How Mythical Markets Mislead Analysis:
An Institutionalist Critique of Market Universalism

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ABSTRACT

Market universalism entails the claim that markets are ubiquitous. Accordingly, the term *market* is used to describe a large number of varied arrangements or processes in the real world. It is different from *market fundamentalism,* which involves the normative suggestion that unfettered markets generally increase welfare. This paper establishes some minimal necessary features of a market. It shows that markets are not and cannot be universal, and many existing arrangements and processes have been miss-labelled as markets. It is inappropriate to describe ordinary conversation as a 'markets for ideas' or all politics as a 'political market'. Analytically, market universalism tends to overlook the inevitability of missing markets in a modern economy. By contrast, their recognition shows that we are always in a world of second-best solutions, implying that markets are not necessarily the answer to every economic problem. The policy temptations of market universalism are explored, showing that by reducing politics to a form of 'market' economics, it downplays the distinctive, non-market nature of the political and legal spheres, and corrodes the conceptual separation of civil society from the state.

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1. Introduction

It is best to start by distinguishing *market universalism* from *market fundamentalism.*[1] Market fundamentalism is typically defined (mostly by its critics, such as Soros 1998, 2008, Stiglitz 2008 and Block and Somers 2014) as the belief that unfettered markets bestow welfare and prosperity, and that state interference with market processes generally decreases human well-being. Market fundamentalism typically involves normative claims concerning the economic or moral superiority of free markets. This paper offers neither a critique nor a defence of market fundamentalism: it is neither a critique nor a defence of a market economy.

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By contrast, *market universalism* as defined here is not primarily normative, but analytic.[2] It is not about the desirability or undesirability of markets: it does not address their ideal extent in any economy. Instead, market universalism means the prolific use of the term *market* to describe a large number of varied arrangements or processes in the real world. It proposes that markets are ubiquitous, or nearly so, as if they were the universal essence of unhindered human interaction. If, here and there, the ubiquitous market is repressed or restrained, then the market universalist may point to its inhibitors.

Karl Polanyi (1977, pp. 6, 10) rightly pointed out that 'equating the human economy in general with its market form' was a serious error.[3] Accordingly, market universalism describes political elections or arrangements within organizations as *markets*, and perceives *markets* for ideas, laws, marriages and much else. It is argued below that followers of market universalism misuse the term *market* to describe particular arrangements which, by reasonable minimal criteria, are not really markets at all: they are *mythical markets*.

Note that market fundamentalism does not imply market universalism: one can advocate markets fervently without positing them as already universal. In fact, when the two doctrines are conjoined, market universalism weakens market fundamentalism: if markets are already omnipresent then their promotion loses much ideological potency. This paper argues that both supporters and opponents of market fundamentalism should reject market universalism.

The problem with market universalism that its use of the word *market* is so pliable that it is difficult to identify adequately any non-market processes or arrangements. For example, Austrian-inspired writers such as Peter Boettke et al. (2004) rightly emphasize that markets vary in the natures and institutional structures. But they seem to open the door to market universalism by their three-times repetition of the claim that 'markets are ubiquitous', adding 'like weeds they crop up wherever the opportunity arises … markets are omnipresent' (Boettke et al. 2004, pp. 71, 73, 74, 83). But they do not tell us clearly what kinds of arrangements or processes are *not* markets. This is a frequent omission by market universalists. As Eckehard Rosenbaum (2000, p. 457) pointed out:

> Economists or politicians who endorse markets must specify where and when a market does in fact exist and where and when it is absent. Unless they are able to do so, their policy recommendations could neither be evaluated in relation to the purported objectives of market creation nor tested with respect to the empirical implementation of the market.

Any normative case for markets needs to identify more clearly the instances of their absence, instead of merely pointing to impediments or restraints. Obversely, if anyone wishes to identify spheres where markets should be excluded, then they also need to explain what a market is, and what might take its place.

The ontological vision among market universalists is a world of interacting agents, each with assets and aims, with entrepreneurs among them that facilitate 'market' contracts and trade that bring mutual gains to the participants. A contrary view could accept likewise a world of

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[2] The term 'market universalism' was used by Pettman (2001) but invested with different connotations.

[3] However, despite its importance, Polanyi's (1944) attempt to argue that there are limits to markets has major problems and inconsistencies (Hodgson 2017). Polanyi's empirical claims concerning markets in history have also been criticised (McCloskey 1997, Hejeebu and McCloskey 1999).

interacting agents and entrepreneurs with assets and aims, but would deny that all possible interactions can be in terms of (meaningfully-described) contractual exchanges or markets.[4]

This is an institutionalist critique of market universalism because it treats markets and trade as necessarily guided by systems of legal or other rules. But, as shown below, some of the foremost (implicit) proselytizers of market universalism are regarded as institutional economists. Accordingly, one of the purposes of this article to rectify a major defect in the institutionalist literature, and to help to enhance its institutional sensitivities.

It is far beyond the scope of this essay to attempt a history and explanation of the rise of market universalism. Pieces of evidence suggest that the idea found a conduit through Ludwig von Mises and others into various enclaves, including the 'economics of property rights', 'law and economics' and the 'new institutional economics'. But the study of its intellectual evolution must be the subject of another essay.

The following section discusses the strangely problematic concept of the market and establishes some minimal institutionalist conditions for describing an arrangement in such terms. Section three gives examples of the way in which the term market has been frequently and prominently attached to phenomena that are not really markets by these minimal criteria. Section four discusses some analytic consequences of market universalism, particularly the neglect of missing markets and their consequences, as well as the reliance of any market economy on information that is freely available without purchase. Section five examines some policy temptations within market universalism, most importantly some possible consequences of its dissolution of the political into the economic sphere. Section six concludes the essay.

