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## Financial Incentives and Healthcare: A Critique of Michael Sandel

Mark Peacock

York University, Toronto, [mpeacock@yorku.ca](mailto:mpeacock@yorku.ca)

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### Cover Page Footnote

The author wishes to thank the journal for its editorial support in giving life to this essay.

## **Financial Incentives and Healthcare: A Critique of Michael Sandel**

**Mark Peacock**  
*York University*

### **INTRODUCTION**

The use of monetary incentives to induce people to behave in salubrious ways abounds, though it is as controversial as it is ubiquitous (Brown, 2017). Few will have been surprised at offers of money since 2021 to increase rates of vaccination against COVID-19. The Canadian province of Alberta and various U.S. states offered entry to state lotteries with million-dollar prizes to those who had hitherto been slow to embrace vaccines. In the summer of 2021, Greece started to offer younger members of the adult population 150 Euros for vaccination (Sullivan, 2021), and in November of the same year, the Ukrainian government gave payments of 1,000 hryvnias (35 Euros) per person to increase its rate of vaccination, one of Europe's lowest at 15% when the incentive was introduced.<sup>1</sup> Given that one-third of survey respondents in the U.S. express greater willingness to be vaccinated in return for a modest payment, this seems to be money well spent. Evidence on the effectiveness of monetary incentives in healthcare, especially in the long term, is, however, ambiguous (Brown, 2017, 141), but even if the evidence bespoke the lasting efficacy of monetary incentives, some commentators question whether efficacy be the only criterion for judging these incentives. One such criticism is levelled by Michael Sandel who discusses monetary incentives generally, but pays particular attention to their use in inducing drug addicts to agree to sterilization. Critics of monetary incentives have levelled the charge of "bribery" against monetary payment in healthcare though the charge is often made with little analysis. Sandel explores the bribery analogy in detail, and his work is worthy of scrutiny for that reason. Sandel holds that monetary incentives involve "corruption", a concept which, along with "coercion", is central to his critique of commodification in contemporary social life. He first makes this argument about payments to drug addicts who, in return for money, agree to be sterilized; he proceeds to address the more general use of money to prompt members of the public to take better care of their health.

This essay unfolds as follows. Section One explores cash for sterilization and Sandel's analysis thereof. Sandel proposes a judicial analogy with which he justifies the term "bribery" to describe monetary payments made to addicts in return for their consent to be sterilized. If the analogy is to hold, Sandel would have to show that a drug addict who consents to sterilization in exchange for money acts illicitly. As I detail in Section Two, Sandel offers two criteria according to which being sterilized for money might be illicit: that the transaction (i) serves an "external end" and (ii) is against the interest of addicts. With regard to the latter criterion, one would expect Sandel to state wherein addicts' interest lies, but he disappoints this expectation. In Section Three, I undertake an analysis of the reasons for which addicts might agree to be sterilized in order to ascertain which reasons for sterilization may be deemed to thwart addicts' interest. The analysis is continued empirically in Section Four by examining evidence on both abortion and sterilization to ascertain how much light such evidence can throw onto cash for sterilization. The evidence suggests that cash for sterilization is most problematic when the offer of money compromises the autonomy of those contemplating sterilization. This applies to drug addicts whose circumstances – addiction and often poverty – may be deemed to cajole them into agreeing to be sterilized and thus compromise the voluntary nature of their consent. This argument aligns with Sandel's coercion criticism of commodification rather than with his corruption objection. I conclude that the latter objection is insufficiently developed to form an effective critique of monetary incentives in healthcare. Sandel's critique of cash for sterilization derives its power from the notion of coercion, not from corruption.

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<sup>1</sup><https://www.reuters.com/world/europe/ukraine-president-says-all-vaccinated-ukrainians-will-receive-1000-hryvnia-2021-11-15/>. Non-monetary rewards have also been offered, for instance, in some U.S. states which have given out free shot guns, beer and marijuana; chickens have been given in return for vaccination in Indonesia, while some Chinese provinces offer eggs (Lewis, 2021; Qin and Chien, 2021; Sullivan, 2021). Private corporations also offer financial rewards to employees who elect to be vaccinated (<https://www.dw.com/en/german-retailer-offers-bonus-to-vaccinated-workers/a-57217050>)

