Journal of Social Sciences, Naresuan University, Volume 15 Number 1 (January-June, 2019): 83-116

Recieved: 12 Jul. 2018; Revised: 3 Oct. 2018; Accepted: 29 Oct. 2018
doi: 10.14456/jssnu.2019.4

A Critical Reflection on Michael J. Sandel: Rethinking Communitarianism

Wanpat Youngmevittaya

ABSTRACT

This is a paper in political theory, aiming to reinterpret the political philosophy of Michael J. Sandel, a prominent communitarian of our time. In contrast to the cultural relativism thesis, which holds that Sandel bases the moral judgement on any given culture/tradition of each community, and the deliberative democracy thesis, which holds that Sandel bases the moral judgement on the rational majority, I argue that Sandel's communitarianism is a virtue-based theory, addressing the critical enquiry of the teleology of the social practices in question; the moral judgement is based on the telos of the social practices in question which determines what's the right thing to do in general, while the actual identity of the person determined by the community is important as a second-order as it simply tells us who we should have a moral obligation with in particular.

KEYWORDS: Communitarianism, Cultural Relativism, Deliberative Democracy, Michael J. Sandel, Virtue-Based Theory.

Wanpat Youngmevittaya is a PhD Candidate in Political Theory, School of Social and Political Sciences, University of Glasgow, UK. Email: <wanpatyoung@gmail.com>.

Introduction

This paper deals with the political thought of Michael J. Sandel, a prominent communitarian political theorist, who played a crucial role in the so-called liberal-communitarian debate in the 1980s, which has been framed generally as the debate between Rawls (1971) and his communitarian critics such as MacIntyre (1981), Sandel (1982), Walzer (1983), and Taylor (1989) (Mulhall and Swift 1996; Swift 2014). Although communitarianism has first been defined merely as a critique of Rawls' liberalism, it is now widely accepted as a political theory as such worthy of being studied in itself as it has its own characteristics, e.g. Kymlicka (2002) clearly distinguishes communitarianism from other political theories; Demaine and Entwistle (1996), and Arthur and Bailey (2000) also apply communitarianism to study educational policies; and so on. However, as I found that the interpretation of communitarianism (at least in my perspective) is still unclear and some existing interpretation is even misleading, I aim to reinterpret communitarianism by reexamining Sandel's thought. This is because studying every communitarian thinker would be beyond my capacity, and Sandel is also one of the leading communitarians of our time, therefore the reinterpretation of Sandel's communitarianism will help us understand communitarianism more correctly. This paper is not only relevant to those who are interested in Sandel's thought and communitarianism, but also to those interested in analytic political philosophy in general as this paper may be read as a suggestion to think about our moral obligations to others.

I will interpret Sandel's communitarianism through the discussion of the differences between Sandel's communitarianism and the two existing misinterpretations of Sandel, i.e. cultural relativism and deliberative democracy, because these are the two most popular (mis)interpretations I found. The cultural relativism thesis is supported by scholar like Kymlicka (1988; 1989a; 1989b; 2002) who argues that Sandel's communitarianism is the idea that since different political communities have different incommensurable cultures, there should be different moral judgments for each community, e.g. individuals may have freedom only if it is compatible with their own community's cultures. The deliberative democracy thesis is advocated by Tam (1998) who interprets communitarianism as the idea that any just principle must be decided by the rational majority.

The paper consists of three main sections. First, I will illustrate how Sandel's communitarianism has been (mis)interpreted as cultural relativism and deliberative

democracy. Second, I will discuss how Sandel's communitarianism differs from the cultural relativism thesis made by Kymlicka and others; my main argument, is that, for Sandel, the ultimate moral judgement is based on the teleology of the social practice in question, not on any existing cultures. Third, I will discuss how Sandel's argument differs from the deliberative democracy thesis made by Tam; my argument is that Sandel's communitarianism is incompatible with the foundation of deliberative democracy, which holds that there is no any objectively right answer of any moral questions prior to individuals.

Throughout the paper, I reexamine some major early/later writings of Sandel in order to see how Sandel really constructs his argument. Sandel's early writings, which are theoretical-oriented, are Sandel (1982; 1984a; 1984b; 1989; 1994; 1996; 1998a; 1998b), and Sandel's later writings, which are more practical, are Sandel (2000; 2003; 2004a; 2005a; 2005b; 2007; 2009; 2012; 2013; 2014; 2018).[1] We can see that Sandel has a lot of work, in which each of them requires some space to deal with. But as I intend to make this paper concise and general, I will not touch upon each of his work in detail, but will simply select some points of each work to support my argument. This does not mean that I select only what would fit with my argument and ignore what would not, but simply that I cannot take every of his work into account because of the space limit. The point of discussing his practical works is to understand how exactly Sandel applies his theory to the real world, which will give us the clearer picture of Sandel's communitarianism. This will show us what factors he takes into account when he has to make a moral judgement on concrete moral situations. For example, when Sandel considers whether it is morally permissible for one to pay someone else for waiting in line to buy a ticket or not, we can see how he reasons to support/reject the practice. If he really is a cultural relativist, then he should refer to how a particular culture/tradition defines it, but if it turns out that he does not refer to those factors, then we should conclude that he is not a cultural relativist, and so on.

Previous works on Sandel such as Kymlicka (1988; 1989a; 1989b; 2002), Phillips (1993), and Kautz (1995) have a significant limitation: they launched their works before Sandel has launched his later works. This is an important factor that makes those scholars misinterpret Sandel. For instance, although Sandel (1982)

1 But in this paper I focus mainly on Sandel (2007; 2012) because they express Sandel's arguments clearly.

proposes that our identity, which is constituted by our community, is important for justice, he does not discuss in detail how this process really works. This makes many scholars conclude that his moral judgement depends on how each community defines it. I will argue that this conclusion is misleading. I have two main methods of defending Sandel from those claims: one is to reexamine Sandel's earlier works, and arguing how they misread him; another is to show how Sandel applies his theory to practical situations.

Section I: Two Existing Misinterpretations of Sandel's Communitarianism

There is a large body of work on Sandel and communitarianism. I do not aim to review all of those works; instead, I will review a certain amount of work that misinterprets Sandel's communitarianism as cultural relativism and deliberative democracy, because these are the two most popular misinterpretations I found. Let's begin with a body of work that misinterprets Sandel's communitarianism as cultural relativism. Scholars like Gutmann (1985), Wallach (1987), Feinberg (1988), Waldron (1988), Phillips (1993), Friedman (1994), Kautz (1995), Etzioni (1998), Freeman (1998; 2012), and Kymlicka (1988; 1989a; 1989b; 2002) understand communitarianism as the idea that individuals must obey and follow their own cultures. For example, Americans may have freedom of expression because American culture allows them to do so, whereas people in other illiberal societies may not because their cultures do not allow them; Americans cannot judge any practices of other illiberal societies from their points of view as what is right for Americans may be wrong for other countries, and vice versa. Kymlicka (1988; 1989a; 1989b; 2002), Phillips (1993), Kautz (1995), and Freeman (2012) argue that communitarianism may justify some repressive culture and community like Nazi Germany, because if the right is subject to any given cultures of each community, then it may be right to kill people if it conforms to the culture of that community. Let me cite the typical cultural relativism interpretation from Kymlicka (1989a, 57):

> "A Christian housewife in a monogamous, heterosexual marriage can interpret what it means to be a Christian, or a housewife – she can interpret the meaning of these shared religious, economic, and sexual practices. But *she can't stand back and decide that she doesn't want to be a Christian at all*, or a housewife. I can interpret the meaning of the social roles and practices

> I find myself in, but *I can't reject the roles themselves*, or the goals internal to them, as worthless. Since *these attachments and ends are constitutive of me, as a person*, they have to be taken as given in deciding what to do with my life; the question of the good in my life can only be a question of how best to interpret their meaning. It makes no sense to say that they have no value for me, since there is no 'me' standing behind them, *no self prior to these constitutive attachments*" [emphasis added].

According to Kymlicka, Sandel's communitarianism justifies any given culture of each community, and each individual must conform to those existing practices without any questions. He is also concerned about the possibility of the oppressive community, as Kymlicka (2002, 270) writes that "in so far as the communitarian idea of 'constitutive ends' and the 'embedded self' is offered as an alternative to the liberal belief in rational revisability, then it is a very conservative doctrine that would limit the ability of individuals to question or reject traditions and practices they find oppressive, demeaning, and unsatisfying." For him, Sandel bases the ultimate moral judgement on each culture rather than each individual, and individuals have no right to reject their own community's cultures, whatever they are, and the term "community" is referred to existing "society," "religion," and "tradition."

