Appendix D **Mapping Markets**

The body politic, like the human body, begins to die from its birth, and bears in itself the causes of its destruction.

—Jean-Jacques Rousseau, *Discourse on the Origin and Foundation of the Inequality Among Mankind*

Americans of all ages, all stations of life, and all types of disposition are forever forming associations. . . . In democratic countries knowledge of how to combine is the mother of all other forms of knowledge; on its progress depends that of all the others.

—Alexis de Tocqueville, *Democracy in America*

Markets develop when goods and services are traded on a regular basis. They have existed since the beginning of civilization but capitalist markets are a special type of exchange based on economic interests. We know that all markets are motivated by competition and profits but, that is not the whole story. There are larger social forces in society that shape them as well. Markets are part of society and the larger culture of a nation. They operate with social and cultural values as well as financial and economic values and this makes markets the subject of sociology, not just economics.[1]

In this appendix we will examine how to map markets from a sociological perspective. We will look at how to identify the various components of markets and track their interactions. Markets in this perspective are part of a general economy that operates in the Third Sector, government, and business. This is a tri-sector economy, and all orders of society are linked within it. The government (the state) is examined for its potential to go beyond its role in modern history.

Sociologist Fred Block describes five types of states in this history that have not worked perfectly in a civil society. Block's types of state range across the spectrum from the political left to the political right, judged largely by the purpose and type of control over markets. He describes the *socialist state* on the extreme left, then, moving across the spectrum, there is the *developmental state, social rights state, macroeconomic stabilization state*, and the *public goods state* on the extreme right. These types of state range from total government control over the economy on the left, to laissez-faire policies on the right.[2]

In A CIVIL REPUBLIC we proposed another outlook for the state. We said that the state could intentionally support a civil society. First, a state would assume that Third Sector corporations are part of the economy and that their values could mix creatively with business. Second, we proposed that a state could develop new market structures with public accountability. Third, a state, by its policymaking, could develop a civil-economy model for world markets.[3]

In social mapping we illustrate how specific fields of business are linked with the state and the Third Sector. Our cases will be the *stock* *market*, the *baking and bread industry*, the *banking industry*, and the *construction industry*. These fields of business are all connected with the state and the Third Sector, but here's the rub: the way the three sectors relate to one another spells the difference between the decline and the development of society.

Before we illustrate this mapping, we should look at a sociological perspective of the economy.

I A Sociological Perspective

In this perspective, social processes and core values (not just economic processes and values) shape a market. Social and economic processes are seen as intertwined in the economy. Business values and the values of society are woven together in a market.

This means that a social map should include a description of *cooperation,* for example, not just *competition*. It means that *nonprofit* corporations should be included in a market map because they set core values and standards for business. The process of cooperation and the core values of society are the latent (less visible) side of markets. Sociologists need to map the manifest (obvious) and the latent (less obvious) sides of markets together, to understand how they work.

In this perspective a market system is linked with society, not business alone. It is grounded in social and economic phenomena. Mainstream economists do not study social phenomena in connection with economic phenomena, but the connection is vital to see what is happening today.[4]

Max Weber saw economic phenomena with its own norms, as in business, but he argued that social phenomena have an impact on them. His study of The Protestant Ethic shows how social phenomena are relevant to the historic development of business. Social action, he said, is a human behavior in which people are "oriented to one another" in market decisions. Business (economic) action is invested with social meaning.[5]

Sociologist Neil Fligstein views markets as "organizational fields" in which people "orient their actions to one another." In this perspective, the market is connected with all organizations of society – schools, sports, churches and synagogues, science organizations, etc. And the market invokes all kinds of social processes that go beyond competition and the subject of economics.[6]

Sociologist Pierre Bourdieu sees markets as an interaction among people with different dispositions, a habitus, as he calls it. The market is a set of power relations that are maintained through different types of capital: financial, social, and technological, etc. There are dominant and subdominant actors in this field. (We have described the nonprofit sector like a subdominant player in the market economy in A CIVIL REPUBLIC, but also as a latent power.) In any event, the nonprofit sector is a player in the market system. This should be kept in mind in mapping markets.

In economic thought, financial interests and the process of competition explain the market, but from a sociological perspective there are many other interests and processes as well. For example, there are the public (non-financial) interests of the state and core values in Third Sector organizations. There are social processes like *accommodation, conciliation, concession, compromise, disagreement, argument, and conflict*, which explain the market, not just competition. There are societal norms like *folkways, mores, custom, and convention*, not just business norms. There are social psychological factors like *jealousy, pride, self-esteem, conceit, rage, kindness, good will, and terror*, not just financial factors. Many different human conditions explain market behavior that are not in economic textbooks.[7]

When New York Attorney General Elliot Spitzer saw rampant malpractice in the stock market in 2003, he saw "tolerance for improprieties" and “hubris” expressed among those in power. These qualities are not explained by economics, but by other fields, like economic sociology, social psychology, and social economics. These attitudes of market-fraud tolerance develop among people in places of privilege and power and are not part of modeling by economists. Economic models are ideal types, good for scientific research, but also stereotypes that can become illusions.[8]

The picture of a market that is given by economists and the media is a stereotype. People tend to think that markets are organized in the business sector. A market operates in the steel industry, with competitors like Bethlehem and National Steel. But people do not normally think of a market in the Third Sector, for instance in higher education with competitors like Harvard and Yale.

