A Dilemma for Expressive Arguments Against Markets*

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An expressive (or semiotic) argument holds that some social practice is objectionable because it has an objectionable meaning or is required in order to express something valuable. Such arguments have been particularly popular among anticommodificationists. Yet expressive arguments against markets face a dilemma, which we can initially put in terms of a familiar Gricean distinction between two uses of 'meaning'. Can the dilemma be avoided by a third use of 'meaning' to characterize the performative dimension of action? The performative account provides a promising conception of expressive arguments in ethics, but it does not vindicate their use in anticommodificationist claims.

I. EXPRESSIVE ARGUMENTS

Are there any viable expressive arguments in ethics in general and about markets in particular? An expressive (or semiotic) argument holds that some social practice is objectionable because it has an objectionable meaning, or that some social practice is required in order to express something valuable. Such arguments appear in many places, but they have been particularly popular in debates about whether certain goods and activities should be off-limits to the market—perhaps because they promise a degree of decisiveness that arguments about the empirical causes and consequences of market behavior lack.

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An expressive objection to the commodification of a thing claims that even if there is no independent consequentialist or deontic objection to marketing the thing—such as that it is exploitative or causes third-party harm—there remains a problem with what is said by participating in that market. Consider Sandel's arguments against markets in death bets and children (among other things).[1] Sandel claims that even if these markets are not exploitative, do not exacerbate inequality, and do not set the wrong incentives, they are nonetheless objectionable because of what they express. Betting on a stranger's death in the context of a terrorism prediction market is wrong because it signals a "dehumanizing attitude."[2] And even if auctioning off orphans did not result in any harm to them or others, such a "market in children would express . . . the wrong way of valuing them."[3]

While commodification and the limits of markets will be my focus, expressive arguments are used very widely in moral and political philosophy.[4] These arguments are appealing because they seem to ground objections that are intrinsic, necessary, and a priori. Consider Sandel's thought that a terrorism prediction market expresses a dehumanizing attitude. The claim is necessary since it does not rest on the contingent costs and benefits of a terrorism prediction market. Since the argument requires no empirical judgments about contingent consequences, it is a priori and available to the philosopher from their armchair. The claim is also intrinsic in the sense that it rests only on facts internal to the practice: It promises that there is something wrong with terrorism prediction markets themselves, rather than their consequences or the attitudes of their participants. That means that the only way we can correct the moral flaws arising from a terrorism prediction market is by prohibiting it.

Despite this appeal, our best objections to a particular market are likely to rest on the contingent features that make it exploitative, or

1. Michael Sandel, *What Money Can't Buy* (Farrar, Straus & Giroux, 2012).

2. Sandel, *What Money Can't Buy*, 146.

3. Sandel, *What Money Can't Buy*, 10.

4. We find them deployed in arguments about egalitarianism (e.g., John Rawls, *A Theory of Justice*, rev. ed. [Harvard University Press, 1999], 156; Elizabeth Anderson, "What Is the Point of Equality?," *Ethics* 109 [1999]: 287–337, 289), democracy (e.g., Ronald Dworkin, *Sovereign Virtue* [Harvard University Press, 2000], 185, 200), punishment (e.g., Joel Feinberg, "The Expressive Function of Punishment," *Monist* 49 [1965]: 397–423, 400; Dan M. Kahan, "Social Meaning and the Economic Analysis of Crime," *Journal of Legal Studies* 27 [1998]: 609–22; Gregory M. Gilchrist, "The Expressive Cost of Corporate Immunity," *Hastings Law Journal* 64 [2012]: 1–56), discrimination (e.g., Deborah Hellman, *When Is Discrimination Wrong* [Harvard University Press, 2011]; Andrea Sangiovanni, *Humanity Without Dignity* [Harvard University Press, 2017], 132; Soni Bedu, "Expressive Exclusion," *Journal of Moral Philosophy* 7 [2010]: 427–40), equal pay (e.g., Matthew Caulfield, "The Expressive Functions of Pay," *Business Ethics Journal Review* 6 [2018]: 1–6; Sandeep Gopalan, "Say on Pay and the SEC Disclosure Rules: Expressive Law and CEO Compensation," *Pepperdine Law Review* 35 [2008]: 207–46), and so on.

undermine civic activity, and so on. That such objections are not available to us as a matter of armchair reflection does not reduce their potential seriousness. And it's not clear that a better bargain is available to us. The appeal of expressive objections as intrinsic, necessary, and a priori is elusive. Once we take care to identify the proper target of an expressive argument, we find that it is based on either contingent facts about particular market participants or facts about the social context of the market. That is, in brief, the shape of an apparent dilemma that confronts expressive arguments against the market once we take into account a Gricean distinction between two meanings of 'meaning'. The dilemma is set out in Section II.

There is a narrow path of escape, and the horns of the dilemma establish the terms of a successful expressive objection. That path is suggested by an account by Elizabeth Anderson and Richard Pildes, though Section III finds that they do not quite resolve the Gricean dilemma. Taking this near miss as a starting point, Section IV presents a conception of performative meaning that can make good on the promise of the expressive arguments. A performance is constituted by a commitment to a psychological attitude, often by way of a sincerity condition, as is found in many speech acts. As such, performatives have a noncontingent and expressive relation to the relevant attitude. Section V points out that markets are constituted by performatives and therefore have an expressive dimension. But this expressive dimension is not intrinsically objectionable. Instead, concerns arise (if they do) because of the contingent interaction between the market's expressive dimension and other social practices. So, while we can make sense of an expressive argument against a particular market, its soundness rests on its empirical assumptions about the market's social context.

II. THE DILEMMA

The expressive arguments used by anticommodificationists and others seem to face a dilemma owing to the familiar Gricean distinction between two uses of 'meaning'. There is a difference between saying that smoke on the horizon means fire and saying that it means that there will be war tomorrow.[5] I'll say that in the former case smoke *indicates* fire because of its causal connection with fire and that in the latter case smoke *represents* a call to war because that is the nonnatural meaning given to it by convention or by its place in a communicative practice.[6]

5. H. P. Grice, "Meaning," *Philosophical Review* 66 (1957): 377–88.

6. My use of 'indication' must be contrasted with that of Dustin Crummett, "Expression and Indication in Ethics and Political Philosophy," *Res Publica* 25 (2019): 387–406. Crummett uses 'indication' for the narrower case of costly signaling.

Even if there is a way of unifying these uses by way of a single semantics of 'means',[7] the phenomena they identify are worth distinguishing for normative purposes. That is because causal indication relations are nonrevisable, whereas representation relations are revisable in principle. Smoke indicates fire owing to a causal connection that obtains in virtue of the laws of nature, and it is not open to us to revise such a natural fact. But smoke represents war because of someone's symbolic practice, and while symbolic practices can be very difficult to change (especially when they are not ours), they are in principle open to revision in a way that causal relations are in principle not. That matters for what we should do. If we don't like what smoke "means" (in the ambiguous sense), there is one more thing we can do about it in the representational case—we can try to change what smoke represents.