The idea that "community" is referred to any existing "traditions" of a particular community is also taken by Phillips (1993, 13-4) who writes that "for these communitarian scholars, then, the shared collective values are uncovered from the traditions and practices of the group. These common values are deeply rooted in the history and ongoing activities of the community. People are members of a community and share its traditions and practices before they are able to explicitly recognize and reflect on what they have in common." He also defines the term "community" as "a group of people who live in a common territory, have a common history and shared values, participate together in various activities, and have a high degree of solidarity" (1993, 14). All of this implies that communitarians base the ultimate moral judgement on each historical society/group such as America, Japan, and Germany. He argues further that communitarians fail to do so because many people actually mobilize to other communities, so it is wrong to assert that there should be a strong attachment to "the way of life they found themselves 'to begin with'" (1993, 20).

Like Kymlicka, Phillips (1993, 184) insists that communitarianism does not

allow us to judge and evaluate any social practices of different societies: "Liberals argue that the moral backgrounds and social practices of different societies can indeed be judged and evaluated. This means that the obligations stemming from membership in Nazi Germany or South Africa today, for example, far from being mandatory, ought to be vehemently rejected because of these societies' violations of basic human rights." Freeman (2012, 85) also writes that

> "Communitarians raise complex issues, and not all their ideas are compatible with human rights, but the supposed incompatibility between human rights and community is often overstated. For example, persecution and poverty undermines communities and family life, and better protection of human rights could strengthen the solidaristic values that 'communitarians' like to defend. We should also remember that the value of 'community' can often be invoked to hide cruelties and injustices (especially towards women and children) that should not be defended."

Thigpen and Downing (1987, 654) express the similar view: "Communitarians should recognize that, since actual communities are not necessarily created by people who act as responsible moral agents, societies with strong communal bonds must guard against the tyrannical imposition of dominant prejudices." All of this implies that Sandel's communitarianism is similar to cultural relativism in the sense that individuals must conform to any existing values of their community. The question is if Sandel's communitarianism is really as those thinkers claim? In this paper, I will argue that Sandel's communitarianism is different from their interpretation. Next, I will show how Sandel's communitarianism is interpreted as deliberative democracy.

I define deliberative democracy as the idea that the ultimate moral judgement is based on a "co-operative enquiry" (Tam 1998) or "rational deliberation" of the society (Miller 1992; Benhabib 1994).[2] The majority in general may be inappropriate to determine the common good because they may be irrational/uninformed. Tam (1998: 13) proposes that the common good of society can be justified only if its all informed members could agree upon, as he writes that "the communitarian principle of co-operative enquiry requires that any claim to truth may be judged to be valid

2 I cite Miller and Benhabib here not because they interpret Sandel's communitarianism as deliberative democracy, but because their definitions of deliberative democracy are very clear.

only if informed participants deliberating together under conditions of co-operative enquiry would accept that claim." There may be a question about the definition of rationality and informed citizens, but I will not discuss them at all because even if we do not know how to distinguish between informed and uninformed citizens, I can still say that Tam's interpretation of communitarianism is misleading; whatever Tam defines the rationality, he cannot deny that he bases the ultimate moral judgement on actual individuals. Phillips (1993, 187) proposes that

> "Another way of distinguishing between a communitarian and liberal conception of the common good is to point out that communitarians interpret the common good collectively, while liberals interpret it individually. With *a collective interpretation*, the common good means the good *either* of all the individuals in a community summed together or the good of the community taken as a collective distinct from its individual members" [emphasis added].

For him, there are two versions of collectivism: (1) the good of all the individuals in a community summed together; (2) the good of the community taken as a collective distinct from its individual members. For the sake of discussion, I'd like to propose that his first version of collectivism should be called either "deliberative democracy" (public enquiry) or "majoritarianism," and his second version should be called "cultural relativism." The reason is that, for the first version, it would be unimaginable to sum the good of all the individuals together in the sense that the common good can really please every individual. So it would be more realistic to think practically that there are two ways to define the common good: one way is to base the decision on the rational majority (deliberative democracy), another way is to base it on the majority in general (majoritarianism). For the second version, one way to recognize the good distinct from any individual members is to base the decision on cultures (cultural relativism).

Therefore we can articulate the cultural relativism thesis, the deliberative democracy thesis, and the majoritarianism thesis as follows. For the cultural relativism thesis: the ultimate moral judgement depends on cultures of a particular community, e.g. what is right/wrong for Americans depends on how American cultures define it, and no one should be allowed to alter it at all. For the deliberative democracy thesis: the ultimate moral judgement depends on the rational majority of a particular com-

munity, e.g. what is right/wrong for Americans depends on how the rational majority of Americans defines it, and if the next generations of the rational majority want to redefine it, then they should be allowed to do so. For the majoritarianism[3] thesis: the ultimate moral judgement depends on the majority of a particular community, e.g. what is right/wrong for Americans depends on how the American majority, regardless of their rationality, defines it, and if the next generations of the majority want to redefine it, then they should be allowed to do so.

In this paper, I will argue that the cultural relativism and deliberative democracy theses are the misinterpretations of Sandel's communitarianism because Sandel does not base the ultimate moral judgement on any given cultures and the rational majority, but on the ideal teleology of the social practice in question. However, this is not to say that cultures and rational deliberation are not important to Sandel at all, but that these factors are important not as the ultimate source of moral judgement. One may question if Sandel's communitarianism is similar to other communitarians. I would say that they are not exactly similar, but the differences between those communitarians are beyond the scope of my paper. Moreover, it can be seen that sometimes the scholars I cite here talk about communitarianism in general rather than Sandel in particular, so I may be criticized for only focusing on Sandel's communitarianism. However, although those scholars sometimes do not mean Sandel's communitarianism in particular, they cannot deny that they already include Sandel in communitarianism; since they refer communitarianism to the ideas of Sandel, MacIntyre, Walzer, Taylor, and others, it is valid to say that if they misinterpret communitarianism, then they must misinterpret Sandel.

Section II: Sandel Is *Not* A Cultural Relativist

I have two main arguments to defend Sandel's communitarianism from cultural relativism: my first argument is very long, and my second one is short.

First Argument: *The ultimate source of moral judgement is based on an ideal telos of the social practice in question, not on any particular existing cultures/traditions.*

Although Sandel (1982) proposes that our identity is given by our community, this is far from being clear what he really means. Many scholars interpret that this

3 I introduce "majoritarianism" here to contrast it with "deliberative democracy," but I will not discuss whether Sandel is a majoritarian or not because no scholar has interpreted Sandel that way, and I also do not think that Sandel is a majoritarian.

implies that our moral judgement is given by our community's cultures, e.g. if one is a member of a mafia family, then he or she should value mafia cultures. Sandel (1982, 179) writes that

> "To imagine a person incapable of constitutive attachments such as these is not to conceive an ideally free and rational agent, but to imagine a person wholly without character, without moral depth. For to have character is to know that *I move in a history I neither summon nor command, which carries consequences none the less for my choices and conduct*. It draws me closer to some and more distant from others; *it makes some aims more appropriate*, others less so" [emphasis added].

This passage may be read as the cultural relativism thesis as Sandel implies that my choices/conduct are determined by my history. Anyway, I argue that this is a misreading as this passage simply tells us that we should concern "some" moral aims rather than "other" moral aims, but it does not tell us what exactly they are, and there is no any place in this passage and this whole book (1982) that Sandel says that cultures can dictate individuals to do anything. I argue that Sandel (1982) is the work that discusses the identity of the person, not the ultimate moral judgement. This means that my identity as a member of a mafia family may simply tell me that some moral aims are more appropriate to me, but those moral aims may not be determined by mafia values. I will discuss this in detail later. In this paper, I will argue that culture is not the ultimate source of moral judgement, though it is important in other sense. In fact, the ultimate source is the ideal telos of the social practice in question. "Telos" or "teleology," one of the most important characteristics of Aristotelian philosophy, means particular good/end/essence/purpose of a particular thing (Mulgan 1977, 19). This term also possesses moral judgement: the right thing to do or moral action is to comply with the telos of a particular thing/practice. For example, if the telos/purpose of a watch is to keep time accurately, then a good watch is a watch that keeps time accurately (MacIntyre 1981, 59). The telos and the good are the same thing (Beiser 2005, 210-1). This will be discussed later.

