

MARKET LIMITS AND THEIR LIMITS

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Why Some Things Should Not Be For Sale: The Moral Limits of Markets,

Debra Satz, Oxford University Press, 2010, xi + 252 pages

Not For Profit: Why Democracy Needs The Humanities, Martha Nussbaum,

Princeton University Press, 2010, xv + 158 pages

1.

Although the market is widely regarded as the best way of organising complex modern economies, many who take this view also believe that certain limits should be placed on its range of application. Despite its many virtues, there are some things that should not be provided through the market, or whose sale and purchase is morally problematic. But on what basis can and should such judgments be made? Debra Satz, in this important and illuminating book, provides us with a philosophical theory that specifies the relevant considerations in making these judgments, and hence in determining the proper limits of the market.

This theory, which accords a central place to the implications and requirements of social equality, understood as equality of status, is developed in Part II, following an account of what markets can achieve, in terms of efficiency and freedom, and of the non-economic conditions these achievements depend on, in Part I. In Part III the theory is used to examine a

number of particular markets often seen as morally problematic: those in women's reproduction, prostitution, child labour, bonded labour, and human organs.

Satz develops her theory through critical engagement with the main approaches to market limits in contemporary economics and political philosophy, which draw respectively on neo-classical welfare theory and liberal egalitarianism. In both cases she argues that their conceptual resources are inadequate for tackling the relevant issues, and recommends that we turn instead to earlier and richer theoretical traditions: to the work of the classical political economists (especially Adam Smith), and of theorists of social equality and citizenship, such as T H Marshall.

Within neo-classical welfare economics, Satz argues, questions about market limits are addressed primarily through the concept of market failure. Focusing on failure due negative externalities, she argues that this provides too limited a conception of the third-party harms that may be generated by market transactions, due to a lack of concern with the formation of preferences and capacities, an inability to deal with harms (and benefits) that money cannot replace, and an abstract conception of markets that conceals the morally relevant specifics of particular (kinds of) markets. By contrast, Satz argues in chapter 2, the classical political economists recognised that markets in land, labour and credit are very different from those for consumer goods, and potentially give rise to distinctive problems.

Satz takes obvious and topical delight in noting Smith's understanding of the threats posed by unregulated credit markets, and also discusses Ricardo and Malthus on land. But her main focus is on labour markets. Smith, in

particular, is praised for his concern with the damage done to workers' capacities through the effects of the division of labour, and for his support for publicly provided education to remedy this, and to enable them to participate in civil and political life. Further, and most importantly, she draws attention to the fact that what Smith regarded as the chief benefit of commercial society has no place in the conceptual framework of modern economics: the absence of *servile dependency*, the replacement of feudal relations of hierarchy and deference by relations of social equality between independent individuals (pp. 41-42).

Social equality is also the central theme in Satz's critical discussion of egalitarian political philosophy, in chapter 3. Adopting James Tobin's distinction between *general* and *specific* egalitarianism, she notes that according to the former, whatever is problematic about particular markets must be due to inequalities in the distribution of resources: for example, distributions that leave some people with nothing to sell but their bodies. The solution to such problems thus lies in the redistribution of income and wealth through 'tax and transfer' policies. Once these are working effectively there will be no reason to regard specific markets as problematic: such exchanges will either disappear or take place in morally unproblematic ways. There is thus no need for the state to intervene in markets for particular goods, an implication that is especially welcome to *liberal* egalitarians, concerned to avoid paternalism as well as inefficiency.¹

¹ The precise relationships between liberal egalitarianism, general egalitarianism and egalitarian political philosophy will not be explored here.

For reasons that will not be discussed here, Satz regards general egalitarianism as an inadequate basis for understanding what is problematic about certain kinds of markets. She is more sympathetic to specific egalitarianism, according to which there are some kinds of goods, such as education and health, which are so important for people's lives that they must be secured for everyone. Instead of aiming at equal (or at least sufficient) resources for all, and then leaving the provision of these goods to the market, they should be provided through non-market, public means. It may also be necessary to limit or regulate their availability through markets, if this undermines their public provision at an adequate level.