This distinction adds support to an anti-anticommodificationist argument articulated by Jason Brennan and Peter Jaworski.[8] Here is a naive form of the argument: Suppose that there is some expressive objection against a market *M* in virtue of the fact that its existence (or the fact that people participate in it) says something objectionable *p*. Then, either we could respond by eliminating *M*, or we could change our understanding of what *M* means. Now, if there is no further objection against *M*, then there is an open question regarding which of these alternatives to pursue. Indeed, given the allocative efficiency of markets, we seem to have a prima facie reason to change our understanding of what *M* means rather than eliminating the market. But whichever way we end up deciding, note that the expressive objection is no longer a knockdown argument against the existence of *M*. Instead, it puts us to the task of considering the various features of the market and the alternatives, including their contingent empirical features. Let's call this "the collapsing move," since it collapses an expressive objection against *M*—an objection that is apparently necessary, intrinsic, and a priori—into an objection that turns on contingent empirical features of *M*, including its extrinsic consequences.[9] So the argument shows not that expressive objections are incoherent but that they lack their apparent appeal.

The foregoing articulation of the collapsing move was not clear about the sense in which *M* means *p*. But the distinction between meaning as

7. See Stephen Neale, "Means Means Means," talk of the Workshop on Language and Communication, posted May 24, 2019, by ILCLI, YouTube, https://www.youtube.com/watch?v=VmIBJHjv46g.

8. Jason Brennan and Peter Jaworski, "Markets Without Symbolic Limits," *Ethics* 125 (2015): 1053–77; however, they do not articulate the argument as part of a dilemma. I do that in Julian D. Jonker, "The Meaning of a Market and the Meaning of 'Meaning,'" *Journal of Ethics and Social Philosophy* 15 (2019): 186–95.

9. Anthony R. Booth, "The Real Symbolic Limit of Markets," *Analysis* 78 (2018): 198–207, 200.

indication and meaning as representation supports the argument by giving rise to a dilemma for expressive views: The expressive objection must rely on either an indication relation or a representation relation, but in each case it fails to have the appealing features that expressive objections are supposed to have. The dilemma can be articulated for each kind of apparently appealing feature of expressive objections, that is, that they are necessary, a priori, or intrinsic. For the sake of brevity, I will focus on the necessity claim and leave the others as an exercise for the reader.

Before considering this refined version of the argument, note that the target of the objection is the generic action of participating in a market.[10] We can have all sorts of reasons to object that a particular person buys or sells this or that thing. It may be harmful, irrational, insulting, and so on. But for the objection to have the sort of ambition that identifies anticommodificationism as a stance against the relevant kind of market, it must be an objection against the generic action of participating in such a market (which I'll call "market participation as such," leaving implicit the relevant kind of market), rather than an objection that is tied to the particular attributes of a particular market participant. For example, it is not enough to object that many buyers in a market for sex work are misogynistic. That is a complaint against those individuals. What the anticommodificationist aims at is the claim that a buyer who is not independently misogynistic is nonetheless engaging in something misogynistic in virtue of participating in the market.[11]

Now let's consider the dilemma. On the first horn, we suppose that *M* indicates *p*. Suppose in particular that the relation of indication is the evidential one of *M*'s existence being evidence for the fact that *p*. As an example, consider Sandel's claim that the existence of a prediction market in death bets shows that we (who allow the market to exist) or at least the bettors (who participate in it) lack respect for human life.[12] This evidential claim is compatible with the further specifications that the market causes these attitudes, or that it is a product of these attitudes. I assume that Sandel has the former in mind, given his frequent claim that such markets "corrupt" participants, but we could run the collapsing argument on either specification. For in either case our objection appears to be in

10. This point echoes the fact that a certain kind of generality is widely important in ethics, though this importance has not been sufficiently discussed. See Michael Thompson, *Life and Action* (Harvard University Press, 2008).

11. Beyond anticommodificationist arguments, there may well be expressive objections that target particular actions and their agents. Objections against discrimination seem like a good candidate, since even when targeting individuals they have the further ambition of showing that the discriminatory action wrongs not only the victim but also other individuals who share the property that forms the basis of the discrimination. Julian Jonker, "Beyond the Comparative Test for Discrimination," *Analysis* 79 (2019): 206–14.

12. Sandel, *What Money Can't Buy*, 131–62.

the first place against the attitudes of bettors and only instrumentally against markets in death bets.

To see this, consider (without loss of generality) the case in which a market is evidence of an objectionable attitude because it creates such attitudes. Since we are assuming that the attitudes are indeed objectionable, it is here that we rely on the assumption that the anticommodificationist's target is market participation as such. For it is not enough to pick out the known objectionable attitude of a particular market participant—that would result in an objection against the participant and not the market. The anticommodificationist must instead show that market participation is reliably associated with the objectionable attitude. This is already an empirical claim that could not be established from the armchair. Furthermore, the objection to market participation as such obtains only insofar as we could not block the causal link between market participation and the objectionable attitude, and this is a further empirical premise. For it is in principle possible that we could devise some therapy that helps the bettors (or all of us) repair our objectionable attitudes, while retaining the market in death bets and its benefits. Whether we could in fact do so and whether it would be worthwhile to do so are empirical facts.[13]

Taking the other horn of the dilemma, we understand *M* means *p* as the claim that *M* represents *p*, which is to say that there is some communicative practice in terms of which *M* has the meaning *p*. There might be some initial puzzlement about how a market exchange could represent anything objectionable. Setting terms of a market exchange does directly involve representation, whether in the form of bargaining statements, price stickers, or contractual terms. To the extent that these are necessary for exchange (e.g., not dispensable marketing copy), any objection would not be a distinctively expressive objection, but rather an objection to the terms of the exchange.

So expressive objections tend to be aimed not at such explicit statements made in the course of exchange but at the fact that a good or service is of a certain kind. For example, the sale of sex may be thought not to indicate but to represent that sex has a certain objectionable value or status, such as that it can be detached from reciprocal intimate relationships.[14] Such representation is thought to be possible in the absence of any market participant intending to communicate the objectionable claim.

13. Brennan and Jaworski, "Markets Without Symbolic Limits," 1075, make the further claim that any such therapy is likely to be worthwhile. But we don't need to follow them in these speculative claims—indeed, we shouldn't without further empirical investigation.

14. Brennan and Jaworski, "Markets Without Symbolic Limits," 1061, interpret an expressive argument against sex work by Elizabeth Anderson in the following way: It "begins with the premise that offering money for services tends to communicate estrangement. Since it can be wrong in some cases to communicate estrangement, it can be wrong to

To the extent that this is possible, it must be because our communicative practices extend beyond linguistic practices which assign meanings to written and spoken words and include practices that give significance to actions and objects, as in the case of the gestures of semaphores or the crosses and other items we make into altars and memorials. Moreover, our communicative practices extend our communicative capacities in ways that lead to their being activated by various noncommunicative phenomena outside the intended scope of the practices, such as the shapes of clouds or the facial tics of a gassy baby. Such examples suggest that our communicative capacities are sufficiently easily triggered that parts of our lives that are not intended to bear representational content can nonetheless easily become entangled in our representational practices.[15] In the marketplace, this may lead to an exchange of one thing for another counting as a representation of the noneconomic value of one of the exchanged items.

