“In an era when the commodifying tendencies of capitalism are speeding up and the market extends its reach into multiple areas previously considered outside its domain, this much needed Routledge Handbook of Commodification provides invaluable insight into a hotly contested terrain.”

Anne Phillips, author of Unconditional Equals, Professor Emerita, LSE
Some goods are freely traded as commodities without question or controversy. For other goods, their commodification – their being made available in exchange for money, or their being subject to market valuation and exchange – is hotly contested. “Contested” commodities range from labour and land, to votes, healthcare, and education, to human organs, gametes, and intimate services, to parks and emissions. But in the context of a market economy, what distinguishes these goods as non-commodifiable, or what defines them as contestable commodities? And why should their status as such justify restricting the market choices of rationally consenting parties to otherwise voluntary exchanges?

This volume draws together wide-ranging, interdisciplinary research on the legitimate scope of markets and the kinds of goods that should be exempt therefrom. In bringing diverse answers to this question together for the first time, it identifies commodification studies as a unique field of scholarly research in its own right. In so doing, it fosters interdisciplinary dialogue, advances scholarship, and enhances education in this controversial, important, and growing field of research. Contemporary theorists who examine this question do so from across the disciplinary spectrum and ground their answers in diverse scholarly literature and divergent methodological approaches. Their arguments will be of interest to scholars and students of philosophy, economics, law, political science, sociology, policy, feminist theory, and ecology, among others.

The contributors to this volume take diverse and divergent positions on the benefits of markets in general and on the possible harms of specific contested markets in particular. While some favour free markets and others regulation or prohibition, and while some engage in more normative and others in more empirical analysis, the contributors all advance nuanced and thoughtful arguments that engage deeply with the complex set of moral and empirical questions at the heart of commodification studies. This volume collects their new and provocative work together for the first time.
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I
Money is widely used as a mechanism of exchange in our contemporary societies. The use of money to acquire goods and services entails the valuation of those goods in monetary terms as “products”. However, a given product or good is not only an economic item, but often fulfills human needs and desires, such as nutrition, health, education, and family life. *Commodification* refers to the valuation of a product primarily in economic terms while minimizing or excluding other methods of valuation, such as in terms of human needs, justice, or equity.

The question thus arises: what things should not be bought and sold? Most contemporary societies have rejected the buying of slaves, for example. But how do we determine which commodification is acceptable and which should be contested, while still acknowledging that in most exchanges, money may be a morally benign and useful mode of exchange? *Contested commodification* refers to the commodification of a good which should properly be valued in non-commodified ways.

To examine commodification requires thought about which aspects of human society may be monetized freely, which conditionally, and which should be prohibited from monetary exchange. Sometimes these distinctions are not at all clear-cut and may provoke considerable debate. These debates motivate this volume and inspire the important and multifaceted work of its editors and contributors.

In this preface, I will argue that two classes of goods should be (to the greatest extent possible) non-commodified: first, *goods essential to flourishing*, and second, goods which are necessary to the functioning of a democratic society, that is, *democratic goods*. I will address each of these in turn and conclude with some remarks about the importance of this volume in addressing these and related questions of contested commodification.

II
In theory, if a society is to flourish, it must be organized such that all members may flourish. Although there are many philosophical definitions of flourishing, human flourishing may be defined as *a successful and worthy human life*. Therefore, when social institutions are organized
so that members’ human needs may be met, the society itself may flourish. These needs include physical and emotional well-being, the opportunity to pursue meaningful life projects, and full, meaningful participation in the political life of the society.

The goods and services necessary to meet these needs include: clean water, adequate food, safe housing, meaningful work, education, health care, and environmental preservation. That such necessary goods must be available to everyone is grounded in a society’s commitment to the worth and development of each citizen. Some examples of necessary goods are health care, education, and family life.

Without health a person cannot pursue any of the goals essential to flourishing, nor participate fully in society. The provision of health care goods and services in the US is highly commodified, with private actors dominating the provision of insurance, the institutions (hospitals, pharmaceutical corporations, etc.) which supply these goods and services, and the delivery of health care itself. This arrangement may, in my view, truly be called “commodified”, as apart from the necessary exchange value of these items, there is an overwhelming incentive to profit which both distorts and restricts the provision of these goods and services. The many negative consequences of this commodification include national health care spending far in excess of that of any other advanced nation, poorer outcomes than that of many nations on national indices of health, high numbers of uninsured citizens, and an overwhelming amount of personal medical debt, a category of debt largely unknown in other advanced nations. Probably the most troublesome commodification of medicine has been the US’s refusal to allow medical care, or even insurance, to be organized and provided by the state. In such an environment corruption flourishes, as evidenced by the Sackler family’s distribution of a dangerous drug (Oxycodeone) that it marketed to doctors with considerable effort, and which resulted in (and continues to cause) many deaths and addictions throughout the world. Another result of the “profits over people” approach is to burden the delivery of health care services with unnecessary gatekeepers such as billing agents and eligibility consultants whose function is to restrict rather than to promote access to health services.

Education is essential to providing a person with the opportunity to develop their abilities, to create a life of value, and thus to flourish. If education were available only on the basis of the ability to pay, then so too would be the opportunity to flourish, which runs counter to a society’s commitment to the equal worth of its citizens. Education is also essential for people to acquire the knowledge they need to make informed political decisions, to share ideas with those who hold different viewpoints, and to participate fully in the political life of their society.

When education is viewed as necessary to human flourishing, as it was in the US for the two generations following World War II, then public provision of primary, secondary and university education is heavily subsidized by the state. By contrast, as is increasingly the case in the US today, when education is seen as a “commodity”, and the student as a “consumer” of the (educational) “product” who is making an “investment” in his or her future economic agency, then the costs of education are shifted to the student, education itself becomes more standardized, and (as in health care) middle agents serving to restrict and condition access proliferate. Consequences of this approach include declining state support, aging facilities, increased class sizes, and high student debt, which in the US stands at $1.75 trillion, outstripping credit card debt.

For many people, having a family seems essential to leading a flourishing life. Paid surrogacy is one way to help people achieve this if they otherwise cannot conceive or carry a child on their own. For those who are socially or biologically infertile, this method of family building is important to the leading of flourishing lives. This was a heavily debated question in early writings concerning contested commodification. Surrogacy is a practice whose commercialization was once thought to
impede human flourishing, insofar as it was seen to treat women as breeders and to promote the view that their bodies could be used for service in the interests of men, and/or of the wealthy. In previous decades, commercial surrogacy was seen to undermine women’s freedom to make their own choices whether to bring forth births, or not to do so. But the practice has changed and so must our attitudes to it.

What should be disallowed, in my view, is not payment to surrogates (“commercialization”), but rather high payments to lawyers or others presenting themselves as agents or providers of babies, that is, the commodification of this service. It is important to regulate costs so as to avoid converting an important opportunity for family building into a mechanism whereby lawyers and brokers reap profits off the needs of the childless and the labours of women. And although paid and well-regulated surrogacy may rightly be seen as defensible, burgeoning commodification increases the dangers of profiteering and exploitation in the realm of reproduction.

As illustrated above, excessive commodification may impede the satisfaction of fundamental human needs. Where markets threaten access to these goods for some on an arbitrary basis such as ability to pay, the state is not only permitted but, in my view, obliged to intervene. In the context of a society in which there is a very unequal distribution of money, commodification of those goods necessary to human flourishing may create a desperate underclass suffering starvation, poor health, and homelessness, for whom flourishing is out of reach. The commodification of the goods required to flourish in a society should receive the closest scrutiny, and the strictest regulation.

III

Societies are organized to take care of the human needs that persons cannot fulfill alone, and those whose fulfillment requires cooperation from others. This involves significant coordination, which may only be guaranteed through the enforcement of a known and established set of rules. Democratic societies rely on citizen participation, i.e., the consent of the governed, to provide the basis for social action. Mechanisms for this participation may be thought of as democratic goods. These include the right to vote, the right to a fair trial, free speech, and fair elections. These goods protect opportunities for people to have a say in how their society proceeds, how it is governed, and hence how they themselves are governed.

Law is mediated by caretakers (including voters, lawmakers, and judges), in whose custody lies the rule of law. A democratic society based on the rule of law depends on the service of trustworthy overseers, who can be called upon to keep the society in the realm of democracy, including keeping democratic goods appropriately available to all. The protection of the rule of law is in their hands. There are three democratic goods I will consider here briefly: votes, public offices, and the judiciary. The caretakers responsible for the protection of these goods – voters, officials, and members of the judiciary – must perform their roles free of monetary influence if the goods in their care are to remain truly democratic.