2. The slippery notion of the market

Douglass North (1977, p. 710) noted perceptively: 'It is a peculiar fact that the literature on economics and economic history contains so little discussion of the central institution that underlies neo-classical economics – the market.' Similarly, Ronald Coase (1988, p. 7) observed that 'in modern economic theory the market itself has an even more shadowy role than the firm.' Even when it is defined, there are typically further problems and ambiguities.

In ordinary language a market typically refers to a place where commodities of a particular type or types are regularly traded. Karl Polanyi (1944, p. 56) put this view when he wrote: 'A market is a meeting place for the purpose of barter or buying or selling.' With the Internet, this 'place' may be virtual, as with eBay or Amazon. Such a narrow definition can distinguish markets from trade in general and from 'relational exchange' (Goldberg 1980).

By contrast, many economists propose a broader definition, where *market* implies any form of trade, not simply trade organized in one place. Trade is much older than organized markets (Hodgson 2015a, ch. 5). As an example of a more inclusive definition, William Stanley Jevons (1888, p. 84) wrote of the term *market* being 'generalized, so as to mean any body of persons who are on intimate business relations and carry on extensive transactions in any commodity.' Much later, in a prominent textbook, Hugh Gravelle and Ray Rees (1992, p. 3) declared that 'a

[4] Note that the word 'agents' is deliberately used instead of 'individuals' in this paragraph. This is to allow the possibility of agents that are groups or corporations, as well as human individuals. Accordingly, market universalism could in principle be framed in terms of contracting corporations and groups, as well as individuals. There is a hint of this possibility in North et al. (2009), in their emphasis on the importance of the corporate form and on party organization in politics.

market exists whenever two or more individuals are prepared to enter into an exchange transaction'.

The terms 'transaction' or 'exchange' also require definition in these formulations. Such terms also have broader versus narrower meanings. Economists are often vague on the issue. In sociology, the extremely broad and general 'exchange theory' of George Homans (1961) and Peter Blau (1964) proposes that a wide range of activities – including gift-giving and interpersonal communications – are 'exchanges'. Overall, in modern social science, basic concepts such as *exchange*, *contract* and *transaction* cannot be taken for granted. Ambiguities and multiple usages allow for further slippages in connotation, affecting the meaning of the term *market* itself.

Sometimes, the broader and inclusive definitions are driven by a desire to make foundational concepts as general as possible, covering huge spans of historical time, or even the whole history of humanity. But then 'markets' become ubiquitous, and the door is opened to market universalism, where almost everything is regarded as a market.

Pushing in this direction, Mises (1949, p. 97) saw all action, even by an isolated individual, as 'exchange' – as an attempt to swap inferior for superior circumstances. But, when he struggled alone to survive on his island, with whom did Robinson Crusoe 'exchange' rights to property? And before Friday arrived, who ensured that the contract was enforced?

Mises was not alone in positing such a view of 'exchange'. For example, in 1907 the sociologist Georg Simmel (2004, p. 81) described production as an 'exchange with nature' and in the same year the economist Irving Fisher (1907, p. 37) wrote of producers 'continually hunting ... for bargains with Nature.' One wonders who negotiates on nature's behalf, and whether she is satisfied with the deal.

Mises influenced the early development of the 'economics of property rights' and similarly broad and inclusive definitions are found in this sphere. For example, Douglas Allen (2015, p. 383) defined transaction costs as '*the costs of establishing and maintaining economic property rights,*' where property rights were defined simply as '*the ability to freely exercise a choice.*' These formulations imply that a 'transaction' can simply be a matter of the choice and control by one individual over an object. As with Mises's universalist definition of 'exchange', such a strange 'transaction' need not involve more than one person.[5]

An appraisal of market universalism requires some notion of a market that does not cover everything. We need to pin down some minimal elements. The task is not even to define a market with adequacy, but to establish some of the rudimentary conditions required for markets to exist. There is no attempt to posit a narrow definition of a market here, despite the case for one (Hodgson 2008, 2015a). It is accepted that there can be illegal as well as legal markets.[6]

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[5] Leading economists of property rights regard property simply as control or possession (Alchian 1965, Barzel 1989). From this viewpoint, even theft is an exchange of 'rights' to property. For contrasting views see Commons (1924), Samuels (1989), Cole and Grossman (2002), Fukuyama (2011), Heinsohn and Steiger (2013), Hodgson (2015a, 2015c) and Deakin et al. (2017).

[6] Illegal trade in drugs, counterfeit goods, etc., has fascinated both economists and sociologists. See Schelling (1984), Thornton (1991), Boettke et al. (2004), Dixit (2004), Beckert and Wehinger (2013), and Beckert and Dewey (2017). Much of the literature on illegal markets compares the effects of legal restrictions with (real or imagined) circumstances where illegal trade is made legal. It thus analyses how illegality causes deviations from the legal ideal type.

A full and precise definition of a market would immediately become controversial because of the clash between broad and narrow definitions in the literature, as noted above. It is also unnecessary for the purposes of this essay.[7] Consider the following formulation. A full and precise definition of a market has the following form:

> If a socio-economic phenomenon has all the characteristics: $[x_1, x_2 \ldots x_n]$,
> – then it is a market.

There may be controversy about some of the required definitional elements ($x_1, x_2 \ldots x_n$). Broader definitions would remove some of these characteristics from the list. But assume that there are some core characteristics ($x_1, x_2 \ldots x_m$) (where $m < n$) that are common to all proposed definitions. Consequently:

> If a socio-economic phenomenon *lacks* one or more of subset characteristics $[x_1, x_2 \ldots x_m]$ where $m \leq n$, and n is the number of characteristics in the whole set,
> – then it is *not* a market.

Our task, then, is not to specify $[x_1, x_2 \ldots x_n]$ but to identify a suitable subset $[x_1, x_2 \ldots x_m]$. This task should be easier and less controversial.