Suppose then that *M* has somehow been entangled in a communicative practice in such a way that we take it to represent *p*. We may even imagine a communicative practice which positively assigns *M* the communicative role of representing *p*. The problem for either such objection is that it relies on a communicative practice which is in principle revisable, even if revisable with difficulty. We sometimes change what our words mean, and sometimes they simply change over time. The most vivid of these cases involve reappropriation of pejorative words or slurs, such as the redeployment of the word 'troll' by early internet users and the reappropriation of the word 'queer' by activists in the 1980s. Even where a sign, like the swastika, is associated with historical trauma, it is in principle possible to change its meaning—though this might involve obviously objectionable costs like inducing mass amnesia.

The in-principle revisability of a representational practice entangled with the market in an objectionable way raises two difficulties for an expressive objection. First, we must decide whether to revise the representational practice and maintain the market or maintain the representational practice and limit the market. If, in our representational culture, the permissibility of selling sex represents it as objectionably detachable from intimate relationships, then we can either prohibit selling sex or engage in a campaign to change our views about what selling sex represents. Which of these is better will hardly be obvious from the armchair, since it depends in part on empirical questions about the welfare and distributive impacts of each alternative on potential market participants and others.

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buy and sell services within certain relationships—such as between romantic partners, between fellow citizens, among friends."

15. Perhaps this explains why we so easily conflate indication and representation.

Second, the fact that the representational practice could have been otherwise highlights the fact that the objection arises not because of the market itself but because of the market's entanglement with another social practice. This is relevant in cases in which it seems obvious from the armchair that nobody can feasibly set out to revise the practice, or that it is too costly for individuals or states to actively revise the practice. In such cases an individual can choose either to avoid participating in the market so as to avoid the objectionable representation or to deny that they are endorsing the representation and protest the representational status quo. The fact that the representational practice is in principle revisable but not feasibly revised might afford such an individual an excuse. Furthermore, it is an open question whether the individual's triggering of the representational practice is ethically worse than denying themselves and their potential counterparty the benefits of the market. This is in part an empirical question. A similar question arises for states deciding whether to prohibit a market or deny its representational import.

In addition to this second difficulty for the expressive argument, we should be skeptical about claims that certain representational practices are not feasibly revisable. Perhaps the claim relies on the thought that certain actions are meaningful because of natural human reactions. For example, it may be difficult to avoid reacting with an emotion like disgust to the sale of human body parts or fetal tissue. Yet we can imagine changing the importance we rationally place on such recalcitrant natural responses. It is probably impossible to eliminate all immediate feelings of offense, but it certainly is possible to change how much attention one places on those feelings and how much influence they have on one's responses. There is no reason to think that we cannot continue to decrease the attention-worthiness and reaction-worthiness of these natural responses. That doesn't mean that we should always do so, but a sound rule is that we should do so when the burdens of making the change are outweighed by its benefits. That is just the collapsing argument again.[16]

Another argument for nonrevisability claims that a representational role might be practically necessary in that we could not successfully deliberate about revising it, given its influence on our practical thought.[17] One

16. Of course, the collapsing move will seem perverse in cases in which our feelings of offense are in fact valuable, say, because they are grounded in the fact that the relevant practice treats certain participants badly in some nonexpressive way. But in that case we should abandon our expressive objection to how the practice represents its participants and focus on the more direct nonexpressive objection to how it treats them.

17. The concern is raised by an anonymous reviewer as a way of pressing me to show that revisability is a "live" option even where it is agreed that the practice is contingent. Beyond the kinds of practical recalcitrance discussed in the text and the preceding paragraphs, I do not see how else to make sense of "liveness" aside from the consequentialist calculus. The reviewer also considers an analogous example in arguing against revisability. Conceding that the

example, I think, is our deontic talk. I doubt that we could make sense of our (modern) moral judgments without ideas such as those represented by 'ought' and 'may'. Perhaps that means that we could not decide that we morally ought to eliminate our concept of "ought."[18] But our practice of deontic talk assigns particular representational roles to such words as 'ought' and 'may'—and it may well have assigned those roles to different signs. It is hard to see how the words assigned to these roles are nonrevisable in virtue of the practical necessity of the roles. The thought that there are practically ineliminable expressive concepts will play an important part in the positive account developed in Section IV—but it is unclear how it could help an expressive argument based on representational entanglement.

III. A THIRD WAY?

I have argued elsewhere that a range of proposals are unsuccessful in navigating this dilemma.[19] Here, I consider a promising but ultimately unsuccessful suggestion by Elizabeth Anderson and Richard Pildes.[20] They start with the claim that the expressive significance of an action is a matter of how it embodies and manifests the actor's state of mind.[21] The idea

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meaning of blackface rests on contingent facts, they note that "there is something obtuse about responding to claims that a particular Blackface performance is racist by suggesting that we could simply change the social meaning of the performance . . . for this is possible only in a slightly cosmic sense of possible that has rather little connection to our daily use of moral categories." The admitted plausibility of this example rests on two distinctive features that are not shared by the anticommodificationist's target. First, the example is one of a particular racist performance. Insofar as a particular instance of a racist practice derives its meaning from the practice, then it must be admitted that the meaning of the instance as such is likely impossible to revise. But, as pointed out above, the anticommodificationist targets the generic action of market participation. Second, blackface performance is a representational practice in a way that market interaction is not. Whereas blackface performance is constituted as such by its representational significance, market exchange is merely entangled in our representational practices. The representational significance of a practice that is constituted as that practice by facts about what it represents does indeed exhibit a kind of practical necessity—in virtue of the fact that it would no longer be that practice without its representational significance.

18. This should be controversial, if it is anything like the claim that we cannot rationally revise our logic. See, e.g., Hartry Field, "The Normative Role of Logic," *Proceedings of the Aristotelian Society* 83 (2009): 251–68.

19. Jonker, "Meaning of a Market."

20. Elizabeth S. Anderson and Richard H. Pildes, "Expressive Theories of Law: A General Restatement," *University of Pennsylvania Law Review* 148 (2000): 1503–75. Their view, which they describe as "legal expressivism," should be distinguished from the view that law can "expressively" cause behavioral change by way of signaling attitudes to others. For the latter view, which is primarily an empirical hypothesis about the law's effect on behavior, see Richard McAdams, "An Attitudinal Theory of Expressive Law," *Oregon Law Review* 79 (2000): 339–90.

21. Anderson and Pildes, "Expressive Theories," 1506–7.

is not just that an expressive act is the bodily symptom of an attitude or thought, as tears often are of sadness, but that it makes the particular attitude recognizable by others.