Satz argues that specific egalitarianism is best understood and supported by a principle or ideal of social equality, of a society of equals. It is here that she turns to earlier traditions of egalitarian political philosophy, and in particular to the work of T H Marshall.² Marshall insisted on the inclusion of social, along with civil and political, rights as essential elements of citizenship. Only in this way can there be a society whose members genuinely have, and recognise one another as having, equal status; in which people treat and regard each other as equals. Social equality is fundamentally a matter of

² Marshall and his mid-twentieth century writings are, however, made to sound a good deal earlier than they are when Satz refers to "nineteenth century social liberals such as T H Marshall" (p. 6). I would guess she had T H Green in mind.

status equality rather than distributive equality. (The distinction between the two is elaborated in Satz's later discussion of gender equality in chapter 6).³

In chapter 4, Satz sets out her own theory of the grounds upon which arguments for market limits can and should be made. There are, she argues, four key parameters that serve to distinguish morally unproblematic markets from those that are morally problematic, or as she calls them, *noxious*. The first two are concerned with the *consequences* of the kind of market exchange at issue (considered as a general practice), when these are *extremely harmful*, either for *individuals*, or for *society* as a whole. For individuals, this is primarily harm to their basic interests (their health, education, safety etc); for society, primarily harm to the possibility of a society of equals, including the political equality of democratic citizenship. The other two parameters are to do with the conditions of the exchange itself: markets are morally problematic or noxious if the parties to it display either *weak agency* (e.g. lacking relevant information or decision-making abilities) or *vulnerability* (e.g. being too poor or desperate to refuse any offer made to them).

Satz's presentation of her theory in terms of these four noxious-making factors might initially seem less closely connected to the ideal of social

³ Satz acknowledges that more needs to be said about social equality than she does in this book, but I think the following captures much of what she has in mind: "For two people to have equal status they need to see each other as legitimate sources of independent claims and they need to each have the capacity to press their claims without needing the other's permission to do so. This requires that each have rights and liberties of certain kinds as well as very specific resources, such as level of education" (p. 99).

equality than her focus on this in preceding chapters leads one to expect, since this concept is invoked directly in only one of these four, ‘extremely harmful *social* consequences’. But this impression would be misleading. First, one should keep in mind that Satz’s ‘extremely harmful consequences for *individuals*’ are specified mainly in terms of damage to basic interests that are themselves, in Satz’s view, essential to people’s equality of status. Second, the presence of weak agency and/or vulnerability can be seen as undermining what is required if market exchanges are to be based on relations of social equality, or to consist in transactions between social equals. With these points in mind, one can see why Satz describes her theory in the following way: “On my view, lurking behind many, if not all, noxious markets are problems relating to the *standing* of the parties before, during, and after the process of exchange” (p. 93).

Just how this theory is to be applied, and what its implications are in particular cases, is explored by Satz in chapters 5 through 9 (based mainly on previously published papers), which examine in turn markets in women’s reproductive and sexual labour, child labour, voluntary slavery, and the sale of human kidneys. Whether or not one accepts Satz’s theory, one cannot fail to learn a great deal from these, on matters not only of philosophical principle but also of public policy. Indeed, it is one of the many strengths of these discussions that they give careful attention to the empirical issues that need to be resolved in determining policy, especially in considering whether, despite the noxious character of certain markets, it might nonetheless be more damaging to prohibit them than to permit them in a suitably regulated form

(while also pursuing policies that address directly the conditions that make them noxious).

However, in what follows I shall confine myself to a discussion of Satz's theory, rather than her applications of it. In particular, I shall consider how it differs from certain other theoretical approaches to the justification of market limits, in order to determine whether there are important kinds of argument for such limits that Satz's theory wrongly excludes. The more general issue raised thereby is whether this theory departs from neo-classical economics and liberal egalitarianism in a sufficiently radical manner.