### COERCION, CORRUPTION, AND STERILIZATION

Project Prevention, a U.S.-based non-profit organization, has pioneered an approach to unintended pregnancies involving drug-addicted people. The organization proposes a transaction between itself and its clients – drug-addicted or alcoholic men and women (henceforth “addicts”) – which consists in a payment from the organization in return for addicts’ consent to long-term contraception or sterilization. Discussions of this arrangement have focused on female addicts, particularly those who are sterilized in exchange for \$300. This focus reflects the small number of male clients whom the organization has persuaded to have a vasectomy (401 to May, 2021) compared to the number of women who have made up the majority of the organization’s clients to date (7695). Of these female clients, 2444 have been sterilized (tubal ligation); the modal form of birth control is the reversible IUD implant administered to nearly 3000 women.<sup>2</sup>

Sandel (45)<sup>3</sup> rehearses the utilitarian justification of this transaction, according to which, if both parties are rational and enter into the transaction voluntarily, both may be assumed to gain: the addict \$300 and Project Prevention the guarantee that the addict will not procreate; social welfare therefore increases and so the transaction is ethically edifying on utilitarian grounds. An objection to this argument rests on the notion of *coercion*: can an addict, possibly someone who lives in straitened financial circumstances, resist the offer of \$300? If not, the choice to be sterilized is not a truly voluntary one, for the addict is coerced by her circumstances into accepting the offer (45). I return to the coercion objection to cash for sterilization in Section Four but, in what follows, I attend to a different criticism of Project Prevention based on the notion of *corruption*. This criticism, Sandel (1998, 95-96) argues, is conceptually independent of the coercion objection, for it is based on a different “moral ideal”. The transaction between Project Prevention and an addict is corrupt, “a form of bribery” (46). The bribery allegation has been made by others, both with respect to Project Prevention (Chelian, 2003-4, 194-195), to other uses of monetary incentives promoting birth control (Sunil *et al.*, 1999, 564) and to the use of financial incentives to further salubrious behaviour unrelated to contraception (Ashcroft, 2011). Sandel uses the term bribery in analogy with a judge who is bribed into issuing a crooked verdict. The judge effectively “sells” the verdict and thereby uses his office as an instrument for personal gain, not as a “public trust”; consequently the judge “degrades and demeans his office by treating it according to a lower norm than is appropriate to it” (46). The latter phrase encapsulates Sandel’s “broader definition” of corruption. By analogy, addicts who transact with Project Prevention sell something which should not be sold – their reproductive capacity. They thereby treat this capacity inappropriately – not as a “gift or trust to be exercised according to norms of responsibility and care”, but as a tool for monetary gain (46-47).

Because the concept of bribery is central to this essay, I offer a definition of bribery on the basis of which my critical analysis of Sandel follows.

- 1) A bribe is a sum of money offered by person *B* who has the intention of prompting person *A*, to whom the money is offered, to perform an action,  $\alpha$ . (Although a bribe may be non-monetary, I will assume that it is monetary).
- 2) *B* assumes thereby that, but for the bribe, *A* would not perform action  $\alpha$ . (If *B* assumed that *A* would perform  $\alpha$  irrespective of the bribe, the bribe would be otiose; if *A* performs  $\alpha$  because of the bribe, one may say that the bribe *motivates* *A* to perform  $\alpha$ ).
- 3) Action  $\alpha$  is illicit.

All three conditions are fulfilled in the case of the corrupt judge. If Sandel’s analogy is to work, they must also apply to the case of cash for sterilization. Is this so?

Project Prevention offers money to addicts with the intention of convincing them to be sterilized; this is the stated purpose of the organization, and so point 1) of the definition is fulfilled. The organization assumes thereby that, in the absence of payment, the addicts would not agree to be sterilized. It is, furthermore,

<sup>2</sup><http://www.projectprevention.org/statistics/>. There is an irony about the female focus in commentaries on Project Prevention, for the earliest monetary incentives for birth control were offered to men willing to have a vasectomy in the Indian state of Tamil Nadu in 1956 (Sunil *et al.*, 1999: 563).

<sup>3</sup>All references given by page number only refer to Sandel (2012).

plausible to assume that many of the organization's clients who have undergone some form of birth control would not have done so had it not been for Project Prevention's offer. Consequently, point 2) of our definition of bribery is fulfilled. Before we explore whether cash for sterilization fulfils point 3), we must clarify it by returning to the judge.

In the judge's case, action  $\alpha$  (delivering a false verdict) is illicit independent of the bribe. Accepting a bribe is but one reason for delivering a false verdict, and there are other reasons which might motivate a judge to do so, e.g., personal animus or racial bias. Being motivated by such factors makes the judgement illicit without a monetary bribe. In fact, it is hard to imagine a reason that would justify the wilful pronouncement of a crooked verdict; delivering such a verdict is inherently wrong. Is the case of cash for sterilization similar? That is, are there no conceivable reasons which would justify a drug addict's decision to be sterilized? If not, then, like the judge's issuing of a crooked verdict, action  $\alpha$  (the addict's consenting to being sterilized) would be illicit regardless whether the addict was offered money, and the analogy with the judge would hold. However, to contend that it is *never* justified that a drug addict be sterilized is an extreme position. Although Sandel does not expostulate explicitly on the matter, this extreme position is not one which we can ascribe to him.