Anderson and Pildes contrast this conception of expression with both the indication and communication relations. Music can express sadness without indicating it: The musician may lack the attitude even though their playing manifests that attitude. As they put it, "the sadness is in the music itself," by which I understand them to mean that it is in the playing of the music.[22] On the other hand, communication requires more than expression insofar as it requires expressing an attitude with the communicative intention that others recognize the attitude by recognizing this very communicative intent. A musician may attempt to communicate sadness by intending that we recognize both her expressive intentions and her intention that we do so. But, according to Anderson and Pildes, if the musician rushes through the passages, she also thereby expresses her apathy about the music, even though this is not something she intends to communicate.[23]

Now, these examples do not successfully provide us with a distinctive conception of meaning. The latter example appears to have reverted to expression as an indication relation. The musician expresses her apathy in the sense that her movements are symptomatic of the attitude, so that it is the causal relation between the attitude and her movements that is doing the work of embodying and manifesting the attitude. Things are more complicated in the case of the musician who plays sadly without being sad. Here the expression is not evidence of a preceding fact but something that the musician activates. Perhaps the musician has successfully communicatively intended that we recognize her sadness, or the sadness of the music, by invoking our common knowledge of some representational practice. Or perhaps the musician lacks a communicative intent but nonetheless manages to trigger a representational practice or some other set of background understandings that assign the meaning *sadness* to her playing (say, her exaggerated use of vibrato in a minor key). But now we are firmly in the realm of representation, since the expressive significance of the action is grounded in the set of contingent practices that make public meanings available. If there is something else going on in this sort of example, Anderson and Pildes do not clearly describe it.[24] An

22. Anderson and Pildes, "Expressive Theories," 1508. A piece of sheet music may be sad as written, of course, but this point does not help us understand their claim that the performer is capable of doing something that expresses sadness.

23. Anderson and Pildes's example is of a shoplifter whose furtive movements express her wish to get away with the theft, though she does not aim to communicate this wish. Anderson and Pildes, "Expressive Theories," 1508.

24. Another idea we find in the legal expressivist literature is that expressive objections point out failures of recognition, where recognition is not just one preference among

anticommodificationist objection built on this account would still be caught on the horns of the dilemma.[25]

A different approach is pursued by Anderson in her book *Value in Ethics and Economics*, which aims to provide an account of rational action that does not reduce rationality to the optimal satisfaction of preferences.[26] The starting point is that we respond to value in the world with a range of different kinds of responses, or *valuations*.[27] A valuation is made appropriate by the value of the thing to which it is a response. So an action is rational

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others but somehow basic to human relations. Andrew Koppelman, "On the Moral Foundations of Legal Expressivism," *Maryland Law Review* 60 (2001): 777–84. Suppose that recognition is the attitude of regarding another as one's moral equal, such that a failure of recognition counts as a form of disrespect. An extension of this thought is that an action that stems from or conveys one's lack of recognition for another "means" that the other is worth less than she is, for lack of recognition amounts to regarding her as less than an equal. The starting supposition is innocuous, in that we do care what others think about us, and in particular we care that they regard us (and treat us) as moral equals. But the extension is mysterious. It says that when J behaves toward S in a way that fails to recognize S, J is guilty of insulting S since his action has the meaning that S is worth less than she is. But clearly whatever J does is problematic in the first instance because of how it treats S, i.e., as less than an equal. So why the detour through the "meaning" of the action? Doesn't the claim that J's action "means" that S is an inferior derive from the more basic claim that it treats S as an inferior (perhaps because it indicates that J regards her as such) and so fails to recognize her? (Another way of putting this is that the expressive objection simply "recapitulates" whatever substantive objection we have against some problematic arrangement. Niko Kolodny, "Rule over None I," *Philosophy and Public Affairs* 42 [2014]: 195–229, 222.) In any case, this claim about recognition does not present a new way of understanding how an action "expresses" a lack of recognition.

25. Simon Blackburn similarly describes the account as subject to a tension or inconsistency, one that obtains between the fact that an action's significance might be opaque to the agent and the fact that it might reveal something about the agent. Simon Blackburn, "Group Minds and Expressive Harm," *Maryland Law Review* 60 (2001): 467–91. Alan Strudler responds that we often think that an action can reveal features of the agent about which they are unaware. Alan Strudler, "The Power of Expressive Theories of Law," *Maryland Law Review* 60 (2001): 492–505. (Though perhaps Blackburn overlooks this fact because he is most interested in the tension in the context of collective bodies, where what is in doubt is the ability of such a body's action to reveal anything interesting about the attitudes of its members.) By contrast, the tension I am pointing to in the text is that between the critic's ability to point out an intrinsically objectionable feature of some (possibly notional) market participants and the critic's ambition of pointing out something equally objectionable about market participation as such, without relying on a contingent representational practice.

26. Elizabeth Anderson, *Value in Ethics and Economics* (Harvard University Press, 1993), 17–43.

27. This appeal to valuations is also made by Daniel Layman, "Expressive Objections to Markets: Normative, Not Symbolic," *Business Ethics Journal Review* 4 (2016): 1–6. But interestingly Layman denies that his approach counts as an expressive argument. For criticism that Layman's view is not clearly developed, see Jason Brennan and Peter Jaworski, "Klotzes and Glotzes, Semiotics and Embodying Normative Stances," *Business Ethics Journal Review* 4 (2016): 7–13.

not on account of the agent's beliefs and preferences but when it responds to a value-laden aspect of the world with the appropriate valuation. We can say that an action expresses a valuation *V* in virtue of the action's conforming with standards that *V* imposes on conduct. Anderson also describes such an action as an instance of the agent expressing an evaluative judgment: "To value or care about something in a particular way involves a complex of standards for perception, emotion, deliberation, desire, and conduct that *express* and thereby communicate one's regard for the object's importance."[28]

Thus described, Anderson's view appears to describe a form of indication, given that a valuation is associated with a judgment about the value of that aspect of the world to which the agent is responding. If that is the case, we have not found a way beyond the dilemma. But sometimes Anderson suggests that the relation between an action and an evaluative judgment is not indication but constitution—that is, that acting in a particular way is constitutive of having a certain evaluative attitude. If that is correct, then such an action would express the attitude regardless of other subjective features of the agent, and this would ground a noncontingent claim about the action's expressive significance.

But how could this be correct? It is an important part of Anderson's view, which she describes as an "anti-individualist theory of rationality," that an agent's evaluative attitudes are partly constituted by social norms.[29] This may seem implausible if we have desire in mind as the paradigmatic form of evaluative attitude. A baby appears to desire things without any influence from social norms, and we desire at least some things in just as unmediated a way. Whatever the case is with desire, Anderson wants to widen our view to include the whole range of human responses to things we care about: We can be inspired, attracted, interested, pleased, shocked, offended, disgusted, irritated, bored, or pained.[30] And at least some of these evaluative attitudes are socially mediated. But her account requires that they must be not just mediated by but constituted by acting under the governance of particular social norms.