2.

As Satz notes at various points, the theory of market limits that she proposes differs significantly not only from what liberal egalitarianism has to offer, but also from the main alternative to this in recent work on this issue by political philosophers, according to which the justification for placing limits on the market consists in showing that the meaning or nature of certain goods is such that providing them in this way is inherently inappropriate. I shall call this 'the meanings approach', whilst noting, as Satz does, that it comes in several different versions.

Satz's critical response to this approach is initially directed (p. 80) at Michael Walzer's defence of specific egalitarianism in *Spheres of Justice*: in particular, at his argument that healthcare and other welfare goods should be provided publicly, rather than through the market, because this is what is implied by their social meanings (Walzer 1983, chapter 3). Satz rejects this on the grounds that the meanings of these goods are highly contested or

contestable, and so cannot be appealed to in determining their appropriate mode of provision. She goes on to consider theorists such as Elizabeth Anderson, Jane Radin and Michael Sandel, according to whom there are certain goods that should not be bought and sold because their meaning and value would be damaged or degraded by being treated as commodities. Such arguments, Satz claims, suffer not only from the contestability of meanings, but from the fact that being a commodity does not determine what meaning something can have, or the ways in which it can be valued (pp. 81-82).

Without responding directly to these objections to the meanings approach – which are developed more fully in the opening chapters of Part III - it is worth noting that what is being argued by Walzer, in the case of welfare goods, differs significantly from what is being argued by Anderson and others. In the former case, what is at issue is whether there are certain goods that should be publicly provided, rather than leaving their provision to the market, and the case for their public provision is that these are extremely important goods that should be secured for everyone. There is no claim here that markets for these goods are inherently problematic, and any argument for prohibiting these derives solely from the contingent possibility that their private provision would undermine the effectiveness of their public provision.

By contrast, in the latter case what is at issue is whether markets in certain kinds of goods should be permitted at all, given that there is something morally problematic about the very fact of these goods being bought and sold, being treated or traded as commodities. This is not an argument for public, or non-market provision, but for what Walzer called *blocked exchanges* (Walzer 1983, chapter 4). There may turn out to be reasons for not actually prohibiting

these exchanges, as Satz argues in some of the examples she examines in Part III. But the point is that this would be so *despite* the exchange of these goods itself being morally problematic.

This distinction between arguments for public provision and for blocked exchanges is, one might suggest, implicit in the overall structure of Satz's book, since the social equality theory of market limits in Part II is developed primarily through consideration of public provision issues, whereas the application of this theory in Part III deals largely with cases where what is at issue is the possibility of blocked exchanges. Satz does not draw attention to this structural 'division' (if I am right in thinking it is one), but from what she says at various points (e.g. p. 102) she clearly recognises the difference between the two kinds of issue, and regards her own theory as able to deal with both.

Satz's opposition to the meanings approach is not, however, unqualified. She accepts that there are *some* goods that *do* "have a meaning that resists commodification", and hence (presumably) that considerations of meaning can in these cases play a legitimate part arguing for market limits. However, she insists that "the overwhelming majority of goods do not". The goods she mentions as exceptions are "friendship, love and Nobel Prizes" (p. 84). These, as Satz recognises, come from Walzer's own list of blocked exchanges. But if one considers the theoretical point or function of this list in Walzer's overall position, this 'concession' on Satz's part may turn out to be rather less limited than she would wish it to be.

For Walzer, I suggest, the list of blocked exchanges – which includes several additional items to those mentioned above - is not intended to identify

a relatively small number of goods that are exceptions to the general presumption that all social goods can be treated as commodities.⁴ Rather, it is meant to draw our attention to the institutional differentiation (or separation) that he regards as a fundamental feature of modern societies that distinguishes them from their predecessors. Thus the list of blocked exchanges marks the boundaries between economy, polity, family and so on, boundaries that did not exist in pre-modern or pre-market societies.