Sandel addresses this point obliquely through an argument which he puts into the mouth of an imaginary interlocutor who states: "Money aside, the woman does no wrong if she chooses to be sterilized" (47). The interlocutor clearly believes that there *are* justifiable reasons for being sterilized, although these reasons are not specified. From the fact that there are justifiable reasons for sterilization, Sandel's interlocutor infers that, since a woman has "a right to give up her childbearing capacity for reasons of her own, ... she must also have the right to do so for a price" (47). Sandel's reply to his interlocutor is non-committal: he merely notes that "we have to figure out what norms should govern our sexual and procreative lives" in order to ascertain whether market relations belong there (47); he therefore takes no explicit stance on the matter. With that, Sandel interrupts his discussion of cash for sterilization. Hence, it remains unclear whether Sandel agrees with his interlocutor that there are reasons which justify the addict's decision to be sterilized and, if so, what these reasons are. Consequently, the closeness of the analogy between the judge and the addict remains unspecified. Is an addict's decision to be sterilized in exchange for money ever justified? A negative answer, as I have just noted, would be an extreme, uncompromising view. An affirmative answer, by contrast, would mean that being sterilized in return for money is not always wrong, and this would constitute a difference between an addict and a judge whose delivery of a crooked verdict is always wrong. If Sandel supported an affirmative answer to the question, one would expect him to differentiate the conditions under which consenting to sterilization is licit from those under which it is illicit. His main discussion of cash for sterilization offers no such differentiation, though he returns to cash for sterilization in his more general discussion of "health bribes" to which we attend in the following section.

### **ENDS AND REASONS – INTRINSIC AND EXTERNAL**

Sandel offers a general discussion of monetary incentives in healthcare, e.g., to encourage people to give up smoking or lose weight. In what follows, I use the example of losing weight to illustrate his criticism of health bribes and then ask in which ways it differs from his criticism of cash for sterilization.

A person who takes steps to lose weight in return for money acts in a way which serves an *external end*. As an example of an external, Sandel mentions "reducing health costs for companies or a national health service" (58). He contrasts these ends which losing weight promotes with the reasons for which people might choose to lose weight. What, according to Sandel, makes financial payments for losing weight questionable, is that the recipient of the payment loses weight for an *external reason*, namely, the prospect of acquiring money. Note that the category of external *reason* is independent of the category of external *end*. The external reason of wanting to acquire money is the "wrong" reason for losing weight; it supplants a "better", *intrinsic*, reason. This intrinsic reason issues, not from a desire to acquire money, but from a proper attitude of care and respect for one's body. Money, however, "tricks" a person into losing weight, and though losing weight is in the person's interest, because it improves his health, the manipulation involved in offering people money is

what makes this practice bribery (59). Let us compare this account of health bribes in general with Sandel's account of cash for sterilization.

Like health bribes generally, cash for sterilization serves an external end. When addicts undergo sterilization, the monetary incentive prompts them "to relinquish their reproductive capacity not for their own good but for the sake of an external end—preventing more drug-addicted babies" (58). Health bribes differ from cash for sterilization, however, when it comes to the interest of the person to whom a payment is offered: whereas a payment to lose weight prompts an overweight person to act in his own interest, addicts who accept cash for sterilization "are being paid to act, in many cases at least, *against their interest*" (58 emphasis added). This, Sandel holds, makes the use of the term "bribery" all the more compelling with regard to sterilization, though in the context of health bribes, he argues, the term "bribery" is apposite on account of the "trick" involved in motivating people to lose weight for the wrong reason, *viz.*, acquiring money. One might contend, *pace* Sandel, that the term "bribery", to describe the case of paying people to lose weight, is misplaced, for it differs decisively from the case of the corrupt judge: the person who loses weight when paid to do so is, according to Sandel, doing the right thing for the wrong reason; the judge, by contrast, who, acting on a bribe, finds an innocent person guilty, is not doing the right thing for the wrong reason but is doing something intrinsically wrong. This would seem to vitiate any analogy between judicial corruption and paying people to stay healthy, though Sandel uses the term "bribery" to describe both.

