# Choosing and Caring: Markets and Their Limits

*Jeff Spinner-Halev*

**Against Autonomy: Justifying Coercive Paternalism**. By Sarah Conly. Cambridge: Cambridge University Press, 2012. 449p. $76.00 cloth, $32.99 paper.

**What Money Can't Buy: The Moral Limits of Markets**. By Michael J. Sandel. New York: Farrar, Straus and Giroux, 2012. 449p. $27.00 cloth, $15.00 paper.

**Free Market Fairness**. By John Tomasi. Princeton: Princeton University Press, 2012. 449p. $35.00 cloth, $22.95 paper.

**Caring Democracy: Markets, Equality, and Justice**. By Joan C. Tronto. New York: New York University Press, 2013. 449p. $75.00 cloth, $24.00 paper.

Choice and markets have always been central to liberalism. Liberals wants people to choose their occupation, their partners, and what goods to buy. All liberals agree that making choices is central to the autonomous life. But the *scope* and *conditions* of choice quickly becomes controversial among liberals, as the four books under review reveal. Joan Tronto and Michael Sandel worry about the spread of market thinking to all other spheres of life, John Tomasi argues that too many contemporary liberals underestimate the importance of economic liberty, while Sarah Conly argues that we have a large swath of empirical evidence to question the idea that individuals can readily make correct rational decisions. Conly is not against individual autonomy, but she urges us to recognize autonomy's limitations. While political theorists are often reluctant to think about policy, doing so is certainly a virtue when the topic is markets and choice; one of the strengths of Conly's and Tronto's books is their willingness to apply their arguments to specific policy realms.

In some ways, the debate about choice and markets is an old one. In *Free Market Fairness*, Tomasi approvingly cites Bernard Mandeville's eighteenth-century argument that market societies maximize the benefits to the poor (p. 129). In *Caring Democracy*, Tronto also cites Mandeville, but with disdain, arguing that his argument that private vices can produce the public good of greater social wealth is similar to the argument made by contemporary neoliberals (p. 96). Yet all of these books are making important contemporary arguments as well, and all offer important ideas to readers today. And all can be read in conversation with one another.

Tomasi argues that what he calls "high liberalism" or liberal egalitarianism too readily underplays the importance of what it means to be an independent, responsible agent. People respect themselves in part because of their genuine achievements; and to have these achievements, people must have a large range of economic liberty. The problem with the "European model" is that "it denies ordinary citizens opportunities to feel the special sense that they have done something genuinely important with their lives" (*Free Market Fairness*, p. 80). The idea here apparently is that the West European welfare states allow people to live reasonably well without working very hard, which must be news to the enormous number of angry Europeans who are currently unemployed and poor. Sandel and Tronto do not think that in today's world we need to worry too much about lazy citizens, particularly since social welfare programs have been reduced so much recently. They push back against the themes running through Tomasi's book in several ways, arguing that market thinking has become too common in society, seeping over into all spheres of life.

In *What Money Can't Buy*, Sandel argues that "we have drifted from *having* a market economy to *being* a market society" (p. 10; emphasis in the original). He lists many

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things that money can now buy, but (probably) should not: prison cell upgrades, access to car pool lanes for solo drivers, surrogate motherhood, the right to immigrate to the United States, the right to shoot an endangered black rhino (perhaps), and the cell phone number of your doctor, among other things. Sandel also objects to the incessant commercialism of our society: luxury skyboxes, corporate names on stadiums, and so on; he objects to scalpers selling tickets to see the pope and to see free outdoor Shakespeare performances in Central Park. When free concerts are up for sale, he complains, market thinking has invaded everywhere.

Sandel points to two problems with a market society. The first is about fairness to the poor: "[A]s 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 wealth looms larger and larger" (p. 7). The second problem that concerns him is about the corruption of goods—some goods should not be market goods. Not only are markets about allocating goods; they also express and promote attitudes. Hiring mercenaries to "fight our wars might spare the lives of our citizens but corrupt the meaning of citizenship" (p. 8).

