948, in which the leading character was the Rational Economic Man. He stood with a slide rule prepared to answer all choice questions. He was asked, "How much would you charge to kill your grandmother?" After some calculations, he looked up and asked, "Do I have the right to dispose of the remains?" That this is immediately taken by the audience as satire confirms that Radin's argument has a deep resonance.

the participants do not merely sell their labor but also regard it as partially constitutive of their selves. In her view, the social recognition of incomplete commodification takes the form of regulation of markets, as of labor or housing.

In accordance with her pragmatic approach, Radin is concerned with what philosophers would call "non-ideal justice," more or less what economists call, "reform" or "second-best," i.e., improvements from the present situation rather than pursuit of an optimum. The dilemma, which she calls the "double bind," is the classic one for revolutionaries and others seeking a considerable change from the status quo: a small improvement may block further progress. Making some goods inalienable creates this problem in an obvious way. Should we bar people from improving a very bad economic lot because it requires a deprivation of their personhood? Justice may not be "served by a ban on 'desperate exchanges'" (p. 125), as, for example, selling human organs. Radin is especially concerned with dilemmas involving women, such as prostitution, affirmative action, rape, or marriage contracts. The common element is that the general perceptions and dominance structures of society make either a contractual (fungible) or a noncontractual (personal) approach one-sided.

As may be gathered, her own policy views on these questions are balanced. While not losing sight of more distant ideals (more equality of income to avoid "desperate choices," more gender equality), her preferred policies are very much dependent on judgment in particular areas.

I do not think that the action implications of the role of personhood have been thoroughly explored by Radin. An immediate reaction might well be to let each individual decide what is essential to his or her self-constitution and act ac-

ordingly. The market is not something one need enter. A corner equilibrium is a perfectly reasonable outcome even under conditions of full commensurability and fungibility. To put the matter another way, who is to decide what is essential to the constitution of the self other than the self?

Radin's background is law, and to lawyers the natural reference is to the state and the law, just as to an economist the reference is the market. Both suffer from professional bias. But it is important to ask how these crucial judgments are to be made. I gather from the footnotes that Radin looks favorably on legal action to keep rents controlled and thereby (it is expected) promote stability of community. Another formerly much used technique for the same end was to keep out alien presences (especially those of different race) by covenants controlling who can live on a given property. Why is one policy acceptable and not the other?

In a way, the law-governed state and the market are very similar. Both are impersonal systems, in which individual differences are suppressed or at least not allowed to influence results. It is not merely that individuals have needs. Because they are distinct, they have different needs. But neither the market nor the state can really allow for these differences, except by permitting a private sphere in which neither operates. (The market allows for individual choice in consumption, but not for the fact that the distribution of income by no means corresponds to needs.)

IV. *Commodification in Discourse*

It is a very important part of Radin's thesis that using the language of commodities as an analytic tool can be a threat to personhood (see especially Ch. 6, but the theme recurs throughout the

book). This is an argument that goes back to Marx, with particular reference to labor. Radin is particularly concerned about the analysis of legal and familial issues by Gary Becker (1981) and Richard Posner (1992). As she rightly notes, many of the markets (e.g., marriage) analyzed by Becker and by Posner are not literal markets but considered so for the purpose of analysis. The question is, does the practice of analysis using market categories affect behavior?

Radin quotes Posner's discussion of rape with telling effect. As quoted, Posner essentially analogizes rape to theft, a violation of the woman's property right in bodily integrity. But however much it might be felt that Posner's analysis doesn't do justice to our moral intuitions, the relevant question is whether the presence of market rhetoric causes people to behave differently and less well in some sense.

To sharpen the issue, what if there is in fact an actual market for activities which might be thought of as threatening personhood, such as sale of body organs? There is in fact a simple example in widespread use, the donation of blood. In the United States, blood is both given on a voluntary basis and purchased commercially. In Great Britain, only voluntary blood giving exists. In other countries, almost every conceivable combination exists, with Japan at one extreme: blood giving is considered such an invasion of the self that all blood is imported. Richard Titmuss, in his well known book (1970) used the role of blood-giving as an act of personal altruism to argue against commodification, in this case, permitting the sale of blood (see Arrow 1972 for a more skeptical view). The existence of the commodity alternative would, it was held, depreciate the altruistic meaning of giving.