One implication of this, one might argue, is that the legitimate scope of money, and hence of what can be bought and sold, is in some respects more radically restricted in modern market societies than in their predecessors. Another is that the question of what limits should be placed on *markets*, in modern societies, is not quite the same as that of what limits should be placed on *buying and selling*, since the latter is something that also occurs extensively in pre-market societies. In particular – and this is something that Marxist theory has emphasised – an important feature of market economies is that goods are not only bought and sold, or exchanged, but are produced *for* exchange. In thinking about possible grounds for market limits, therefore, one may need to consider the impact of this *on* production, and on the character of what is produced.

⁴Political office and votes are amongst the additional items of Walzer's list.

Satz discusses what would be wrong with the latter's being bought and sold at various points, but without sufficiently acknowledging, I suggest, how radical a departure from Walzer's understanding of blocked exchanges this would involve.

Such considerations point us towards a kind of argument for market limits that differs from any of those so far identified. According to this, there are certain kinds of goods whose provision should not be left to the market because one cannot rely on markets to ‘generate’ products of the requisite or desired quality, character or value. (Of course, markets do not produce anything themselves, so the argument is better stated in terms of their impact on what is produced by firms, whose aim is to produce whatever can be sold profitably to whoever is willing to pay for it). The central claim in such arguments is not that the very fact of being a commodity detracts from the proper meaning or value of certain goods, as argued by those who appeal to meanings to support blocked exchanges, but that for some kinds of goods, their being produced *for* exchange may have problematic effects on their specific characteristics and qualities.

Arguments of this kind are often applied to the provision of *cultural* goods, including the various arts (music, theatre etc) and media (broadcasting, journalism etc); likewise, to *education*, with the claim that if this is left to the market, we may fail to get ‘the right kind’, in terms of curriculum, pedagogy and so on. It may then be argued that some alternative, non-market form of provision would perform better, in these respects, and should thus be supported directly or indirectly by the state. Thus, as in the case of ‘specific egalitarian’ arguments about healthcare, what is at issue is not the possibility of blocked exchanges, but of public (or at least non-market) provision. But unlike healthcare, the aim of such provision is not primarily to secure the universal availability of the goods concerned, but to ensure that they possess the desired characteristics.

Arguments of this kind for market limits require, inter alia, that comparative judgments be made about the nature and value of the goods one can expect to be generated by different institutional arrangements. Because of this, they are likely to be regarded with considerable suspicion by *neutralist* political philosophers, if what is then proposed involves action by the state that is aimed at promoting (the realisation of) specific conceptions of the good, and is justified by reference to substantive ethical judgments about these. Such neutralist concerns have, one might argue, been shared by many liberal egalitarians. Are they also shared by Satz?

Satz says rather little directly about neutrality, but there are some indications that she regards it as a virtue of her own theory of the legitimate grounds for placing limits on the market that it is consistent with neutrality, or at least with what has led some political philosophers to support this principle, namely the supposed diversity of conceptions of the good in modern societies. In particular, she says that her own theory, in appealing to considerations such as the prevention of vulnerability and extreme harm, “focuses on widely shared values”, and on “considerations that democratic citizens, *with differing moral frameworks and conceptions of life*, have reason to find especially problematic.” (p. 112; my italics).

However, even if I am right in attributing to Satz neutralist sympathies of this kind, this would not necessarily prevent her from including, within her theory, arguments for market limits that depend on judgments about the characteristics of certain goods were their provision to be left to the market. Much will depend on the specific nature of the grounds upon which such judgments are based. In the case of education, for example, there might be

some way of defining and justifying its desired characteristics that would not fall foul of the neutrality principle. Indeed, as we shall now see, this is what Martha Nussbaum claims for her own justification of a certain kind of humanistic education.