For Tronto, the rise of the market society has crowded out care, which should be a fundamental democratic value. She argues that once we realize the centrality of care, we will not think politically about freedom, equality, and justice unless we also make provisions for care in its many realms. She argues that democratic politics should center upon assigning responsibilities for care, and for ensuring that democratic citizens are as capable as possible of participating in this assignment of responsibilities. To Tronto, while care and markets can coexist, care can and should be a ballast against too much reliance on markets: Where markets undermine care, or where markets distribute the burdens of care too unfairly, there is a need for political intervention.

By contrast, Sandel does not say where the limits of markets should be, though his book does raise interesting and important questions. He bemoans the rise of commercialism in American life, along with what he sees as the increase in the use of economic incentives to get people to do the right thing. Much of Sandel's last chapter is about professional sports, where he wistfully remembers the bygone days when tickets prices were reasonable, autographs were readily obtainable, skyboxes did not exist, and when the Minnesota Twins—his team—played in Metropolitan Stadium, not the Target Center. Perhaps market thinking is more replete in sports today—players selling autographs dates from the 1980s, as Sandel points out—but baseball owners in the old days were often ruthless businessmen who exploited their players. The greatest sports scandal in the United States remains the 1919 Black Sox scandal, when some members of the Chicago White Sox took money to throw the World Series, motivated in part by their hatred for the miserly owner of the team. (They played in Comisky Park, named after the team's owner; across town, Cubs Park was renamed Wrigley Field in 1926 after the chewing gum magnate.) The good old days were not so good for everyone.

Here, too, we see glimpses of past arguments: While Sandel laments a world in which workers are treated like commodities by their employers, Marx would not think that the distinction between market society and market economy would make any sense. Marx would chuckle when Sandel tells us that the issues at hand are "morally complex" (*What Money Can't Buy*, p. 81), without saying much about where the limits of market thinking should be; Marx would say that the logic of the market knows no bounds.[1] He would also be unsurprised to hear that things have gotten worse for the poor—capitalism, he said, builds palaces for the rich and hovels for the poor. Sandel's argument seems to be that some commercialization is okay, sometimes using economic incentives is okay, but too much is not: "Otherwise unobjectionable extensions of advertising into novel settings may, if widespread, bring about a society dominated by corporate sponsorships and consumerism, a society in which everything is 'brought to you by' Mastercard or McDonald's. This too is a kind of a degradation" (pp. 187–88). But what is too much? How much is degrading? Sandel remains stubbornly vague about the answers to these questions.

Sandel seems to want a cultural shift so that markets do not crowd out morals; we need to ask about the "kind of society in which we wish to live" (p. 202). The prescription to the problem of markets trumping morality is more moral argument: "The problem with our politics is not too much moral argument but too little. . . . [T]he reluctance to admit arguments about the good life into politics prepared the way for market triumphalism" (pp. 13–14). Yet is the problem that money buys more and more, or is the problem that the rich have more money than ever before and the poor have less? Sandel notes that the gap between the rich and the poor has widened, but only briefly, which allows him to focus on the choices that we make, and not the framework that structures our choices.

The rising inequality in our society is a more prominent theme in *Caring Democracy*. This rise makes it harder for the poor to get care for themselves, although they are often hired at low wages to care for others. The poor then have to care for themselves and for others, while the wealthy do not have to do any of the dirty care work. The rich are engaged in what Tronto calls "competitive care," where caring for one's own means helping them get ahead; what this means is that the privatized caring of the wealthy helps increase the gap between the wealthy and the poor even more. The problem with market thinking is how it is blind to power and privilege. What happens to many poor people is that they are harmed or are unable to do much to improve



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their position in society, and then they are blamed for the poverty (p. 125).

Yet oddly, part of Tronto's solution is a strikingly individualist one: "The first step that citizens need to take, and one that requires considerable bravery, is for each person to admit human vulnerability. *We are care receivers, all*" (p. 146; emphasis in the original). Citizens need to spend time learning more about the lives of others. What Tronto wants, a goal shared by Sandel, is for people to view themselves as not just rational economic actors; if we are to think of ourselves as receivers of care, our orientation about ourselves and the world will change.