Returning to the case of sterilization, Sandel does not explicitly address the reasons addicts have for being sterilized; indeed, in contrast to his discussion of health bribes, one finds no distinction between external and intrinsic *reasons* in his discussion of sterilization. But rather than assume that reasons are irrelevant to Sandel's analysis of the latter, one may reconstruct his approach in a manner which accords a role to the reasons for which addicts agree to sterilization. Indeed, it is imperative to investigate the reasons addicts have for being sterilized if we are to assess Sandel's claim that being sterilized in exchange for money is against their interests.

By offering money to addicts, Sandel holds, Project Prevention "tricks" them into being sterilized, and the addicts thereby become instruments who act in a way which serves an external end, namely, to prevent the birth of drug-addicted babies. What makes this end external? One indication of its externality is to consider how addicts would answer the following question: Why are you agreeing to the offer made by Project Prevention? Sandel seems to presume that addicts would reply: "In order to get some cash" and not: "In order to reduce the number of drug-addicted babies". If this is Sandel's presumption, the goal of preventing the birth of drug-addicted babies which the sterilization of addicts certainly serves would answer to the name of an external end from the perspectives of addicts, for it does not play a part in motivating them to agree to sterilization.<sup>4</sup> From the perspective of Project Prevention, by contrast, reducing the number of drug-addicted babies constitutes a reason for sterilizing addicts. What motivates addicts to agree to the terms of the transaction is the prospect of earning money which, in turn, allows them to acquire drugs. This, at least, is the position I ascribe to Sandel, for although he does not refer to addicts' reasons for being sterilized, this is the most charitable way of rendering his position, and it corresponds to the way in which he himself analyses health bribes.

Addicts, if we pursue this reconstruction of Sandel's position, agree to be sterilized for the wrong (external) reason, namely, the prospect of acquiring money. Like recipients of health bribes for losing weight, addicts are manipulated into being sterilized by the offer of money. But Sandel notes a difference between recipients of health bribes and the drug-addicted clients of Project Prevention: whereas the former are tricked into doing something which accords with the own interest, addicts do not, "in many cases at least", act in their own interest when they agree to be sterilized (58). The phrase quoted raises the following question: which criterion separates the "many cases" in which addicts act against, from those in which they act in, their own interest? This is something we will explore in the following section when we consider reasons for sterilization. Sandel also leaves a further question unanswered: what would he counsel addicts to do? In the case of health

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<sup>4</sup>This understanding of external reasons corresponds roughly to the standard philosophical use of the term, see Finlay and Schroeder (2017).

bribes, one may infer his answer to the question: "What is to be done?", namely: overweight people should lose weight, but they should do so, not because a healthcare provider proffers them money for doing so, but because they have cultivated an attitude of care and respect for their body. But what should addicts do – what are good (intrinsic) reasons for being sterilized if money constitutes a bad reason? Or should addicts refrain from being sterilized and do something else instead? These are questions which Sandel leaves unanswered.

### **REASONS FOR STERILIZATION**

Project Prevention aims to reduce births of drug-addicted babies and pays addicts to be sterilized in order to reach this end. In the previous section I argued that the end of preventing the birth of drug-addicted babies was external to the concerns of addicts in the sense that reaching this end is not what motivates them to agree to being sterilized. This suggests a dissonance between the ends the organization pursues and those pursued by addicts when they agree to be sterilized. It also strengthens Sandel's view that addicts are tricked into this transaction: in return for money, addicts aid Project Prevention in the pursuit of an end which the organization deems worthy of pursuit (preventing the birth of addicted babies), though the addicts' interest is not served by this transaction.

If, however, one takes Project Prevention at its word, decreasing births of addicted babies is a necessary consequence of its program, but it is not an end in itself. This can be inferred from the fact that Project Prevention mentions other ends which it pursues. If we examine these other ends, we can ascertain whether there is greater congruence between ends pursued by the Project Prevention and ends pursued by addicts. We can descry whether any of these ends might provide good ("intrinsic") reasons for addicts' choice to be sterilized and whether being sterilized for such reasons redounds to the interest of addicts. If so, it would cast the relationship between Project Prevention and its clients in a different light.

One goal after which Project Prevention strives is to reduce the amount of taxpayers' money spent on foster care and alleviating the caseload of social workers. These costs, the organization avers, might exceed \$300,000 per child during the latter's lifetime.<sup>5</sup> The ends of reducing taxpayers' money and the burden on social workers are presumably external to the concerns of addicts who, we have been presuming, are more likely motivated by the receipt of \$300. And this is apparently how Project Prevention conceives addicts' motivation, as revealed in an advertisement which states: "*Don't let a pregnancy ruin your drug habit*" (Chelian, 2003-4, 189-190). A not uncharitable interpretation of this slogan suggests that addicts should agree to sterilization in order to earn \$300 which, in turn, will allow them to acquire the narcotic to which they are addicted. Furthermore, one may contend that acquiring money in order to further their consumption of drugs is not in the interest of addicts who accede to sterilization. This might explain the cynicism which Project Prevention's methods meet in the eyes of the organization's critics. But before we dismiss the motives behind Project Prevention as purely manipulative, let us consider further ends which the organization purports to pursue and ask whether they might constitute reasons of a less external nature to the concerns of addicts who contemplate sterilization.