Since Sandel (1982) never shows how exactly our ends are given by our community (Crittenden 1992, 137), this allows us to interpret his argument in different ways. I may be criticized that if Sandel (1982) allows us to interpret him in different

ways, then why is it wrong to interpret him as a cultural relativist? I accept this criticism, but this is my point: since we cannot wholly understand Sandel's communitarianism from Sandel (1982), this is why I have to take his practical writings into account. However, before I will do so, I want to show that we can even find some clues in his theoretical work (1982). Sandel (1982, 33) writes that "consider for example a more or less ideal family situation, where relations are governed in large part by spontaneous affection." How does he know that the ideal familial relations are governed by spontaneous affection if he does not have a standard of moral judgement independent of particular existing cultures? And if he is really a cultural relativist, how dare he talks about the ideal relations? Sandel (1982, 62) writes that

> "Given my independence from the values I have, I can always stand apart from them; my public identity as a moral person 'is not affected by changes over time' in my conception of the good (Rawls 1980, 544-5). But a self so thoroughly independent as this rules out *any conception of the good (or of the bad)* bound up with possession in the constitutive sense. It rules out the possibility of *any attachment (or obsession)* able to reach beyond our values and sentiments to engage our identity itself. It rules out the possibility of a public life in which, *for good or ill*, the identity as well as the interests of the participants could be at stake. And it rules out the possibility that common purposes and ends could inspire more or less expansive self-understandings and so define a community in the constitutive sense, a community describing the subject and not just the objects of shared aspirations" [emphasis added].

I argue that Sandel uses the terms like "of the good or of the bad," "attachment or obsession," and "for good or ill" because he is aware that the constitutive ends may be good or bad. If he is a cultural relativist, then he would be unable to say that the constitutive ends can be good or bad as each community embraces incommensurable values, but we can see that his judgement on what's good or bad is independent of each actual community. In this context, Sandel implies that we should include any conception of the good (or of the bad) in relation to our identity into our moral judgement, but he does not discuss how exactly we should do so; Sandel (1982) does not aim to propose his own principle of justice in depth. Thus to really understand Sandel's argument, we need his practical works.

The Case Against Perfection (2007)[4]

In this book, Sandel deals with many moral qualms about genetic engineering, e.g. is it morally permissible for parents to genetically design their own child? Is it also morally permissible for people to genetically improve their own capacities?, etc. I will not discuss these moral topics, but will illustrate how exactly Sandel solves those problems. I will cite only two cases from the book (2007). Please keep in mind that, for Sandel, "communities" here are described as "activities" or "social relationships" such as having child, sports, and stem cell.

The First Case: Should parents have the right to genetically design their own child?

Should parents be able to design the certain genetic traits of their children so that they are genius and competitive? (4). Is a cloned child morally acceptable? Should parents be able to use the sperm-egg market to design their child? These questions can be answered on three different philosophical[5] grounds: the *fairness* argument, the *autonomy* argument, and the *virtue* argument. For Sandel, the fairness argument cannot cope with this moral qualm, because if we assume that everyone can access to the same genetic engineering of their child in the sense that poor and rich people can design their own children as they want equally, then the fairness argument would be invalid (13). Also, the *autonomy* argument, which concerns that if parents genetically design their child then their child would have no autonomy to choose their own characteristics, is unable to cope with those moral problems for two reasons.

First, Sandel argues that even in a normal situation where parents do not use genetic engineering, any child cannot choose their own traits, so *eugenic* and *natural* traits of children would be morally indifferent (7). Second, sometimes people want to genetically change their own traits voluntarily (8). Therefore, Sandel argues, the real question is not about fairness and autonomy, but about the virtue of the activity in question.[6] Sandel begins with the fundamental question: what is the telos of having

4 All page numbers given alone in this section, *"The Case Against Perfection (2007),"* refer to Sandel (2007).

5 Indeed, Sandel also carries the risk argument. But I exclude it here because it is not a philosophical argument, and Sandel himself also rules it out by assuming throughout the book that any genetic engineering is safe enough (6).

6 Sandel usually uses the terms "telos," "virtue," "purpose," and "good'" interchangeably (47, 38, 42 and 91).

children? And his answer is an "unconditional love" of parents (49 and 83), and thus, parents have to appreciate their child as gifts, not an object they can design as they want (45, 46, 49 and 62).

Page after page, Sandel tries to convince his readers that his argument is better than other rival arguments. Throughout this process, he never claims that his argument is better because it is more commonly acceptable in a particular society such as America, Britain, and so on; rather, he refers to the human dignity and humanity (24). More importantly, he never accepts any given values commonly practiced in a particular society, and always urges us to rethink about them by seeing if those existing values are compatible with the telos of the activity in question.

> "Those who argue that bioengineering is similar in spirit to other ways ambitious parents shape and mold their children have a point. But this similarity does not give us reason to embrace the genetic manipulation of children. *Instead, it gives us reason to question the low-tech, high-pressure child-rearing practices we commonly accept. The hyperparenting familiar in our time represents an anxious excess of mastery and dominion that misses the sense of life as gift.* This draws it disturbingly close to eugenics" (61-2, emphasis added).

Sandel does not judge the activity in question by seeing if it is compatible with American or other particular cultures or the majority of a particular society; rather, his ultimate moral judgement is based on the ideal telos of the activity in question. Some might question that if Sandel really cares about the telos, then why he has to assert that "each community has different goods to govern," as we can find in Sandel (1982). I would say that, indeed, the term "community" actually represents different activities such as nation, class, sport, family, art, school, and so on, and different goods are determined by the telos of the activity in question, not by different cultures or the majority.

> "To appreciate children as gifts is to accept them as they come, not as objects of our design, or products of our will, or instruments of our ambition. Parental love is not contingent on the talents and attributes the child happens to have. *We choose our friends and spouses at least partly on the basis of qualities we find attractive. But we do not choose our children.* Their qualities are un-

> predictable, and even the most conscientious parents cannot be held wholly responsible for the kind of child they have" (45, emphasis added).

This shows that Sandel values the purpose of different activities (communities) differently: the relationships between friends and between spouses may be based on an conditional love, whereas this virtue cannot be said for the relationship between parents and children, and so on. Thus different communities (activities) need different goods (virtues). All of this implies that Sandel is not a cultural relativist as he does not base the ultimate moral judgement on different cultures.

The Second Case: Should athletes be able to genetically improve their own capacities?

Again, the *fairness* and *autonomy* arguments are irrelevant here because even if we assume that every athlete can access the genetic engineering and they voluntarily choose them for themselves, the moral qualm about this practice still remains. Sandel begins with the fundamental question: what is the telos of sports? And his answer is that to show athletes' natural talents (giftedness), and this is what audience should really appreciate; athletes should not be able to genetically improve their capacities because it violates the telos of the sports, that is, those who use eugenics no longer play the sports to show their own natural talents; instead, they just show his artificial mastery over their natures. In this sense it makes no any difference between watching the sports of real humans and mechanical creatures. Some might argue that the virtue of the sports is the human efforts only, and the genetic engineering can be sufficiently criticized on this ground. But Sandel argues that the *effort* argument is insufficient in criticizing the genetic engineering as it overlooks the virtue of the sports. In sports, we do not only praise an athlete's pure efforts, but also his giftedness.

The *effort* argument claims that the genetic engineering is the shortcut of achievements, which should derive from the natural efforts without any artificial helps at all. But if we look into this claim more deeply, we can see that the ultimate moral judgement is based on the gifted nature of humans, not pure efforts. Let's think about the case where there are two athletes who are not helped by any genetic engineering, and one becomes a good athlete by his own pure efforts, another becomes a good athlete by his pure giftedness. In fact, we admire both of them and

see nothing wrong with them. The question is if the *effort* argument claims that we should admire only those with "pure efforts," why don't they propose that those with "pure giftedness but effortlessness" should be banned from the game? This suggests that we do not really care whether an athlete becomes a good one because of his own pure efforts or pure giftedness, we rather care about whether he is helped by any artificial technologies or not. In other words, the ultimate moral judgement is based on the giftedness argument; the real problem of genetic engineering is the destruction of giftedness, not efforts (29).

We can see that Sandel's argument is very far from cultural relativism as he never takes factors like particular cultures or the majority into account at all. Instead, he is interested in the real virtue of the activity in question; he tries to examine and reflect on the real reason already attached to the social relationship in question rather than refers to individual consent (genetic engineering may be acceptable if the involved parties accept it) or cultures (genetic engineering may be acceptable if a particular culture/society accepts it). Sandel refers to the ideal telos of each community (social activity). By doing so, he must impose a particular conception of the good (merit) on social norms and every involved individual (so, Sandel is not a liberal), and this particular conception of the good is independent of any existing culture but depends on the real nature of the social practice in question (so, Sandel is not a cultural relativist).

What Money Can't Buy (2012)[7]

In this book, Sandel deals with situations where the market reasoning is a common moral judgement in almost every aspect of our lives. He urges his readers to rethink about the roles of markets and money, and to ask ourselves "whether we want to live this way" (6). His main claim is that every social relationship has its own purpose to govern, which may not be the market reasoning. This is different from libertarian economist like Becker (1976) who sees nothing wrong with applying the market reasoning to every aspect of our lives insofar as no one is physically harmed and each party voluntarily agrees to do so. I will show how Sandel copes with those moral qualms by two cases.