The individualistic view that appears in both Sandel's and Tronto's books is at the forefront of *Free Market Fairness*. There, Tomasi argues that what he calls market democracy "gives special attention to the importance of *agency*, to what citizens *choose to do* as responsible independent agents" (p. 193; emphasis in the original). This means giving people the freedom to negotiate for themselves the terms of their employment, "the right to decide for themselves how much to save for retirement, how much to invest in health care and to make decisions about many other issues of long-term financial planning" (pp. 23–24). Indeed, Tomasi says that these kinds of decisions are crucial to the moral agency of people and to their identity. How much money should I save for retirement or for end-of-life care? These kinds of questions "require that people think seriously about the relation between the person that each is at the moment to the person one will become" many years in the future. "They call on people to take responsibility now for the person each will later become" (p. 79).

Unfortunately, Tomasi's enthusiasm sometimes falls short. He declares that there is a large gap between the views of many liberal political theorists and that of many ordinary citizens. This may sometimes be the case, but Tomasi bends the facts too much for the reader to know how much to make of this argument. He declares that in liberal societies across the world, wealth made many workers less enthusiastic about joining unions and other collective bargaining structures (p. 60). The idea that outsourcing or technological advances and the decline of manufacturing jobs in the West, or that the political assault on unions that began with Ronald Reagan and Margaret Thatcher, may have something to do with union decline is not even mentioned. Turning to Britain, Tomasi declares, again without a citation to back up this obviously false claim, that "as ever-greater numbers of working people found themselves rising into the middle class, Labour's political base increasingly defected" (p. 57). It is not just that one would never know from Tomasi's book that income inequality has vastly increased in many Western democracies, particularly in Britain and the United States, over the last three decades, but that one would think that the poor have grown wealthier at a more rapid pace than the rich, which has not been the case.

One of Tomasi's complaints is that "high liberals" ignore the importance of markets. He unfortunately turns high liberalism into John Rawls, and into the post–*Theory of Justice* Rawls at that, when Rawls briefly praises the idea of a property-owning democracy. The problem is not flaws in Tomasi's criticism of the idea of a property-owning democracy, where the government ensures that property is widely distributed, and where workers have considerable power over productive decisions. It is hard to see how this sketchily laid-out Rawlsian vision can be fulfilled in our world. Rather, the problem is that Rawls's idea of a property-owning democracy is not widely shared among liberal egalitarians, and so Tomasi misses an opportunity to say what is wrong with liberal egalitarianism's view on markets. When he says what "high liberals such as Rawls value in the workplace," the fact that he does not name anyone beyond Rawls is all too telling, since most liberal egalitarians do believe in markets, though with more restrictions than Tomasi (p. 188). At one point, Tomasi concedes as much: "As Jeremy Waldron admits, 'nobody these days seriously imagines an economy . . . in which private property and markets do not loom large" (p. 82).

What seems to have motivated Tomasi to write his book is the sense that many liberal egalitarians undervalue economic liberty, though unfortunately, he does not spell out how they do so. One could imagine Tomasi arguing that while scholars like Tronto and Sandel pay lip service to the importance of economic markets, they say little that is concrete about its role in a liberal society. One can easily imagine Tomasi's frustration reading their books, arguing that pointing out all of the flaws of market societies without noting the great wealth they have produced, the large middle classes, the opportunities for the poor, and without showing a clear understanding of the connection between liberalism and economic liberty, is not really taking the importance of markets seriously enough. It is a missed opportunity that Tomasi does not look at the ways in which contemporary liberal egalitarians besides Rawls actually treat markets. Such an analysis would have been quite illuminating.