An end which Project Prevention mentions is to spare as yet unborn children of the suffering which follows from both abuse and neglect at the hands of their parents and of fetal alcohol disorders which result in conditions deleterious to a child's life (see Chasnoff, 1988). The end of preventing children's suffering might play a role in addicts' deliberation about whether to be sterilized. If it does, this end should not be described as "external" to addicts' concerns. Moreover, an addict whose decision to be sterilized were swayed by concerns for the future child's health and welfare, would arguably be using her reproductive system according to the ethic of care and responsibility which Sandel admonishes us to exercise towards our reproductive capacities (47). This ethic of care would be exercised toward possible future children of the addict. Being sterilized out of concern for the fate of one's future children arguably qualifies as an "intrinsic" reason for sterilization, though it is unclear whether an addict would be acting in her own interest rather than in that of the unborn child if she

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<sup>5</sup><http://www.projectprevention.org/objectives/>; <http://www.projectprevention.org/whats-new/>. The organization's website provides no source for this figure.

agrees to be sterilized in order to avoid harm to the child. Indeed, if she divests herself of the ability to have children at a future time, when, perhaps, she is no longer drug dependent, an addict who is sterilized on account of concerns for children born to her whilst she is addicted might be held to be sacrificing her own interest in having future progeny. This might be described as an other-regarding reason to be sterilized, and it would appear to be a responsible thing to do.

A further goal for which Project Prevention strives is to "alleviate from our clients the burden of having children that will potentially be taken away".<sup>6</sup> Given the organization's emphasis on financial savings, one may suppose that concern for addicts is not foremost in the minds of the organization's personnel, but one may concede that giving birth to a child who is forcibly separated from its mother and taken into foster care causes immense emotional pain to the mother. If this consideration plays a role in an addict's decision to be sterilized, there is a *prima facie* case for arguing that being sterilized expresses an attitude of responsibility and care toward oneself on the part of the addict; she would be assessing the consequences of giving birth and the future pain which might accrue to her if her child be made a ward of the state. There is, furthermore, a case for arguing that being sterilized, because it saves the addict from potential emotional pain, is in her interest.

The foregoing discussion suggests that cash for sterilization serves more than the immediate end of reducing the birth of drug-addicted babies. Once other ends are acknowledged, it is arguable that addicts who agree to sterilization are (a) using their reproductive system in line with an ethic of care and responsibility and (b) acting in a way which furthers rather than thwarts their interest. One might, at this point, declare a stalemate in the debate between Sandel and proponents of Project Prevention, with both sides speculating about the reasons for addicts agreeing to be sterilized. If, as Sandel holds, most addicts are motivated by the prospect of acquiring money which they use to further their drug consumption, one may build a case for saying that sterilization is against the interests of addicts. If Project Prevention is right about other ends which the transaction between itself and its clients serve and if serving such ends plays a role in the deliberation of addicts who contemplate being sterilized, the case for arguing that sterilization is against addicts' interests is less strong. Only empirical investigation into addicts' reasoning will be able to determine which side has the stronger argument. Alas, survey research on addicts and their reasons for being sterilized is scarce. Nevertheless, evidence which relates to the matter is not entirely lacking, and I will consider it in the section which follows.

### EVIDENCE

If there is a lack of evidence pertaining directly to addicts' reasons for sterilization, might other evidence shed light on the issue at hand? There is abundant evidence on women's reasons for abortion and for sterilization, and though it pertains largely to non-addicted populations, one may cautiously draw inferences from this evidence with the following caveats. First, abortion is not the same as sterilization. In some societies, the former is more morally charged, and this might be a cause for hesitation to abort which is lacking with regard to sterilization. Reasons for abortion might therefore differ from those lying behind sterilization. Nevertheless, both sterilization and abortion are types of birth control to which some considerations are common. Second, in jurisdictions with strict legal provisions on abortion or a vibrant anti-abortion lobby, access to abortion can be hindered by a lack of clinics performing legal abortions (where abortion is legal) and the requirement that a woman receive counselling prior to abortion (Gerds *et al.*, 2016; Joyce *et al.*, 2009; Keefe-Oates *et al.*, 2020). These obstacles are more often absent in the context of sterilization, although access to sterilization is far from open or equally distributed (Borrero *et al.*, 2012; Zite *et al.*, 2006), and in some societies, remaining childless carries social disapprobation; couples which do not procreate can be frowned upon, whereby it is often the woman who receives blame for the childless state of a heterosexual union (cf. Riessman, 2000). Attention to cultural and legal context is therefore important when one compares reasons given for abortion with those for sterilization. Third, abortion, unlike sterilization, does not divest a woman of the capacity to produce progeny in the future, and the decision whether to abort is likely to focus on shorter-term