7 All page numbers given alone in this section, *"What Money Can't Buy (2012),"* refer to Sandel (2012).

The First Case: Should people be able to hire someone else to queue up to buy a concert ticket for them?

Sandel outlines four different arguments: the *utilitarian* argument, the *autonomy* argument, the *fairness* argument, and the *virtue* argument. The *utilitarian* argument might defend the practice by saying that every involved party is better off as those who want to see a concert but do not want to queue up to buy a ticket can get a ticket without waiting in line and those who are willing to wait in line for the former can also get paid; at the end, both parties' utilities increase. The *autonomy* argument might criticize the practice by saying that the practice is involuntary because sometimes those who are willing to wait in line for someone else are poor people, whereas those who are willing to hire someone else are rich people. The *fairness* argument might criticize the practice by saying that it is unfair because those who want to see a concert should show their "willingness to wait" instead of "willingness to pay." It is also unfair because the rich would be more advantageous than the poor.

Anyway, Sandel urges us to think about the telos of the practice to see if what social norms should govern it rather than to use any single argument universally, whatever utilitarianism, libertarianism (autonomy), or egalitarianism (fairness). For Sandel, the telos of the queue is "First come, first served" (39). Therefore, in this case, we should employ the *fairness* argument as the first virtue.[8] But this does not mean that the *fairness* argument must be better than other arguments all the times; in contrast, he insists that different activities require different telos, thus some activities require the *fairness* argument, some activities require the *autonomy* argument, some activities require unconditional love/affection, and so on. Even the telos of the queue may be different in different cases, as he writes that

> "The ethic of the queue does not govern *all occasions*. If I put my house up for sale, I'm under no obligation to accept the first offer that comes along, simply because it's the first. Selling my house and waiting for a bus are different activities, *properly governed by different norms*. There's no reason to assume

8 Please notice that Sandel (1982) criticizes Rawls (1971), who insists that his principles of justice can govern all communities/activities as the *first* virtue, for failing to acknowledge that different communities/social relationships require different "first" or "primary" virtues. To be clear, Sandel is not against liberalism as such, but against *deontological liberalism* – the idea that "right" is the *first* virtue of *every* human activity and independent of any conception of the good life (Sandel 1982, 1; Rawls 1971, 4; Doppelt 1990, 58-9).

> that any single principle – queuing or paying – should determine the allocation of all goods" (40; emphasis added).

Sandel encourages us to ask what a particular virtue of the activity in question really is, and avoid applying any single principle to every kind of activity universally, and this is why he thinks that the market reasoning is morally unacceptable for some activities. Please keep in mind that throughout the process of finding out the telos of the queue, Sandel never refers to how American or other particular cultures or the majority defines the goods of the queue at all. Instead, he even tries to convince that the telos of the queue should be different from the common practice in the American society where money can buy so many social relationships. In this sense, Sandel disagrees with the American majority. And he never says that this is the telos of the queue only in the American society, but he applies it to everywhere in the world. In overall, his argument reminds us of Aristotle's virtue-based theory rather than cultural relativism.

The Second Case: Should people be able to buy someone to be their friend?

According to liberals, there is nothing wrong with the practice insofar as no one is coerced to do so. But for Sandel, the practice is morally wrong because it diminishes the telos of friendship, which is sympathy, generosity, thoughtfulness, and attentiveness (107). Thus, the practice of buying and selling friendship undermines certain social norms that friends should share together. Please keep in mind that, again, Sandel never says that the practice is wrong because American or other particular cultures or the majority says so, but because the telos says so. The question is how Sandel comes up with the telos? The rough answer is "reason" or his own particular conception of the good, which he thinks it is better than other arguments. In this sense one may disagree or criticize his reasons, but it is wrong to criticize him for relying on any given practices, whatever cultures, majority, and so on.

We can see that Sandel criticizes liberalism not because he thinks that the society as a whole (i.e. the majority, given cultures, elites, and so on) should have more voices than each individual, but because each community (social activities) has its own telos which is independent of individuals' desires. Epistemologically, cultural relativism and individual liberalism are similar in the sense that moral judgement can only be made subjectively; moral judgement can be known only through each

community (cultural relativism) and each individual (individualism). But Sandel asserts that moral judgement must be made objectively in the sense that the good of the social activity in question must be true for everyone. Let's consider the notion that "the good of family relationship is love and care." For cultural relativism, the notion may be true in some country but wrong in other countries because it gives moral power to each culture. For individualism, the notion may be true for someone but wrong for someone else because it gives moral power to each individual. For Sandel, the notion must be true for everyone because he gives moral power to God-like reasons.

The Status of the Teleology and the Identity

So far, we have seen how Sandel uses the telos as the ultimate moral judgement, but Sandel's communitarianism cannot be completed until we know how exactly he takes an actual identity of the person into account. Sandel (1982; 1984a) assert that we are encumbered/constitutive selves whose ends are given by our own community/identity, so the fundamental question is not to ask "who do I want to become?," but "who am I really?" This makes many scholars understand that Sandel has proposed that the ultimate justification derives from our community's cultures. For instance, Kautz (1995, 216) argues that "if community, of whatever passing form, is the only ground of our moral and political opinions, then it is not possible to judge the prevailing orthodoxies or the way of life of our particular community on the basis of good reasons that are *not* given us by our community." Kymlicka (1988, 191) also argues that "no matter how deeply implicated we find ourselves in a social practice or tradition, we feel capable of questioning whether the practice is a valuable one – a questioning which isn't meaningful on Sandel's account." But, as I said earlier, Sandel (1982; 1984a; 1984b) have not illustrated how exactly our ends are determined by our community/identity.

In fact, Sandel (1982) is the work that deals with a problem of how to identify ourselves rather than of what's the right thing to do directly. Throughout the book, Sandel simply keeps saying that our identity is a matter of finding rather than choosing, but he never discusses in detail what we should do in relation to our identity at all. For instance, although my identity is a member of a mafia family, it does not necessarily mean that what I should do with my identity is to obey mafia values; it may mean that as a member of a mafia family I should have more moral obligations

than other non-mafia-identity persons to eliminate mafia values, to compensate victims who suffer from my ancestors, and so on. But if I perceive myself as an unencumbered self who can choose my own identity, then all those moral obligations would be ruled out (MacIntyre 1981, 221).

From now on, and this is one of the most important tasks of the paper, I will show how exactly Sandel combines the teleological argument and an account of the identity. My rough answer[9] is that Sandel holds the ideal teleology as *first*-order (most important), while holds the actual identity as *second*-order (second-most important). For the ideal teleology informs us what's the right thing to do in general, e.g. the teleology might say that anyone who has the identity as a rich person, a member of a mafia family, an athlete, a father, and so on should do a certain thing, which is determined by the ideal teleology. For the actual identity informs us who we really are in particular, e.g. the identity might say that if one is actually a rich person, and so on, then he or she should do what the teleology dictates, and he cannot rule out those telos by claiming that he is an independent individual rather than a rich person, and so on. In other words, firstly we need to search for the ideal telos of the identity and accept that anyone who turns out to possess that identity should act according to its telos; secondly if we actually turn out to possess that particular identity, then we should do things that anyone who has the same identity as us should do.

If my proposal is right, then we can see the consistency between Sandel's theoretical and practical works. Since Sandel (1982) is the theoretical work that deals with a theory of the person (*second*-order), he never discusses what's the right thing to do in relation to a particular identity. He simply argues that we should not perceive ourselves as independent selves whose identity is determined by our desires as Rawls proposes, but we should perceive ourselves as someone whose identity is determined by actual history, community, and so on. Since Sandel (2005; 2007; 2009; 2012) are the practical works that deal with the teleology (*first*-order), he now discusses what's the right thing to do in relation to a particular identity.

Kymlicka (1988; 192) argues that "for so long as Sandel admits that the person can re-examine her ends – even the ends constitutive of her self – then he's failed to justify communitarian politics, for he's failed to show why individuals shouldn't

9 Whereas an account of the teleology (first-order) has been expounded in the section *"The Case Against Perfection (2007),"* and *"What Money Can't Buy (2012),"* that of the identity (*second*-order) will be expounded in the next section *"An Account of the Identity."*

be given the conditions appropriate to that re-examining, as an indispensable part of leading the best possible life."[10] In other words, Kymlicka argues that Sandel is inconsistent: if Sandel really holds that our ends are given by our community/identity, then he cannot say that we can revise or re-examine our ends as this would lead to the liberal conclusion that the self is prior to the ends, which he disagrees with. Now the question is if Sandel is inconsistent as Kymlicka claims?