Radin is, in fact, rather skeptical of a "domino" theory, by which commodifica-

tion in part drives out the values of personhood. As she notes, the domino theory suggests that, "we must 'naturally' tend to commodify[,] . . . a . . . postulate . . . that utopian noncommodifiers can[not] afford to endorse" (p. 97). Still, she has some sympathy for the domino theory. If some children are sold at birth, will those not sold value themselves at the market price or even less? What effect will this have on their self-esteem?

The effect of discourse on action is first of all an empirical question. The same argument arises with regard to hate speech and to pornography. I am not aware that any conclusive evidence has ever been found, though it must be admitted that it would be difficult to find. A somewhat similar once widely held hypothesis was that the way people thought and therefore acted was influenced by the language they spoke, because it was impossible to think except through language (Benjamin Lee Whorf 1956). The Whorf hypothesis has been severely criticized. Steven Pinker (1994, Ch. 3) has summarized the evidence that thinking ("mentalese," as he calls it) is not limited by the existing language structure.

It is hard to believe that standard modes of expression and discourse do not have *some* influence on thought and action. But the extent of the influence is certainly hard to determine. Radin does point to one clearly important possibility, the risk of error in applying market reasoning. The same argument holds for the application of benefit-cost analysis to, say, environmental policy. The pure theory tells us to look at all costs and benefits, including those not taken account of by the market. But it is easy to overlook the intangible and prefer to concentrate on the measurable.

Radin recognizes indeed that other modes of analysis may be equally one-sided. In summing up, she does not "deny that the rhetoric of economics is

frequently useful as one among the many ways we can think about our relationships and behavior. I am arguing that something important to humanity is lost as market rhetoric becomes (or is considered to be) the sole rhetoric of human affairs" (p. 122).

V. *Free Expression*

Radin discusses several policy issues as applications of her viewpoint. I will select just two, freedom of expression, and baby-selling. I find that, just as the rhetoric of the market may violate our intuitions in some situations, so Radin's emphasis on the power of discourse may also violate our intuitions, and especially so in the realm of free expression.

In Chapter 12, Radin examines the notion of freedom of expression from a point of view which emphasizes the possible harm done by the rhetoric of commodification. Among other points, she relates this problem to the traditional distinction of speech and conduct. The usual doctrine is that conduct may be regulated, if that is socially desirable, but that speech must be unrestricted. In Radin's perspective, speech may have profoundly bad consequences.

Suppose we decide that as a practical matter, . . . only those activities that count as normal everyday garden-variety conduct are ever likely to be dangerous enough to try to curtail. . . . Even if we decide that commodified conceptualizations of children should be discouraged, in other words, we would undoubtedly endorse the rule that the discouragement should take the form of trying to prohibit baby-selling but may not take the form of trying to prohibit reading of Posner's or Becker's writings. Note, however, that the reason for considering regulating the reading of Posner's or Becker's writings and the reason for considering baby-selling are the same. (p. 181)

One must admire the candor of the conclusion, if not the threat to academic freedom.

The reasoning is parallel to Posner's on rape. Both authors come up with what is clearly the only acceptable position, but they do so in a way which is dependent on empirical considerations, facts which could rather easily be different. In fact, Radin argues at one point that speech might easily be more harmful than conduct because speech receives much wider coverage (p. 182). She concludes the chapter by suggesting that, while books should be protected, "certain kinds of advertising would not."

Radin explores a lot of interesting issues on the way. She notes that the metaphor of a "marketplace of ideas" has two distinct meanings. One is the idea of free dispute leading to the truth or at least improving approximations to it. The other is more analogous to the marketplace in goods; ideas are judged by their acceptability as such, and truth is irrelevant. The latter view is reinforced by the role of economic resources in the spread of ideas, the role of advertising and the influence of advertising on news dissemination.

Considerable stress is laid by the author on the role of what she calls "government speech." The government, by its legislation, not merely sets prescriptions for conduct but molds and shapes the public discourse. Radin relates this role of the government in improving public discourse to Dewey's discussion of democracy (discussed at greater length in Ch. 14). She quotes Dewey that democracy is the scientific method applied to social problems. "[F]reedom of expression is not a competitive marketplace but rather a cooperative pursuit of human flourishing" (p. 172).