3.

In *Not For Profit: Why Democracy Needs The Humanities*, we find Nussbaum in her role as public intellectual, defining and defending a humanistic conception of education in which the arts (music, dance, drama etc) and the humanities (especially philosophy, history and literature) play a central part. Nussbaum believes this kind of humanistic education is under serious threat, both in the USA and in many other parts of the world. Given the book's title, one might expect her to argue that this threat stems from the increasingly profit-seeking, market-driven character of educational institutions. But as Nussbaum notes early on, she uses "for profit" to refer mainly to the subordination of education to the (presumed) requirements of economic growth, and also to the motivation of students who want education to provide them with financially rewarding ("profitable") careers.

In response to these threats to its future prospects, Nussbaum presents a justification for humanistic education in terms of its vital contribution to democracy. "Without support from suitably educated citizens", she claims, "no democracy can remain stable"(p. 10). This democratic argument for the arts and humanities in education, she claims, can be accepted by all citizens, despite their differing views of what constitutes "a meaningful life". In modern democracies, "the meaning and ultimate goals of human life are topics

of reasonable disagreement among citizens who hold many different religious and secular views” (p. 9). By contrast, she says, there is or can be widespread agreement about what is needed for democratic government in the modern world (and presumably also about the value of democracy itself), and it is on this basis that her argument for a humanistic education proceeds.

The arts and humanities, she argues, foster the development of certain abilities that are essential to democratic citizenship. Three are of particular importance: the Socratic skills and attitudes of critical thought and reasoning; an understanding of world history that recognises the diversity of peoples and traditions; and the cultivation of the imagination, including especially the ability to imagine the lives and experiences of others. In discussing the first two of these, Nussbaum focuses mainly on the role of the humanities in the liberal arts curriculum of American universities, while her discussion of the imagination concentrates mainly on that of the arts in primary and secondary education. But she also emphasises the importance of emotional and moral learning in early childhood, and especially the development of empathy and the ability to resist de-moralising pressures from others. These emotional capacities are seen as contributing to the morally effective exercise of the cognitive abilities already noted. So, for example, she talks of the need to foster “a certain kind of citizen: active, critical, curious, capable of resisting authority and peer pressure” (p. 72).

There is much to be admired in the way that Nussbaum explores these aspects of individual development, drawing both on her own work in moral philosophy and psychology and on the ideas of educational philosophers – including John Dewey and Rabindranath Tagore - from a wide range of

theoretical and cultural traditions. There is also much that is attractive about the humanistic conception of education that she articulates. But how far she succeeds in providing a *democratic* justification for this is more debatable.

For her argument to succeed, Nussbaum needs to show both that the kind of humanistic education she describes can develop the various abilities that she identifies and that these are necessary for a stable and effective democracy. But little evidence or argument is provided to support these empirical claims, and some of what is said might actually give rise to doubts about them. For example, Nussbaum notes at various points that liberal arts curricula (together with small-group teaching and essay-writing) have been largely absent from European universities, in contrast to their prominent position in many American ones. But it would be difficult to argue that European democracies have been correspondingly less stable, or less effective in dealing with the issues of inequality and social disadvantage that, according to Nussbaum, a humanistic education equips citizens sympathetically to address.

Or again: in her discussion of the Chicago School Choir (pp. 112-117), Nussbaum emphasises how much the children enjoyed learning the songs of different cultural groups. The example is intended to illustrate the value of music in developing the ability to imagine (and respect) the lives and experiences of others. But this cultural inclusivity is hardly typical of most choral singing, let alone of music-making more generally, the primary value of which surely lies in the development and enjoyment of capacities that have little to do with, or contribute to, democracy (however 'inclusively' conceived).