If my proposal is right, then Kymlicka is wrong by confusing *first*-order (teleology) with *second*-order (identity) in determining the ultimate moral judgement. According to my proposal, the re-examination of "the ends constitutive of the self" is always possible. If the "ends" here mean the teleology (*first*-order), we should be *free to reflect* on the real/best teleology of the social practice in question (as I have already shown with Sandel's practical writings). If the "ends" here mean the identity (*second*-order), we should be free to reflect on the real identity. But Kymlicka writes as if "culture" is the only source of moral judgements – my identity as a member of a repressive community dictates me to obey repressive values. I will argue that Sandel can propose that an encumbered self can re-examine the identity without violating his communitarianism. Sandel (1982, 153) writes that

> "For the subject whose identity is constituted in the light of ends already before it, agency consists less in summoning the will than in seeking self-understanding. *Unlike the capacity for choice, which enables the self to reach beyond itself, the capacity*

10 Please notice that this Kymlicka's criticism is the reaction against the following passages of Sandel (1982, 152): "the subject is empowered to participate in the constitution of its identity," and "the bounds of the self [are] open and conceived the identity of the subject *as the product rather than the premise of its agency*" [emphasis added]. Kymlicka (1988, 192) interprets these passages that "the subject can, after all, make choices about which of the 'possible purposes and ends all impinging indiscriminately on its identity' it will pursue, and which it will not. The self, constituted by its ends, can be 'reconstituted,' as it were – and so self-discovery isn't enough." But this is merely Kymlicka's misreading of Sandel's passages. In fact, what Sandel means by "the product" is not the idea that we can choose any identity we want, but the idea that human beings cannot be abstract human beings but must be someone in actual history. Sandel suggests that we need to discover our different real identities, and so "the product" is the final result of our discovery, not our desire. In contrast, since Rawls assumes that, in the original position, we are all unencumbered selves, Sandel argues that Rawls takes it for granted that everyone is an unencumbered self who has no history and has the same identity in the first place, and this is why Sandel argues that Rawls' bounds of the self are "the premise of its agency" as Sandel (1982, 152) writes that Rawls' conception "took the bounds of the self as given." We may question if Sandel rightly interprets Rawls, but the point here is that, in this context, we cannot say that Sandel violates his communitarianism and embraces liberalism.

> *for reflection enables the self to turn its lights inward upon itself, to inquire into its constituent nature, to survey its various attachments and acknowledge their respective claims*, to sort out the bounds – now expansive, now constrained – between the self and the other, to arrive at a self-understanding less opaque if never perfectly transparent, a subjectivity less fluid if never finally fixed, and so gradually, throughout a lifetime, to *participate in the constitution of its identity*" [emphasis added].

In this context the term "constitution" does not mean that individuals have *freedom to choose* their own identity, but that they have *freedom to reflect* on their identity. What makes them different is that while the former allows individuals to choose their identity as anything they desire, the latter encourages them to reflect on their "real" identity. In the latter case, since we cannot know our real identity simply by looking at our given community (cultures, laws, educations, and so on), so we need "freedom to reflect" on them. The idea of "freedom to reflection" is that there is already the right answer there and we only need to reflect on/search for them as sometimes we may be mislead by our actual cultures/educations. For instance, if I was a German born after the era of Nazi Germany, then my real identity was a German who needed to take a certain moral responsibility to what my German ancestors had done in the past in one way or another, but this may be mislead by my current culture that tried to convince me that my German ancestors had done nothing wrong, so I did not need to have a moral responsibility.

This is different from "freedom to choose" which allows me to conceive of myself as anything I want because there is no the right answer there, and I do not need to take any moral responsibility that goes beyond my own choice. So, from the above example, "freedom to choose" allows me to rule out any moral responsibility to what Germans had done in the past. In this sense, Sandel can propose that we should re-examine our identity and ends without violating his communitarianism, which holds that the right answer is given prior to individuals.

An Account of the Identity

Now I will show how Sandel takes the identity (*second*-order) into account in detail. Throughout this process, I also explore how Sandel combines the teleology and the identity. The identity of the person is important in two main senses. First,

if it turns out that a value given by a particular religion/community is judged worthwhile and compatible with the teleology, then it is necessary that the society as a whole should recognize their religious/community values, and their right to pursue those practices should be secured. For example, if it turns out that the claim of a particular religion that requires its members to go to the Church on Mondays instead of going to work is judged to be friendly[11] to their highest value as a human, and if this practice is important to their good lives, then they should be granted the right. But if someone claims that he is a member of a repressive community so he should be able to express repressive values such as racism, sexism, and apartheid, then I would say that he should be unable to do so because those values are incompatible with the good life (teleology) of human beings (Miller 2003, 66). My argument may be criticized that it does not make any difference from liberal view, which insists that the self is prior to the end: since I propose that one can make moral judgement on any value given by her own community, so my argument would invalidate the claim that the end is prior to the self.

However, I would argue that it is possible to say that the end is prior to the self, and to say, at the same time, that any values given by a particular community may be wrong and then we can revise or even abolish them. Please keep in mind that when we say that the telos of family relationship is that its members should love and take care with each other, this does not suggest any specific way of practice; it does not suggest that parents should kiss their children before going to sleep, or they should watch a movie together once a week, and so on. In fact, there are so many different ways to pursue the telos of the family community, and each family may have different ways of practice, given that they do not violate the telos.

This argument is different from liberals like Kant and Rawls, who insist that each individual has freedom to pursue what they want, given that they do not violate other people's rights. But, for Sandel, each individual has freedom to pursue what they want, given that they do not violate the ideal telos/goods of the social practice they are engaging at the moment. In this sense Sandel is not a liberal because he allows individuals to have freedom not because they are independent selves, but because they do not violate the ideal conception of the good. To make it clear, let

11 Of course, we need to search for the telos of the working in order to know if working on Mondays is indispensable to the purpose of the working. If it turns out that it is not, then it should be possible for them to stop working on Mondays only if they could show that this practice is really their moral force rather than their individual preferences (Sandel 1996, 70; Miller 2003, 101).

assume that if I am the only person who can say that who can have freedom and who cannot, and what people are allowed to pursue, and so on, then it cannot be said that those people have real freedom (in Kant's and Rawls' sense) because their freedom is very conditional and constrained by my own will. I would argue that Sandel's conception of freedom is similar to this argument: if the ideal telos of the social practice in question is the only principle that can say who can have freedom and who cannot, and what people are allowed to pursue, and so on, then it cannot be said that those people have real freedom (in Kant's and Rawls' sense) because their freedom is very conditional and constrained by the ideal conception of the good. Sandel's conception of freedom is different from Kant's and Rawls' in that whereas the former allows individual freedom insofar as they follow the ideal conception of the good, the latter allows individual freedom insofar as they respect other people's rights.

We need to judge whether any given way of practice is morally permissible and it is really an imperative end given by their community or not. If it turns out that it is friendly to the good of human being, then those given ends should be approved. In addition, if any given value is a part of their good life, which goes beyond their mere preferences, then to leave it vulnerable is to make their lives harder to achieve the highest value of human being. Thus, governments should secure their right to pursue their given values. This is different from liberalism, which insists that governments cannot encourage the right of a particular group to pursue their ends as it would undermine the neutrality between competing conceptions of the good. According to liberalism, governments cannot support any particular value because the self is always prior to the good, and the good is conceived merely as the choice external to individuals. Governments must only protect the self, not the good (Dworkin 1985, 191). The only way that governments can encourage/discourage some conceptions of the good is to assume that the end is part of the self.

Second, without a certain identity/community/history, we cannot fully/meaningfully answer the question of "what do we have to do in particular?" Even though the telos or the highest value of human being is the ultimate source of moral judgement, moral judgement cannot be completed until we know our actual positions in different social relationships. We all have a certain teleological role vary according to different positions, e.g. being a member of a certain family, ethnic community, nation-state, school, sport, history, and so on. We have certain parents, brothers, sisters, and national fellows whom we have not chosen at all. All of this implies that we have a

certain moral duty to treat certain persons and groups, not to any arbitrary others.

For instance, if Mr.A is my father, then I have to recognize Mr.A as my father. I cannot choose not to treat Mr.A as my father and treat Mr.B or others that way instead (Selznick 1987, 451). Anyway, the way I should treat Mr.A as my father is ultimately determined neither by Mr.A (my father) nor me nor even my cultures, but by the telos of the relationship between father and child. Thus, what I need to do first is to find out the telos of the relationship between a father and a child in general, and secondly to recognize that I am now possessing the role of a child, and Mr.A (whom I have not chosen at all) is possessing the role of my father, and finally I should treat Mr.A according to the teleology of the relationship.