Tomasi says several times that we should work toward creating a society where people think of themselves as "fully responsible independent agents" infused with economic liberty (p. 193). While he seems to assume that families will exist in this world, Tronto would want to know how care would possibly be valued there. And if care is not valued, why would people get married? Why would women have children? If nearly all economic risk is to be borne by individuals, then having a child seems rather risky, particularly since the burden of child care is disproportionately borne by women. Sandel would want to know about noneconomic goods and goals. What about pollution, for example? Tomasi confidently



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argues that property owners will of course take care of their property, but this says little about collective-action problems: air pollution, water pollution, overfishing, and so on.

Tomasi thinks that a market democracy is the best way to ensure that the poor will do well: "Market democracy sees economic growth as an antidote to the problem of worker vulnerability in postindustrial societies. When the economy is growing workers have a better ability to bargain for better working conditions or even to walk away" (*Free Market Fairness*, p. 110). Tomasi repeatedly rejects the idea of the "stationary state," a state of no economic growth, mentioned by Rawls, Keynes, and John Stuart Mill. Yet here again Tomasi draws up a false contrast. A few liberals like Rawls discuss the stationary state, but the main debate is not growth versus no growth but, rather, about how to maintain growth. A key problem, which Tomasi never discusses, is that capitalist economies move in cycles. When recessions arrive, liberals want governments to spend more to spur economic growth; conservatives call for more austerity. Liberals think that the recent European experience of slashing government spending during a recession, which even further contracted their economy and produced massive unemployment, is proof that they are right. American conservatives never think that anything useful can be learned from Europe. Tomasi simply says that market democracy does not like government borrowing, and he is in favor of a constitutional amendment to forbid government borrowing (p. 255). But as Tomasi's colleague Mark Blyth has shown, the politics of austerity decreases economic growth.[2]

Tomasi complains that many classical liberals (he mentions Locke, Mandeville, and Smith) do not receive enough credit for their arguments that property ownership and economic liberty help the poor. Perhaps one reason they receive little credit is that the poor have been helped both by the property ownership these liberal praise *and* a bevy of social welfare policies, government regulations, and unions that these liberals say little about. Tomasi clearly objects to some of these things, but he does recognize some role for the government; he works in the classical liberal tradition of Locke, but the hero of his book is F. A. Hayek, who believed in markets yet also believed in a social minimum and for government support for education. Tomasi argues that non-discrimination laws are important, and he says that market democracy insists that every citizen is owed high-quality health care and education as a matter of justice. What he wants is markets in all of these realms so that citizens can exercise the moral powers of choice. He is vague about the exact role of the government in these areas, and so three pages after he announces that every citizen is owed good health care as a matter of justice, he argues for an open market for health care, "perhaps supplemented with a health care safety net for those in extreme need" (p. 243). Tomasi, too, never asks the question of whether individual agency is enhanced or undermined by expensive health care, since we know that government-sponsored health care is actually much less expensive than private health care.

Tronto would surely accuse Tomasi of misunderstanding autonomy. Human autonomy is an achievement, Tronto contends, not a starting premise, and it is an achievement that requires many years; and it requires the kind of care that economic agents cannot account for. Tronto argues for relational autonomy, which asks us to take into account the impact of social and political structures on the lives and opportunities of individuals. Equating freedom with choice, as Tomasi does, fits well in the world that is marked by the market. This worldview leads to a conception in which freedom means not having to care; it does not recognize real embedded human choice. If this definition of freedom ever made sense, Tronto declares, it no longer does. Men, Tronto says, get care "passes"—ostensible reasons why they need not care so much about care. Men receive a "protection pass" and a "production pass." Because men supposedly take care of security, they need not worry about care; and then the production pass says that government should protect property and preserve order so that those who work hard—often men—can enjoy the fruits of their labor.

All this allows men to devalue care, however. Tronto argues that men need to renegotiate their protection and production passes and rethink how masculinity has been constructed as an alternative to caring. Care needs to become a part of public and collective life. Indeed, although Tronto's and Tomasi's books were written at nearly the same time, it does seem as if *Caring Democracy* accuses Tomasi of taking a typical male view of the world, one which assumes that men spring forth from the ground as fully autonomous agents. Unfortunately, the insights of feminism barely make it into *Free Market Fairness*.