Consider her brief example: "To have an evaluative attitude toward something is in part to govern one's deliberations and actions by social norms that communicate distinctive meanings to others. By distinguishing the kind of kiss romantic lovers may exchange from that which 'just friends' may exchange, social norms for kissing enable people to effectively communicate distinct attitudes toward others."[31] In the first sentence we are told that social norms constitute the evaluative attitudes by governing our deliberation and action. But how could that be so? If

28. Anderson, *Value in Ethics*, 12; emphasis in the original.
29. Anderson, *Value in Ethics*, 18.
30. Anderson, *Value in Ethics*, 2.
31. Anderson, *Value in Ethics*, 18.

I conform to a law requiring marital fidelity, I need not thereby have any particular attitude toward my spouse, since I may act appropriately even while I entertain treacherous thoughts about what I would do in different circumstances. The second quoted sentence suggests a way: The norms do not constitute attitudes simply by governing them; they do so by enabling their communication. But norms of kissing that enable one to communicate one's romantic affection for one's lover do not necessarily constitute one's romantic affection. We must also assume that having the attitude requires that particular form of communication. Suppose romantic affection were indeed a shared or reciprocal state that requires reciprocal communication. Then, by enabling the required communication, the norms of kissing would at the same time make it possible to have the attitude, so that governing oneself by these norms would be a constitutive part of having romantic affection. This may be an inspiring picture of romantic love, but it is a very demanding one, and the possibility of unrequited romantic affection gives us reason to think that it is false. We also have no reason to think that anything similar is true of any of the many other evaluative attitudes that Anderson thinks are carriers of public meaning and are therefore to be understood in an anti-individualistic fashion. So I am doubtful that Anderson's brief remarks can vindicate anti-individualism, or that they successfully articulate a distinctive relation that evades the Gricean dilemma.

What is much more plausible is that the constitution relation works in the opposite direction—that the expression of an attitude sometimes is constitutive of a particular kind of action as such. Consider that what makes certain behavior into a romantic kiss is not just that it conforms to the standards of conduct involved in romantic kissing but that the kisser is also committed to showing their affection through the act of kissing. This commitment might explain why stage kissing is a kind of romantic kissing that expresses affection even though the participants lack sincere affection for each other. I'll defend this thought in the next section.

IV. EXPRESSION AS PERFORMANCE

The Gricean distinction I relied on above does not exhaust the ways in which we use language and other signs. In addition to indication and representation, we also use signs as performances, where S's action ϕ is a performance of an attitude ρ when it is constitutive of S's acting successfully under the description ϕ that S commit to having attitude ρ. So, it is not entailed by S's ϕ-ing that S actually has attitude ρ, but it is entailed that S is liable for not having the attitude.[32]

32. That is, commitment entails liability. See, e.g., Mitchell Green, "Speech Acts, the Handicap Principle, and Expression," *Mind and Language* 24 (2009): 139–63, arguing that users of speech acts with a sincerity condition are liable to a loss of credibility, a distinctive

Many (possibly all) speech acts, including stating, ordering, requesting, inviting, promising, apologizing, congratulating, and thanking, are performances.[33] What qualifies these as performances is that they essentially impose on the speaker a requirement of sincerity, which is to say that the speaker makes a commitment to having a certain feeling or attitude or intention.[34] Austin describes as "infelicitous" any attempted speech act that fails to meet its necessary conditions. Infelicities are to be distinguished, though he concedes that the distinction is a rough one that cannot bear too much weight.[35] Failure to meet some conditions (such as those requiring certain conventional words, or requiring that the speaker has the authority to perform the action) results in a "misfire," such that the utterance is merely an attempted speech act and is "void or without effect, &c." By contrast, failure to meet a requirement of sincerity results in an "abuse"—the act is "hollow" rather than "empty."[36] By this, Austin seems to mean that the utterance counts as the relevant speech act, but that the speaker is liable for having made it defectively. Indeed, a speaker who utters words that mean "I'm sorry," though he lacks remorse, can be described as having apologized, though insincerely. Part of the power of describing his utterance as an apology is that its constitutive commitment to sincerity explains why we can hold him liable for the lack of remorse.

Sincerity conditions needn't involve a commitment to an emotion or easily described attitude like remorse. In some cases performances commit the agent to a normative attitude whose content is a complex norm. For example, many speech acts can be characterized as functions

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kind of social status, if they lack the attitude in the sincerity condition. But commitment might also entail more than just liability. Neri Marsili, "The Definition of Assertion: Commitment and Truth," *Mind and Language* 39 (2024): 540–60, points out that assertoric commitment involves not just liability (for false assertion) but responsibility for defending the commitment (to the truth of what is asserted), and a similar claim could be made about other speech acts.

33. The list is drawn from the examples of speech acts given in John R. Searle, *Expression and Meaning* (Oxford University Press, 1979), 15. But are all speech acts performances? That depends on whether they all essentially require sincerity. An editor suggests that declarations do not, but we needn't settle the issue here. For a suggestion that all speech acts have sincerity conditions, see Daniel Vanderveken, *Meaning and Speech Acts* (Cambridge University Press, 1990), 117–19.

34. I intend this as a sufficient condition. Rae Langton, *Sexual Solipsism* (Oxford University Press, 2009), investigates the way in which utterances can subordinate in virtue of their proximity to speech acts which contain an authority condition. While Langton's concern is with what such utterances do, rather than what they mean, the arguments suggest the possibility that the category of performances should be understood to include those acts which perform authority in virtue of an authority condition. This plausible extension of my view would not affect the argument that follows.

35. J. L. Austin, *How to Do Things with Words*, 2nd ed. (Harvard University Press, 1962), 16–17.

36. Austin, *How to Do Things*, 16.

that map normative status inputs onto normative status outputs.[37] This is a generalization of the functional approach to assertion, that is, *T*'s assertion that *p* maps *T*'s entitlement to believe *p* (as input) onto *T*'s commitment to *p* and hearers' entitlement to ask for justification for *p* (as outputs).[38] The functional approach to assertion is generalizable to the other speech acts, such as commissives (*T*'s promise to *S* to ϕ maps the appropriateness of *T*'s ϕ-ing as input onto *T*'s duty to *S* to ϕ as output) and declaratives (*T*'s baptism of *x* as *N* maps *T*'s authority to baptize *x* as input onto everyone's appropriately calling *x* "*N*" as output). In each case we can say that the speech act commits the speaker to the norm that relates the normative status inputs and outputs in the relevant way. So when *T* promises *S* that *T* will ϕ, *T* commits to (and therefore is liable to conform to) the norm [owe the promisee what you appropriately promise them]. And when *T* baptizes *x* as *N*, *T* commits to the norm [everyone is to call *x* by the name with which it was authoritatively baptized]. These points about speech acts extend to performances more generally. For example, in some cultural contexts an agent who is mourning is committed to a norm that requires a sincere display of grief.