Another example is the case of the relationship between rich and poor people. We really need to *recognize*[12] their actual identities not because we want to let everything be where they fall, but because we want to know how exactly who should do what to whom. In this case, if the telos of their relationship tells us that they (rich and poor) should learn together by participating in public affairs, and if to tax the rich can help boost their social life with the poor and people from other backgrounds, then the taxation is justified. As Sandel (2009) writes that "as inequality deepens, rich and poor live increasingly separate lives. The affluent send their children to private schools (or to public schools in wealthy suburbs), leaving urban public schools to the children of families who have no alternative" (266), and that "public institutions such as schools, parks, playgrounds, and community centers cease to be places where citizens from different walks of life encounter one another" (267). Therefore he proposes that "rather than focus on redistribution for the sake of broadening access to private consumption, it would tax the affluent to rebuild public institutions and services so that rich and poor alike would want to take advantage of them" (2009, 267).

This implies that the rich can only realize his good life by participating in public

12 The term *"respect" (recognize)* is not equivalent to *"approve."* When we say that we have to *respect* one's actual identity, it merely means that we have to *recognize/perceive* her actual identity, but it does not mean that we have to *admire/accept/approve* of her actual identity at all. For example, if one is born in a mafia community, she has to *recognize* the fact that she is a member of the mafia community, but if the telos of good community tells her that mafia is wrong, then she should have a certain moral responsibility to help make her own community a better to live, whatever she is willing to do so. We need to recognize one's actual identity, otherwise we cannot know who should do what in particular. This is different from liberalism, which holds that one does not have a certain responsibility to do what one does not want to do.

with the poor. We do not need to approve of the identity of the rich.[13] The telos of the rich is ultimately determined by the highest value of human being, not by the identity of the rich. Being a rich just tells him that he must recognize that he is actually a rich, not an unencumbered self. As a rich, he has a certain responsibility to do to the society: he should contribute to the society more than the poor because the telos and his identity tell him to do so. This is different from Nozick (1974) who insists that to help or not to help someone should depend entirely on each individual because everyone is an independent individual. But, for Sandel, a rich cannot deny his obligation; he cannot say that he is an independent being whose self is prior to the end, because he is actually a rich whose end (telos) is prior to the self. This is also different from Rawls (1971) who insists that the rich must help the poor because no one can claim their own merits absolutely (the difference principle). The problem of Rawls' difference principle is that if people have no any antecedently moral tie, then to tax from the rich to help the poor would be to violate the separateness of persons (Sandel 1982, 167).

For Sandel, an account of one's actual identity is important because, after we successfully seek for the telos of the activity in question, it makes us know who exactly we should do it with. For example, the telos may tell me that, as a good citizen, I should help others, but if I do not know my actual identity or if I perceive myself as an unencumbered self, then my obligations should go to everyone in the world equally. But if I perceive myself as a Thai citizen, then I now can say that my obligations should go to my Thai fellows who share cultures and history with me more than to "others" in the rest of the world. The identity tells me who are close to and distant from me. Even though I should help others, I do not need to help everyone *equally* but I can help someone whose identity is close to me more than someone who is distant from me (Sandel 2009, 225-6; Walzer 1983, 33).

Let's assume[14] that after searching for the telos of the good human being

13 The identity of the rich is having a lot of money. If we say that we *approve* of their identity, then we cannot tax them or tell them what they should or shouldn't buy as it would intervene with their identity. But Sandel never *approves* of their identity that way. He merely *recognizes* their identity.

14 I need to 'assume' this because so far we do not have evidence of how Sandel explicitly discusses what the telos of the good human beings in general is. But as I have shown how Sandel explicitly discusses the telos of some social practices, i.e. the telos of parent-child relationship is unconditional love; the telos of friendship is sympathy; the telos of sports is to show giftedness/efforts; the telos of the queue for concerts is first come, first served; therefore it is plausible to 'assume' that, for Sandel, whatever the telos of the good human being in general might be, "mafia" values are unacceptable and should be eliminated.

in general, we found that mafia values are hostile to the good life, and should be eliminated. Even though everyone should help eliminate mafia values, someone should have more special moral obligations than someone else to do this task. For example, if whereas Mr.A's community/ancestors used to engage in mafia practices, Mr.B's community/ancestors never engaged in mafia practices at all, then it would be implausible to say that both Mr.A and Mr.B should have equal moral obligations to eliminate mafia values; but it would be more plausible to say that Mr.A should have more obligations than Mr.B, because Mr.A shares his identity with the mafia community, and since his community is a part of his identity, he cannot fulfil his moral life until his community is also improved. He should accept that he is a member of a mafia family and has a special moral obligation (that he did not choose), although he himself does not harm others, to compensate victims who used to be violated by his ancestors, to help his fellows who are in the same position as him, and to take the destruction of mafia values as his prime moral concern, and so on.

Those special moral obligations would be ruled out if he perceived himself as an unencumbered self: as an individual independent of any actual history, he can rule out any special moral obligation attached to his identity (Beiser 2005, 281). Although scholars like Baker (1985), Larmore (1990), Caney (1991; 1992), Tomasi (1991; 1994), and Rawls (1993; 1999) would argue that liberalism does not exclude those moral obligations as individuals are still free to pursue them, they cannot deny that those moral obligations are important to them as merely the voluntary choice of individuals rather than the compulsory duty of individuals. In this sense Sandel's communitarianism cannot be accommodated to liberalism: while Sandel's communitarianism insists that it is my duty to be responsible for any past injustice done by my ancestors, liberalism insists that I do not need to be responsible for what I have not chosen, and whether I would take those moral responsibilities or not depends entirely on me as I am free to choose my own identity.

Some might argue that liberal like Dworkin (1977b) also supports affirmative action for university admission policy. I would argue that this simply reflects that this liberal undermines his own theoretical ground – the self is prior to the good – and become a communitarian instead by conceding that the good is prior to the self. Dworkin may argue that his argument for affirmative action is not based on any conception of the good/merit, but on the idea that this is an effective policy of "attacking a national problem" (1977b, 12). He seems to suggest that since university admission

has nothing to do with individual rights, universities may accept students based on different criterions (Sandel 1982, 140). But this raises many questions: why does he think that people should concern national problems rather than local community's or world's problems? If I am an independent self who can choose my own identity, then why do I have to concern problems of a nation that I did not choose? Why am I not free to concern problems of any nation I prefer or of none at all? Whatever Dworkin would answer, he could not avoid embracing a particular conception of the good prior to individuals as his answer would be justified independently of any person's desire.

Let's consider the following statement of Sandel (2009, 215)

> "If, in thinking about justice, we must abstract from our particular identities, it is hard to make the case that present-day Germans bear a special responsibility to make recompense for the Holocaust, or that Americans of this generation have a special responsibility to remedy the injustice of slavery and segregation. *Why? Because once I set aside my identity as German or an American and conceive myself as a free and independent self, there is no basis for saying my obligation to remedy these historic injustice is greater than anyone else's*" [emphasis added].

We can see that, for Sandel, what is right/wrong does not depend on how each community (Nazi Germany or American segregation) defines it, but is is defined by other source: ideal telos. A particular identity/community can only tell us who exactly we should do it with. We need to discover our "real" identity as sometimes culture/education may teach me that my identity has nothing to do with a mafia family or any past injustice my ancestors have done, so any moral obligations in relation to them would be ruled out. According to Sandel, since I am obligated to search for my "real/objective" identity, I should be able to revise any given culture until I find out my "real" identity. This is different from liberalism: I am free to choose and change my own identity as I want all the time, whatever arbitrary.

Second Argument: *Sandel's communitarianism always opposes Individualism, but cultural relativism allows Individualism only if a particular society approves of it.*

So far we have seen how Sandel bases the ultimate moral judgement on the

telos of the social practice in question. Since individual rights always come after, not before, the contemplation of those telos, it can be said that Sandel's communitarianism always opposes individualism[15] in any case. It is wrong to say that individualism may be justified if a particular society approves of it; that one society may pursue one telos and another society may pursue completely another telos of the same social practice. For instance, if it turns out that the telos of the teacher-student relationship is that teachers must teach their students to think critically rather than to accept anything they are told uncritically, then this telos should be applied generally to every society, e.g. America, Britain, China, and so on.

Orwin (1998) argues that Sandel (1996) fails to acknowledge that America has actually embraced both cultures of republicanism and of individualism from its genesis; that Sandel's attempts in replacing America's individualism by republicanism "would itself amount to a declaration of unencumberedness" (p. 90). In other words, according to Orwin, Sandel should accept that individualism is appropriate to America because it is partly constitutive of "the encumbered American self." Since Sandel is against this view, Orwin argues that Sandel fails to hold the encumberedness thesis. I would argue, however, that Orwin's criticism is mistaken. I will not discuss whether Orwin is right by saying that America has actually embraced both republicanism and individualism from its genesis, but I will discuss whether he is right by saying that Sandel (1996) is the thesis that Americans should embrace anything the early America history has embraced.