The voter is the primary caretaker of democracy. A democracy as a successful mode of government depends upon the ability of the governed to keep officials honest and committed to their jobs. A well-designed system of voting, free of commodification, would view all aspects of the voting process – campaigns, voting technology and the conduct of elections – as public goods, to be financed and supervised by the commons. Votes are themselves democratic goods but are also absolutely indispensable to the protection of other democratic goods. The sad fact is that the US voting system itself has been highly commodified, with campaigns run as private entities, and voting technologies being the province of private corporations.
Elections are increasingly being determined by private campaign financing. This may be the biggest current threat to democratic practices in the US. In 1976 the US Supreme Court ruled that political contributions are a form of free speech, and in 2010 that under the First Amendment corporations have the same rights to political speech as individuals. It thus found no compelling government interest in prohibiting corporations from using their general treasury funds to make election-related independent expenditures. Thus, money became political speech. This has led to many anti-democratic pathologies: ultra-wealthy people lavishly funding campaigns (often their own), and when successful, serving mainly the interests of other wealthy citizens and corporations. Additionally, political parties make decisions about who should run for office based on who is likely to raise the most money, and members of Congress are required by their leadership to prioritize fund raising rather than their constitutionally assigned tasks. The legislative process is further corrupted by extensive lobbying campaigns that attempt to influence every legislative act.

Nor has the US judiciary escaped commodification. State judges in the US are mainly elected to their positions, as are state prosecutors. The election of state judges is in the interests of democracy to the extent that, as public officials with a great deal of authority over the lives of the governed and the enforcement of laws and punishments, they should be answerable to the electorate. As with legislative campaigns, however, political contributions influence judicial selection, often in favour of judges who will be tough on petty crime but easy on corporate fraud. Additionally, moneyed interests may find it relatively easy to escape harsh enforcement of laws they may have violated, while those who are without money can find themselves being harshly punished. Whereas laws are supposed to be equally and non-arbitrarily enforced, a judiciary biased by moneyed interests cannot guarantee this element of democracy.

Widespread commodification threatens not only access to the goods people need to flourish, but the stability and integrity of democratic institutions themselves. When the rule of law is threatened by the (direct or indirect) purchase of votes, political speech, public office, or judicial elections, commodification threatens the institutions of democracy. And since these institutions form the very foundations of a democratic society, the commodification of democratic goods themselves is arguably the most pernicious instance of money’s overreach.

IV

The question about what should and shouldn’t be for sale in a market economy is a pressing one and also a puzzling one. If we endorse a market economy, why should we limit its reach? My argument is that we should do so to the extent that we wish to preserve our democratic institutions and the democratic values they express, including the promotion of human flourishing. Not all market exchanges threaten these institutions or values. But those that do must be curtailed. Democratic goods are those that are essential to the flourishing of a democracy itself. These must remain free of market exchange or monetary influence in order to retain their integrity and value. These democratic goods, and the institutions and caretakers which protect them, not only enable the flourishing of a democracy itself, but also allow for the proper distribution of the goods necessary for citizens themselves to flourish. The necessary goods that citizens require for flourishing must be subject to the rule of law, rather than to the rule of the market.

The question of what money cannot buy is an old one, yet one that seems to become more pressing everyday as more social institutions which protect democracy and human flourishing come under the threat of moneyed interests and unequal market distribution. Renewed and continued attention to the question of how to stem the tide of commodification is essential. This recognition is precisely what motivated this volume, and what makes it so valuable. The contributors come from different
Preface

continents, different fields of research, and different methodological traditions. But they are asking the same questions and trying to solve the same problem. I am thrilled to see that the question that has motivated my own writing for many years continues to motivate others, that the answers I proposed are informing the work of others, and that the trenchant and urgent issues the editors here define as belonging to a unique field of research they call Commodification Studies will continue to be debated, and hopefully advanced. Our political institutions and our public lives would gain much from it.
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We are grateful to all of the participants at the “Contested Markets: Theories and Controversies” conference held at the Sorbonne in June 2022. This was a lively, interdisciplinary, and international event at which our contributors shared their work in progress, and which felt like the meeting of a true scholarly association – following on the heels of a 2018 conference at the Sorbonne (“The limits of the market: commodification of body and environment”) which may turn out to have been the inaugural meeting of what we hope will become the Society for Commodification Studies.

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INTRODUCTION
Contested markets and commodification studies

Vida Panitch and Elodie Bertrand

Why a handbook on commodification studies?

Some goods are freely traded as commodities without question or controversy. For other goods, their commodification – their being made available in exchange for money, or their being subject to market valuation and exchange – is hotly contested. “Contested” commodities range from labour and land, to votes, healthcare, and education, to human organs, gametes, and intimate services, to parks and emissions. But in the context of a market economy, what distinguishes these goods as non-commodifiable, or what defines them as contestable commodities? And why should their status as such justify restricting the market choices of rationally consenting parties to otherwise voluntary exchanges?

Although the question of what should and shouldn’t be for sale is one that is increasingly captivating to many contemporary theorists, it is not new. Whether certain goods should be exempted from market valuation and exchange has been the subject of argumentation and inquiry for centuries, and the reasons given for such exemptions have been sundry, conflicting, and controversial, as indeed they remain today. Contemporary theorists who take up this question owe a debt to the arguments of Aristotle, Immanuel Kant, Karl Marx, Georg Simmel, and Karl Polanyi who asked at different periods and for different reasons why voluntary exchanges might nonetheless be inappropriate, impermissible, or even unjust due to the nature of the item being sold or to the context in which their sale takes place.

Contemporary theorists who examine this question do so from across the disciplinary spectrum, and ground their answers in diverse scholarly literature and divergent methodological approaches. They are philosophers, economists, jurists, political scientists, sociologists, policy-analysts, feminist theorists, and ecologists, among others. However, scholars addressing questions about the legitimate scope of markets have tended to self-isolate within their respective fields. And this has perhaps been aggravated by further divisions in regionalities and their associated scholarly traditions: analytic, continental, post-colonial, etc. But despite their different disciplinary perspectives and scholarly traditions, what unites these theorists is a shared inquiry into the question of whether or not particular exchanges within a market economy are cause for alarm, if not sanction. In asking the same question, these theorists are participants in and contributors to a unique field of research we refer to as commodification studies. The term “commodification
studies” is not widely in use – as of yet – but we think it ought to be. Important work is being done across the disciplines and this work would benefit from being in a more direct dialogue. This book endeavours to start that dialogue in earnest.

This volume does so by drawing together wide-ranging, interdisciplinary research on the legitimate scope of markets and the kinds of goods that should be exempt therefrom. In bringing diverse answers to this question together for the first time, it aims to finally identify commodification studies as a unique field of scholarly research in its own right. In so doing, it will foster interdisciplinary dialogue, advance scholarship, and enhance education in this controversial, important, and growing field of research. The authors in this volume take diverse and divergent positions on the benefits of markets in general and on the possible harms of specific contested markets in particular. While some favour free markets and others regulation or prohibition, and while some engage in more normative and others in more empirical analysis, our contributors all advance nuanced and thoughtful arguments that engage deeply with the complex set of moral and empirical questions at the heart of commodification studies. This volume collects their new and provocative work together for the first time; work that we hope will come to define the very field of commodification studies.

In this introduction, we specify the central question of commodification studies, and then offer a theoretical overview of its origins. From there we make our case for having organized a volume on commodification studies according to the types of goods and markets that are most widely contested (political goods, physical goods, and environmental goods) and present in brief the arguments of our contributors. We conclude by identifying challenges for future research.

What questions does commodification studies ask?

Commodification studies ultimately aims to answer one question: “why some things should not be for sale” (Satz, 2010) within a market economy? Markets have long been defended and promoted on the grounds that they protect freedom and private property, develop private virtues and social relationships, and promote economic efficiency. While commodification studies asks after the legitimate scope of the market, its central aim is not to mount a case against markets in general, or the market economy as such. Rather what makes the aim of commodification theorists unique is that they focus on the defensibility or permissibility of specific markets that pose distinctive ethical, social, economic, or political problems. The vocabulary used by commodification theorists to describe these particular markets varies. They are said to be “contested” (Radin, 1987), “taboo” (Fiske and Tetlock, 1997), “obnoxious” (Kanbur, 2004), “repugnant” (Roth, 2007), “noxious” (Satz, 2010), “controversial” (Elias, Lacetera and Macis, 2019), and “immoral” (Sandel, 2012).

To explain why some things should not be for sale, commodification theorists must perform several tasks. First, they must determine what counts as a “contested commodity” or a “noxious market,” even before explaining why it is contested or noxious. This is no small task. It is simple to eliminate goods that it is wrongful to possess (slaves, hard drugs, child pornography). It is also simple to eliminate goods that are wrong to give away; and in that sense their sale is not “contestable” but straight up wrong. Slavery is wrong because it is wrong to possess a slave, and you can neither sell nor gift a slave for this reason. Citizenship, however, is something you can possess and renounce, but it is not something you can alienate to another by gift or by sale.