Similarly, the recent explosion of scholarly attention to the way in which people make choices that has fueled the growth of behavioral economics is ignored by Tomasi but is central to Sarah Conly's book. *Against Autonomy* makes important arguments against the liberal ideal of the autonomous chooser, championed by Mill, that his present-day defenders such as myself should consider. Mill argued that people conform because of social pressure; Conly says that realms of research from social psychology and behavioral economics tell us that "gravitation to the norm" is a normal human tendency. Mill argued that the problem with a benevolent despotism is that it leads to a false sense of satisfaction and to laziness; Conly argues that the mass of research shows that people are indolent, regardless of the kind of government they have. Mill argued that people know themselves the best and, armed with the right information, will make the best choices for themselves; Conly argues that people, armed with the right information, often know what they should do to achieve their ends, but they lack the energy or willpower to manage the means to reach their ends. Finally, she



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argues, government need not always be the enemy but can help us achieve our goals.

Perhaps Conly's best argument has less to do with our inability to think clearly and act upon our interests and more with our autonomy's enhancement when certain decisions are taken out of our hands, something that Tomasi (and perhaps Mill) would certainly deny. Conly argues that Medicaid and Social Security are effective programs that are necessary for people to lead a good life and does not infantilize them. These are effective and important precisely because we are given little choice about them. This is the case for several reasons. First, we do not know the best choices to make for our retirement or for our health care when we retire. We do not know because we cannot know. How much will I and my spouse need when we retire? How much should we save? And, perhaps most opaquely, what investments should I choose? As I write, one of the safest retirement investments, the bond market, is losing money at a historic rate. As you read this, matters may be different; but that is the point: As many of us have heard, "past performance is no guarantee of future results." Are we better off if we have to worry all our lives about how we will manage when we retire? We can make a similar argument about health care. I know about my current health but not about my (and my family's) future health needs. I cannot know how much health care insurance I will need in the future; I can only guess.

Conly contends that certain decisions are crucial for us to make ourselves since they are about the ends we seek—our occupation, where we live, where we take vacations, and so on. But some decisions are about means, and our lives are enhanced when we do not have to constantly worry about them. We are all better off when the automobiles we buy are required to adhere to government safety standards. This still allows us to choose the kind of car we want to buy; that we cannot buy a car that will blow up into a fireball does not undermine our autonomy.

Part of the dispute between Conly and Tomasi is the scope of choice. Tomasi thinks that we are better off when we make as many choices as possible. Conly thinks that in Tomasi's world, we will be cognitively exhausted, forced to make decisions about matters for which we are ill-equipped, and unable to focus on the things that matter to us, leading to a vastly diminished autonomy. This is a powerful argument, though it is not clear that Conly's arguments are always about paternalism. While she emphasizes our limited capacity to make good choices, it is not all just a matter of laziness and poor decision-making abilities. We do not necessarily ensure safe cars (Conly's example), retirement benefits, and decent health care because people are bad decision makers. Public safety measures protect everyone, safety expertise is limited to the experts, and ensuring that we have decent retirement and health benefits protects people from taking on an inordinate amount of risk in a fast-changing and unpredictable world. Tronto would surely point out that it also helps the poor who cannot afford to save enough or to purchase good health care, and it gives people partial protection from bad luck. It may be true that people will not save enough money on their own for retirement, but it also may be the case that it is hard to do so. And increasingly, they may find that the pensions they counted on were rolled back because the company or city they worked for went bankrupt and was allowed to terminate their pension plans, even if the companies returned to business or bondholders were repaid.

These cases, which Conly uses for much of her book, seem like easy ones since they are not only about preventing people from bad decisions. Yet when it comes to some clearly personal decisions—what we put in our bodies—many people clearly are bad decision makers. The obesity rate in the United States is proof enough. Studies show that when people are given a healthful choice on a fast-food restaurant menu, they are more likely to order an unhealthful choice. The idea that better information will lead to better choices certainly founders when it comes to eating and smoking, issues that loom large in *Against Autonomy*. Should we ban cigarettes and limit how many french fries we can buy? To make these decisions, Conly uses four rules. First, the activity to be prevented must be one that is opposed to our long-terms ends, as we define them. Interference is only acceptable when it is done in the name of the person's ends, not the ends we think they should have. Second, coercive measures must be effective. Third, the benefits must be greater than the costs. Fourth, the measures in question need to be the most effective way to prevent the activity (this is closely related to rules two and three).