A key precondition of a (broadly-conceived) market is the existence of multiple traders who are interacting and communicating with some common understandings. The traders are capable of entering into agreements with others to supply assets or services in exchange for money or other assets. But (even with illegal markets) there need to be shared rules to determine what constitutes a valid agreement or contract.

These rules do not have to be laws. With legal markets, a combination of law and custom may determine the essential rules. With illegal markets the rules may be those of a mafia or a criminal gang. The difference is important, but it need not delay further our attempt to pin down some minimal and necessary features of a market.

These are some *minimal requirements* for a market:

> *A market entails a system of accepted rules, enabling multiple traders to enter into voluntary agreements involving mutual obligations that are intended to lead to the agreed delivery of goods, assets or services, in return for some agreed payment, with the agreed transfer of rights to the goods or assets.*[8]

This italicized sentence performed the function of subset characteristics $[x_1, x_2 \ldots x_m]$ above, to help us determine what is *not* a market. There is some wiggle-room for varied interpretations here, particularly over terms such as *accepted, rights* and *obligations*. Most definitional conditions of this kind involve some degree of vagueness (Russell 1923). But these further issues are best addressed using concrete examples, as in the following section.

Note that agreements may be written or unwritten. They may be specified to be fulfilled over a shorter or longer period. Furthermore, there is no claim here that rules or contracts have to be enforced by external parties such as the state. This is a matter for investigation and debate elsewhere.

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[7] A definition of a market is suggested elsewhere (Hodgson 2008, 2015a). For the purposes of this essay, agreement on an adequate definition is unnecessary. Required instead is the establishment of some minimal, necessary characteristics.

[8] Note that institutions are widely defined as systems of rules (Rowe 1989, North 1990a, Ostrom 1990, Knight 1992, Mantzavinos 2001, Hodgson 2015a, 2015b).

There are other obvious necessary conditions for markets, such as human communication. But to serve our purposes here, the aim is to establish some *minimal* necessary conditions, not to list *all* necessary and sufficient conditions.

The institutionalist emphasis on rules means that the minimal requirements involve more than the physical transfer of goods or services. But much of economics treats the economy as if it were a physical entity, like a machine, thus downgrading such questions as obligations, rights and rules. Some institutional economists have argued that we need to move away from mechanical metaphors of an economy, which privilege physical forces and material stuff. Instead we need to make knowledge, rules, institutions and rights more prominent (Veblen 1908, Commons 1924, Boulding 1966, Hodgson 2015a).

Using the above minimal criteria, we can now examine cases where the minimal requirements are not satisfied, yet the phenomena are wrongly described as markets.

3. Mythical markets

The term *mythical markets* is used here to refer to phenomena that are described as markets, but are not markets, at least by the minimal requirements laid out in previous section. This description may be intended as a metaphor, but rarely is this made clear.

As noted above, pioneering institutional economists Coase and North have been foremost critics of the failure to address the meaning and nature of markets. Yet strangely, they are also responsible for two independent devaluations of the meaning of the term *market,* by applying it to contexts that clearly fail to meet the minimal requirements above.

Following Aaron Director (1964), Coase (1974) and Coase and Ning Wang (2012, pp. 190-207) described and advocated a 'market for ideas'.[9] Is this merely a metaphor, or does it literally mean that full property rights in ideas should be established (as with goods) and that ideas should all become priced and traded on a market? There was no indication that the usage was intended to be metaphorical. Concerning 'the market for goods and the market for ideas' Coase (1974, p. 389) wrote: 'There is no fundamental difference between these two markets'.

Coase and Wang (2012) did not refer to intellectual property, which can of course be traded. They offered no discussion of trade in rights to ideas. Instead they referred principally to the need for 'freedom of speech and expression' and for 'the creation and transmission of knowledge' through educational institutions. The 'market for ideas' was literal, but for them it did not need to involve either contracts or property rights.[10]

Some ideas – as with patents and copyrights – may be traded, but most are not. We *have* ideas, but most of them we do not *own* in any meaningful sense. Apart of items of patent or copyright, most of the ideas that we have or communicate are not deemed objects of property under any system of legal or other rules. The ordinary communication or debating of ideas does

[9] Coase and Wang (2012, pp. 190-207) repeated the phrase 'market for ideas' about thirty times, and the 'market for goods and the market for ideas … together in full swing' was their main policy recommendation for contemporary China, neglecting other possible institutional reforms in land tenure, corporate law, finance, or the political system (Hodgson and Huang 2013). In 1969 the US Supreme Court ruled: 'It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail' (US Supreme Court 1969, p. 395).

[10] See Mäki (1999) for further criticisms of Coase on this issue.

not involve agreements with the shared intention of creating obligations according to those rules. Generally, day-to-day conversation is not an intentional transfer of specific rights.

Turning to a second example, Douglass North (1990a, 1990b) promoted an inadequately-defined concept of 'political market.'[11] It seems to refer to party competition in democracies, or perhaps any struggle between individuals or groups for political power. But in most cases these processes are poorly described as markets. Again there was no indication that the usage was intended to be metaphorical.

Of course, there are some genuine contracts in the political sphere. Deals are done between politicians and others. These may qualify as trading agreements and satisfy the minimal requirements above. But much political interaction does not involve agreements with obligations entailing transfers of assets or rights.

But normally, if we vote for a politician or a party that does not typically amount to a contractual agreement under a system of rules. The manifesto of a political party is an indication of intent, not an enforceable contract. Typically, politicians cannot be sued for broken promises. Competition between politicians or parties for votes or power is not typically a contest for contracts under any established system of contractual rules.

The notion of 'political market' is strangely indifferent between less corrupt democracies and others (such as India) where the (illegal) buying of popular votes and the votes of elected politicians is frequent (Mitra et al. 2017). The latter might ostensibly be described as 'political markets' because (illegal) contracts for political services are involved. But, contrary to market universalism, this does not mean that the entire polity in every democracy is a political market. A danger in the term 'political market' is that it stretches the concept of the market so widely that it loses much of its meaning, particularly in relation to property and contractual exchange.