The analogy or identity of the democratic process with scientific progress certainly calls for freedom of inquiry and dissemination of its results. Radin quotes Dewey to precisely this effect (p. 172). I do not understand therefore why Radin

concludes that discourse can be subject to controls under appropriate conditions.

There is an underlying problem with the whole idea of considering the state as a determinant of good discourse. Who is the state and why should we expect its influence to be favorable? In Chapter 11, which I am not going to discuss in detail, Radin discusses subordination, the fact that commodification and in particular a free market for ideas may reinforce racial, class, or gender subordination. This certainly has happened and is happening. But why is it credible that state authority will act against this tide? There is no difficulty in citing cases where the state itself has been the source of oppression.

The tendency of the author's arguments are to weaken the neutrality inhibitions on state action. I would be surprised if the outcome of an explicitly more activist role would turn out to be to her liking.

The more general proposition is one I have already mentioned: the state and law are overarching systems, just as the market is, and are likely to be just as subversive of the ideals of personhood. Indeed, they may be more so, because the market does provide a sheltered sphere even if stated in commodity terms. Politicizing activities is no greater guarantee of preserving individuation than commodifying them.

VI. *Baby-Selling*

Radin's use of her general principles can be illustrated by her discussion of baby-selling (Ch. 10). In a commodified world, a woman who is pregnant or has already given birth would have the right to sell the baby for a price. Indeed, the market rights might extend before pregnancy; a woman might be commissioned to become pregnant and produce a baby. Not even the first, let alone the second,

market legally exists. With commodification, different children would have different values, depending on their personal characteristics (sex, appearance, intelligence as predicted from their parents', and so forth).

It would be an easy exercise for economics students to explain the superior efficiency of such a system of markets. Parents who value children (or certain kinds of children) more highly would have them. Why are such markets uniformly banned, though *giving* children for adoption is not merely permitted but encouraged? What would the adverse effects of such markets be?

Radin wants to consider baby-selling an invasion of personhood. But because babies can be given away, breaking the tie between child and mother cannot be the critical invasion of the mother's personhood. I found the discussion at this point less than perfectly clear. It seems to waver between two propositions: (1) that the altruism of the mother in giving up a baby for adoption is compromised by the existence of a market price (analogous to Titmuss' discussion of blood donation); and (2) it is the baby's personhood that is at stake by being priced.

To my way of thinking, the crucial point is the right of the child to be nurtured. A child is not anyone's property. To be sure, he or she is not capable of protecting his or her own rights and needs a trustee. This is a very different relation than that of owner. Notice that this point of view is well handled by ordinary market rhetoric, though the personhood of the infant still needs stress.⁴

⁴ The welfare analysis of a population including children remains incompletely explored. The problem shows up in very practical considerations, such as the measurement of household income and consumption and their distribution. Does the lifetime consumption of an individual start at birth or only upon separation from the parental household?

VII. *Lessons*

There is no question that the problem raised by Radin is significant. Regardless of our all-embracing market theories, we economists must recognize that there are goods that might be bought and sold but aren't. Many examples beyond those given by Radin can be adduced. Judicial decisions and votes are not to go to the highest bidder. Individuals cannot waive certain legal rights. Securities offered for sale have to meet informational and other regulations; it is not permitted to offer the securities otherwise even if the buyer is notified that they do not meet the regulations.

Whether the reason these potential commodities are "contested" is that they would offer a violation of personhood is less clear. I do not have a good answer, but many of them seem more concerned with the operations of the social system than with preservation of individual integrity. They may well be analyzed as *externalities*, but that term is already getting to have too wide a reference to be thoroughly useful.

I remind the reader of a theme I have repeated several times in this review. The market is one system; the polity another. Use of the market and its language leads to results which offend our intuitions; so does the use of political language. Looking at policy issues from the point of any one system is likely to lead to unsatisfactory conclusions somewhere. The multiplicity of control systems in the real world is probably no ac-

cident. I agree therefore with Radin's pluralism insofar as it concerns systems of social decision making, but that does not spare us from the need for analysis.

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