Speech acts don't exhaust the scope of performative action. Austin remarks that "infelicity is an ill to which *all* acts are heir which have the general character of ritual or ceremonial, all *conventional* acts."[39] At least some such nonverbal actions involve a requirement of sincerity. Consider the previous section's example of romantic kissing, which does have a conventional social significance in many places. It is plausible that kissing, in these contexts, is subject to a requirement of sincerity.[40] The lover who does not really have affection for their kissing partner is liable (to explain their lack of affection, or their participation, or to feel guilt, etc.). Of course, people do kiss insincerely, whether because their feelings have changed or because they are on stage, and it may be all-things-considered permissible for them to do so. But even in these cases, where the kiss is bad evidence and so fails to indicate the lover's attitude, it nonetheless

37. Rebecca Kukla and Mark Lance, *Yo! and Lo! The Pragmatic Topography of the Space of Reasons* (Harvard University Press, 2009).

38. Robert Brandom, *Making It Explicit* (Harvard University Press, 1994); see also John MacFarlane, "What Is Assertion?," in *Assertion: New Philosophical Essays*, ed. Jessica Brown and Herman Cappelen (Oxford University Press, 2011), 79–96. The fact that defective assertions, such as lies, involve deviation from one or more of these normative statuses confirms that this is the normative mapping involved in assertion. Of course, a different argument would be required to show that this functional characterization gives us a definition or metaphysically complete account of assertion.

39. Austin, *How to Do Things*, 18–19.

40. In this way it is more than just "expressive behavior," insofar as this phrase is used to describe behavior that indicates (sometimes strongly) an agent's attitude. See, e.g., Mitchell S. Green, *Self-Expression* (Oxford University Press, 2007); Dorit Bar-On, "Origins of Meaning: Must We 'Go Gricean?,'" *Mind and Language* 28 (2013): 342–75.

expresses affection in the sense of performing it. Similarly, mourning behavior at a funeral performs grief, regardless of the feelings of the agent (perhaps a professional mourner), and a student who celebrates his friend's publication performs his pride, even if he begrudges the achievement.

I have been arguing that performance involves a noncontingent relation (that of commitment) between an action (such as apology) and the mental state contained in its sincerity condition (remorse). For this to count as a distinct kind of expressive relation, we must answer two questions. First, why should we describe this normative relation as expressing the attitude, given that it is compatible with the speaker lacking the attitude? My answer to this question will demonstrate that performance means without indicating, and so it avoids the first horn of the Gricean dilemma. Second, why should we think that the normative relation involved in performance is different from that involved in representation, or any less prone to collapse? My answer to this question demonstrates that, because of its relation to action, performative significance is more robust than representational significance and therefore avoids the second horn.

Several features of performance display its expressiveness. One feature is the way in which a performance makes the speaker's commitment public to all who witness the performance, that is, it performs that commitment. This publicity can be achieved in various ways. Most importantly, it is a generally understood convention of thanking that the person who thanks is in fact grateful, and so all who witness a thanking will think the speaker liable for not being grateful. Furthermore, in cases in which the performance is a speech act or is accompanied by utterances, these might make explicit reference to the commitment. For example, in apologizing, the agent might say, "I promise not to do it again," or words to that effect. Furthermore, the performance might take an embodied form (e.g., the supplicant stooping of the apologizer) that mimics the appearance of someone who has the attitude contained in its sincerity condition, thus representing that attitude. Or indeed, the assumption of a commitment, as a conventional component of the performance, might be the kind of thing that would be done (independent of the convention) by someone who sincerely has the attitude referenced by the commitment. So, as Jeffrey Helmreich argues, apologies and other "stance-taking" speech acts "both [act] on and [commit the agent] to acting on a normative claim [they] have accepted."[41] In the case of apology, the speech act both carries (conventionally) a commitment to the speaker's owing their victim a moral

41. Jeffrey S. Helmreich, "The Apologetic Stance," *Philosophy and Public Affairs* 43 (2015): 75–108.

debt that cannot be repaid and enacts that commitment by requesting that the victim accept the apology despite its insufficiency.[42]

Helmreich also points out that the commitment contained in an apology confers on the audience a right or claim to act in a way that is consistent with the meaning of the apology.[43] This is true of the commitments issued by sincerity conditions of performances more generally, and so these commitments can be characterized as directed or second personal.[44] This is a second feature of the expressiveness of performances, because of the connection between directedness and address. The directedness of a duty that is owed to a particular person S can be characterized in terms of the appropriateness, where the duty is violated, of addressing S in the various acts of excuse, apology, and requests for forgiveness and the appropriateness of S's addressing the agent in acts such as blame, requests for explanation, and forgiveness.[45] In addition, we might say that what it is to owe a duty to S is to be under a requirement to act in ways that are justifiable to S.[46] Justifiability to S differs from mere justifiability in virtue of a requirement that one's justification be addressed to S. In this way, directed duties have an expressive or communicative dimension in that the individuals who are placed in a normative relation to each other by the duty are also potentially (or even implicitly) addressed by each other. Dan Zahavi makes a related point about the language of the second personal stance when he says that "to stand in an I-you relation is to stand in a relation of mutual address," where mutual address "establishes a communicative connectedness."[47] And Darwall famously characterizes reasons as "second-personal" when they are grounded in the authority relation presupposed by addressing another in the second person.[48] In sum, the commitment implicit in a performance has a distinctively interpersonal normativity in virtue of the performance being addressed to another, and so the commitment should be seen as having its distinctive normativity in virtue of its expressive nature.

A third symptom of the expressiveness of a performance is its role in human relationships. It would be hard to imagine life without speech acts such as thanking and apologizing, or nonverbal actions like celebrating and mourning (just as Strawson found it hard to imagine social life

42. Helmreich, "Apologetic Stance," 99–100.

43. Helmreich, "Apologetic Stance," 99.

44. Bart Geurts, "Communication as Commitment Sharing: Speech Acts, Implicatures, Common Ground," *Theoretical Linguistics* 45 (2019): 1–30, 4.

45. Julian Jonker, "Directed Duties and Moral Repair," *Philosopher's Imprint* 23 (2020): 1–32.

46. T. M. Scanlon, *What We Owe to Each Other* (Harvard University Press, 1998).

47. Dan Zahavi, "Observation, Interaction, Communication: The Role of the Second Person," *Proceedings of the Aristotelian Society* 97 (2024): 82–103, 93, 98.

48. Stephen Darwall, *The Second-Personal Standpoint* (Harvard University Press, 2006).

without the reactive attitudes).[49] One reason for this is that performances sometimes can be expressive behaviors in the evidential sense, used to indicate our attitudes so that we can navigate our relationships with others through important events in our lives.[50] But another reason is that they are (to use Austin's phrase) "ritual or ceremonial" acts that can be used to navigate our social relationships even when we do not have the attitudes that are appropriate.