There may be tacit understandings between rulers and the ruled, amounting to a 'social contract.' The 'social contract' is also a heuristic device in political theory. But such 'contracts' do not involve the voluntary exchange of rights. Unless the subjects have the real possibility of survival outside the sovereign's rule and they make a conscious choice to accept a sovereign, and in return the sovereign pledges something in return as part of the deal, then it is not a voluntary or meaningful contract. As David Hume argued long ago, it is a convenient fiction (Hume 1994, pp. 127-34).

The Reverend Samuel Seabury (1861) had a creative imagination for fictional contracts that serve the apologetics of power. He argued that slavery was justified because it involved an implicit agreement between slave and master. In reality, there were no agreed rules under which such an agreement could be formed and authenticated. As with markets, we should be careful not to conjure up agreements where they do not exist.

A third example concerns the mistaken conceptual transformation of arrangements within the firm into some kind of 'market'. At first, ideas emerged of 'internal markets' within firms. These referred to rules and procedures within organizations that priced labour and other resources, allocating them between internal divisions or departments. Of course, there can be external markets for labour and other resources. But do 'internal markets' entail meaningful contracts and prices? In their pioneering and influential study, Peter Doeringer and Michael Piore (1971, pp. 1-2) admitted that 'internal labor markets' are not governed primarily by the

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[11] Much earlier, the Italian economist Pantaleoni (1911) had considered the political system as a market with its own 'political prices' alongside the economic market. Pantaleoni is acknowledged as a forerunner of public choice theory (Buchanan 2008).

price mechanism but by ‘a set of administrative rules and procedures.’ David Marsden (1986, p. 162) went further: ‘internal labour markets offer quite different transaction arrangements, and there is some doubt as to whether they fulfil the role of markets.’ Nevertheless, the idea of internal markets within organizations became popular.

In line with this intellectual shift, Oliver Williamson (1991, p. 271) saw hierarchies (or firms) as ‘a continuation of market relations by other means.’ Instead of the firm-market dichotomy, Williamson adopted a firm-market continuum, wherein the firm became a mutation of the market. Coase likewise moved away from his earlier conception where markets were strictly outside firms, to the acceptance of ‘internal markets’ inside such organizations (Coase 1937, 1988). An employer may ask an employee to fulfil an aspect of their existing employment contract, but otherwise ‘internal markets’ do not create and involve enforceable contracts and property transfers between contracting entities. But nevertheless these arguments became commonplace. Richard Langlois (1995, p. 72) observed that research in this genre ‘has reached the conclusion that the distinction between firm and market is little more than semantics.’ It seemed that the firm had lost its identity. It could be treated as a peculiar or attenuated form of market.

As a fourth example, addressing the legal system, Bruce Benson and Eric Engen (1988) envisioned ‘the legislative process as a market for laws’ where interest groups ‘pay’ legislators for laws as ‘products’. They put quotes around ‘pay’ but that did not inhibit their unequivocal treatment of the legislature as a market. But there are rarely any enforceable contracts, involving transfers of rights, between interest groups and legislators in this context.

What is the system of rules under which these supposed ‘contracts’ between legislators and interest groups are formed and enforced? Markets themselves are institutions involving rules. Hence a ‘market for laws’ would require supra-legal institutions with their own (legal or other) rules. Supposedly then, we would need markets for markets-for-laws, or markets for meta-rules. As noted again below, this reveals the problem of an infinite regress.

In his work on the family, Gary Becker (1976, 1991) saw no essential distinction between the commercial world of trade and the emotion-driven intimacy of family life. Apart from the duration of the contract, his analysis acknowledged little difference between sex with a prostitute and sexual relations between married partners. For Becker, they can be analysed with the same theoretical instruments, to the neglect of some distinctive features. Rather than focusing on specific institutions and social structures, his analysis was concerned with abstract allocative choices of a de-institutionalised kind. His work is thus peppered with loose phrases such as ‘a market for marriages’ (Becker 1976, p. 206). While marriages themselves are contracts, these particular contracts are not sold. There may be a market for *marriage rights*, as in the auction reported in Babylonia circa 500 BC (Cassady 1967). But here the primary contract was not between the marriage partners but between the grooms and the fathers of the brides-to-be. Marriages are not bought or sold.[12]

These examples show that the use of the term *market* has spread to all sorts of phenomena that, by the requirements laid out above, should not reasonably be described as markets. One

[12] Becker and Posner (1993, p. 423) claimed that the term ‘marriage market’ means little more than that the matching of partners is ‘systematic and structured rather than the result of random shots from Cupid’s bow’. But being ‘systematic and structured’ is not a quality confined to markets. The rhetorical value of this ‘metaphor’ is unclear.

possible defence is that the usage is intended to be metaphorical, rather than an accurate acknowledgement of market phenomena.

Offering such a means of retreat to those he criticized, Richard Hasen (1998) described the terms ‘political market’ as a ‘metaphor’ arguing – partly because of unclear criteria of successful ‘market’ performance – that it should not be pushed too far. But such pronouncements of metaphorical status are rare among market universalists, an exception being Becker’s and Posner’s (1993) unconvincing defence of the ‘market for marriages’ cited above. In the absence of further prominent defences in terms of metaphor, one is impelled to the conclusion that the market universalists mean what they say – that those things really are markets.