But there are also empirical problems for the thesis that motivates Nussbaum to present this democratic justification for humanistic education, namely that this is currently under threat – and indeed actually in retreat - not only in the USA but all around the world. Nussbaum recognises that a great deal of evidence would be needed to support this claim, but says that since her book is “a manifesto, and not an empirical study”, she will confine herself to summarising “the disturbing trends” and illustrating these “by telling and representative examples”. She reassures her readers that “the data support” her concerns, and occasionally refers to relevant studies (p. 121). But the cited studies are very narrow in scope, by comparison with the trends she claims to be summarising. And several of the examples she provides seem to be based mainly on conversations with somewhat disgruntled academics; what she then relays to her readers is sometimes incorrect or at least tendentious.

For example, the Research Assessment process in the UK is said to “measure faculty research in mechanical ways” such as “number of pages” (p.151), which it does not; its latest version is said to require demonstrable “impact” defined in specifically *economic* terms (pp. 127-30; 151), which it likewise does not. Or again: Nussbaum says (p. 151) that Scottish universities used to provide four-year B.A. degrees with a liberal arts curriculum in the first year, but that this has been lost due to the standardisation imposed by the EU’s Bologna scheme. But this scheme has had rather little impact on the first-year curriculum of Scottish universities, including its supposed liberal arts character, which had disappeared a long time ago.

One could, however, put aside these problems with Nussbaum’s ‘under threat’ thesis, and re-cast her democratic argument for humanistic education as

the basis for a possible justification of market limits for education, an argument that would be quite independent of her claims about the dire state of the educational world today. In doing so, one would in effect be reconstructing *Not For Profit's* argument so that its title became more appropriate to its content.

In this reconstructed version, her remarks about the 'profit'-oriented motivation of students become especially significant, since if the provision of education is left to the market, its curriculum and pedagogy will come under pressure to the extent that they fail to satisfy the desires of student-consumers, as expressed by their willingness to pay. Indeed, this is a problem that arises not only if education providers are operating with the aim of making profits, since even their 'not-for-profit' counterparts will also be affected, if their income is derived mainly from student fees.

Further, Nussbaum's democratic justification for humanistic education would seem to provide the kinds of grounds for placing limits on the market for education that Satz could in principle accept, if it could be shown that without such limits, 'the wrong kind of education' might be produced. Potential damage to democracy would surely count as 'an extremely harmful effect on society', and there would be no need to appeal to disputed or disputable conceptions of the good (or meaningful) life.

Indeed Satz herself presents a possible argument for market limits in education that is quite similar to the one I have just 'attributed' to Nussbaum. Satz argues that some markets may "need to be regulated or blocked if people are to develop the *capacities* that they need to participate effectively in civil and political society", and hence that we should be wary if "a particular kind

of market produces or supports passivity, alienation, or a ruthless egoism”.

Labor markets, she says, are a case in point, since they “may be structured so as to accustom people to being pushed around and managed by others.” (p. 103). But also, she says:

“Unregulated education markets are compatible with children being treated and raised as servile dependents. We need to pay special attention to cases like these, for they pose potential threats to the stable reproduction of democratic citizenship over time.” (p. 104).

However, I want now to suggest that arguments for market limits should not be limited to those that Satz permits, through her theory of social equality, nor more generally to those that meet the requirements of neutrality. To see why this might be so we can return to Satz’s discussion of classical political economy, and of Smith in particular.

4.

As noted earlier, Satz draws attention to Smith’s celebration of commercial society for putting an end to “servile dependency”, and applauds him more generally for his view of the market “as a form of *social* organization” (p. 41). Her theory of market limits and their proper rationale might usefully be seen as a natural development of this Smithian stance: if one regards social equality as a central virtue of markets, at least in their ideal form, then any ‘failures’ of actual markets in this respect will provide us with *prima facie* grounds for placing limits upon them. The justification for market limits thus draws on the justification for markets themselves.