In *Democracy's Discontent* (1996), Sandel argues against "procedural republic" (individualism) and advocates "republicanism" (communitarianism) because while the former insists that governments should be neutral among competing conceptions of the good, the latter requires governments to encourage a particular conception of the good. He does not discuss the liberal-communitarian debate in pure theory; instead, he illustrates the historical development of political theories in America (Sandel 1998a). However, since Sandel obviously advocates "republicanism" and criticizes "procedural republic," and, throughout the book, he also emphasizes that the early America history leaned on "republicanism," and it has become the "procedural repub-

15 "Individualism" here means the idea that individual desires are always prior to the telos. If I argue that the telos of human beings is to act autonomously, then my argument is not individualistic because autonomy, in this sense, is still prior to individual desires. In contrast, "individualism" means that I can decide what to do without referring to the telos. Thus, my argument would be individualism only if I insist that there is no any telos but individual desires.

lic" gradually, and it is only in the present time that America has leaned fully on the "procedural republic," this may lead to a misleading conclusion that republicanism is more appropriate to America than the procedural republic because, historically, America has embraced republicanism for a long time and it is a fundamental value of America.

Anyway, this is misleading because Sandel never implies that America should embrace republicanism because the early history of America says so. As I said, the book is a historical outline of political theory in America, which has nothing to do with cultural relativism. Thus, when he says that the early America embraced republicanism rather than the procedural republic, whether his historical account is right or not, it does not mean that Americans must conform to what early America has embraced. It is worth noting that Sandel (2009) explicitly denies slavery and supports the rights of gays, lesbians, black people, and women, which were absolutely unavailable in the early America, so Sandel does not see that anything embraced by the early ancestors must be moral.

Section III: Sandel Is *Not* A Deliberative Democrat

As we shall see shortly, Section III is quite short when compared to the previous sections, especially Section II. This is mainly due to two reasons. First, whereas the cultural relativism thesis is much more epidemic in the academic community than the deliberative democracy thesis, and in order to defend Sandel from it would require a very detailed line of arguments, the deliberative democracy thesis is much easier to deal with, which also means much less space. Second, as Section II is not only to defend Sandel from the cultural relativism thesis, but also to articulate Sandel's philosophy itself, my arguments proposed in Section II have already shown that he is not a deliberative democrat; Section III, in this sense, is simply to explicitly summarize that Sandel is not a deliberative democrat. These explain why I do not dedicate to Section II and Section III proportionally.

Miller (1992, 57) defines deliberative democracy as the idea that "the outcome is a decision which all the parties involved may feel to be reasonable, but this does not entail that it reflects any transcendent standard of justice or rightness ... not on deliberation as a discovery procedure in search of a correct answer." In other words, there is no objectively right answers prior to individuals, and justice is simply the agreement of all rational persons. Given this definition, according to Tam (1998, 72), communitarians, which Sandel is clearly one of them, are deliberative democrats, as

he writes that "for communitarians, what is right or wrong depends not just on what an individual thinks, but rather in what passes the test of co-operative enquiries."

Sandel's communitarianism sometimes is interpreted as the deliberative democracy thesis, which holds that any just public policy must be decided by rational/informed citizens, because he often encourages the public to discuss a variety of topics rather than lets each individual decide about what's the right to do. As Sandel (1996, 23) writes that "the effort to banish moral and religious argument from the public realm for the sake of political agreement may end by impoverishing political discourse and eroding the moral and civic resources necessary to self-government." And when Sandel (2012, 202) discusses whether there is something money cannot buy, he argues that "we can't answer this question without deliberating about the meaning and purpose of goods, and the values that should govern them." Sandel (2018, 259) even claims that "I also reject the Rousseauian view that the common good is unitary and uncontestable. Instead, the republican conception I defend conceives of freedom as the activity of sharing in self-government, and deliberating with fellow citizens about the meaning of the good life." All of this implies that we all need to deliberate a variety of controversial topics together.

Even though I believe that Sandel, in practice, would endorse deliberative democracy because it urges citizens to openly discuss moral issues together, I do not think that Sandel's argument, in theory, could support the foundation of deliberative democracy, which is the premise that there is no objectively correct answers prior to individuals. It should be noted that he never refers the telos of the social practice in question to the results of the public debate, but comes up with the telos by using his own reasons. In this sense the public deliberation is important to him in two senses. First, the public discussion is used as a means to convince people of his own arguments. Second, which is more importantly, the public discussion is used as a source of ideas/arguments, as we have seen from his later works (2007; 2012) that he always enquires several arguments in order to find out the best answer for different moral questions.

Tam (1998) might argue that he never uses the term "rational majority," but I will show that it does not matter if he actually uses it as his argument cannot avoid it. If he asserts that moral judgement needs to be deliberated rationally and tested again and again, then how does he know if it passes the tests if he does not refer to a certain criteria? The question is what that criteria is? It is clearly not cultures

because Tam uses the term “co-operative enquiries” which implies reasonable creatures. It is also not rational people in general because if those who are said to be rational enough to test moral judgement are the criteria, then why don’t we let the majority among them (rational majority) determines it? Therefore, according to this interpretation, the ultimate moral judgement must be based on the rational majority.

It also does not matter what Tam really means by rationality as his interpretation is misleading in the first place, that is, he bases the ultimate moral judgement on actual persons. Do we really think that someone like Rawls, Nozick, and Dworkin can be said irrational? Of course, no one thinks that they are irrational. Let us assume that they can successfully convince other rational people to agree with them that there is no such thing as telos/purpose of the activity in question; instead, they make everyone believe that the best conception of the good life must be determined subjectively by each individual. If Sandel was a deliberative democrat, then he should accept the conclusion of the public deliberation, but, as we have seen, Sandel never accepts the notion that the telos of the good is a matter of the subjective judgement, therefore Sandel is not a deliberate democrat.

Conclusion

Communitarianism is an important political theory in the late 20th century Anglo-American analytical political philosophy, along with liberal egalitarianism, right libertarianism, utilitarianism, multiculturalism, and so on. Despite that, it seems to me that communitarianism is still misinterpreted by many scholars in many aspects. In this paper, I have dealt with two, among other, misinterpretations of communitarianism: the cultural relativism and the deliberative democracy interpretation. However, as communitarianism is built from the philosophy of many thinkers, in which I am unable to deal with them all here, I have chosen to study the political thought of Michael J. Sandel as he is one of the leading communitarian political theorists and also a well-known public philosopher.

I have argued that Sandel’s communitarianism is different from cultural relativism and deliberative democracy; whereas cultural relativism and deliberative democracy base the ultimate source of moral judgement on each society’s cultures and the rational majority respectively, Sandel bases it on the telos of the social practice in question, which is derived from the contemplation of the highest value of human being in different circumstances. I have illustrated how Sandel combines

the teleology and the identity of the person: while Sandel holds the ideal telos of the social practice in question as *first*-order, he holds the actual identity of the person as *second*-order; while the former tells us what's the right thing to do in general, the latter tells us who we should do the right thing to in particular. For instance, while the telos (*first-order*) may tell us that we have a moral obligation to help others, the actual identity (*second-order*) may tell us that we have more obligations to help our people than other people; as a German citizen, one has more obligations to his German people than other foreigners. Sandel's communitarianism is a virtue-based theory similar to Aristotelianism, in which the telos of the social practice in question always comes prior to the existing cultures and individuals' desires. Sandel's communitarianism also differs from deliberative democracy in that while the former believes that there is an objectively right answer prior to individuals, the latter does not.

References

Aristotle. 2009. *The Nicomachean Ethics*. Tr. David Ross. Oxford: Oxford University Press.

_____. 1995. *The Politics*. Tr. Ernest Barker. Oxford: Oxford University Press.

Arthur, James, and Richard Bailey. 2000. *Schools and Community: The Communitarian Agenda in Education*. London: Falmer Press.

Baker, Edwin. 1985. "Sandel On Rawls." *University of Pennsylvania Law Review*, 133: 895-928.

Becker, Gary S. 1976. *The Economic Approach to Human Behavior*. Chicago: University of Chicago Press.

Beiner, Ronald S. 1998. "Introduction: The Quest for a Post-Liberal Public Philosophy." In *Debating Democracy's Discontent: Essays on American Politics, Law, and Public Philosophy*, eds. Anita L. Allen and Milton C. Regan Jr., 1-13. Oxford: Oxford University Press.

Beiser, Frederick. 2005. *Hegel*. New York: Routledge.

Benhabib, Seyla. 1994. "Deliberative Rationality and Modes of Democratic Legitimacy." *Constellations*, 1(1): 26-52.

