

WHAT  
MONEY  
CAN'T  
BUY

*The Moral Limits  
of Markets*

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BESTSELLER *Justice*





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## *Introduction: Markets and Morals*

There are some things money can't buy, but these days, not many. Today, almost everything is up for sale. Here are a few examples:

- *A prison cell upgrade: \$82 per night.* In Santa Ana, California, and some other cities, nonviolent offenders can pay for better accommodations—a clean, quiet jail cell, away from the cells for nonpaying prisoners.<sup>1</sup>
- *Access to the car pool lane while driving solo: \$8 during rush hour.* Minneapolis and other cities are trying to ease traffic congestion by letting solo drivers pay to drive in car pool lanes, at rates that vary according to traffic.<sup>2</sup>
- *The services of an Indian surrogate mother to carry a pregnancy: \$6,250.* Western couples seeking surrogates increasingly outsource the job to India, where the practice is legal and the price is less than one-third the going rate in the United States.<sup>3</sup>
- *The right to immigrate to the United States: \$500,000.* Foreigners who invest \$500,000 and create at least ten jobs in an area of high unemployment are eligible for a green card that entitles them to permanent residency.<sup>4</sup>
- *The right to shoot an endangered black rhino: \$150,000.* South Africa has begun letting ranchers sell hunters the right

to kill a limited number of rhinos, to give the ranchers an incentive to raise and protect the endangered species.<sup>5</sup>

- *The cell phone number of your doctor: \$1,500 and up per year.* A growing number of “concierge” doctors offer cell phone access and same-day appointments for patients willing to pay annual fees ranging from \$1,500 to \$25,000.<sup>6</sup>
- *The right to emit a metric ton of carbon into the atmosphere: €13 (about \$18).* The European Union runs a carbon emissions market that enables companies to buy and sell the right to pollute.<sup>7</sup>
- *Admission of your child to a prestigious university: ?* Although the price is not posted, officials from some top universities told *The Wall Street Journal* that they accept some less than stellar students whose parents are wealthy and likely to make substantial financial contributions.<sup>8</sup>

Not everyone can afford to buy these things. But today there are lots of new ways to make money. If you need to earn some extra cash, here are some novel possibilities:

- *Rent out space on your forehead (or elsewhere on your body) to display commercial advertising: \$777.* Air New Zealand hired thirty people to shave their heads and wear temporary tattoos with the slogan “Need a change? Head down to New Zealand.”<sup>9</sup>
- *Serve as a human guinea pig in a drug safety trial for a pharmaceutical company: \$7,500.* The pay can be higher or lower, depending on the invasiveness of the procedure used to test the drug’s effect, and the discomfort

involved.<sup>10</sup>

- *Fight in Somalia or Afghanistan for a private military company: \$250 per month to \$1,000 per day. The pay varies according to qualifications, experience, and nationality.*<sup>11</sup>
- *Stand in line overnight on Capitol Hill to hold a place for a lobbyist who wants to attend a congressional hearing: \$15–\$20 per hour. The lobbyists pay line-standing companies, who hire homeless people and others to queue up.*<sup>12</sup>
- *If you are a second grader in an underachieving Dallas school, read a book: \$2. To encourage reading, the schools pay kids for each book they read.*<sup>13</sup>
- *If you are obese, lose fourteen pounds in four months: \$378. Companies and health insurers offer financial incentives for weight loss and other kinds of healthy behavior.*<sup>14</sup>
- *Buy the life insurance policy of an ailing or elderly person, pay the annual premiums while the person is alive, and then collect the death benefit when he or she dies: potentially, millions (depending on the policy). This form of betting on the lives of strangers has become a \$30 billion industry. The sooner the stranger dies, the more the investor makes.*<sup>15</sup>

We live at a time when almost everything can be bought and sold. Over the past three decades, markets—and market values—have come to govern our lives as never before. We did not arrive at this condition through any deliberate choice. It is almost as if it came upon us.

As the cold war ended, markets and market thinking enjoyed unrivaled prestige, understandably so. No other mechanism for organizing the production and distribution of goods had proved as successful at generating affluence and

prosperity. And yet, even as growing numbers of countries around the world embraced market mechanisms in the operation of their economies, something else was happening. Market values were coming to play a greater and greater role in social life. Economics was becoming an imperial domain. Today, the logic of buying and selling no longer applies to material goods alone but increasingly governs the whole of life. It is time to ask whether we want to live this way.