Sincerity is not a binary trait of our mental lives. Sometimes a recipient of a gift knows that it is appropriate to be grateful, but they just cannot summon the emotion of gratitude for yet another pair of socks. Sometimes a wrongdoer has been convinced by their epistemic superiors that their action was wrong and that remorse is proper, though they do not yet understand the moral reasons that make the action wrong. In cases like these, acts of thanking and apologizing (and similarly celebrating and mourning) may stop short of indicating the attitude in their sincerity condition without quite being abuses. Indeed, the acts can be stations on the way to developing the appropriate attitude, since performing the appropriate attitude places the subject under a requirement to mirror internally the expressive content of the performance, and doing this can help the agent to develop the proper gratitude or remorse, and so on. Cultivating one's internal attitudes in this manner is an important role of ceremonies and rituals, one that works by way of their expressive function of addressing a commitment to another.[51]

These features of ceremonies and rituals do not all hang on their conventional nature (which Austin emphasized), yet all the actions considered so far do have conventional aspects. Even if it is possible to engage in thanking and mourning without relying on convention, we generally do rely on local conventions to facilitate the expressiveness of these

49. P. F. Strawson, "Freedom and Resentment," in *Freedom and Resentment and Other Essays* (Routledge, 2008), 1–28. In the case of at least the reactive attitudes, one reason for their importance is the centrality of address in the speech acts that perform these attitudes. Address of this form is a particularly convenient way of maintaining and restoring mutual recognition, as discussed in Jonker, "Directed Duties." I find it plausible that performances beyond the speech acts that perform the reactive attitudes are importantly related to mutual recognition, but this is a point I won't be able to pursue here.

50. Indeed, as Green, "Speech Acts," argues, the fact that a commitment-containing speech act makes one liable for not having the attitude in the act's sincerity condition makes it a costly signal of that attitude and therefore strong evidence of the attitude.

51. This point about ritual is an important claim made by Confucian philosophers, especially Xunzi. For a description of Xunzi's views that stresses the importance of ritualistic pretense as a means of regulating emotions, see Lee H. Yearley, "Ritualization as Humanization," in *Ritual and Religion in the Xunzi*, ed. T. C. Kline III and Justin Tiwald (SUNY Press, 2014), 81–106. The communicative aspect of Confucius's discussion of ritual is emphasized (and related to Austin's remarks about speech acts) by Herbert Fingarette, *Confucius: The Secular as Sacred* (Harper & Row, 1972).

acts. So why not think that whatever performances are implicated in markets and targeted by anticommodificationist arguments are subject to collapse in just the way that their representational significance is?

The answer to this must begin with a concession. Performances are governed by contingent conventions, and so these can conceivably be revised. The importance of these performances in social life, as described above, is of little help. For what is envisaged by the collapse argument is not doing away with these practices entirely, but rather—what is much more easily conceivable—changing the words and behaviors that conventionally count as engaging in the relevant practices. And, just as in the representational case, the point of the argument is not that we should revise any such practices, let alone that it is actually practically feasible to do so, but that the conceivability of revision shows us that our objection is not made against the market itself, but rather against a contingent interaction with another social practice. That in turn suggests considering more closely whether the negative significance of the interaction inevitably outweighs other positive features of the market itself.

Despite this concession, there are two reasons why collapse might not apply to the performances involved in a market despite their conventional nature. The first is that revision of the conventions of performance is, like retraction of a speech act, not a cancellation of the significance of the original act.[52] In contrast, where there is a complaint against the representational significance of an action (whether buying sex or making a bet) that was not intended to communicate an objectionable attitude, revision of the representational practice removes the objectionable significance of the action. There may remain a complaint that the objectionable significance was asserted or suggested—but those are performances that the complaint now targets. Consider that when someone utters the words "I promise . . ." they also make a promise, and while the meaning of the words "I promise . . ." may change after that event, the fact that they made a promissory commitment will not. Similarly, when we reappropriate once-offensive slurs (like "queer"), we change their meaning so that they are no longer insults, but we do not change our regard for those who once used them to insult. Still, this rejoinder to the collapsing argument is not very compelling when we are concerned about the ongoing significance of the generic act of market participation.

The second response is that certain performances are, independent of their conventional form, essentially involved in markets. But revising the conventional form of the performance will not change the fact that market participants must deploy the performance. This is markedly different

52. On retraction, see Brian Ball, "Commitment and Obligation in Speech Act Theory," in *Normativity and Variety of Speech Actions*, ed. Maciej Witek and Iwona Witczak-Plisiecka (Brill, 2019), 51–65.

from representational significance. Markets do typically involve fairly thin representations, for example, advertisements that the subject matter is for sale, or contractual statements that unencumbered ownership will be transferred upon sale, or price stickers making a nonnegotiable offer. None of these representations amount to ethically significant statements, such as that the thing has the same value as the offered price. Moreover, some markets (such as those in sex work or influence in the legislative process) may proceed without any such statements at all. In contrast, as I argue next, markets do essentially involve ethically significant performances.

V. THE PERFORMATIVE LIFE OF MARKETS

Markets differ widely in their normative structure, that is, who may participate, how the terms of exchange are determined, and what forms of payment or barter are recognized. What they share is that they involve the exchange of an entitlement (such as a property right or contractual right) in one thing for an entitlement in another. Exchange of this kind is a matter of two parties granting each other reciprocal claims on the things to be exchanged.[53] A plausible origin of these reciprocal claims is promising. If A agrees to exchange a button for B's thread, then plausibly A promises to give B title in the button on condition that B gives A title in the thread, and B promises to give A title in the thread on condition that A gives B title in the button. These promises are speech acts, which is to say that they are performances. In addition, the act of claiming title to a thing in the event of failure to fulfill a promise, or failure to respect title after transfer of possession, is also a performance. It follows that every market is performative in the sense that its participants make promissory commitments to each other, as well as public commitments to everyone in the community to respect title in the thing they have given to their counterparty.

This promissory account of exchange may turn out to be wrong. But what is clear is that markets involve transfers of entitlements and that these involve performances—at least in the breakdown cases in which a party must claim the thing to which they are entitled. That is, markets do not just determine the empirical distribution of things. They allocate normative incidents, that is, claims to things. What is more, the expressive significance of this normative dimension of markets seems pro tanto

53. This is compatible with each of the more detailed accounts of Jed Lewinsohn, "Paid on Both Sides: Quid Pro Quo Exchange and the Doctrine of Consideration," *Yale Law Journal* 129 (2020): 690–773; Joshua Stein, "Exchanging for Reasons, Wrong and Right," *Journal of Value Inquiry* 53 (2019): 213–23; and Olivier Massin and Emma Tieffenbach, 'The Metaphysics of Economic Exchanges," *Journal of Social Ontology* 3 (2017): 167–205.

good insofar as it is a matter of relating individuals, often strangers, through interactions that ground interpersonal commitments to each other, and therefore it is a form of mutual recognition of each other's claims.[54]