Caney, Simon. 1991. "Sandel's Critique of the Primacy of Justice: A Liberal Rejoinder." *British Journal of Political Science*, 21(4): 511-521.

——. 1992. "Liberalism and Communitarianism: a Misconceived Debate." *Political Studies*, XL: 273-289.

Crittenden, Jack. 1992. *Beyond Individualism: Reconstituting the Liberal Self*. Oxford: Oxford University Press.

Demaine, Jack, and Harold Entwistle, eds. 1996. *Beyond Communitarianism: Citizenship, Politics and Education*. London: Macmillan Press.

Doppelt, Gerald. 1990. "Beyond Liberalism and Communitarianism: Towards A Critical Theory of Social Justice." In *Universalism vs. Communitarianism: Contemporary Debates in Ethics*, ed. David M. Rasmussen, 39-60. Cambridge, MA: The MIT Press.

Dworkin, Ronald. 1977a. *Taking Rights Seriously*. Cambridge, MA: Harvard University Press.

_____. 1977b. "Why Bakke Has No Case." *New York Review of Books*, November, 10: 11-15.

_____. 1985. *A Matter of Principle*. Cambridge, MA: Harvard University Press.

Etzioni, Amitai. 1998. "Introduction: A Matter of Balance, Rights and Responsibilities." In *The Essential Communitarian Reader*, ed. Amitai Etzioni, ix-xxiv. New York: Rowman & Littlefield Publishers.

Feinberg, Joel. 1988. "Liberalism, Community, and Tradition." *Tikkun*, 3(3): 38-41, 116-120.

Freeman, Michael. 1998. "Universalism, Communitarianism and Human Rights: A Reply to Chris Brown." *The International Journal of Human Rights*, 2(1): 79-92.

_____. 2012. *Human Rights: An interdisciplinary approach*. 2nd ed. Malden: Polity Press.

Friedman, Jeffrey. 1994. "The Politics of Communitarianism." *Critical Review*, 8(2): 297-340.

Gutmann, Amy. 1985. "Communitarian Critics of Liberalism." *Philosophy & Public Affairs*, 14(3): 308-322.

Kant, Immanuel. 1785/1988. *Fundamental Principles of The Metaphysic of Morals*. Tr. T.K. Abbott. New York: Prometheus Books.

Kautz, Steven. 1995. *Liberalism and Community*. Ithaca: Cornell University Press.

Kymlicka, Will. 1988. "Liberalism and Communitarianism." *Canadian Journal of Philosophy*, 18(2): 181-203.

_____. 1989a. *Liberalism, Community and Culture*. Oxford: Clarendon Press.

_____. 1989b. "Liberal Individualism and Liberal Neutrality." *Ethics*, 99(4): 883-905.

_____. 2002. *Contemporary Political Philosophy: An Introduction*. 2nd ed. Oxford: Oxford University Press.

Larmore, Charles. 1990. "Political Liberalism." *Political Theory*, 18(3): 339-360.

MacIntyre, Alasdair. 1981/2007. *After Virtue: A Study in Moral Theory*. 3rd ed. Indiana: University of Notre Dame Press.

Miller, David. 1992. "Deliberative Democracy and Social Choice." *Political Studies*, XL, Special Issue: 54-67.

_____. 2003. *Political Philosophy: A Very Short Introduction*. Oxford: Oxford University Press.

Mulgan, R.G. 1977. *Aristotle's Political Theory: An Introduction for Students of Political Theory*. Oxford: Clarendon.

Mulhall, Stephen, and Adam Swift. 1993. "Liberalisms and Communitarianisms: whose Misconception? A Reply to S.Caney, 'Liberalism and Communitarianism: A Misconceived Debate'." *Political Studies*, XLI: 650-656.

_____. 1996. *Liberals and Communitarians*. 2nd ed. Oxford: Blackwell Publishing.

Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.

Orwin, Clifford. 1998. "The Encumbered American Self." In *Debating Democracy's Discontent: Essays on American Politics, Law, and Public Philosophy*, eds. Anita L. Allen and Milton C. Regan Jr., 86-91. Oxford: Oxford University Press.

Phillips, Derek. L. 1993. *Looking Backward: A Critical Appraisal of Communitarian Thought*. Princeton: Princeton University Press.

Rawls, John. 1971. *A Theory of Justice*. Original Edition. Cambridge, MA: Harvard University Press.

_____. 1980. "Kantian Constructivism in Moral Theory." *Journal of Philosophy*, 77: 515-572.

_____. 1993. *Political Liberalism*. Expanded Edition. New York: Columbia University Press.

_____. 1999. *The Law of Peoples: With "The Idea of Public Reason Revisited."* Cambridge, MA: Harvard University Press.

Sandel, Michael J. 1982. *Liberalism and the Limits of Justice*. Cambridge: Cambridge University Press.

_____. 1984a. "The Procedural Republic and the Unencumbered Self." *Political Theory*, 12(1): 81-96.

_____. 1984b. "Introduction." In *Liberalism and Its Critics*, ed. Michael J. Sandel, 1-11. New York: New York University Press.

_____. 1989. "Religious Liberty – Freedom of Conscience or Freedom of Choice?" *Utah Law Review*, Vol. 3: 597-615.

_____. 1994. "Political Liberalism." *Harvard Law Review*, Vol. 107: 1765-1794.

_____. 1996. *Democracy's Discontent: America in Search of a Public Philosophy*. Cambridge, MA: Harvard University Press.

_____. 1998a. "Reply to Critics." In *Debating Democracy's Discontent: Essays on American Politics, Law, and Public Philosophy*, eds. Anita L. Allen and Milton C. Regan Jr., 319-335. Oxford: Oxford University Press.

_____. 1988b. *Liberalism and the Limits of Justice*. 2nd ed. Cambridge: Cambridge University Press.

_____. 2000. What Money Can't Buy: The Moral Limits of Markets." *The Tanner Lectures on Human Values*, Vol. 21: 87-122.

_____. 2003. "What Money Shouldn't Buy." *The Hedgehog Review*, 5(2): 77-97.

_____. 2004a. "Embryo Ethics: The Moral Logic of Stem-Cell Research." *The New England Journal of MeDicine*, 351(3): 207-209.

_____. 2004b. "Ethics of Embryonic: Dr. Sandel Replies." *The New England Journal of MeDicine*, 351(16): 1689-1690.

_____. 2005a. "The Ethical Implications of Human Cloning." *Perspectives in Biology and Medicine*, 48(2): 241-247.

_____. 2005b. *Public Philosophy: Essays on Morality in Politics*. Cambridge, MA: Harvard University Press.

_____. 2007. *The Case Against Perfection: Ethics in the Age of Genetic Engineering*. Cambridge, MA: Belknap Press of Harvard University Press.

_____. 2009. *Justice: What's The Right Thing To Do?* London: Penguin.

_____. 2012. *What Money Can't Buy: The Moral Limits of Markets.* London: Penguin.

_____. 2013. "Market Reasoning as Moral Reasoning: Why Economists Should Re-engage with Political Philosophy." *Journal of Economic Perspectives*, 27(4): 121-140.

_____. 2014. "The Moral Economy of Speculation: Gambling, Finance, and the Common Good." *The Tanner Lectures on Human Values*, Vol. 33: 333-359.

_____. 2018. "Learning from Chinese Philosophy." In *Encountering China: Michael Sandel and Chinese Philosophy*, eds. Michael J. Sandel & Paul J. D'ambrosio, 245-279. Cambridge, MA: Harvard University Press.

Selznick, Philip. 1987. "The Idea of A Communitarian Morality." *California Law Review*, 75(1): 445-463.

Swift, Adam. 2014. *Political Philosophy: A Beginners' Guide For Students and Politicians*. 3rd ed. Cambridge: Polity Press.

Tam, Henry. 1998. *Communitarianism: A New Agenda For Politics and Citizenship*. London: Macmillan Press.

Taylor, Charles. 1989. *Sources of the Self: The Making of the Modern Identity*. Cambridge, MA: Harvard University Press.

Thigpen, Robert B., and Lyle A. Downing. 1987. "Liberalism and the Communitarian Critique." *American Journal of Political Science*, 31(3): 637-655.

Tomasi, John. 1991. “Individual Rights and Community Virtues.” *Ethics*, 101(3): 521-536.

_____. 1994. “Community in the Minimal State.” *Critical Review*, 8(2): 285-296.

Waldron, Jeremy. 1988. “When Justice Replaces Affection: The Need for Rights.” *Harvard Journal of Law & Public Policy*, 11(3): 625-647.

Wallach, John R. 1987. “Liberals, Communitarians, and the Tasks of Political Theory.” *Political Theory*, 15(4): 581–611.

Walzer, Michael. 1983. *Spheres of Justice: A Defense of Pluralism and Equality*. Oxford: Blackwell.