#### THE ERA OF MARKET TRIUMPHALISM

The years leading up to the financial crisis of 2008 were a heady time of market faith and deregulation—an era of market triumphalism. The era began in the early 1980s, when Ronald Reagan and Margaret Thatcher proclaimed their conviction that markets, not government, held the key to prosperity and freedom. And it continued in the 1990s, with the market-friendly liberalism of Bill Clinton and Tony Blair, who moderated but consolidated the faith that markets are the primary means for achieving the public good.

Today, that faith is in doubt. The era of market triumphalism has come to an end. The financial crisis did more than cast doubt on the ability of markets to allocate risk efficiently. It also prompted a widespread sense that markets have become detached from morals and that we need somehow to reconnect them. But it's not obvious what this would mean, or how we should go about it.

Some say the moral failing at the heart of market triumphalism was greed, which led to irresponsible risk



taking. The solution, according to this view, is to rein in greed, insist on greater integrity and responsibility among bankers and Wall Street executives, and enact sensible regulations to prevent a similar crisis from happening again.

This is, at best, a partial diagnosis. While it is certainly true that greed played a role in the financial crisis, something bigger is at stake. The most fateful change that unfolded during the past three decades was not an increase in greed. It was the expansion of markets, and of market values, into spheres of life where they don't belong.

To contend with this condition, we need to do more than inveigh against greed; we need to rethink the role that markets should play in our society. We need a public debate about what it means to keep markets in their place. To have this debate, we need to think through the moral limits of markets. We need to ask whether there are some things money should not buy.

The reach of markets, and market-oriented thinking, into aspects of life traditionally governed by nonmarket norms is one of the most significant developments of our time.

Consider the proliferation of for-profit schools, hospitals, and prisons, and the outsourcing of war to private military contractors. (In Iraq and Afghanistan, private contractors actually outnumbered U.S. military troops.<sup>16</sup>)

Consider the eclipse of public police forces by private security firms—especially in the United States and Britain, where the number of private guards is more than twice the number of public police officers.<sup>17</sup>

Or consider the pharmaceutical companies' aggressive marketing of prescription drugs to consumers in rich

countries. (If you've ever seen the television commercials on the evening news in the United States, you could be forgiven for thinking that the greatest health crisis in the world is not malaria or river blindness or sleeping sickness, but a rampant epidemic of erectile dysfunction.)

Consider too the reach of commercial advertising into public schools; the sale of "naming rights" to parks and civic spaces; the marketing of "designer" eggs and sperm for assisted reproduction; the outsourcing of pregnancy to surrogate mothers in the developing world; the buying and selling, by companies and countries, of the right to pollute; a system of campaign finance that comes close to permitting the buying and selling of elections.

These uses of markets to allocate health, education, public safety, national security, criminal justice, environmental protection, recreation, procreation, and other social goods were for the most part unheard of thirty years ago. Today, we take them largely for granted.

#### EVERYTHING FOR SALE

Why worry that we are moving toward a society in which everything is up for sale?

For two reasons: one is about inequality; the other is about corruption. Consider inequality. In a society where everything is for sale, life is harder for those of modest means. The more money can buy, the more affluence (or the lack of it) matters.

If the only advantage of affluence were the ability to buy

yachts, sports cars, and fancy vacations, inequalities of income and wealth would not matter very much. But as money comes to buy more and more—political influence, good medical care, a home in a safe neighborhood rather than a crime-ridden one, access to elite schools rather than failing ones—the distribution of income and wealth looms larger and larger. Where all good things are bought and sold, having money makes all the difference in the world.

This explains why the last few decades have been especially hard on poor and middle-class families. Not only has the gap between rich and poor widened, the commodification of everything has sharpened the sting of inequality by making money matter more.

The second reason we should hesitate to put everything up for sale is more difficult to describe. It is not about inequality and fairness but about the corrosive tendency of markets. Putting a price on the good things in life can corrupt them. That's because markets don't only allocate goods; they also express and promote certain attitudes toward the goods being exchanged. Paying kids to read books might get them to read more, but also teach them to regard reading as a chore rather than a source of intrinsic satisfaction. Auctioning seats in the freshman class to the highest bidders might raise revenue but also erode the integrity of the college and the value of its diploma. Hiring foreign mercenaries to fight our wars might spare the lives of our citizens but corrupt the meaning of citizenship.