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<sup>6</sup><http://www.projectprevention.org/objectives/>.



considerations rather than the long-term implications which women who contemplate sterilization take into account. Fourth, when considering the evidence presented below, both that on abortion and on sterilization, we must hold in mind that it comes from the experience of women rather than of *addicted* women. Some studies, however, include drug-related reasons for abortion or sterilization, and these are relevant to the concerns of the drug-addicted clients of Project Prevention.

### **Abortion**

Women's reasons for contemplating or having an abortion are many in number and varied in content (Finer *et al.*, 2005, 117; Kirkman *et al.*, 2010, 150). Prevalent amongst them are worries that the rearing of a child will have unwanted effects on the woman's life. Financial issues loom large, but so do worries that a child will upset a woman's career or educational aspirations (a reason cited more often by younger, childless and unmarried women) or that a child might disturb the existing life of a woman in other ways (Broen *et al.*, 2005; Finer *et al.*, 2005). These reasons might be described as "self-interested" because they concern the mother's assessment of her own interests in light of the prospect of becoming a mother. Other reasons, by contrast, are other-regarding. These include considerations of the possible negative impact of a new child on one's extant children or on one's relationship with one's intimate partner (Finer *et al.*, 2005, 117; Kirkman *et al.*, 2009, 374-375). A further other-regarding reason pertains to the well-being of the child. These well-being-related reasons include the concern that the child, were it born, would not be wanted or loved (Kirkman *et al.*, 2009, 374). Intimate partner violence may also be included here, and there is a strong correlation between such violence and the desire for abortion (Taft *et al.*, 2019). Solicitude about the future child's physical health is also weighed by women as a reason to terminate a pregnancy (Finer *et al.*, 2005, 112; Kirkman *et al.*, 2009, 373). Project Prevention's stated aim of reducing the suffering of children born to addicts is thus shared by some women who, once pregnant, seek abortion for reasons concerning the well-being, or lack of it, of the potential future child.

Concerns about alcohol, tobacco and drug use by women during pregnancy feature amongst reasons for seeking abortion. Substance-abuse-related reasons for abortion relate, not only to damage done to the foetus during pregnancy, but also to possible postpartum drug use by women and their partners. Substance abuse was identified as a reason to abort by 5% of the nearly 1000 respondents in a U.S. survey undertaken between 2008 and 2010; women mentioned it as a factor which would detract from their parental skills and their ability to provide an environment in which a child would thrive (Roberts *et al.*, 2012, 642). There is a strong association between drug use and abortion, whereby illegal drug use is more strongly correlated to abortion than is the use of legally available drugs (Taft *et al.*, 2019, 139). Some of the survey respondents who consider abortion for drug-related reasons will have similar profiles to those of Project Prevention's clients prior to being sterilized. Those respondents whose reason for abortion is related to their partner's drug use, however, are not necessarily drug users themselves, and the studies cited do not allow one to differentiate the women's drug use from that of their partners.

In the previous section, I cited a third end pursued by Project Prevention, namely, the end of avoiding emotional pain to mothers who have a child removed from their care. This does not feature explicitly in women's reasons for seeking abortion. This reason might be included in women's assessment of their envisaged competence and readiness to be a parent, for any factor which might constitute a reason for thinking one would be a "bad parent" can induce solicitude about losing custody over one's child. Again, the categories which structure the data do not allow for the fine-grained differentiation required for identifying a desire to avoid the aforementioned emotional pain as a reason for abortion.