For all remaining goods, commodification theorists must identify which goods can be gifted but not sold. In some cases this is easy: love and friendship can be gifted but not sold, because
in the very act of sale they become something else altogether. If you pay someone to be your friend, they become an employee instead, so in that very straightforward sense you cannot sell friendship. Such goods are not contested commodities, therefore, because their sale changes their very nature: what you’re paying for isn’t what you’re getting. True contested commodities are those that can be alienated but not sold, even though their sale would not fundamentally change the good that is thereby acquired. Organs are the quintessential example: they can be gifted and they can be sold without becoming something else altogether, yet they can’t be sold without serious concern. Commodification theorists must identify the goods that meet these criteria, and account for the relevant concerns that make their sale contestable.

A second task of commodification studies is to define what commodification actually consists in, because otherwise we could not hope to determine what, if anything, makes it harmful. What commodification is, and what the relevant market principles, norms, processes, or mechanisms involved are, will vary according to authors, in part depending on their particular disciplinary approach. There is, however, meaningful consensus among the authors in this volume that what characterizes a market involves the selling and buying of goods or services, with the use of money, in a context involving multiple participants and where prices are more or less freely set. The term commodification can thus refer to true markets in this sense, or to the purest form of financial markets, but it may also refer to markets in theory or in discourse, or to various degrees of monetization and marketization, such as monetary valuation, enhanced choice, non-monetary exchanges, monetary compensation, taxation, or end-user payment. Different understandings of what makes something a market and what qualifies as commodification is part of the richness of commodification studies. But one of our hopes in putting diverse arguments and methodologies into direct dialogue is to promote greater consensus and shared understandings, and thus to remove barriers to more fruitful developments within the field.

These precisions being made, we can return to the main question of commodification studies: why should some things not be for sale? Answering this question requires both empirical and normative analysis. The empirical part of the project consists in identifying which markets are or were once contested, and which mechanisms have been put in place to contain or address their contestation. This part of the project also consists in identifying markets that would be contested if not highly regulated, such as those in land and labour. To the extent that the question of commodification studies is empirical, the term “commodification” as such is not pejorative; the identification of a “contested market” can be a simple observation of fact, not a normative claim about its immorality.

The normative part of the project consists in identifying markets that should be contested, or in defending the moral appropriateness of existing contestations. For many commodification theorists who engage with the normative component of the project, it also involves determining what should be done about said markets, from banning them, to simply ignoring their contestation, to redesigning the market mechanisms or social norms that underlie their contestation, to advocating for particular forms of state regulation. For some, the solution is simple: a bad market must mean no market. If a market poses problems, it should be forbidden. For these authors regulation alone can’t solve the real problem, which is the penetration of markets into areas of social life where they simply don’t belong (Walzer, 1983; Sandel, 2012). However, while prohibition may allow us to express our consternation through law, it often just turns white markets black, meaning that the same sales still occur while leaving vendors more vulnerable than ever. For other theorists, regulation rather than prohibition may solve some (or all) of the relevant problems with the markets they identify as noxious. But these theorists must determine what kind of regulation
is required. And as with prohibition, we must still ask whether regulations endanger or empower those in the relevant trades. Radin (1996) famously called this the problem of the “double bind.”

The origins of commodification studies

The commodifying tendencies of capitalism were made plain by Marx in *Capital*, where he argued that an object’s use-value is defined by its own physical properties and the human needs it can be used to satisfy, while its exchange value is defined solely by what it can be traded for. For Marx, “[t]he exchange relation of commodities is characterized precisely by abstraction from their use values.” ([1867] 1990, p. 127) The estimation of an object of use-value solely in terms of its exchange value – what can be acquired from it or for it – is an intrinsic element of capitalism. So, therefore, is the exploitation and alienation that arise when human labour and the relations to which it gives rise are themselves estimated solely as tokens of exchange.

Marx famously drew from Aristotle who worried centuries earlier that all exchanges involving goods with incommensurate values would inevitably degrade the goods themselves and produce an injustice between buyer and seller (1996, Bk.V). But it was Immanuel Kant who best articulated the moral conflict engendered by commodification, specifically of personhood itself, to which our labour power, for Marx, is inextricably tied. According to Kant to estimate a bearer of human dignity, or even her powers and parts, as mere instruments of use, is to degrade her moral worth. He stated that “what has a price can be replaced by something else as its equivalence; what on the other hand is raised above all price and therefore admits of no equivalent has a dignity.” ([1785] 1996, n4:434) To treat an agent with inherent value as a mere object of instrumental use constitutes the highest order of moral wrong. To the extent that commodification involves assigning price values to the priceless it is inherently wrongful.

In *The Philosophy of Money*, sociologist Georg Simmel articulated a deep concern with precisely the ways in which money had become a stand in for all estimations of value in the modern period. Simmel argued that the tendency of modern capitalism is “to derive from the surface level of economic affairs a guideline that leads to the ultimate values and things of importance in all that is human.” ([1900] 1978, p. 361) In this way he issued an early warning with respect to cost-benefit estimations (advocated and popularized by the Utilitarian tradition) by drawing from Kant and Marx. He shared with Marx a worry about the alienation of workers as both their labour and the products thereof become valuable as mere objects of exchange, and with Kant the concern that if the worth of all human relations and objects of value are estimated in monetary terms, everything and *everyone* thereby becomes consumable.

Drawing from each of these insights, Karl Polanyi, in *The Great Transformation* (1944), offered his now classic argument according to which the expansion of capitalism depended entirely on the commodification of labour, land, and money in the eighteenth century. In his view, these three goods are not commodities per se, in the sense that they are not produced, or not produced *for sale*, but are nonetheless treated as commodities. The transformation of these goods into commodities involved force and violence (enclosures, abolition of the Poor Laws, end of the gold standard), and was ultimately brought about by the destruction of the social links essential to human relations and life itself. As a result, “instead of the economy being embedded in social relations, social relations [have become] embedded in the economic system.” (Polanyi, [1944] 1971, p. 57)

Contemporary commodification debates were renewed in the twentieth century largely by the publication in 1970 of Richard Titmuss’ *The Gift Relationship*, in which he presented his comparative research on paid versus unpaid blood donation and concluded that unpaid donation produced both higher quality blood and higher quality social behaviour. These conclusions aroused a debate
between economist Kenneth Arrow (1972) and moral philosopher Peter Singer (1973) as to whether paid donation in fact expands freedom and preference satisfaction or limits them by reducing opportunities for altruism. Similar commodification questions have also been ignited in the last few decades by increased evidence of blackmarket organ sales, largely between vendors from developing countries and buyers in wealthy countries. Notable reactions have been offered by ethicists decrying the tendencies of markets to prey on vulnerable persons (Hughes, 2009; Rippon, 2014), and by economists who helpfully sought to examine how market mechanisms could both reduce organ shortages and decrease reliance on persons in desperate circumstances (see Becker and Elias, 2007; Roth, 2007).

In their infamous paper, “The Economics of the Baby Shortage” Elizabeth Landes and Richard Posner (1978) applied a similar line of thinking to argue that market principles could in fact help lessen the “baby shortage” in adoption. But not long after, the infamous Baby M surrogacy case arose in New Jersey (1986) sparking an international outcry in which the parallels between paid pregnancy and child-selling were brought to the fore. This, in conjunction with the Landes and Posner argument, lit a fire for many theorists who had yet to enter the commodification studies fray but who were now determined to argue that efficiency as a norm should govern neither the allocation of children nor many important social goods besides. For many such theorists the worry was that, while markets can yield more efficient outcomes, they do so by pushing out the moral and social norms essential to maintaining meaningful personal relationships and even human flourishing (Anderson, 1993).

Margaret Jane Radin was among those most famously spurred into commodification studies by the Landes and Posner proposal. And writing in the thick of the Baby M case, she argued in her paper “Market-Inalienability” (1987) that certain market exchanges are problematic not because some goods are inalienable (even children, who can be adopted but not sold), but because the mode of market exchange does not always accord the appropriate value to the object of transfer. Many goods can be transferred or alienated by gift or contract, but should not be sold for money. For Radin, these goods should be deemed market-inalienable, to indicate that they lie “outside the marketplace but not outside the realm of social intercourse.” (Radin, 1996, p. 18) Radin popularized the use of the term “commodification” to refer “to the social process by which something comes to be apprehended as a commodity, as well as to the state of affairs once the process has taken place.” (Radin, 1996, p. xi) She also popularized the term “contested commodities” in her 1996 book of that name, to refer to goods whose monetary valuation regularly occurs but which should nonetheless be protected from unfettered exchange on the grounds of their importance to human flourishing. Radin’s work has explicitly and implicitly informed the work of many scholars from across a multitude of disciplines; work that today constitutes the very core of commodification studies.