Economists often assume that markets are inert, that they do not affect the goods they exchange. But this is untrue. Markets leave their mark. Sometimes, market values crowd

out nonmarket values worth caring about.

Of course, people disagree about what values are worth caring about, and why. So to decide what money should—and should not—be able to buy, we have to decide what values should govern the various domains of social and civic life. How to think this through is the subject of this book.

Here is a preview of the answer I hope to offer: when we decide that certain goods may be bought and sold, we decide, at least implicitly, that it is appropriate to treat them as commodities, as instruments of profit and use. But not all goods are properly valued in this way.<sup>18</sup> The most obvious example is human beings. Slavery was appalling because it treated human beings as commodities, to be bought and sold at auction. Such treatment fails to value human beings in the appropriate way—as persons worthy of dignity and respect, rather than as instruments of gain and objects of use.

Something similar can be said of other cherished goods and practices. We don't allow children to be bought and sold on the market. Even if buyers did not mistreat the children they purchased, a market in children would express and promote the wrong way of valuing them. Children are not properly regarded as consumer goods but as beings worthy of love and care. Or consider the rights and obligations of citizenship. If you are called to jury duty, you may not hire a substitute to take your place. Nor do we allow citizens to sell their votes, even though others might be eager to buy them. Why not? Because we believe that civic duties should not be regarded as private property but should be viewed instead as public responsibilities. To outsource them is to demean them, to value them in the wrong way.

These examples illustrate a broader point: some of the good things in life are corrupted or degraded if turned into commodities. So to decide where the market belongs, and where it should be kept at a distance, we have to decide how to value the goods in question—health, education, family life, nature, art, civic duties, and so on. These are moral and political questions, not merely economic ones. To resolve them, we have to debate, case by case, the moral meaning of these goods and the proper way of valuing them.

This is a debate we didn't have during the era of market triumphalism. As a result, without quite realizing it, without ever deciding to do so, we drifted from *having* a market economy to *being* a market society.

The difference is this: A market economy is a tool—a valuable and effective tool—for organizing productive activity. A market society is a way of life in which market values seep into every aspect of human endeavor. It's a place where social relations are made over in the image of the market.

The great missing debate in contemporary politics is about the role and reach of markets. Do we want a market economy, or a market society? What role should markets play in public life and personal relations? How can we decide which goods should be bought and sold, and which should be governed by nonmarket values? Where should money's writ not run?

These are the questions this book seeks to address. Since they touch on contested visions of the good society and the good life, I can't promise definitive answers. But I hope at least to prompt public discussion of these questions, and to provide a philosophical framework for thinking them

through.

#### RETHINKING THE ROLE OF MARKETS

Even if you agree that we need to grapple with big questions about the morality of markets, you might doubt that our public discourse is up to the task. It's a legitimate worry. Any attempt to rethink the role and reach of markets should begin by acknowledging two daunting obstacles.

One is the persisting power and prestige of market thinking, even in the aftermath of the worst market failure in eighty years. The other is the rancor and emptiness of our public discourse. These two conditions are not entirely unrelated.

The first obstacle is puzzling. At the time, the financial crisis of 2008 was widely seen as a moral verdict on the uncritical embrace of markets that had prevailed, across the political spectrum, for three decades. The near collapse of once-mighty Wall Street financial firms, and the need for a massive bailout at taxpayers' expense, seemed sure to prompt a reconsideration of markets. Even Alan Greenspan, who as chairman of the U.S. Federal Reserve had served as high priest of the market triumphalist faith, admitted to "a state of shocked disbelief" that his confidence in the self-correcting power of free markets turned out to be mistaken.<sup>19</sup> The cover of *The Economist*, the buoyantly pro-market British magazine, showed an economics textbook melting into a puddle, under the headline WHAT WENT WRONG WITH ECONOMICS.<sup>20</sup>

The era of market triumphalism had come to a devastating

end. Now, surely, would be a time of moral reckoning, a season of sober second thoughts about the market faith. But things haven't turned out that way.