The evidence on abortion is of some, but limited, use in illuminating the reasons why addicts might seek to be sterilized for money. Of the reasons for abortion mentioned above, none is obviously devoid of the responsibility and care that Sandel admonishes women to exercise in using their reproductive systems. Whether one is prompted to terminate a pregnancy on account of concern for oneself, one's education or career, for the unborn child, one's extant children or intimate partner, there is nothing irresponsible or uncaring in the deliberations about abortion. Sandel, though, would have a retort to this contention, to wit:

granted, many of these reasons for abortion manifest responsibility and care – toward oneself and others – in the use of one's reproductive capacity, and abortion, when undertaken for these reasons can, no doubt, redound to the interest of women; but the question is not whether women in general have good reasons for abortion but whether *drug-addicted* women are capable of the ratiocination manifested by the mainly non-addicted women whose reasons for abortion are reported in studies. Is it not more reasonable, Sandel would ask, to assume that addicts' deliberation about abortion will be skewed towards undertaking actions which allow them to feed their addiction? Addicts, Sandel might continue, will further their short-term (perceived) interests by grasping the opportunity to earn money, but doing so is likely to come at the expense of their long-term good? If the money received in return for sterilization facilitates the acquisition of drugs, offering addicts money will induce them to do whatever allows them to acquire it without sufficient consideration of interests they have, particularly those of a long-term nature, other than the procurement of drugs. Studies of decision-making amongst addicts suggest that this thought is correct.<sup>7</sup> From time-to-time, studies report addicts electing to have an abortion for the reason that pregnancy and/or motherhood would detract from efforts to rid themselves of addiction (Roberts *et al.*, 2012, 642-643). Such reasons give one *prima facie* reason to believe that addicts can deliberate rationally about abortion and comes to decisions which are in their long-term interest. But such reasons feature too rarely to allow one to contend that addicts, more generally, are capable of making choices which promotes their long-term interests.

Evidence on abortion, then, bespeaks often well-reasoned and responsible decision-making by women who consider terminating a pregnancy, but such evidence, because it focuses mainly on the reasons of women who are not dependent on drugs, is insufficient to remove the suspicion that specifically drug-addicted women have less well-considered reasons for abortion because their attention is disproportionately occupied by acquiring drugs and the monetary means for doing so. Mercantile reasons, are, as Sandel contends, not obviously in women's interest.

### **Sterilization**

Often, sterilization follows from a woman's ascertaining that she does not wish to have (further) children. The relative reliability of sterilization as a contraceptive procedure as well as the side-effects of other contraceptive methods account for the relative popularity of sterilization.<sup>8</sup> The irreversibility of tubal ligation, however, can give rise to post-sterilization regret which issues from a change of mind about not wanting to have (further) children, frequently induced by divorce or the death of extant children. The incidence of regret is higher amongst women below the age of 30 than amidst their post-30-year-old counterparts (Hillis *et al.*, 1999, 891-892; Shreffler *et al.*, 2015). A further factor correlated with post-sterilization regret concerns the process through which the decision to be sterilized goes: those women who exercise less control over the decision are more likely to experience regret. Because it is relevant to an assessment of cash for sterilization in a way which will become apparent below, the issue of control of decision-making which leads to sterilization requires closer examination.

Following Shreffler *et al.* (2015, 36-37), who explored reasons for sterilization in the United States, one may posit a continuum between "voluntary" and "involuntary" reasons for sterilization. At the voluntary end of the continuum stand reasons which accord with the preferences of women, such as not wishing to have (further) children. A decision based on this reason is voluntary in the sense that it is free of external necessity; it not forced on women but one they can make with maximal autonomy. At the opposite, involuntary, end of the spectrum are decisions based on necessity or compulsion. Forced sterilization, in which women have no choice, has been common in recent history, though it is not the sort of involuntariness with which we are presently concerned (see Bruinius, 2006; Patel, 2017). Paradigmatic for sterilization based on necessity are

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<sup>7</sup>See behavioural studies of addicts decision-making, e.g. Heshmat (2015). "Present bias" is a common flaw of decision-making amongst those who are not addicted to drugs and it is a reason for casting aspersions on the ethical permissibility of offering money in exchange for sterilization (Heil *et al.*, 2012).

<sup>8</sup>Tubal ligation is the most common form of contraception used by women in some countries (Boring *et al.*, 1988, 973; Hillis *et al.*, 1999, 889-890).

cases in which further procreation might be life threatening for a woman who elects to be sterilized to avoid the risk. Between these poles lie reasons which make the sterilization decision more or less voluntary, depending on the degree autonomy a woman feels she has in making the decision. Sterilization for the reason a woman feels unable to shoulder the financial burden of rearing children would fall between the poles.<sup>9</sup>

One factor which detracts from the voluntariness of the decision to be sterilized is “pressure from others”, be those others husbands (intimate partners), family members or medical practitioners. The odds of reporting post-sterilization regret are highest amongst women who agree to sterilization as a result of pressure from others (Shreffler *et al.*, 2015, 42; Boring *et al.*, 1988; Brault *et al.*, 2016). A similar finding is met in studies of abortion, whereby “pressure from a male partner” was the reason most strongly associated with retrospective feelings of a negative nature toward the decision to abort (Broen *et al.*, 2005, 41). A further indicator of lack of autonomy is the degree of misinformation women have about sterilization, and this factor, too, is positively correlated with post-sterilization regret (Borrero *et al.*, 2012).