So, we have a lot of new thinking to do here.

Let's go further. In popular thought, a capitalist market exists when economic interests, financial motives and competition rule and govern decisions. But these factors can equally rule for nonprofit corporations in markets. These factors exist in economic transactions among universities, colleges, public schools, hospitals, sports leagues, medical clinics, libraries, professions, art associations, and museums.[9]

Market competition and financial motives operate in all organizations of society, not just in business. Nonprofit schools, hospitals, libraries, and museums have economic motives and financial interests that are not noted in The Financial Times or the Wall Street Journal.

As we shall see, nonprofit corporations are critical to the profit sector. Indeed, the nonprofit sector shapes the direction of production and economic exchange by significant measure. This inter-sector fact should be mapped.

Sociologists trace the networks that develop among people and organizations. Networks can be seen as a form of governance that sets the standards and operating procedures in the market. Walter Powell, Charles Sabel, and others have looked at the webs of interdependence found within industrial districts, collaborative manufacturing, and varieties of inter-firm alliances. This method of observing network patterns is fundamental to mapping and economic sociology.[10]

In this appendix we will look at how economic transactions are linked in we call an “associated market.” This “associated” attribute is hidden from mainstream economics and the public eye. It refers to those cooperative patterns of organization that develop in business and economically oriented organizations. This special attribute tells us how profit and nonprofit competitors govern a market together. Rules of competition are made through cooperation in the non-profit sector and then enacted in the profit sector.

These social facts need to be mapped.

Markets are created through collaborative associations in the nonprofit sector. When markets are mapped in this “associated economy” we can see how public standards get defined apart from government. We then map how standards are enforced and made accountable inside private markets.

The Associated Market: The Basis for Competition

The idea that a market is “grounded in competition” is false. Rather, the market is grounded (more fundamentally) in cooperation. Competition is a secondary attribute in the market; markets cannot survive without cooperation, that’s how basic it is. Cooperation is the bottom line for a market to exist at all, as people must first speak (cooperatively) to one another in some language. But as we shall see, cooperation goes deep into the patterns of social life in every system of economic exchange.

A market becomes mature through refined systems of cooperation. Business competitors could not last long without trade associations. College competitors could not operate without cooperating through accrediting associations. Nonprofit associations are like tribes, where competitors protect themselves and set their standards. It is where competitors in the same field influence government to advance their interests so they can survive.

Let’s look at cooperation as a process of naked survival but also to identify its role in civil development in the market.

Cooperation is the basis for biological evolution. Social Darwinists emphasized competition and missed the main point of it all. The main point is that cooperation makes all types of evolution possible; it marks the struggle for life and makes the struggle for survival work. Cooperation is in the act of sex, just for starters; the cooperative patterns of sex exist throughout the organization of vegetable and animal life. Cooperation is natural to all animal groups, as seen in the flocks of birds, the swarms of bees, and the schools of fish. It is in family life, kinship play, the rearing of offspring, and the team hunting patterns. No species could have evolved without cooperation.

It is the same for markets and the economy.

The process of cooperation and its allied conditions (e.g., partnership, alliance, settlement, harmony, concord, and teamwork) are essential for markets to grow and to evolve successfully. Hence, it needs to be sociologically mapped. It is part of an associated market system.[11]

Business competitors establish associations, virtually like “co-ops” in production, distribution, and retail. The American Iron and Steel Institute has its co-op in its trade group to help members sustain industrial standards.

College competitors have their “co-ops” (so to speak) like New England Association of Schools and Colleges, Inc., which helps sustain educational standards. These “co-ops” are democratic membership groups that set the pace and some of the rules of competition. In this perspective, we are looking at an associated economy where standards are created in the private sector.

Social and political economists study this phenomenon but the larger meaning for market theory is lost. Charles Sabel is an exception, as he points toward a larger meaning. He describes the “institutions of development” that demand cooperation and “learning by monitoring.” The setting of public standards and monitoring is the central dilemma of economic growth but it is also the central dilemma of development from a sociological perspective. It needs to be mapped.[12]

Public Standards in Markets

Great values and standards can be destroyed when competition is dominant and cooperation is subdued. They are sustained only when people cooperate. Competitors sustain standards through nonprofit trade associations as well as through educational, art, science, and professional corporations. These standards can also be lost through all these associations.