Philip Mirowski (1997) provided an illuminating discussion of Michael Polanyi’s (1969) application of the ‘market metaphor’ to the organisation and advancement of science. Mirowski argued that Polanyi’s approach failed to take hold largely because it adopted market language without the utilitarianism of mainstream economics. This suggests that rhetorically successful market universalism might rely on a coupling with utilitarianism that avoids moral issues – such as justice or duty – which arguably cannot be reduced to matters of mere individual satisfaction (Hodgson 2013). The persuasiveness of market universalism may thus rely on its ability to subsume such moral questions, by reducing everything – in politics, law, science and elsewhere – to matters of ‘prices’ on markets.[13]

Note also that Becker (1976), Benson and Engen (1988) and others have used the term ‘economic analysis’ to describe their prolifically market-labelling analyses. The terms ‘economic approach’ or ‘economic analysis’ often seem to be in cohorts with market universalism. In this way, market universalism can become part of ‘economic imperialism’, in the sense of analysing all social and political phenomena with the tools of mainstream economics (Radnitzky and Bernholz 1987).

Does general equilibrium theory, especially in the tradition of Kenneth J. Arrow and Gerard Debreu (1954), constitute a form of market universalism? They assumed a model where ‘markets’ exist for all commodities, in all possible states of the world, for all points of time in the future. The answer to the question depends on whether, in addition, the model is presumed to cover processes or arrangements in the real world that are not really markets. Consequently, Arrow-Debreu general equilibrium theory, whatever its other vices or virtues, would constitute a case of market universalism only if it was wrongly and over-extensively applied in this manner to mythical markets. This is not necessarily the case. But a problem is that general equilibrium theory says little about the institutional details of such elemental phenomena as contracts or property, and thus offers little guidance to avoid the mistake.

4. Analytical problems with market universalism

The first and most obvious analytical defect of market universalism is that it impoverishes the concept of a market. The market may be defined in different ways (Rosenbaum 2010, Hodgson 2008, 2015a) and no single definition is being promoted here. But it is reasonable to suggest

[13] A later and more conventional ‘economic’ attempt to treat science as a ‘market’ phenomenon is Goldman and Shaked (1991). For criticisms see Mäki (1999, 2005).

that markets always involves property rights and enforceable contracts. Hence the appeal to the minimal requirements above.[14]

As demonstrated in section three, even by the very accommodating minimal requirements established in section two, several types of arrangement have been wrongly described as markets. The analytical problems raised in this section concern the feasibility of extending real markets to spheres where they have been absent.

This section does not consider the moral limits to market arrangements or processes. These have been energetically debated elsewhere.[15] The aim instead is to explore the practical and logical limits of market universalism. While some important policy implications are briefly explored in the next section, a fuller moral evaluation of markets is beyond our remit here. Nevertheless, some normative questions concerning efficiency cannot be avoided.

By the minimal stipulations above, markets involve rules. Just as some analysts conceive of 'markets for laws' (Benson and Engen 1988), market universalists should likewise envisage a market for those rules that are required for functioning trade or markets. There would then be a meta-market for market rules, and a meta-meta-market for those rules, and so on – an infinite regress. By this logic, markets would become more than universal – they would be infinite. But of course this would be impossible. With their finite cognitive powers, actors cannot cope with infinite information (Simon 1957, Radner 1968). The logic of infinite regress invalidates the notion that everything can be traded on markets. Similarly, Émile Durkheim (1984, p. 158) argued in 1893 that contracts require preconditions that cannot themselves be fully contracted: 'in a contract not everything is contractual'. All markets entail rules, and not all rules can be traded: this argument is valid in all circumstances.

There are also sound commercial reasons to prohibit markets from the legislature and the judiciary, which help sustain property and markets. For example, if judicial rulings were for sale to the highest bidder, then the security of property rights and their exchanges would be undermined. Hence Michael Walzer (1983) established the need for 'blocked exchanges' in some spheres, excluding markets from politics, the legislature and the judiciary.

Consider further the nature and use of information. It is well established that it has peculiar properties that make it different from standard commodities (Nelson 1959, Arrow 1962). For instance, once acquired by its buyer, codifiable information can often be easily reproduced in multiple copies, and possibly sold to others. Second, once it is sold, it also may remain in the hands of the seller. Third, the purchase is of something unknown. If we knew the information we were going to buy then we would no longer need to buy it. Instead, the purchase of information typically rests on some trusted source or authority.

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[14] It should also be noted that there is a very widespread tendency in both economics and sociology to use the commercial language of money and trade to describe phenomena that are neither traded nor have discernible monetary value. The boldest of these is 'social capital' (Bourdieu 1986). This was abetted by the shift of meaning of 'capital' (started by Adam Smith and continued, with important exceptions, by most economists) from a monetary phenomenon to *any* durable and useful entity or arrangement (Mitchell Innes 1914, Cannan 1921, Fetter 1930, Hodgson 2014, 2015a). These slippages of meaning facilitate market universalism.

[15] See O'Neill (1998), Satz (2010) and Sandel (2012). Despite its title (*Markets without Limits*), the book by Brennan and Jaworski (2016) does not claim that markets are ubiquitous. Instead they argue that any action that is moral, may morally be done for money. There are still things that are not sold, are restricted from sale or are beyond the possibility of sale. And there is still a substantive difference (even if it is not a moral one) between doing something for money and doing it for other reasons.

Consequently, in an economy involving substantial exchanges of information, it is sometimes difficult or even counter-productive to follow Friedrich Hayek's (1948, p. 18) advice and establish clear 'rules which, above all, enable man to distinguish between mine and thine.' Hayek, of course, rightly emphasized the importance of information and knowledge. But information challenges the bounds of exclusive and individual property.

What is possessed cannot always be clearly defined, because to define it fully is to give it away. It is not always possible or efficient to break up information into discrete pieces and give each one an ownership tag. Through the use of patents, licenses, copyright and so on, ideas can become intellectual property and traded on markets. But there would be problems if all information became tradeable property. The extension and subdivision of ownership in a densely interconnected knowledge economy can create an 'anti-commons' where extensively divided and interconnected rights – in a real world with positive transaction costs – obstruct investment and trade. The problem applies particularly to patents and other intellectual property and has become more severe in an increasingly knowledge-intensive economy (Heller 2008, Pagano 2014).