The lack of autonomy associated with choices made under pressure diminishes the extent to which one “owns” the choice in question. This applies, not only to women whose decision to be sterilized is urged upon them by an intimate partner, doctor or family member, but also to those whose circumstances dragoon them into acceding to sterilization. Such are the circumstances of many addicts, whose craving for drugs induces them to consent to actions which will facilitate their access to drugs. Sandel holds that the money Project Prevention offers to addicts “may be too tempting to resist. Given her addiction and, in most cases, her poverty, her choice to be sterilized for \$300 may not really be free. She may be coerced, in effect, by the necessity of her circumstances” (45). Although Sandel does not explore in detail the circumstances under which circumstances coerce, he traverses well-trodden philosophical territory when he argues that straitened circumstances detract from the voluntariness of choice. The point is voiced by many who comment on financial incentives in healthcare, including on Project Prevention's methods (Ashcroft, 2011; Chelian, 2003-4; Morgan, 2004; Voigt, 2017; Wild and Pratt, 2017).

The extent to which addicts' decisions are truly voluntary is a matter of dispute (Foddy and Savulescu, 2006; Racine and Rousseau-Lesage, 2017). Yet the empirical relationship between less autonomy of choice and post-sterilization regret suggests that addicts who accept Project Prevention's offer are more likely to feel regret as a result of consenting to sterilization under conditions which denudes their choice of autonomy. This gives content to Sandel's claim that addicts act against their interest when they are coerced by addiction and poverty into agreeing to be sterilized; for by doing so, addicts are exposing themselves to post-sterilization regret which, in turn, indicates that, when they give their consent, they fail to judge their long-term interest correctly. This is what makes cash for sterilization illicit, and, on account of its illicitness, it represents bribery, for which our third, and hitherto elusive condition, was that the act performed by the addict, like the delivery of the crooked verdict by the judge, be illicit.

### **CONCLUSION: COERCION AND CORRUPTION – A REFRAIN**

If the train of thought with which I closed the previous section vindicates Sandel's critique of cash for sterilization, he has scored a somewhat Pyrrhic victory, for his argument that cash for sterilization be an instance of bribery relies on the notion of coercion; it is, to reiterate, a combination of addiction and limited financial resources which compromise addicts' autonomy in deciding whether to be sterilized for money, and this makes their act illicit in the sense that it does not redound to their interest. However, the charge of bribery, in Sandel's view, aligns itself with the concept of corruption and is conceptually independent of coercion. Sandel repeatedly states that the corruption objection would remain even if all concerns about coercion and the voluntariness of choice were removed. But corruption, if it plays a role at all in the objection to cash for sterilization, stands on the shoulders of the coercion objection without which the corruption objection is not compelling.

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<sup>9</sup>An interesting, though troubling, reason for sterilization is used in plea bargaining, whereby if a guilty party agrees to sterilization, she or he will receive a lenient sentence (see Riley, 2006). Such practices presumably compromise the voluntariness of the sterilization decision.

Sandel is unlikely to be enamoured of a critique of cash for sterilization that relies, as the foregoing analysis does, on the concept of autonomy; for autonomy is a concept he associates with the “proceduralism” of modern liberal political theory which prizes the ability of autonomous individuals to make free choices over ends according to the value that they place on those ends. The procedural nature of modern liberalism circumvents collective discussions about the “norms [which] should govern our sexual and procreative lives” (47) and instead leaves it to individuals to make their own valuations and choices in matters deemed to be private.<sup>10</sup> Sandel's contribution to such collective discussion is, however, insufficient as a basis for establishing grounds which might help us to decide which norms are appropriate. In particular, his conception of women's interest and of the circumstances under which cash for sterilization thwarts their interest is underdeveloped. Hence he is unable to ground his corruption-based objection to the use of monetary incentives, for the objection from corruption requires thorough analysis of the correct attitude one should cultivate toward one's health and the interests which the adoption of this attitude serves. In lieu of more compelling arguments about such matters, we may be left with no criterion for assessing cash for sterilization other than according to the degree of autonomy accorded to addicts who agree to sterilization. This assessment draws its strength from the concept of coercion, not from the concept of corruption.

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<sup>10</sup>For relevant discussions, see Sandel (1998; 2009).

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