Why then do anticommodificationists worry that some markets have negative expressive significance? Commitments to the claims involved in promising and entitlements might turn out to be objectionable in certain circumstances in which they undermine or crowd out other kinds of valuable performative commitments. This worry is exacerbated by the fine-grained normative structure of particular markets. For example, it might be that markets involve commitments to dealing with others impartially, or at arm's length, and that these commitments are wholly inappropriate within the family, or that they involve a commitment to the aggregative importance of others' interests, and that this commitment is incompatible with the norms that are appropriate to our political interactions with co-citizens. Other frequently heard complaints are that markets treat the things exchanged as fungible, or alienable, or substitutable for money. None of these claims is true of all markets. But when one is true of a particular market, then exchange involves performative commitments to treating the thing exchanged as fungible or alienable or substitutable for money, and this might interfere with a practice (such as romantic appreciation in the case of sexual partners) that requires committing to the thing as nonfungible or nonalienable or nonsubstitutable.[55]

54. This point is partly conceded by Barry Maguire and Brookes Brown, who allow that markets may involve reciprocal respect of the participants for each other, but they add the rejoinder that "this is a pretty minimal kind of respect—not much different from the respect we pay to vending machines." Barry Maguire and Brookes Brown, "Markets, Interpersonal Practices, and Signal Distortion," *Philosophers' Imprint* 19 (2019): 1–15, 6 n. 24. The rejoinder is too quick. It is implausible that anyone respects a vending machine as such (though they may appreciate the machine), but it is much more likely that they respect the other customers who rely on it or even the owner who has certain rights over it. (On the respect due to holders of property rights, see Rowan Cruft, "Why Is It Disrespectful to Violate Rights?," *Proceedings of the Aristotelian Society* 113 [2013]: 201–24.) These are not inconsequential forms of respect. They may fail to strike us with awe, given our mundane interactions with the vending machine, but they are an important aspect of our form of large-scale social cooperation.

55. The idea that a market involves treating a good as substitutable for money requires care. It is true that some markets allow exchange of things for money. But this involves "substitution" for money in only a very thin sense, if at all. If I sell the painting I have toiled over for years for some money, I needn't think that the money is a substitute for the value or meaning of the painting. I might just need or want the money more than I need or want the painting right now. And clearly my counterparty does not think that the money is a substitute for the painting, since she is willing to part with it in order to have the painting. This point was made early on during the marginalist revolution in economics. See, e.g., Carl Menger, *Principles of Economics*, trans. James Dingwall and Bert F. Hoselitz (Free, 1950), 179–80 (the original was published as *Grundsätzen* in 1871).

This proposal is close to an anticommodificationist argument presented by Barry Maguire and Brookes Brown. But their objection rests on the thought that market interactions can undermine our ability to indicate that we have the attitudes required by other interpersonal interactions.[56] As such, their objection is hostage to empirical facts about our signaling capacities and how they are impacted by markets, and they admit as much in recognizing that it is a consequentialist objection. The performative version I have been proposing is that market participants make commitments that stand in tension with the norms that govern other spheres of social life. This is closer to the sort of noncontingent objection that the anticommodificationists seem to have in mind, and it might appear to revive Maguire and Brown's worries that markets crowd out other valuable parts of our normative lives, but without their empirical assumptions.

Such concerns about performative crowding may sometimes be valid, but they do rest on empirical facts. Consider how we might reconstruct an argument sketched by Maguire and Brown that when a rich man's daughter pays people to attend his funeral, she crowds out their ability to show sincere care for the deceased.[57] Their claim appears to focus on the particular instance, and we can tell a plausible story about how evidential crowding out might work there. For a start, we may infer from the fact of payment that there is a high chance that the attendees would not otherwise attend, and therefore that they are insufficiently motivated by grief to attend without payment. Therefore, their displays of mourning are not sincere and thus abuses. Now, each of these inferences rests on contingent facts about the situation and would be undermined by evidence that the facts do not obtain. For example, it may be that the attendees would have attended anyway and the daughter has misjudged their sentiment. Or it may be that their reason for not attending is that the funeral is in a far-flung place but the payment covers their expenses. Still, Maguire and Brown are correct that, stipulating away all facts like these, the payment disables us from inferring that the attendees' mourning is sincere.

But while that disability might be a concern about the particular case, the concern does not generalize in the way required by anticommodificationists. The argument against a generalized market in mourning, rather than a single buyer of mourning services, must be that its existence crowds out the ability of all of us to engage in sincere public mourning by undermining our ability to take the commitment implicit in mourning seriously. That would be a case of performative rather than evidential crowding out, and it would admittedly be devastating for our

56. Maguire and Brown, "Markets."
57. Maguire and Brown, "Markets," 8.

social relationships. But there are two reasons to think that such crowding out might not occur. First, the fact that there is a market in mourning need not undermine our ability to take the commitment implicit in mourning seriously if we have good reason for thinking that others take that commitment seriously. This might be the case if the market were relatively small, or if paid mourning were relatively easily to tell apart. Second, if the market for mourning were to grow, the nonmarket practice of sincere mourning would likely change in ways that make it easier to demonstrate sincerity. For example, we might expect to see the emergence of independent funeral hosts who can demonstrate that they have no incentive to pay invitees.[58] Such considerations are empirical matters concerning the interaction of the market for mourning and our nonmarket practice of mourning.

I have argued that the idea of expressive significance must be disaggregated into indication, representation, and performance. Doing so helps us see that there is a dilemma for the idea that there is an expressive objection to markets as a conceptual matter. For either the expressive objection targets the contingent objectionable features of particular market participants, or it targets the way in which market participation as such is entangled with contingent social practices. This is straightforwardly the case for indication and representation, which are themselves contingent relations. Performances exhibit a normative and therefore noncontingent connection to the norms in their sincerity conditions, and so they may appear more promising. But the performances that are constitutive of market exchange are not intrinsically morally objectionable. Insofar as there is an objection to them, it must be because of how they happen to interact with other contingent social practices. Once again, the expressive argument is shown to rest on empirical premises.

Let me be clear about the upshot of this argument. I have not aimed to bury anticommodificationist uses of expressive arguments. Rather, my aim has been to clarify what they might involve and to emphasize the necessity of defending their empirical assumptions. It might be that some existing arguments do make defensible empirical assumptions. Then, my argument should be seen as a friendly clarification of how these arguments work. But it should also be seen as a prompt to those on both sides of debates about markets to be clearer about how particular market practices are actually related to our other social practices and as a challenge to philosophical ambitions to evaluate "the market" in the abstract.

That expressive arguments make empirical assumptions seems to me especially important to acknowledge in the case of arguments about

58. This is in keeping with the agent-based model of the development and demise of signaling practices presented by Brian Skyrms, *Signals* (Oxford University Press, 2010), 118–35.

markets, because normative scholarship could do more to acknowledge the variety of markets and their social contexts. It is possible that expressive arguments have a more sure-footed philosophical ambition when applied to other phenomena, such as discrimination or democracy. That is beyond the scope of this article, but perhaps the account of performative significance presented here will further our understanding of some of those expressive arguments.