As market economies have become more complex, informational needs have become much greater. While much information and knowledge cannot readily be shared (because of tacitness, interpretative difficulty, or inaccessibility) much else can, and this can be of huge productive value. Over-restriction of the cheaply-acquired benefits of shared possession of non-rivalrous informational assets can generate remarkable inefficiencies. Consequently, the benefits of private and contractual provision of some information may be much less than the overall opportunity costs of charging a price for its use. A healthy market system itself depends on missing or incomplete markets for information.

Other markets are missing or incomplete. In today's developed market economies most people work under an employment contract. But crucially, employment contracts are for a limited period of time into the future. We cannot legally trade our life away in a lifetime contract. This would be tantamount to voluntary servitude.

There is some future contracting for labour, such as when a student receives financial support from a company, in return for a commitment to work for some years in the firm. But the time period is typically a few years, amounting to a small fraction of the student's future working life. Also, in modern, knowledge-intensive market economies there are sometimes 'non-compete' agreements with skilled employees, that prevent them leaving a firm and working for a rival for a while. These restrictive agreements are still far short of lifetime contracts.

For this reason, under a market system with employment contracts, there can never be a complete set of markets for labour power. Although capitalism has meant a huge extension of property and markets, it has also, by freeing labour from servitude, created *missing* markets for labour futures. For there to be full futures markets for labour, all workers must be able to enter into contracts for every future instant in their expected working life. Such a complete curtailment of future discretion would be voluntary bondage. The uncertainties involved in modern, complex, dynamic economies make such extensive future contracting impractical.[16]

Unlike some other missing markets – as with some externalities – there is in principle no satisfactory contractarian solution, within a market economy with wage labour, to missing markets for labour power. Enforcing detailed and extended property and contracting rights,

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[16] Radical uncertainty prevails in areas of contracting other than the labour market, likewise making extensive futures markets problematic.

would limit the freedom of workers to quit their employment. Typically, workers are employed under a contract that allows exit, subject to notice of a few months. The limitation of extended futures markets for labour is an important safeguard of the freedom of the employee.

Also the future supply of labour power is not something that can be contracted at source, because babies cannot legally be farmed and sold as commodities within a system without slavery. Because they are not then objects of ownership, human infants and their future labour power are not themselves produced under market arrangements. In an economy with markets and free labour there are unavoidable missing markets for the original production of human resources.[17]

The absence of futures markets creates a problem for the employer with the existing workforce. If the employer spends money on employee training and skill development, then this investment is lost when the worker leaves. As a result, without compensatory arrangements, employers might under-invest in human learning and education. As Alfred Marshall (1920, p. 565) pointed out: 'we meet the difficulty that whoever may incur the expense of investing capital in developing the abilities of the workman, these abilities will be the property of the workman himself: and thus the virtue of those who have aided him must remain for the greater part its own reward.' The implications of this have been addressed in different ways.[18]

The problem of missing markets has been addressed within Arrow-Debreu general equilibrium theory. If one of the commodity-, state- and time-dependent markets is missing, then the absence of key information concerning prices on that missing market can cascade through the system and affect the overall outcome. The efficiency of other markets can be spoilt.

Accordingly, Oliver Hart (1975, p. 442) showed that in 'an economy with incomplete markets … the usual continuity and convexity assumptions are not sufficient to ensure the existence of equilibrium' and in such circumstances a market equilibrium may be Pareto suboptimal. Furthermore, 'if we start off in a situation where markets are incomplete, opening new markets may make things worse rather than better. In this respect, an economy with incomplete markets is like a typical second best situation.' Likewise, Michael Magill and Martine Quinzii (1996) showed that missing markets can lead to absent or indeterminate equilibria in existing markets.[19]

Clearly, the occurrence of missing markets has major implications. We are in the world of 'second best' solutions. As Richard Lipsey and Kelvin Lancaster (1956) famously demonstrated, when one or more optimality conditions cannot be satisfied, it is possible that the next-best solution involves changing other variables away from the values that would otherwise be optimal. If it is infeasible to introduce a well-functioning market in any part of the system, then it is possible that the introduction of further market distortions or restrictions may partially counteract that omission, and lead to a more efficient outcome. There is no 'one-size-

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[17] Sometimes babies are adopted in return for payment. Becker (1991, pp. 362 ff.) wrote of babies being sold. Posner (1994, p. 410) rightly responded: 'The term *baby selling* … is misleading. A mother who surrenders her parental rights for a fee is not selling her baby; babies are not chattels, and cannot be bought and sold. She is selling her parental rights.'

[18] Consider the various literatures addressing 'non-firm specific human capital' and on training policies. See for example Almazan et al. (2007) and Thelen (2004).

[19] Magill and Quinzii (1996) weakened their argument by treating missing markets primarily as a result of the limitations of the human psyche, rather than also of specific social structures. Hence they overlooked the important missing markets for labour and future skills.

fits-all' policy solution where the removal of market impediments always brings efficiency or welfare. On the contrary, welfare outcomes of such interventions could be positive or negative – they would be dependent on context (Lipsey 2007).

This discussion has shown that there are different kinds of missing market. It is not possible for markets to embrace everything: in particular there cannot be markets for all information or all rules. Other markets are missing because of practical, customary or legislative constraints. These constraints may be removable or irremovable, desirable or undesirable, or consistent or inconsistent with our freedom. If a ban on slavery exists, then futures markets are missing in order to preserve the future discretion of employees.

The relevant problem with market universalism is that missing markets are often overlooked or denied. Among the leading proponents of market universalism, discussion of incomplete or missing markets is rare. If they are identified, then the impulse may be to call for their removal. The impetus is to propose market solutions, without consideration of the practical and institutional limits to markets themselves. Consequently, a whole literature on the sub-optimality of systems with missing markets, and consequent appeals for state regulation or other solutions, is simply evaded.