The spectacular failure of financial markets did little to dampen the faith in markets generally. In fact, the financial crisis discredited government more than the banks. In 2011, surveys found that the American public blamed the federal government more than Wall Street financial institutions for the economic problems facing the country—by a margin of more than two to one.<sup>21</sup>

The financial crisis had pitched the United States and much of the global economy into the worst economic downturn since the Great Depression and left millions of people out of work. Yet it did not prompt a fundamental rethinking of markets. Instead, its most notable political consequence in the United States was the rise of the Tea Party movement, whose hostility to government and embrace of free markets would have made Ronald Reagan blush. In the fall of 2011, the Occupy Wall Street movement brought protests to cities throughout the United States and around the world. These protests targeted big banks and corporate power, and the rising inequality of income and wealth. Despite their different ideological orientations, both the Tea Party and Occupy Wall Street activists gave voice to populist outrage against the bailout.<sup>22</sup>

Notwithstanding these voices of protest, serious debate about the role and reach of markets remains largely absent from our political life. Democrats and Republicans argue, as they long have done, about taxes, spending, and budget deficits, only now with greater partisanship and little ability

to inspire or persuade. Disillusion with politics has deepened as citizens grow frustrated with a political system unable to act for the public good, or to address the questions that matter most.

This parlous state of public discourse is the second obstacle to a debate about the moral limits of markets. At a time when political argument consists mainly of shouting matches on cable television, partisan vitriol on talk radio, and ideological food fights on the floor of Congress, it's hard to imagine a reasoned public debate about such controversial moral questions as the right way to value procreation, children, education, health, the environment, citizenship, and other goods. But I believe such a debate is possible, and that it would invigorate our public life.

Some see in our rancorous politics a surfeit of moral conviction: too many people believe too deeply, too stridently, in their own convictions and want to impose them on everyone else. I think this misreads our predicament. The problem with our politics is not too much moral argument but too little. Our politics is overheated because it is mostly vacant, empty of moral and spiritual content. It fails to engage with big questions that people care about.

The moral vacancy of contemporary politics has a number of sources. One is the attempt to banish notions of the good life from public discourse. In hopes of avoiding sectarian strife, we often insist that citizens leave their moral and spiritual convictions behind when they enter the public square. But despite its good intention, the reluctance to admit arguments about the good life into politics prepared the way for market triumphalism and for the continuing hold of



market reasoning.

In its own way, market reasoning also empties public life of moral argument. Part of the appeal of markets is that they don't pass judgment on the preferences they satisfy. They don't ask whether some ways of valuing goods are higher, or worthier, than others. If someone is willing to pay for sex or a kidney, and a consenting adult is willing to sell, the only question the economist asks is, "How much?" Markets don't wag fingers. They don't discriminate between admirable preferences and base ones. Each party to a deal decides for himself or herself what value to place on the things being exchanged.

This nonjudgmental stance toward values lies at the heart of market reasoning and explains much of its appeal. But our reluctance to engage in moral and spiritual argument, together with our embrace of markets, has exacted a heavy price: it has drained public discourse of moral and civic energy, and contributed to the technocratic, managerial politics that afflicts many societies today.

A debate about the moral limits of markets would enable us to decide, as a society, where markets serve the public good and where they don't belong. It would also invigorate our politics, by welcoming competing notions of the good life into the public square. For how else could such arguments proceed? If you agree that buying and selling certain goods corrupts or degrades them, then you must believe that some ways of valuing these goods are more appropriate than others. It hardly makes sense to speak of corrupting an activity—parenthood, say, or citizenship—unless you think that some ways of being a parent, or a citizen, are better than

others.

Moral judgments such as these lie behind the few limitations on markets we still observe. We don't allow parents to sell their children or citizens to sell their votes. And one of the reasons we don't is, frankly, judgmental: we believe that selling these things values them in the wrong way and cultivates bad attitudes.

Thinking through the moral limits of markets makes these questions unavoidable. It requires that we reason together, in public, about how to value the social goods we prize. It would be folly to expect that a morally more robust public discourse, even at its best, would lead to agreement on every contested question. But it would make for a healthier public life. And it would make us more aware of the price we pay for living in a society where everything is up for sale.

When we think of the morality of markets, we think first of Wall Street banks and their reckless misdeeds, of hedge funds and bailouts and regulatory reform. But the moral and political challenge we face today is more pervasive and more mundane—to rethink the role and reach of markets in our social practices, human relationships, and everyday lives.