How these standards are sustained need to be mapped and studied. Market standards include those that sustain honesty, as in corporate accounting; human safety, as in the norms governing the structure of automobiles; environmental protection, as in the conventions governing the oil industry, etc.

The substantive (core) values of the larger culture are also there, latent, waiting to be noticed, mapped and developed. They stand in tension with the formal (calculating) values of business. Society's core values and standards (e.g. openness, fairness, truth) are in the social and cultural life of markets, not described in the economist's model of the market.

How are such values and standards created in markets?

Business competitors set standards in their own interest and also for the common good. Trade associations make it possible for people *to screw a light bulb into a socket, flip a switch and get light, wear the same size shoe sold by different manufacturers, and get cash from competitors at an ATM machine.* Thousands of standards are made possible because of the cooperation of competitors in trade agreements.

What is a standard? As business groups say, "a standard is a documented agreement established by a consensus, usually with experts, and approved by a recognized body of competitors." The agreement provides "rules and guidelines to ensure that materials, products, processes and services are fit for a common purpose."[13]

The government adopts voluntary standards developed by nonprofit corporations like the American National Standard Institute (ANSI). ANSI has procedures to maintain due process, openness and consensus. Standards need to be mapped, as they are created at the intersection of business, nonprofit, and profit sectors.

Nonprofit and Profit Sectors: Interdependence

Most people are not aware that nonprofit corporations establish standards in the market and monitor their compliance. Many economists are not conscious of how nonprofit corporations exercise power over the market. So, it is important to map how this inter-sector (profit/nonprofit) connection works. It works in the context of market competition *and* cooperation.[14]

Nonprofits can monitor and control business malpractice as a virtual substitute for government; they are like monitoring agencies: some strong, some weak. The nonprofit Insurance Institute for Highway Safety, for example, tests the safety of cars produced by the automobile industry. It has a strong influence on safety standards for auto manufacturing. The Consumer Union publishes Consumer Reports, as an independent nonprofit organization. Its mission is to work for a fair, just, and safe marketplace and to empower consumers.[15]

The government can generate incentives for business to work for the common good. In 1992, for example, the US Environmental Protection Agency (EPA) introduced ENERGY STAR as a voluntary labeling program designed to identify and promote energy-efficient products to reduce greenhouse gas emissions.[16]

Trade federations have industry-wide standards and give seals of approval for customers to judge how a product may impact on stakeholders and the environment. The Carpet and Rug Institute (CRI) is a national association, which consists of manufacturers responsible for over 90% of all carpet produced in the United States. It is fairly big as it also includes suppliers of raw materials and services to the industry. The staff coordinates this work with other segments of the industry, such as distributors, retailers, and installers. A board of directors composed of CEOs from member companies sets staff policy. CRI's Seal of Approval program helps customers identify retailers and installers that are committed to “a higher standard.”[17]

The National Consumers League is designed to protect and promote the interests of consumers, using education, research, science, investigation, publications, and the public and private sector to accomplish that mission. The League and its leaders have played active roles in U.S. history. Since the 1890s, the League has pioneered a concept called advocacy and began fighting for American consumers.[18]

The government has a resource of consumer organizations to support monitoring. Every state has a consumer organization. States and localities organize consumer groups. They should all be part of the mapping of stakeholders.[19]

In this general economy, sociologists can map the "organizational life of markets," as Neil Fligstein might say. Mapping in a sociological perspective traces the networks of organizations in *a general economy*. Here we see social and economic values conflicting and converging in markets.

II <u>Mapping Markets</u>

In the markets that we map below, we see how business links (clashes and congregates) with Third Sector corporations and government. This mapping should reveal an economy in which cooperation (collaboration, mutual aid, etc.) shapes business conduct along with competition (rivalry, struggle, etc.). We will select certain features in these business sectors (the stock market, baking, banking, and construction) to see how they work in a social context, i.e. how for-profits, nonprofits, and governments shape the market as a system.

A caveat: We are depicting a method of study, not making a careful analysis of the thousand details that are in these industries below. These cases suggest that: 1) Market forces based on competition do not create public standards and rules of exchange. 2) People create public standards through patterns of cooperation.

Our long-range hypothesis: Nonprofit corporations have the potential to shape capitalist markets into civil markets. All three sectors are responsible for decline or conversely, civil development in the market as a system.

1. The Stock Market

The public views the stock market as part of the business sector. People think that corporations like the New York Stock Exchange govern this market. This is partially true but “governance” is actually in a tri-sector system. The stock market includes the Securities Exchange Commission, Third Sector corporations, families and organized stockholders. This market has stakeholders across all orders of society: religion, education, science, art, and the professions. People in all orders have an influence in shaping corporate conduct and market behavior.