5. Policy temptations of market universalism

Generally it is difficult or hazardous to derive an *ought* from an *is* – a normative claim from an analytic claim.[20] But statements concerning what things are, or how they work, can enable normative stances without logically entailing them. Market universalism is an analytic claim that is logically compatible with very different policy viewpoints. However, the misuse of the term *market,* to cover arrangements that are not best described in such terms, opens up pro-market normative possibilities. It removes conceptual barriers to pushing actual non-market arrangements towards genuine market mode. If most things are already seen as markets, or they are deemed to have an immanent tendency to become markets, then it might seem of less consequence to make some of them ring and bustle more noisily with price-calls and deals. Normative objections to the extension of markets are removed by the market universalist claim that preceding arrangements are already markets. The temptation then is to ally market universalism with normative policies such as privatization and deregulation.

But while the pro-market temptation exists, and it is evidenced in the history of ideas, it cannot be sustained simply by the statement that markets are ubiquitous. Furthermore, issues such as privatization and deregulation have to be evaluated in their own terms and in the circumstances of their application. Either for or against, there is no ideological quick fix.

An even more serious policy temptation within market universalism lies elsewhere. Through notions such as 'political markets' and 'markets for laws', market universalism conceptually dissolves the state and its legal system into generally a marketized vision of society. They all become one and the same. The state and law become additional markets alongside others. The most consequential policy temptation within market universalism is the marketization of society and the state, and the denial of the autonomy of politics.

This temptation is not based on a claim of the superiority or desirability of markets, because market universalism claims that markets are already there. Instead the temptation is to downgrade all non-commercial justifications for democracy, law or social life. Everything is

[20] But pushed to the extreme, the is/ought and fact/value distinctions become challengeable (Putnam 2002).

forced into the conceptual straitjacket of property and contract, and evaluated in terms of profit and loss.

Leading market universalists like von Mises have been described as classical liberals, particularly in their defences of private property and commercial liberty. But their market universalism is a departure in some important respects from the Enlightenment liberalism of the eighteenth and nineteenth centuries, and from other more recent currents of liberal thinking.

One of the great achievements of Enlightenment liberalism was the notion of civil society, which was distinguished both from the state and from the narrower world of trade or business. The idea was characteristic of the classical liberalism of John Locke, Adam Smith, Adam Ferguson, Thomas Paine, Alexis de Tocqueville, John Stuart Mill, and others. The importance of a relatively autonomous civil society was also sustained after more interventionist forms of liberalism had been developed by, for example, John A. Hobson and John Maynard Keynes.

Civil society is a contested concept, having several definitions. But it generally connotes a social realm of free, partly self-organising, property-owning citizens, who interact under the rule of the state and its laws. In most accounts it includes private business and markets, but it is not reducible to them. As well as trade unions and employer associations, it embraces many forms of social association (including recreation, religion and philanthropy) that are not driven by business interests. A distinction between civil society and government is signalled by Smith's (1776) separation of the 'the obvious and simple system of natural liberty' from the state. It was developed by Ferguson, Paine, Hegel, de Tocqueville and others (Arato and Cohen 1992, Keane 1988, 1998, Kumar 1993, Gellner 1994).

Whatever the precise meaning of civil society, the crucial claim is that it is different from the state, notwithstanding their interdependence and the difficulty of drawing boundaries between them. Market universalism doubly undermines this separation. First, civil society is reduced to matters of property and contract. Second, politics is seen as a market as well.

Making everything a market denies the autonomy of law and politics: everything is subsumed within the market zone. All forms of association are regarded as market or contractual arrangements. Legal and political relations or rights are reduced to the 'economic' facts of possession or control.

Politically this departs from much Enlightenment thinking. Previous liberal thinkers had defended individual rights to private property, other human rights, and institutions such as democracy. By contrast, market universalism may promote control over property first, on the grounds that it is the foundation of all other rights and liberties. Property moves from being a necessary condition of liberty, to being necessary and *sufficient* for the same.

This transforms the prominent Enlightenment argument that the government must be legitimated by representative democracy, rather than by tradition or divine rule. The 'political market' may suggest that market criteria become the overriding means to legitimize democracy. Once this market logic prevails, democracy may be seen as secondary or expedient, especially when property or markets are perceived as being under threat. By treating democracy as another market, a temptation is to regard markets and property as generally more important or supreme than democracy.

There is an important division in the liberal and libertarian literatures between those that ground major policy arguments on claims about human rights (such as John Locke and Robert Nozick), and those who justify policy arguments generally on consequentialist or utilitarian grounds of what is ultimately deemed best for individual liberty, sovereignty or satisfaction (such as Ludwig von Mises, Friedrich Hayek, Milton Friedman and James Buchanan). Strong rights-based arguments are typically more difficult to encompass within the precepts of market universalism, because they transcend matters of demand, want or consent. By contrast, some utilitarian arguments dovetail more readily with the market-driven calculus of profit and loss.

Consequentially, despite other similarities, market universalism enables something very different from other forms of liberalism. One may be tempted to call it *neoliberalism*. This is the label suggested by Philip Mirowski, who addressed what he called the Mont Pèlerin 'thought collective'. In a perceptive essay on this influential intellectual movement, which involved Hayek, Friedman, Mises and others, Mirowski (2009, p. 456) identified traits including the following:

> Skepticism about the lack of control of democracy is offset by the persistent need to provide a more reliable source of popular legitimacy for the neoliberal market state. *Neoliberals seek to transcend the intolerable contradiction by treating politics as if it were a market and promoting an economic theory of democracy.*

A problem here is that 'treating politics as if it were a market' is neither a defining, formative nor universally-held position within the Mont Pèlerin Society, although it eventually became a prominent view (Hartwell 1995, Burgin 2012, Stedman Jones 2012). There are also important differences on this and other points between Hayek, Friedman, Mises and other prominent Mont Pèlerin figures. Another difficulty is that it is doubtful that sufficient precision and restraint can be restored to the term 'neoliberalism'. It has become an over-applied and typically abusive term, with highly varied usages.[21]

But substance matters more than any label. Clearly, there is a prominent strain of modern thought that tries to justify everything in the utilitarian, market-like terms of voluntary wheeling-and-dealing and resulting individual satisfactions. This 'neoliberalism' means that there are no longer any worthwhile moral values or principles that cannot be given a market price.