# 1

## *Jumping the Queue*

Nobody likes to wait in line. Sometimes you can pay to jump the queue. It's long been known that, in fancy restaurants, a handsome tip to the maître d' can shorten the wait on a busy night. Such tips are quasi bribes and handled discreetly. No sign in the window announces immediate seating for anyone willing to slip the host a fifty-dollar bill. But in recent years, selling the right to cut in line has come out of the shadows and become a familiar practice.

### FAST TRACK

Long lines at airport security checkpoints make air travel an ordeal. But not everyone has to wait in the serpentine queues. Those who buy first-class or business-class tickets can use priority lanes that take them to the front of the line for screening. British Airways calls it Fast Track, a service that also lets high-paying passengers jump the queue at passport and immigration control.<sup>1</sup>

But most people can't afford to fly first-class, so the airlines have begun offering coach passengers the chance to buy line-cutting privileges as an à la carte perk. For an extra \$39, United Airlines will sell you priority boarding for your

flight from Denver to Boston, along with the right to cut in line at the security checkpoint. In Britain, London's Luton Airport offers an even more affordable fast-track option: wait in the long security line or pay £3 (about \$5) and go to the head of the queue.<sup>2</sup>

Critics complain that a fast track through airport security should not be for sale. Security checks, they argue, are a matter of national defense, not an amenity like extra legroom or early boarding privileges; the burden of keeping terrorists off airplanes should be shared equally by all passengers. The airlines reply that everyone is subjected to the same level of screening; only the wait varies by price. As long as everyone receives the same body scan, they maintain, a shorter wait in the security line is a convenience they should be free to sell.<sup>3</sup>

Amusement parks have also started selling the right to jump the queue. Traditionally, visitors may spend hours waiting in line for the most popular rides and attractions. Now, Universal Studios Hollywood and other theme parks offer a way to avoid the wait: for about twice the price of standard admission, they'll sell you a pass that lets you go to the head of the line. Expedited access to the *Revenge of the Mummy* thrill ride may be morally less freighted than privileged access to an airport security check. Still, some observers lament the practice, seeing it as corrosive of a wholesome civic habit: "Gone are the days when the theme-park queue was the great equalizer," one commentator wrote, "where every vacationing family waited its turn in democratic fashion."<sup>4</sup>

Interestingly, amusement parks often obscure the special privileges they sell. To avoid offending ordinary customers,

some parks usher their premium guests through back doors and separate gates; others provide an escort to ease the way of VIP guests as they cut in line. This need for discretion suggests that paid line cutting—even in an amusement park—tugs against a nagging sense that fairness means waiting your turn. But no such reticence appears on Universal’s online ticket site, which touts the \$149 Front of Line Pass with unmistakable bluntness: “Cut to the FRONT at all rides, shows and attractions!”<sup>5</sup>

If you’re put off by queue jumping at amusement parks, you might opt instead for a traditional tourist sight, such as the Empire State Building. For \$22 (\$16 for children), you can ride the elevator to the eighty-sixth-floor observatory and enjoy a spectacular view of New York City. Unfortunately, the site attracts several million visitors a year, and the wait for the elevator can sometimes take hours. So the Empire State Building now offers a fast track of its own. For \$45 per person, you can buy an Express Pass that lets you cut in line—for both the security check and the elevator ride. Shelling out \$180 for a family of four may seem a steep price for a fast ride to the top. But as the ticketing website points out, the Express Pass is “a fantastic opportunity” to “make the most of your time in New York—and the Empire State Building—by skipping the lines and going straight to the greatest views.”<sup>6</sup>

#### LEXUS LANES

The fast-track trend can also be seen on freeways across the United States. Increasingly, commuters can buy their way out

of bumper-to-bumper traffic and into a fast-moving express lane. It began during the 1980s with car pool lanes. Many states, hoping to reduce traffic congestion and air pollution, created express lanes for commuters willing to share a ride. Solo drivers caught using the car pool lanes faced hefty fines. Some put blow-up dolls in the passenger seat in hopes of fooling the highway patrol. In an episode of the television comedy *Curb Your Enthusiasm*, Larry David comes up with an ingenious way of buying access to the car pool lane: faced with heavy freeway traffic en route to an LA Dodgers baseball game, he hires a prostitute—not to have sex but to ride in his car on the way to the stadium. Sure enough, the quick ride in the car pool lane gets him there in time for the first pitch.<sup>7</sup>