We leave it to our various contributors to take it from here. They will elaborate further on many of these historical ideas, and will demonstrate the development and expansion of commodification studies within (and beyond) their respective disciplines, and professional and intellectual traditions. In the chapters to come, our contributors elucidate and draw upon the work of many key participants in the commodification studies debates taking place within philosophy (Walzer, 1983; Anderson, 1993; Satz, 2010; Sandel, 2012), political science (Phillips, 2013), cultural studies (Appadurai, 1986), sociology (Zelizer, 1994), law (Radin, 1996; Trebilcock, 1993), and economics (Roth, 2015). Our contributors will draw on the work of these theorists, and many more besides, in application to the broad array of contested commodities that are considered throughout.
The organization of the book

This handbook is organized not by methodology, argument, or discipline, but by category of contestation. We began by asking what goods are typically the subject of commodification debates, and set out to solicit papers from experts on the relevant types of markets. We opted to focus on three types of goods with which commodification studies largely concerns itself, namely political goods (Part 3), bodily goods and services (Part 4), and non-human nature (Part 5). We made this choice precisely so as to weave together the work of diverse scholars from different fields who are nonetheless concerned that the same kinds of goods warrant contestation or even market exemption. In this organizational regard, the volume differs from the other important recent collections that we think helped to shape the field of commodification studies (Ertman and Williams, 2005; Steiner and Trespeuch, 2015; Bertrand and Catto, 2020).

Moreover, the organization of the book according to category of contestation highlights that the justification required for the regulation or prohibition of these individual markets may vary considerably, and arguably should vary. Commodification studies can exhibit a tendency towards generalism, or the presumption that one line of reasoning or argumentation can serve as suitable grounds for all market exceptionalism, and can be applied to all categories of contested commodities. Call this the generalist fallacy of commodification studies (Panitch, 2020). But it is a mistake to think that the same arguments that might explain and/or justify the contested status of contract sex, for example, should also be able to explain and justify market exceptions for such goods as animal meat or health care. Each distinct good that is the subject of contestation deserves its own analysis and argumentation (and hence chapter), and that was certainly a significant consideration in the organization of the volume.

We could not set off on this particular organizational endeavour, however, or ask our contributors and readers to accept this approach, without first laying out the relevant background to and theoretical foundations of commodification studies. The volume thus begins by placing commodification studies in a theoretical context, opening with an examination of the traditional arguments that serve as the foundations of the field (Part 1). The first part of the book includes a presentation of traditional pro and anti-market arguments, followed by discussions of the reigning economic, philosophical, and sociological arguments in commodification studies for and against certain markets.

After laying out the theoretical foundations of commodification studies, the book moves on to historicize the field (Part 2). This is essential because a good deal of commodities accepted today as uncontroversial were once deeply contested. A narrow focus on presently contested markets can involve a kind of taking for granted of the acceptability of markets that were once themselves thought to be deeply noxious; along with a failure to appreciate that goods whose commodity status is now contested were once also contested but for different reasons, such as land and certain forms of labour. Part 2 of the book on the history of contested commodities deals with not only land, money, and labour, but also with sacraments and risk, including insurance and gambling.

The remaining three sections of the book, devoted to contested markets in a contemporary context, are organized according to markets in goods we identify as political (Part 3), physical (Part 4), and environmental (Part 5). The goods discussed by contributors to these sections of the book are the site of much fascinating contemporary debate and each chapter helpfully lays out the substance of those debates and advances them with new and original insights and argumentation. We begin with political goods, or goods whose contested status seems directly correlated to some failure not necessarily on the part of the market but on the part of the state. Or rather, goods that are related to and perhaps even integral to our status as citizens, such that their allocation by non-market
mechanisms may be required to effectuate our equal political status. The goods addressed in this part of the book include votes, health care, education, prisons, culture, and care work.

We move from there to the category of goods and services that have been central to commodification studies (at least arguably since Titmuss), those relating to the human body. The question of why the gift exchange of such goods is so highly praised, while their sales are so widely impugned, is a fascinating one, but also an urgent one in light of the ever changing sea of prohibitions and regulations that affect so many people’s lives. Here our contributors examine the sale of body parts (kidneys) and products (plasma and gametes) as well as the sale of intimate services (commercial surrogacy and contract sex). We have included a chapter on adoption here because it often faces similar objections to surrogacy with respect to the supposed commodification of children.

In the fifth and final part of the book we turn to the commodification of non-human nature. Not only essential to our lives, and necessary to our sustenance and our continued existence, the natural world has an inherent value that is being increasingly acknowledged, even within a Western tradition that has for so long celebrated the widespread exploitation of the earth and its non-human inhabitants. The chapters in this part of the volume address important topics pertaining to non-human nature, be it tangible – parks and forests, water, animals, and seeds – or intangible – natural capital and biodiversity, ecosystem services, and licenses to pollute.

The chapters in the volume address what we take to be the most contested of commodities and were solicited and selected for this reason. The goods that have been deemed most contestable, historically, include above all land, labour, and money loans. Goods that are deemed contestable by more contemporary theorists pertain primarily to the state, and the body; and somewhat less but problematically so, the environment. We have therefore organized the book according to category of contestation as a reflection of the current state of the research in commodification studies. But also because these strike us as the categories of contestation that most urgently require attention. Campaign finance, education, health care, prisons, kidneys, blood, sex, gestation, ova, animals, parks, grains, and water are goods whose sales raise the most pressing questions, restrictions on which require urgent consideration but equally careful justification.

**Contested commodities: Theory and controversy**

The first part of this book presents the theoretical foundations of commodification studies: the central authors, arguments, questions, and debates that animate the contributions that follow. The first chapter highlights the typical arguments offered in favour of the extension of markets – consent, efficiency, social cohesion – arguments that are often questioned by anti-commodification theorists. This very questioning is then undertaken in the three following chapters. Chapter 2 analyzes traditional arguments against markets by focusing on Polanyi’s theory, which undermines the social cohesion plea for markets by illuminating how capitalist markets in labour, land, and money threatened society itself by transforming its very substance into commodities. The two following chapters evaluate contemporary arguments against contested markets, and take up the more normative question of which markets should be contested and why. Chapter 3 deals with the economic externality objection, and Chapter 4 with philosophical corruption and inequality objections to contested markets. These two chapters expose the limits of various classical pro-market arguments, but also make a plea for more sophisticated arguments against unfettered markets, which must be grounded in a conception of justice. Chapter 5 presents the sociological approach to contested markets taken by classical and contemporary economic sociologists, and offers a valuable heuristic device for undertaking empirical analysis of moral contestation and for understanding institutional responses to it.
In Chapter 1, Marie Daou and Alain Marciano present the main arguments in favour of markets. The first one is that market exchange is voluntary, and hence respects freedom of consent. It is this consent that gives market transactions their legitimacy. Such transactions also respect individual private property rights, and thus, again, guarantee a form of individual freedom. The second type of argument in favour of markets is moral, and is here detailed in three respects: markets drive individual self-interest towards public interest; they transform individuals so that they are more virtuous; they make compatible various individual desires and thereby contribute to social order. The third argument in favour of markets is efficiency, and Daou and Marciano examine two traditional accounts thereof: the Walrasian and the Austrian.

In Chapter 2, Nicolas Postel and Richard Sobel explore classical anti-commodification arguments. They offer a plea for commodification studies to stop misusing the concept of fictitious commodities, and focus on the intensification of market norms rather than on the extension of markets. Reconstructing Polanyi’s institutionalist thought, they stress that his concept of fictitious commodities applies only to land, labour and money, that are not commodities but have to be treated as commodities so that capitalism may function. Polanyi would not have described capitalism as an unlimited extension of markets, but rather as requiring from its very origin the commodification of what are not commodities, namely its three factors of production. However, since land is the place of living, labour is human life, and money is the social cement of economic and social relationships, these fictitious commodities form the substance of society. Their commodification is necessary but socially unbearable: it thus leads to the disembeddedness of the economic sphere and to social and economic disaster. The development of capitalism (between the end of the eighteenth century and the inter-war period) caused the destruction of society, for Polanyi. Postel and Sobel invite us to think about commodification not so much in the form of the extension of markets, but rather as a deepening of market logic.

Chapter 3 by Elodie Bertrand focuses on the economic argument for identifying contested markets, namely negative externalities. Commodification studies often appeals to the externalities argument, taken from standard welfare economics, according to which some market exchanges produce negative effects on third parties that are not taken into account by participants, leading to inefficient results. This argument aims to undermine the efficiency thesis in favour of markets. In commodification studies, these externalities justify banning, or regulating certain markets, such as those that cause pollution. Some authors include pecuniary externalities, i.e. changes in prices, or in conditions of choice, which is a version of the inequality argument against markets – this is typically the case with markets for organs. Other authors focus on moral externalities, i.e. offence, that is the “repugnance” argument against markets – typically applied to contract sex or paid surrogacy. The externality argument for market-inalienability chooses to evaluate markets relative to their efficiency, and makes moral and political presuppositions on the legitimacy of public intervention. In this chapter, Bertrand argues that while the concept of negative externalities remains useful in analyzing the unintended consequences of certain markets, what is needed is in fact a theory of justice to enable us to determine which externalities are indeed troubling enough to warrant limits to commodification.