In developing this less widely recognised yet central element of what might be called Smith's 'moral economy' in this way, Satz rightly sees herself as escaping from the conceptual limitations of both neo-classical economics and liberal egalitarianism. But a further, and in some respects more radical departure from these schools of thought might be achieved if other, more familiar elements in Smith's case for the market received the attention they deserve in thinking about market limits.

Satz says that according to Smith, "in the context of market relations, independent individuals would not only produce increased wealth but would also make a liberal social order" (p. 41). But she then in effect ignores the former achievement, and addresses only the latter. Or rather: much of the time Satz proceeds as if the former were adequately represented by the neo-classical concept of efficiency, so that what needs to be 'added' to this is only Smith's *social* understanding of markets, and not (also) his more familiar claims about their dynamic, wealth-creating powers: their ability to generate 'universal opulence', and the benefits for people's lives that stem from this, due to the increase in human productive capacities and the subordination of production to its proper end or purpose, consumption. But these are claims that arguably *cannot* be articulated or assessed in the neo-classical framework, given its well-known problems in dealing with issues of dynamics, and in its definition of welfare in terms of preference-satisfaction.

Satz herself draws attention to some of these problems, and also to the failure of neo-classical economists to recognise the dependence of markets on various social and institutional conditions. But her answers to the question 'what do markets do?', in chapter 1, are couched mainly in quite orthodox

terms of efficiency and freedom. What is missing is the answer Smith gave - in addition to the ‘social’ one that Satz focuses on - and which for those who are neither economists nor political philosophers is probably the chief attraction of market economies: their seemingly unending ability to generate an attractive array of consumer goods, along with the means (for many people) to purchase and enjoy them.

Why does this omission matter for a theory about the legitimate grounds for market limits? I suggested above that, in the case of Satz’s own theory, the rationale for placing limits on the market is tied to a specific rationale *for* markets, their encouragement of social equality. In a similar vein, one might then argue that if markets are justified (also) in terms of their contribution to well-being through their wealth-creating powers, limits should be placed upon them when they fail to do so: when, for example, they deny to many people the opportunity for meaningful work, or when they damage the character of non-market institutions and social relationships.⁵

But in this case, unlike Satz’s, the arguments for market limits will inevitably involve judgments about the nature and sources of human well-being, about the value or disvalue of various goods and ills, and about the priority to be given to some goods over others. They will be substantive

⁵ It might be argued that Satz makes room for these kinds of argument for market limits through her category of ‘extremely damaging social consequences’, and that although her own focus is primarily on issues of social equality, she accepts that these may not exhaust this category. But if I am right in attributing a broadly neutralist position to her, the category would not extend this far.

ethical judgments, of a contestable character, and they will often in fact be contested. They will thus be judgments of precisely the kind that both neutralist liberals (and hence most liberal egalitarians) and their neo-classical welfare theorist counterparts wish to exclude. But to exclude them is also to exclude the kind of justification *for* markets to which they are logically tied, and which requires judgments about the relationship between wealth and well-being that, as Smith himself clearly recognised, is both complex and contestable.

So on this view, disputable judgments and reasonable disagreements of an ethical kind would arise in justifying both the market and its limits. They could not and should not be excluded in making collective, political decisions about the design of economic institutions, given the systemic effects of any such institutions on the kinds of goods and ills that impact upon people's lives. *Pace* Hayek, the political choice of market institutions would not enable collective ethical judgments to be avoided.

Making political choices about the market and its limits on these kinds of grounds puts considerable demands on the capacities of citizens and on the kind of education they require. As we have seen, both Satz and Nussbaum are concerned to secure 'the right kind of education', an education that enables people to operate effectively as democratic citizens. But what this implies depends in part on what kinds of decisions they have to make, and what kinds of reasons are regarded as appropriate grounds for making them. Nussbaum's humanistic education might well have a good deal to commend, if the responsibility of democratic citizens is taken to include the design of economic institutions on ethical grounds. But to conceive of its purpose in this

way would require us significantly to modify the way in which she herself presents its rationale.

References