Today, many commuters can do the same—without the need for hired help. For fees of up to \$10 during rush hour, solo drivers can buy the right to use car pool lanes. San Diego, Minneapolis, Houston, Denver, Miami, Seattle, and San Francisco are among the cities that now sell the right to a faster commute. The toll typically varies according to the traffic—the heavier the traffic, the higher the fee. (In most places, cars with two or more occupants can still use express lanes for free.) On the Riverside Freeway, east of Los Angeles, rush-hour traffic creeps along at 15–20 miles an hour in the free lanes, while the paying customers in the express lane zip by at 60–65 mph.<sup>8</sup>

Some people object to the idea of selling the right to jump the queue. They argue that the proliferation of fast-track schemes adds to the advantages of affluence and consigns the poor to the back of the line. Opponents of paid express lanes call them “Lexus lanes” and say they are unfair to commuters

of modest means. Others disagree. They argue that there is nothing wrong with charging more for faster service. Federal Express charges a premium for overnight delivery. The local dry cleaner charges extra for same-day service. And yet no one complains that it's unfair for FedEx, or the dry cleaner, to deliver your parcel or launder your shirts ahead of someone else's.

To an economist, long lines for goods and services are wasteful and inefficient, a sign that the price system has failed to align supply and demand. Letting people pay for faster service at airports, at amusement parks, and on highways improves economic efficiency by letting people put a price on their time.

#### THE LINE-STANDING BUSINESS

Even where you're not allowed to buy your way to the head of the line, you can sometimes hire someone else to queue up on your behalf. Each summer, New York City's Public Theater puts on free outdoor Shakespeare performances in Central Park. Tickets for the evening performances are made available at 1:00 p.m., and the line forms hours in advance. In 2010, when Al Pacino starred as Shylock in *The Merchant of Venice*, demand for tickets was especially intense.

Many New Yorkers were eager to see the play but didn't have time to stand in line. As the *New York Daily News* reported, this predicament gave rise to a cottage industry—people offering to wait in line to secure tickets for those willing to pay for the convenience. The line standers

advertised their services on Craigslist and other websites. In exchange for queuing up and enduring the wait, they were able to charge their busy clients as much as \$125 per ticket for the free performances.<sup>9</sup>

The theater tried to prevent the paid line standers from plying their trade, claiming “it’s not in the spirit of Shakespeare in the Park.” The mission of the Public Theater, a publicly subsidized, nonprofit enterprise, is to make great theater accessible to a broad audience drawn from all walks of life. Andrew Cuomo, New York’s attorney general at the time, pressured Craigslist to stop running ads for the tickets and line-standing services. “Selling tickets that are meant to be free,” he stated, “deprives New Yorkers of enjoying the benefits that this taxpayer-supported institution provides.”<sup>10</sup>

Central Park is not the only place where there’s money to be made by those who stand and wait. In Washington, D.C., the line-standing business is fast becoming a fixture of government. When congressional committees hold hearings on proposed legislation, they reserve some seats for the press and make others available to the general public on a first-come, first-served basis. Depending on the subject and the size of the room, the lines for the hearings can form a day or more in advance, sometimes in the rain or in the chill of winter. Corporate lobbyists are keen to attend these hearings, in order to chat up lawmakers during breaks and keep track of legislation affecting their industries. But the lobbyists are loath to spend hours in line to assure themselves a seat. Their solution: pay thousands of dollars to professional line-standing companies that hire people to queue up for them.

The line-standing companies recruit retirees, message



couriers, and, increasingly, homeless people to brave the elements and hold a place in the queue. The line standers wait outside, then, as the line moves, they proceed inside the halls of the congressional office buildings, queuing up outside the hearing rooms. Shortly before the hearing begins, the well-heeled lobbyists arrive, trade places with their scruffily attired stand-ins, and claim their seats in the hearing room.<sup>11</sup>

The line-standing companies charge the lobbyists \$36 to \$60 per hour for the queuing service, which means that getting a seat in a committee hearing can cost \$1,000 or more. The line standers themselves are paid \$10–\$20 per hour. *The Washington Post* has editorialized against the practice, calling it “demeaning” to Congress and “contemptuous of the public.” Senator Claire McCaskill, a Missouri Democrat, has tried to ban it, without success. “The notion that special interest groups can buy seats at congressional hearings like they would buy tickets to a concert or football game is offensive to me,” she said.<sup>12</sup>