We may note an odd similarity with Marxism in this area, despite other major differences in theory and policy. The Marxian analysis of capitalism treats law and the state as an expression of class interests, which in turn are grounded on 'economic relations'. Hence Marx in 1859 saw law and the state as having 'their roots in the material conditions of life' (Marx and Engels 1962, vol. 1, p. 362).

But Marx went much further. As in the writings of market universalists, civil society was itself reduced to these economic relations. Marx wrote in 1843: '*Practical need, egoism,* is the principle of civil society … The god of *practical need and self-interest* is *money'* (Marx and Engels 1975, p. 172). Civil society, for Marx, was the individualistic realm of money and greed. Hence Marx concluded that 'the anatomy of civil society is to be sought in political economy' (Marx and Engels 1962, vol. 1, p. 362). The analysis of the political, legal and social spheres was to be achieved with an economics based on the assumption of individual self-interest.

As with market universalists, the state, law and politics under capitalism were made analytically subservient to this dismembered, economistic vision of civil society. Accordingly, Frederick Engels wrote in 1886 that under capitalism 'the State – the political order – is the subordinate, and civil society – the realm of economic relations – the decisive element' (Marx

[21] On the ambiguities of 'neoliberalism' see Venugopal (2015) and Kolev (2016). Further discussion of the history and various meanings of 'neoliberalism' is far beyond the scope and requirements of this essay.

and Engels 1962, vol. 2, pp. 394-5). Hence everything was deemed a matter of greed and commerce, to be understood through economic analysis alone.[22]

These may be regarded as extreme formulations within Marxism. Certainly there are more sophisticated and less reductionist treatments by Marxists of civil society and the state, not least by Antonio Gramsci (Kumar 1993). But the striking resemblance between the words of Marx and Engels and the ideas of prominent market universalists is clear. Together they reduce everything to the economics of trade, eclipsing the autonomy of politics and law, and neglecting the vital importance of non-commercial interaction and association within civil society.[23]

6. Conclusion

While absolute precision is unattainable, ongoing vigilance in the use of terms and metaphors is vital. It is suggested here that there is much more involved than casual analogy to the persistent use of the term *market* to describe a huge range of economic, political, social and legal phenomena. This market universalism is connected to 'economic imperialism' and to the use of prominent utilitarian versions of the 'economic approach' to attempt to analyse all sorts of phenomena.

This paper shows that, by reasonable criteria, involving minimal attention to the institutions and rules involved in a world of contracts a trade, the term *market* is miss-used in instances such as 'markets for ideas', 'political markets', 'markets for laws', 'internal markets' in business firms and even 'markets for corporate control'. Often, these things are not true markets.

Market universalism sustains a vision of a world of contracting agents and opportunity-grasping entrepreneurs. This may describe an important part of reality but it is also important to be clear what arrangements are *not* markets. Furthermore, it also must be understood that not everything can be traded on a market. This is not simply a moral issue: it is also a matter of logic. To avoid an infinite regress, the rules and institutions used to constitute contracts and enable trade cannot themselves be the objects of market exchange.

It is also important to understand that a market system with 'free' wage labour (in contrast to slavery) inevitably entails some missing futures markets for future labour. Otherwise that labour would be bonded by contracts for life. Without remedial measures, this lacuna has multiple consequences, including, as Marshall (1920, p. 565) recognized, under-investment in on-the-job training in necessary skills.

More broadly, by an important theoretical literature, the existence of missing markets means that attempted market solutions to inefficiencies cannot be guaranteed to work (Lipsey and

[22] Note that these remarks concern the Marxian analysis of capitalism, not its vision of an ideal society, which of course is strikingly different from that of all liberals. While Marxian analysis undermines the conceptual distinction between civil society and the state (Cohen 1982), Marxian politics dissolves it in practice. For example, in the Soviet Union, the ideas of Marx and Lenin led in reality to the dissolution of much of civil society, or to its absorption by the state (Polan 1984). Once much of the economy becomes a state bureaucracy, and private association is put under restriction, then the scope of civil society is much diminished.

[23] Putnam's (2000) classic study of the erosion of American community life is highly relevant here. But the eager promotion of the language of *social capital* similarly and ironically nudges the realities of non-commercial interaction and association into the same economistic box (Hodgson 2014, 2015a).

Lancaster 1956, Hart 1975, Magill and Quinzii 1996, Lipsey 2007). By with its claims concerning market ubiquity, market universalism slurs over this problem.

Although market universalism is not primarily a normative doctrine, it gives rise to major policy temptations. The most serious of these is the conceptual dissolution of the state and the polity into the 'economic' sphere of the 'market'. The boundary between the political sphere and the economy or civil society is dissolved. In particular, by treating democracy as a market, the possible further temptation is to regard markets as generally more important than democracy.

Accordingly, market universalism can be used to undermine the argument of Enlightenment thinkers that the major role of democracy is to legitimate government. Instead, everything is legitimated by free contract, and by the operation of unfettered markets in all spheres of human interaction, including within the state itself. In this way, by dissolving the distinction between civil society and the state – a move it shares with some versions of Marxism – market universalism enables a radical break from other forms of liberalism, and from all other doctrines that recognise the relative autonomy of the political and legal spheres from the economy and from civil society.

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