Chapter 4 by Vida Panitch presents and critically evaluates the central contributions of philosophical anti-commodification (PAC) theory. PAC theorists have in the main offered two kinds of arguments against the commodification of certain important goods. Theorists who offer corruption arguments hold that the sale of certain goods for money, or their exchange via market mechanisms, erodes something of significant value, be it the inherent meaning of the good itself, the value of
important social norms, or the value of human flourishing. Theorists who offer equality arguments hold that the sale of certain goods for money, or their exchange via market mechanisms, erodes important relations of equality in which we ought to stand with one another, be they relations of equality in resource shares, in moral dignity, or in democratic status. Panitch argues that corruption-based PAC arguments depend on claims either empirically or morally unsound and that equality-based views cannot tell us which goods to withhold from sale without appealing to corruption claims of their own. She goes on to offer a brief defence of an alternative justice-based argument according to which the goods that should be exempt from sale are those whose market valuation and exchange would impede the satisfaction of the principles of justice appropriate to a liberal society.

Chapter 5 by Philippe Steiner presents the sociological account of market contestation, highlighting the specificity of the sociological approach to commodification studies, which takes morals (people’s ideas about the right and the wrong) as a social fact. Classical economic sociology examined the relationships between morals and markets from various angles: from Durkheim’s emphasis on how public opinion regulates markets (by its perception and judgment of inequalities, for example) to Weber’s tensions between market economies and moral values. The author’s own empirical approach to the contemporary sociological analysis of contested markets identifies two types of vulnerable people – those endangered by the existence of certain markets and those endangered by their absence – as well as the “cooling” institutional devices that offer protection to those endangered by the existence of said markets.

**Contested commodities of the past**

After having presented the theoretical foundations of commodification studies, it was important to historicize contested markets. Most of the markets we today take for granted were once contested. Recall, for example, that opera singers in the seventeenth century were not paid for their performances, and canonical medieval law forbade professors from selling their knowledge (Davis, 2000). The historical journey in this part of the book illustrates how some moral contestations led to the banning of certain markets (slavery as a case in point), or to regulations that transformed their contested status (labour above all else). It also illustrates many of the social, conceptual, and legal processes that were necessary to transform certain things into commodities. We solicited chapters on land, labour, and money loans; and we chose to complete the historical picture with chapters on insurance and gambling since their commodification reflects the longstanding contestation of the monetization of risk. We present these historically contested markets in the order of the periods that are examined, from the Middle-Age (money loans and sacraments) to the most recent decade (internet gambling).

These ancient theoretical debates raise many issues that are still controversial today in commodification studies. Chapter 8 on labour alludes to contemporary debates on body parts and intimate services in asking similar questions as to what constitutes (physical) labour and where the moral limitations of a labour contract should lie. Chapter 6 on land foreshadows contemporary debates on markets involving non-human nature and the role of the commons. In Chapter 7, we see the emergence of the view of money loans and sacraments as political goods in the sense that they have to be distributed so as to protect the status of persons, and specifically the poor. Chapter 10 on insurance also raises questions about the commodification of persons and the kinds of protections they are owed by states, and in this regard serves as an effective transition from the historical analysis of the volume to its discussion of political goods.
Chapter 6 by Pierre Crétois explores the historical commodification of land. He begins in Ancient Rome, where land possession determined the status of citizen, and where market transfers thereof were impermissible. In the Feudal period, Crétois continues, land was owned only by masters, was mainly transferred by war, and peasants had a common right to usage of land. This period was followed by the advent of the famous enclosure movement, which itself was intimately connected to the development of the modern conception of private property as absolute. The violence of land enclosures exemplified the advent of property as we understand it today, and represented the commodification of land, provoking rural exodus and poverty that fed the burgeoning labour market in urban centres. The ownership of land was central to early debates about the efficiency and political importance of commons. Crétois concludes that land is still not a commodity like others, and should not be regarded as such, as demonstrated by the ecological crises and increasing movements in favour of preserving the commons.

Chapter 7 by Pierre Januard and André Lapidus examines money and sacraments whose sales were considered sins (of usury and simony) in Christian theology and hence as socially reprehensible practices during the Middle-Age. The authors turn to the work of Thomas Aquinas to explore the reprehensibility of these monetized practices in his time. On his view, they demonstrate, the commodification of money itself was impossible for ontological reasons (since money is destroyed in its use). Besides, a price for some sacraments (like ordination) would be too high – or indeed impossible – since no amount of material wealth could ever be rendered equivalent to spiritual wealth. While for other sacraments (like mass), compensation would have been a permissible and common practice (so that the priest could survive), but would not have been perceived as having a price. The debates examined in this chapter prefigure contemporary discussions about the differences between tariffs, compensation, and market prices.

Chapter 8 by François Vatin explores the commodification of labour. Vatin highlights the liberal criticism of contract labour according to which, because it is sold for a long period of time and its requirements can be indeterminate, it is too akin to slavery to be permissible. He argues that this criticism was only put to rest with the development of the conception of limited servitude (limited both in time and in content), and that this in turn made the development of the modern labour market possible. Moreover, Vatin demonstrates, the apparent limitation of servitude was said to preserve the (formal) freedom of the labourer, thus further dispelling the liberal objection that labour could not be distinguished from indentured servitude. This means that, paradoxically, labour was taken out from ordinary commodities (whose sale generally implies freedom of use) to become a full one.

Chapter 9 by Marie Trespeuch focuses on gambling, and specifically on wagering games in France as an example of a contested market that was (almost) banned until the nineteenth century. The first step in the commodification of gambling was the creation of state monopolies, serving “general interest” (tourism through casinos, horse breeding through horse races). The market then developed most significantly in the 1980s, with diversification leading to competition between monopolies. In the new millennium, internet gambling developed, which the European Commission deregulated despite France’s appeal to worries about social disorder and individual vulnerability, and the market is now open to international competition. Trespeuch examines, on the one hand, the transformation of moral contestation to gambling (from public disorder and protecting the poor to the medicalization of addiction) and, on the other, the processes put in place to address this contestation, with the aims of protecting populations viewed as vulnerable (poor, children, excessive gamblers), through everything from entrance fees in casinos, to restrictions on access to apps in individualized devices and internet channels.
Chapter 10 by Emily Nacol explores the question of whether insurance counts as a commodity, and a contestable one at that. The central premise of the chapter is that the commodification of insurance entailed other processes of commodification, mainly of risk and of human life. Drawing on examples from Britain between 1500–1800, Nacol argues that insurance is best understood as a group of technologies, practices, and institutions that have offered individuals and groups security and support in the face of an unknown future. As insurance developed, it contributed to the contestable commodification of other important goods. First, insurance practitioners commodified risk by making it the object of the insurance settlement. As insurers became keen to hedge against risk, they also devised ways of making human beings more insurable. Second, insurance – especially life insurance – blurred the line between property and people, making human beings subject to commodification and speculation in ways that violated their freedom and moral status as persons. Nacol concludes that insurance has an ambiguous legacy that continues to warrant our critical attention because of the troubling commodifying tendencies to which it gave rise and continues to contribute.

Contested commodities of the present

The remaining three sections of the book, devoted to contested markets in a contemporary context, are organized according to markets in goods we identify as political, physical, and environmental. We will introduce each of the three following sections with an account of what the contested commodities in that section of the book have in common. But it is worth noting here that goods belonging to each of the three different categories may have more in common than our taxonomy could seem to suggest. To the extent that political goods include certain of the necessary goods we need to survive (such as health), we might well have included bodily goods such as organs, and environmental goods such as water under this same mantle as well. And to the extent that bodily goods refer to our physical bodies, we might well have included animals here, while under intimate services, we might well have included care. Our taxonomy itself is thus open to debate, which we welcome.

Political goods

We begin our presentation of contemporary commodification debates with a series of chapters exploring the contested commodification of political goods, which include both civic goods (votes, prisons, culture) and necessary goods (health, education, care). These goods are integral to our status as citizens. And as a number of contributors to this section of the volume argue, this necessitates their allocation by non-market mechanisms to preserve and effectuate our equal political status. For other contributors to this section, however, the fact that these goods may be integral to our equal political status has no bearing – or at least less bearing than we might expect – on whether these goods can or should be commodified.