The business has recently expanded from Congress to the U.S. Supreme Court. When the Court hears oral arguments in big constitutional cases, it’s not easy to get in. But if you’re willing to pay, you can hire a line stander to get you a ringside seat in the highest court in the land.<sup>13</sup>

The company LineStanding.com describes itself as “a leader in the Congressional line standing business.” When Senator McCaskill proposed legislation to prohibit the practice, Mark Gross, the owner of the company, defended it. He compared line standing to the division of labor on Henry Ford’s assembly line: “Each worker on the line was responsible for his/her specific task.” Just as lobbyists are

good at attending hearings and “analyzing all the testimony,” and senators and congressmen are good at “making an informed decision,” line standers are good at, well, waiting. “Division of labor makes America a great place to work,” Gross claimed. “Linestanding may seem like a strange practice, but it’s ultimately an honest job in a free-market economy.”<sup>14</sup>

Oliver Gomes, a professional line stander, agrees. He was living in a homeless shelter when he was recruited for the job. CNN interviewed him as he held a place in line for a lobbyist at a hearing on climate change. “Sitting in the halls of Congress made me feel a little better,” Gomes told CNN. “It elevated me and made me feel like, well, you know, maybe I do belong here, maybe I can contribute even at that little minute level.”<sup>15</sup>

But opportunity for Gomes meant frustration for some environmentalists. When a group of them showed up for the climate change hearing, they couldn’t get in. The lobbyists’ paid stand-ins had already staked out all the available seats in the hearing room.<sup>16</sup> Of course, it might be argued that if the environmentalists cared enough about attending the hearing, they too could have queued up overnight. Or they could have hired homeless people to do it for them.

#### TICKET SCALPING DOCTOR APPOINTMENTS

Queuing for pay is not only an American phenomenon. Recently, while visiting China, I learned that the line-standing business has become routine at top hospitals in

Beijing. The market reforms of the last two decades have resulted in funding cuts for public hospitals and clinics, especially in rural areas. So patients from the countryside now journey to the major public hospitals in the capital, creating long lines in registration halls. They queue up overnight, sometimes for days, to get an appointment ticket to see a doctor.<sup>17</sup>

The appointment tickets are a bargain—only 14 yuan (about \$2). But it isn't easy to get one. Rather than camp out for days and nights in the queue, some patients, desperate for an appointment, buy tickets from scalpers. The scalpers make a business of the yawning gap between supply and demand. They hire people to line up for appointment tickets and then resell the tickets for hundreds of dollars—more than a typical peasant makes in months. Appointments to see leading specialists are especially prized—and hawked by the scalpers as if they were box seats for the World Series. The *Los Angeles Times* described the ticket-scalping scene outside the registration hall of a Beijing hospital: “Dr. Tang. Dr. Tang. Who wants a ticket for Dr. Tang? Rheumatology and immunology.”<sup>18</sup>

There is something distasteful about scalping tickets to see a doctor. For one thing, the system rewards unsavory middlemen rather than those who provide the care. Dr. Tang could well ask why, if a rheumatology appointment is worth \$100, most of the money should go to scalpers rather than to him, or his hospital. Economists might agree and advise hospitals to raise their prices. In fact, some Beijing hospitals have added special ticket windows, where the appointments are more expensive and the lines much shorter.<sup>19</sup> This high-

priced ticket window is the hospital's version of the no-wait premium pass at amusement parks or the fast-track lane at the airport—a chance to pay to jump the queue.

But regardless of who cashes in on the excess demand, the scalpers or the hospital, the fast track to the rheumatologist raises a more basic question: Should patients be able to jump the queue for medical care simply because they can afford to pay extra?

The scalpers and special ticket windows at Beijing hospitals raise this question vividly. But the same question can be asked of a subtler form of queue jumping increasingly practiced in the U.S.—the rise of “concierge” doctors.