The issues of food and smoking are questions of weakness of will, but while Conly does not mention this, we know that science has discovered how to help people overeat, that the right combination of fat, salt, and sugar will push many people to eat more than they should. Tantalizing food does not make us overeat, but it does make it more likely. We know that food policy has made corn-based sweeteners very cheap, and so high-caloric and high-fat meals can be quite inexpensive. All this can strengthen Conly's case for a more paternalistic food policy.

To illuminate her argument, Conly looks at several policy areas: smoking, trans fats, large portion sizes in fast-food restaurants, and large sodas. She wants to ban the first three but not the fourth. Trans fats are an easy case: We rarely know what kind of fat is in our food, and the ban does not change its flavor. Yet the other three are harder cases. We do know what we are doing when we eat too much, drink soda, and smoke. But Conly's point is that knowledge that something is bad for us is not necessarily enough to prevent us from eating or smoking it. The public campaign against smoking had some effect, but the drop in smoking leveled off at around 20 percent of the population.



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Conly does admit that we cannot know for sure if the benefits of these bans are worth the costs, and so if a ban fails, we can reverse it (as the United States did for prohibition). Yet it is hard to understand why portion size can be regulated in McDonald's, but not the size of sodas at 7-Eleven. Smoking seems like an unambiguous bad habit, but many smokers gain weight when they quit. Furthermore, prohibition of substances that many people enjoy often fails. Conly argues that a prohibition on cigarettes is different in important respects from the failed prohibition on alcohol, but it is just not clear that forcing 20 percent of the population to give up on a substance they are addicted to passes her own cost–benefits test.

Still, an important strength of Conly's argument is her willingness to apply her principles to specific policy realms, a virtue of Tronto's book as well. Tronto calls for higher minimum-wage laws, and required personal and sick days for employees; she argues that the work day and the school day should match up better so that parents can both work and care for their children. And she argues for a shorter work week. All of these policies will help people care for themselves and for others. Tronto never asks if these policies will harm productivity, but one can imagine her saying that a small loss in productivity is surely worth making society more caring. Liberalism is a complex political theory, and liberals should be suspicious of any argument that reduces it to one simple idea. The relationship of liberty, care, individual responsibility, and markets can be hard to navigate. One strength of Tronto's and Conly's books are that they accept this complexity straightforwardly, even if the role of individual choice at the intersection of markets and democracy is still difficult to navigate.

Markets have many uses: They set prices, provide incentives, produce large amounts of information, are productive, and are intimately tied to the liberal ideal of liberty. But they are not just. Indeed, allowing for individual liberty in market societies means that people will make choices that will lead them, sometimes fairly but sometimes unfairly, to wealth and poverty. The advantages of markets will surely limit some of the hopes of liberal egalitarians, but it is also the case that market liberals too easily overlook the injustices produced by markets. While living with markets means living with both the advantages they bring and the injustices that come along with them, the state can and should do much to mitigate the many risks that are present in market societies. It can surely do so while also providing incentives so that the many will work hard. Justice, too, will sometimes mean limiting the reach of markets, and while we need more discussion to decide what these limits should be, we should be guided by arguments about what are and what are not appropriate market goods.

## Notes

1 In her recent illuminating book, Ruth Grant does provide smart and useful guidance about where economic incentives are appropriate. See Grant 2012.
2 Blyth 2013.

## References

Blyth, Mark. 2013. *Austerity: The History of a Dangerous Idea*. Oxford: Oxford University Press.

Grant, Ruth W. 2012. *Strings Attached: Untangling the Ethics of Incentives*. Princeton: Princeton University Press.



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