That these goods are political seems to necessarily implicate the state in their provision, or at least in their guaranteed accessibility. If their distribution via principles others than ability to pay is required, then a failure to meet the appropriate allocation of these goods is squarely a reflection of some failure on the part of the state. While it may be the state’s responsibility to regulate or prohibit other markets found genuinely noxious, the state’s failure to involve itself in the regulated distribution of political goods seems almost definitionally troubling in light of the very nature of the goods themselves. This position, however, is not taken as given by all the contributors to this section of the book, and the connective tissue that runs through the chapters in this section is the
question of whether or not state allocation is indeed necessary to the just distribution of political goods; if not, why not, and if so, how?

Chapter 11 by Jason Brennan and Christopher Freiman examines the contentious topic of vote selling. For many this is the most important of political goods, that can neither be alienated for free nor for money. This is a view that the authors challenge. They argue against what they take to be the most substantial objection to commodifying votes, which holds that the commodification of votes would corrupt democracy by preventing states from implementing policies which best serve citizens’ interests or which best reflect their preferences. The authors challenge this argument by showing, first, that paying people to vote is morally superior to compulsory voting, second, that certain forms of vote commodification do not run afoul of this objection, and third, that the objections to vote commodification turn out to apply also to many uncommodified votes.

Chapter 12 by L. Chad Horne addresses the question of commodified health care. Horne asks whether health care is, or should be, a commodity, on the understanding that a commodity is a good the production, distribution, and consumption of which is properly governed by the norms of the marketplace. He argues that one perspective from which health care should clearly not be a commodity is the perspective of standard welfare economics. Markets for health care and health insurance suffer many sources of inefficiency, and, for Horne, this explains at least in part why no developed country leaves the provision of care to the unregulated market. Although philosophers have sought a deeper and perhaps more moralized rationale for the refusal to treat health care as a commodity, grounded in concerns of distributive justice or of the preservation of important social values like community or solidarity, Horne examines these supposedly deeper arguments and finds them all inconclusive. Only the appeal to efficiency, he concludes, can in fact provide a complete and appropriately nuanced account of the imperative to decommodify health care.

Chapter 13 by Harry Brighouse addresses the topic of education. Primary and secondary level schooling are often thought of as the least commodified of public services: they are typically funded, regulated, and provided by the government, and are often compulsory. But some recent “market” reforms appear to commodify education – the advent of the charter school system in the US primarily, which promises to increase parental choice through the use of market mechanisms. But, Brighouse argues, once it is understood that even in traditional models, markets played a very large role in schooling provision, it is not clear that these reforms really increase, as opposed to just make more transparent, the extent of commodification in primary and secondary education. Brighouse argues that concerns about commodification should not guide educational decision-makers: what should guide them is the related question of what educational goods a system produces and how that system can best distribute those goods. Provided those goods are distributed in the right way, it should not matter whether or not market mechanisms are involved.

Chapter 14 by Jonathan Peterson addresses questions about commodification in the sphere of security and prisons. A broad range of institutions and practices, including policing, punitive incarceration, and immigration detention, raise commodification concerns in this sphere. In this chapter, Peterson surveys forms of commodification in the carceral system specifically and evaluates arguments according to which commodification in the context of punitive incarceration (private prisons and the sale of inmates’ labour) is morally wrong or unjust. He agrees that some current practices of carceral commodification are seriously harmful, but leaves open whether this conclusion calls for reform or an end to commodification in the carceral system altogether. However, he offers compelling argumentation according to which commodification of prisons and prisoners’ labour should strike us as especially objectionable in the context of a history of
race-based oppression. In such contexts, the commodification of incarceration continues a pattern of racial subordination and carries a symbolic message of unequal status.

Chapter 15 by Michael Joel Kessler advances a novel objection to markets in cultural goods, according to which they can, in certain contexts, lead to and entrench objectionable forms of cultural appropriation. In this way, the commodification of cultural goods (Indigenous art work and customs, for example) is wrong to the extent that it intensifies a deeper wrong. While the connection between cultural commodification and cultural appropriation is contingent rather than necessary, the connection can be quite strong, and mutually re-enforcing, according to Kessler. He argues that as with many contested commodities, while money can exacerbate the issue, money is not the main problem when thinking about markets in cultural goods. Rather, the key issue is power: when the goods of one’s own culture are under the control of another culture, there are strong moral reasons to doubt that their commodification, or acquisition by the dominant group, can be legitimate. As such, Kessler concludes that to the extent that there is a reasonable worry about cultural appropriation, there is a justifiable worry about the existence of markets in cultural goods.

Chapter 16 by Jennifer Nedelsky examines the commodification of care. Care is routinely provided both as a commodity (paid care) and as unpaid care, usually by women. All care is treated as of low value and care givers, paid and unpaid, are seen as being of low status. This devaluing of care and those who do it infects all forms of care, making care a major component of social hierarchy and inequality. Since commodified care rests on and maintains economic, racial and gendered inequalities, the solution is not more commodification (like wages for housework), according to Nedelsky, but a norm of universal, unpaid care-giving, according to which everyone, regardless of the “importance” of their work, would contribute about 22 hours a week of unpaid care to family. This would, she argues, redress four pressing problems: the failure to recognize the value of care; how care structures inequalities; family stress from incompatible demands of work and care; and the ignorance of policymakers about the care that life requires. These solutions rest on the revaluing of care that would arise when everyone understands themselves as both a care-giver and a care receiver.

**Commodification and the body**

We turn at this juncture to debates around the commodification of the body, including body parts and products, and intimate services. The assignment of price values to the body, the transfer of cash to providers of bodily goods and services in the form of payment or even compensation, and the decriminalization or deregulation of commodified bodily services have been the subject of much consternation and controversy among activists, academics, jurists, politicians and policy makers alike. That cash or even cash valuation degrades the providers of such a good or the social norms (like altruism) that are thought appropriate to their exchange is a tough case to mount, and yet is equally tough to combat. For the most part, contributors to this section of book argue that regulation can address the most pressing concerns with bodily commodification. That leading theorists who evaluate the commodification of physical goods now largely endorse regulation over prohibition is a fairly new phenomenon, and is certainly representative of significant developments in the field in recent years.

The body as site of contested commodification is both old and new. Debates have raged over sex work for centuries, grounded largely in religious consternation and only relatively recently based on feminist concerns. Debates raged a century ago over the purchase of cadavers by medical schools and of skeletons by medical offices (although much of this had to do with how those cadavers and
skeletons were come by) (Carney, 2011). Debates were spurred in the 1970s over payment to blood donors by the publication of *The Gift Relationship* (Titmuss, 1970). Debates raged over surrogacy in the 1980s in the wake of the Baby M trial. Debates about payments for ova were sparked in the 1990s when erotic photographer Ron Harris infamously used his website to auction off the eggs of his models. Some of these debates have intensified with advances in medical technology. This has made debates about the body’s permissible commodification all the more urgent, because, while vendors in body sales are often vulnerable, buyers themselves are often desperate.

Chapter 17 by James Stacey Taylor takes up the question of the moral permissibility of markets in human organs (particularly kidneys), which are often rejected based on worries about the authenticity of consent on the part of desperate sellers (calling into question the consent argument in favour of markets presented in Chapter 1). Taylor, however, takes the position that a moral concern for human well-being – in particular the well-being of those who desperately need an organ transplant – supports the position that a market in human organs is morally permissible. To defend his position, Taylor argues that if such markets were to exist, persons would consent to participate in them as organ buyers and organ sellers, and that we can infer from said consent that they believe this would make them better off. He considers two serious challenges to this, however; first that the consent of some of the sellers will not be genuine, and second, that we cannot infer from a person’s participation in a market that she would prefer for that market to exist. The first of these objections is unsound, Taylor argues, but the second is sound. Rather than merely asking if a person would consent to transact in a market if it existed, we should also ask if she would consent to that market being allowed to exist in the first place. Only if the answer to both of these questions is affirmative, Taylor contends, can we infer that she believes that she would be made better off by participating in the market. He concludes that this could support allowing markets in some human organs.

Chapter 18 by Peter M. Jaworski explores the commercial model of plasma collection. He demonstrates that compensation has a record of generating plasma collection surpluses, while non-commercial models operate at plasma collection deficits. The non-commercial model exposes patients who rely on plasma and plasma products to foreseeable and avoidable risk. One set of arguments typically offered in support of payment prohibitions appeal to donor altruism and community solidarity (which were Titmuss’ main concerns), and another set appeal to a variety of possible harms to donors, including donor health, donor dignity, and wrongful exploitation concerns. Jaworski explores each of these arguments but finds them inadequate to support bans on paid plasma provision given the impacts that deficits therein have on patient health and well-being, especially given that the proper regulation of the commercial model can address most if not all of these concerns.