#### CONCIERGE DOCTORS

Although U.S. hospitals are not thronged with scalpers, medical care often involves a lot of waiting. Doctor appointments have to be scheduled weeks, sometimes months, in advance. When you show up for the appointment, you may have to cool your heels in the waiting room, only to spend a hurried ten or fifteen minutes with the doctor. The reason: Insurance companies don't pay primary care doctors much for routine appointments. So to make a decent living, physicians in general practice have rosters of three thousand patients or more, and often rush through twenty-five to thirty appointments per day.<sup>20</sup>

Many patients and doctors are frustrated with this system, which leaves little time for doctors to get to know their patients or to answer their questions. So a growing number of

physicians now offer a more attentive form of care known as “concierge medicine.” Like the concierge at a five-star hotel, the concierge physician is at your service around the clock. For annual fees ranging from \$1,500 to \$25,000, patients are assured of same-day or next-day appointments, no waiting, leisurely consultations, and twenty-four-hour access to the doctor by email and cell phone. And if you need to see a top specialist, your concierge doctor will pave the way.<sup>21</sup>

To provide this attentive service, concierge physicians sharply reduce the number of patients they care for. Physicians who decide to convert their practice into a concierge service send a letter to their existing patients offering a choice: sign up for the new, no-wait service for an annual retainer fee, or find another doctor.<sup>22</sup>

One of the first concierge practices, and one of the priciest, is MD<sup>2</sup> (“MD Squared”), founded in 1996 in Seattle. For a fee of \$15,000 per year for an individual (\$25,000 for a family), the company promises “absolute, unlimited and exclusive access to your personal physician.”<sup>23</sup> Each doctor serves only fifty families. As the company explains on its website, the “availability and level of service we provide absolutely necessitates that we limit our practice to a select few.”<sup>24</sup> An article in *Town & Country* magazine reports that the MD<sup>2</sup> waiting room “looks more like the lobby of a Ritz-Carlton than a clinical doctor’s office.” But few patients even go there. Most are “CEOs and business owners who don’t want to lose an hour out of their day to go to the doctor’s office and prefer instead to receive care in the privacy of their home or office.”<sup>25</sup>

Other concierge practices cater to the upper middle class.

MDVIP, a for-profit concierge chain based in Florida, offers same-day appointments and prompt service (answering your call by the second ring) for \$1,500 to \$1,800 per year, and accepts insurance payments for standard medical procedures. Participating physicians cut their patient rolls to six hundred, enabling them to spend more time with each patient.<sup>26</sup> The company assures patients that “waiting will not be a part of their health care experience.” According to *The New York Times*, an MDVIP practice in Boca Raton sets out fruit salad and sponge cake in the waiting room. But since there is little if any waiting, the food often goes untouched.<sup>27</sup>

For concierge doctors and their paying customers, concierge care is everything medicine should be. Doctors can see eight to twelve patients a day, rather than thirty, and still come out ahead financially. Physicians affiliated with MDVIP keep two-thirds of the annual fee (one-third goes to the company), which means a practice with six hundred patients makes \$600,000 per year in retainer fees alone, not counting reimbursements from insurance companies. For patients who can afford it, unhurried appointments and round-the-clock access to a doctor are luxuries worth paying for.<sup>28</sup>

The drawback, of course, is that concierge care for a few depends on shunting everyone else onto the crowded rolls of other doctors.<sup>29</sup> It therefore invites the same objection leveled against all fast-track schemes: that it’s unfair to those left languishing in the slow lane.

Concierge medicine differs, to be sure, from the special ticket windows and the appointment-scalping system in Beijing. Those who can’t afford a concierge doc can generally find decent care elsewhere, while those who can’t afford a

scalper in Beijing are consigned to days and nights of waiting.

But the two systems have this in common: each enables the affluent to jump the queue for medical care. The queue jumping is more brazen in Beijing than in Boca Raton. There seems a world of difference between the clamor of the crowded registration hall and the calm of the waiting room with the uneaten sponge cake. But that's only because, by the time the concierge patient arrives for his or her appointment, the culling of the queue has already taken place, out of view, by the imposition of the fee.

#### MARKET REASONING

The stories we've just considered are signs of the times. In airports and amusement parks, in the corridors of Congress and the waiting rooms of doctors, the ethic of the queue—"first come, first-served"—is being displaced by the ethic of the market—"you get what you pay for."

And this shift reflects something bigger—the growing reach of money and markets into spheres of life once governed by nonmarket norms.

Selling the right to cut in line is not the most grievous instance of this trend. But thinking through the rights and wrongs of line standing, ticket scalping, and other forms of queue jumping can help us glimpse the moral force—and moral limits—of market reasoning.

Is there anything wrong with hiring people to stand in line, or with scalping tickets? Most economists say no. They have little sympathy for the ethic of the queue. If I want to

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