Chapter 19 by Kimberly D. Krawiec explores commodification debates in the gamete market. She employs the payment guidelines laid out by the American Society for Reproductive Medicine (ASRM) as a lens through which to understand the controversy around oocyte commodification as compared to sperm commodification. Although the physically invasive nature of egg donation likely contributes to the significant difference in moral controversy generated by these two practices, researchers have argued that presumptions regarding the differing (altruistic vs pecuniary) motivations of women and men engaged in reproductive activity on behalf of others significantly shapes ethical debates about gamete commodification as well. Krawiec also examines the arguments raised (and rejected) in the Kamakahi litigation, in which oocyte donors in the US brought an anti-trust lawsuit against the ASRM for price-capping practices. According to Krawiec, this case should be of interest to all observers and researchers of contested markets because the arguments raised in defence of price-capping in the oocyte market are the very corruption, undue
Influence, exploitation, and equality of access arguments that permeate commodification debates more generally.

Chapter 20 by Laurie J. Shrage takes up one of the most infamous contested commodities—contract sex. She notes that there is a growing consensus among human rights activists, feminists, health organizations, and progressive democratic governments that soliciting or accepting payment for sex should not be a crime. Criminalizing the activities of service providers does little to protect them from harm and, instead, makes their livelihood much less safe by pushing it underground, generally without deterring markets in sexual services. Moreover, whatever concerns we may have with the commodification of sex are not allayed by simply turning the white market for sex black. Shrage points out, however, there is much less consensus among social reformers about the conditions under which payment for sex should be permissible or impermissible (when it becomes unacceptably exploitative or manipulative, for example). While debates about sex work remain stuck on the question of criminalization, Shrage argues it is high time the debate turn to issues of legalization—where the relevant question is about how governments should regulate sex as an economic activity in order to serve and protect sellers of contract sex. Shrage draws examples from cannabis regulation in the US to generate helpful conclusions regarding the legalization, as opposed to criminalization, of markets in sexual services.

Chapter 21 by Stephen Wilkinson makes a meaningful contribution to ongoing debates about the ethics of paid surrogacy by explaining, reconstructing, and subjecting to scrutiny many of the numerous ethical, philosophical, and policy arguments directed against this practice. He evaluates three main types of arguments against paid surrogacy, first, that paid surrogacy is a form of baby-selling, second, that it is exploitative and depends on impoverished consent, and third that it is degrading and instrumentalizing of surrogates and/or their children by treating them as objects of use rather than persons worthy of respect and consideration. Wilkinson engages deeply and meaningfully with each of these objections but ultimately finds them unpersuasive. Although he concedes the seriousness of the second set of worries, he offers an insightful and compelling proposal for reform. He argues for what he calls fair trade surrogacy, to alleviate exploitation and coercion concerns in the context of global commercial surrogacy arrangements in particular.

Chapter 22 by Martha M. Ertman discusses the well-known dangers of commodification in adoption, but also highlights the positive role of payments in adoption processes. These include payments to legal, medical, and social work professionals and to birth parents for expenses such as psychotherapy, maternity clothes and living expenses, along with state subsidies that enable people to adopt children out of foster care. The chapter argues that adoption contracts can be either exploitative or welfare-enhancing, but that neither aligns perfectly with the presence or absence of payment. Ertman proposes a “Mosaic” view as an alternative to the extreme options of understanding adoption as either market-inalienable or completely commodifiable, as there are elements of each in all adoption contracts. And she argues that it offers a more nuanced focus on who controls and benefits from financial contracts in adoption. Ertman concludes that a “Mosaic” theory of commodification in adoption supports bans on outright baby-selling but also allows courts to enforce welfare-enhancing adoption contracts.

Commodification and the environment

While debates over environmental commodification began as early as the 1960s, the contemporary philosophical and legal anti-commodification literature has largely centered on civic and bodily goods, and did not significantly address environmental questions. This section of the volume aims to rectify this oversight. The first three chapters in this section examine successively
three market-oriented instruments recently invented to deal with environmental problems: offset markets (in the 1970s), negotiable permits markets (in the 1980s), and payments for ecosystem services (in the 2000s), and thus focus on three main threats to non-human nature: erosion of biodiversity, emissions, and the destruction of ecosystems. The three subsequent chapters examine the commodification of human sources of sustenance: water, animal products, and seeds. As sustenance related goods, these may rightly qualify as necessary goods and hence political goods, proper access to which may not be satisfiable through market distribution. The last chapter of this section, on parks and forests, brings us full circle back to the question of land commodification which was the very first of the contested commodities explored in this volume.

This section of the book is illustrative of several trends in commodification practice, and in debates among commodification theorists. First, the commodification of emissions and ecosystems is an example of a type of commodification that first only existed in economic theory, and was then translated into practice – and their contested status transitioned from theoretical objection to empirical concern. Environmental issues more generally offer us a window into the domino effect (Radin, 1996) that can occur when the mere conceptualization of a good in monetary terms leads to its total commodification. Second, the goods examined in this section illustrate numerous degrees of commodification (from monetary valuation to financial markets through end-user payment, in-kind compensation, monetary compensation, etc.), demonstrating just how the examination of non-human nature as a problem for commodification studies can help us sharpen our very understanding of what commodification consists in.

These chapters also illustrate that while various regulation mechanisms proposed by contributors to the previous section may be adequate to resolve moral contestation in the realm of the body, opposition to the commodification of environmental goods remains stringent in the face of proposed market regulation. Contributors to the section on the body more or less universally reject prohibitions, and offer myriad regulatory proposals for mitigating the harms of body markets that would avoid creating the even greater harms involved in banning them. Many contributors to the section on the environment, however, are more sympathetic to decommodification. For example, although a rejection of the ownership relation with the body has been proposed as a solution to the contested commodification of physical goods (Radin, 1996; Phillips, 2013), in this volume we find little uptake of this idea when it comes to the body, but a good deal when it comes to the natural world. Contributors to the section on the environment are more adamant that a radical reconceptualization of the value of the non-human world is in order, as is the relationship between humans and non-human nature.

Chapter 23 by John O’Neill explores the topics of natural capital and biodiversity. O’Neill argues that while environmental problems are often thought to come from market failures, they come instead from commodification itself. He defines commodification both as the process of market exchange and as the conceptualization of a good as marketable. The notion of natural capital may encompass ecosystem services, compensation, substitutability, monetization, and markets. With respect to offset markets, in particular, commodification first and foremost favours growth and hence environmental destruction. It also means that an ecosystem is valued according to certain use-related features only and is assumed to be substitutable with any other ecosystem characterized by the same features, whereas ecosystem value is and must be seen to be multidimensional and non-substitutable. Finally, he argues, offset markets face distributional objections, among which is the concern that they measure value according to willingness to pay. Set against wealth inequality this has the problematic outcomes that the rich can be seen to value the natural world more than the poor.
Chapter 24 by Nathalie Berta focuses on emissions trading, both in terms of how these markets are defended in economic theory and in political debates, and in terms of how they function in practice. The idea of markets in emission emerged in the 1960s in economic theory, but it was isolated: economists were at that time promoting taxes, which were widely rejected by US Congress. Monetizing pollution was highly contested, and a tax on outputs was viewed as an “immoral license to pollute.” This contestation progressively faded away, Berta demonstrates, and the conceptualization of pollution as an externality became more widely accepted. Moral contestation diminished when the resistance of industry to regulations became organized and brought with it the idea that direct control would carry regulatory and compliance costs. From the 1980s, the idea and practice of “cap-and-trade” quickly expanded for both sulfur dioxide, and carbon dioxide. At this stage, markets were viewed as preferable to taxes because equilibrium was assumed to be achievable at no cost, which, as Berta shows, is highly questionable.

Chapter 25 by Julia Martin-Ortega and her co-authors examines how the very concept of ecosystem services both contributed to and reflects the commodification of non-human nature. The widespread use of the concept was encouraged by the United Nations, and allows for monetary valuation of the natural world, which has become dominant in both policy and industry decision-making. The conceptualization was, ironically, first developed to help protect nature by insisting that its value be taken into account. But estimating the value of nature in terms of its value for humans, and monetizing ecosystems in accordance with the services they can provide or that can be provided from them, paved the way for widespread commodification of the natural world. Once monetized, ecosystem services avail themselves to exchanges and thus to the conceptualization of ecosystems as interchangeable objects of use. Building on O’Neill’s insights, Ortega et al. argue that the commodification of non-human nature through its conceptualization in terms of the services it can provide is both reductivist and inequitable.

Chapter 26 by Adrian Walsh identifies numerous problems posed by the commodification of water. He considers but sets aside the arguments according to which assigning price values to water could violate certain expressive norms and run counter to the understanding of nature as having an intrinsic value, either in environmental terms or in spiritual terms. He focuses instead on the distributive effects of the commodification of water, and in particular on the risks of making water available on the basis of ability to pay. This, he argues, is not inevitably wrong, provided everyone’s basic need for water is sufficiently satisfied. Water is a basic need. But since it is possible for this need to be satisfied to a sufficient degree without curtailing all water commodification, the relevant responsibility falls on states to ensure sufficiency. Following Panitch’s sufficientarian approach (see Chapter 4), Walsh argues that the commodification of water is possible when basic needs are met. To the extent that markets impede the satisfaction of this basic need, they should be blocked. But provided this need is being satisfied, markets need not be blocked altogether. In this sense, water is here treated as a political good.

Chapter 27 by Aksel Braanen Sterri concerns farm animals, and starts from the position that animals have interests that matter, interests in many ways equivalent to those of humans. Markets for farm animals create harms, or negative externalities, for animals themselves, namely their pain and untimely death. But complete decommodification would prevent animals from being brought into existence at all and thus from living lives that are ultimately worth living. As such, Sterri argues that the commodification of animals is ultimately in their best interest, provided that we can ensure their lives are indeed worth living, even if they are ended for the purposes of human consumption. We can do this, on his view, not by decommodifying meat, but by commodifying animal welfare through markets or taxation (i.e. by imposing a cost on the production
of the relevant externality). Sterri argues for a commodified solution to a market problem, and he favours a tax on animal suffering and death. Sterri’s proposal to commodify animal welfare aims to mitigate the harm done to animals themselves, by commodifying the externalities created by the market for meat on humans who are pained by animal suffering.

Chapter 28 by Fabien Girard, Christine Frison and Christine Noiville focuses on seeds, understood as physical grains and genetic resources. The market for seeds is an extended market, related to modern agriculture, that has always been contested at its margins, but whose contestation has now grown steadily for over a decade. The authors begin by examining the historical drivers of seed commodification, mainly the biotech revolution and the advent of intellectual property rights, which gave birth to agricultural oligopolies and a phenomenon they describe as “new enclosures.” The authors go on to analyze various experiments in the decommodification of seeds (understanding them as common property, or reestablishing local sovereignty), as a means of exploring what is gained and what is lost by markets in seed. The authors conclude that the existence of these attempts at decommodification raises questions about the potential for coexistence between a market and a non-market conceptualization and allocation of seeds.

Chapter 29 by Catherine Larrère concludes this book by taking up the first commodity examined in it, namely land. Her contribution deals with specific forms of land (de)commodification, namely national parks and forests. As we saw in some of the previous chapters, ecological movements endorse the idea of returning to common property to oppose private property and commodification. Larrère argues, however, that commoning must be understood as distinct from state appropriation. For her, the central question is, to the extent that parks and forests cannot be private, must they necessarily be public? She says no, because there is also a third option, that is the commons (understood as a community who rules the use of a free access resource); and the commons stand not only in opposition to the private realm, but also to the public. Larrère examines two historical episodes in which this is well demonstrated. First, when the nineteenth-century French engineers of forests appealed to the state to save mountain forests against the deforestation due to the communal traditional uses. And second, when US national parks were created by destroying commons, and delimiting new enclosures (with the exclusion of traditional inhabitants). The author concludes that the state cannot fully protect against commodification (indeed, it can contribute to it by enclosures and economic valuation); so it is necessary that the state protects commons in the form of parks and forests.

**Concluding remarks: Alternative markets and market alternatives**

The chapters included in this volume are illustrative of the richness and diversity of commodification studies. But the variety of approaches, methodologies, and proposed solutions offered by our contributors should not obscure the strong commonalities and points of agreement among them. The authors share the view that commodification – whether this refers to mere exchange, monetary exchange, monetary valuation, efficiency norms, etc. – is not a neutral mechanism and has to be questioned, on both theoretical and empirical grounds. As is typical in a collection, but perhaps all the more so here given the diversity of views presented, we as editors do not endorse all the arguments offered, although we find them all to serve as instructive, illuminating, and provocative contributions to the field.

Rare are the chapters that conclude in favour of complete decommodification. But equally rare are chapters that defend free markets as a response to contested commodification. The majority of contributors conclude in favour of some type of regulation that could address the commodification concerns they identify as most pressing. Some authors argue for partial decommodification
that might involve the blocking of markets only to the extent that they interfere with the satisfaction of basic needs. Some invoke appeals to equality and propose redistributive solutions that could render certain markets unlikely, harmless, or unnecessary. Others offer proposals for market expansion or the introduction of new markets as a strategy of addressing externalities generated by those they contest. Others still endorse a total reconceptualization of the very ideas of property and ownership.

An interesting commonality among the chapters is a rejection of the kind of binatristic thinking popular among certain commodification theorists. One such binarism is entailed in the widespread view that the state and the market are inevitable distributive opponents, such that the allocation of a good via one entails non-allocation of that good via the other. This binaristic assumption is problematic for a number of reasons identified by various contributors. The state may be an alternative to markets in some sense, but it is not only an alternative, nor the only alternative. Often the state participates in the creation of markets, not only by defining and enforcing property rights (this is crucial for seeds, for example, see Chapter 28) or by acting as a supplier (see Chapter 9 on gambling), but also by enforcing regulations and offering social protection, thereby potentially resolving the very sources of a market’s contested status (see Chapter 8 on labour). Moreover, when the state’s role is to provide an alternative to markets, it can often do as poorly as markets, as may be the case with schooling (see Chapter 13). And, as suggested in Chapter 2, the state can itself infuse market norms in supposedly non-market spheres of human activity, thereby participating in the intensification of markets (as is the case, for example, with new public management).

There is also a great deal of moral binarism in anti-commodification arguments (Bertrand, 2019). For critics of commodification, gift-giving is often regarded as altruistic and market-exchange as self-interested, while the latter mode of exchange is viewed as antagonistic to the former. These kinds of arguments depend on what Panitch in Chapter 4 identifies as an empirical claim (markets crowd out altruism) and a moral claim (self-interest is always bad and altruism is always good). Many authors in this volume take issue with this binarism and reject it for a variety of reasons. For one, it simply isn’t true that the introduction of a market in a particular good eclipses its altruistic exchange (see Chapter 19 on plasma, for example). For another, commodified and non-commodified versions of the same good can coexist (sex, as a prime example) such that the market exchange of one should not be thought to destroy or denigrate the gift exchange of the other. Moreover, there is altruism present along with trust in almost any market exchange (Macauley, 1963; Rose, 1992; Zelizer, 1994), while gift-giving can itself be an act of self-interest to the extent that the giver is seeking social approval or symbolic capital (Bourdieu, 1977; Lordon, 2006; Steiner, 2016). Ertman (in Chapter 22) invites us to use a “mosaic” framework for thinking about commodification in the context of adoption, and this may be a useful framing for other authors keen to upend binaristic thinking about many other markets as well. Indeed, the rejection of binarism might well represent a new feature of commodification studies itself.

Before inviting our contributors to take over the discussion we would like to address – or at least acknowledge – two potential challenges that our conceptualization of commodification studies may face, and along with it, our organization of the volume and the rationale we have offered for it. As we outlined earlier, we had good reason to organize this book according to discrete contested commodities, or at least according to the categories of contestation to which we think they belong. But there is of course a downside to this, which is that treating contested commodification discretely, or individualized by commodity, may be to miss the broader themes and concerns that connect the contestation of these goods, and the larger questions their shared contested status should perhaps have us asking. If we focus narrowly on discrete goods, do we miss broader threats to social norms, practices, and relationships that the increased expansion of markets may carry?
Thankfully our contributors have solved this problem for us. We have asked them to focus on a singular commodity and they have done just that, but so much more besides. The historical chapters remind us of the radical and deleterious social shifts that occurred due to the imposition of forced commodification. The chapters on political goods ask us what it means to be a citizen, what kinds of obligations and entitlements this carries, and whether markets enhance or impede the satisfaction thereof. The chapters on bodily goods ask us to think anew about what constitutes labour, what vulnerability and coercion consist in, what exploitation looks like, and whether feminist empowerment lies within the market or beyond it. The environmental chapters ask us what it means to relate in proprietary terms to the goods we commodify, and what this entails for the inherent worth of the goods themselves, the essential social links they sustain, and the very sustainability of life on this planet. Each chapter, while addressing a discrete commodity, nonetheless invites the reader to consider how market relations impact social relations and how changing even a discrete market can be fundamentally related to impactful social change.

The final challenge we want to consider before concluding is that, in having organized both our presentation of commodification studies as devoted to inquiring about the noxiousness of discrete markets, and our book according to these individual markets, we may have landed commodification theorists in hot water (ourselves included). This book explores dozens of markets, all of which face contestation, albeit it to varying degrees at this particular point in time. And we identified as the first key feature of commodification studies that it asks after the permissible regulation or prohibition of discrete markets within a market economy, rather than asking after the permissibility of the market economy itself. But then the very simple question presents itself: if so many discrete markets are contestable within a market economy, perhaps the problem is “the market” after all. If it cannot be contained, should it be retained? If the domino effects of the market are inevitable, to what end should we be scrutinizing individual markets, rather than mandating revolution?

References


Introduction


PART 1

Commodification studies

Past and present