Let's start with the business sector.

A. The Business Sector

The stock exchange traces its roots back in history, leaders say, "to cooperation in farmers' markets and coastal city fish markets." The New York Stock Exchange (NYSE) originated in the tradition of local auctions in 1791. It began as a small cooperative, but of course a lot has happened since that time.

The NYSE was registered as a national securities exchange with the U.S. Securities and Exchange Commission on October 1, 1934. But it is not a business in the usual sense. Rather, it is a nonprofit cooperative so to speak in which traders compete with other exchanges. These exchanges set standards, rules and regulations that are independent of government.

America's major stock exchanges today include NYSE (the Big Board), American Stock Exchange (Amex- part of the NASDAQ), Pacific Stock Exchange (PSE), Philadelphia Stock Exchange (PHLX), Chicago Board of Trade (CBOT), and the National Association of Securities Dealers Automated Quotation system (NASDAQ). They are national and global in their operations.[20]

This type of cooperation is interesting. It makes a market work for the privileged few while also, relatively, for the many, and what business leaders view as the public good. Critics would say that the market is organized to advance power and privilege (developing a "tolerance for improprieties" and “hubris”) while advocates would say that it advances public standards based on fairness, equity, and transparency.[21]

These contrary outlooks are suggestive of how mapping proceeds subjectively, moving toward objectivity. Mapping requires viewing stock market phenomena from the perspective of all stakeholders, like insiders and outsiders, customers, governments, workers, and communities.

Strong critics see this market as taking advantage of people and generating inequality of the worst kind. The market is “legalized gambling,” a casino with no redeeming value. It is part of the larger problem of capitalist markets that invokes “advantaged competition” for the privileged in world trade. The globalization of stock markets is (in this sense) linked with capitalist exploitation and global terrorism. The Trade Center Towers and Wall Street would be a logical target for critics who become militants.[22]

Strong advocates, on the other hand, see those Trade Towers and Wall Street as a productive part of the voluntary sector. Here is where for-profit and nonprofit corporations “network” to set public standards. The NYSE has a constitution and codes of conduct that intend to favor all investors, not just rich executives.[23]

So, from an ethnographic perspective, this market should be described from all viewpoints; it has a complex cultural set of structures, motives and outlooks.

In other words, this market works for the public good in the minds of many, but for others it is terribly flawed, virtually impossible to monitor and police. There are too many inside traders and too many quiet transactions that have become global. In this globalization, stock trading cannot be monitored with existing arrangements. There is no international government that can monitor and control the stock market.

NASDAQ, as the world's largest electronic stock market, is not limited to a central trading location. Trading is executed through a sophisticated network of telecommunications that transmits real-time quote and trade data to more than 1.3 million users in 83 countries. Without geographical boundaries, NASDAQ's global market allows a virtually unlimited number of participants to trade in a company's stock. This technology and type of global organization, critics argue, requires a program of outside controls and more regulation. No single nation state can effectively regulate and monitor a local to global market.[24]

Does this market border on anarchy?

How the rules are set in this local to global market is critical to its success or collapse in the future. Global governance could make the difference between “decline and development” in this field of finance.

Let's begin with how securities dealers make the rules.

Securities Dealers: NASD

Security dealers (stockbrokers) organized the National Association of Security Dealers (NASD) in 1938 to write the rules for stock transactions. Dealers had been cheating clients and working against the public good for well over a century but many of them wanted a system of ethics that would work for everyone. Leaders in the nonprofit NASD created codes of conduct that would apply to all members. They wanted to make the work respectable, principled and effective.[25]

The members of NASD are mostly securities firms doing business with the public. This includes roughly 5,300 brokerage firms, over 92,000 branch offices and more than 664,000 registered securities representatives. NASD members have established (civil) authorities to assess offenses and punish members who do not follow their rules.[26]

NASD registers member firms and writes rules to govern their behavior. They examine members for compliance and seek to punish those who fail to conform. A careful study would show how it is successful and unsuccessful as a system. This is a nonprofit corporation (not a business) that provides education to industry investors and operates a securities dispute resolution forum – with arbitration and mediation programs. The government is not the mediator, the regulator, or the punisher in this case.[27]

NASD is a functional substitute for government in this respect. It operates the largest dispute resolution forum in the securities industry. It assists in the resolution of monetary and business disputes between and among investors, securities firms, and individual registered representatives. It offers arbitration-mediation services through a network of offices across the United States; it handles employment and business disputes within the industry. It handles a variety of investment disputes involving stocks, bonds, options, mutual funds and other types of securities.[28]

Thus, security dealers are relatively self-governing. But no voluntary system works perfectly, which is why the government is part of this market, and, it would seem, a key organization for establishing accountability.

B. The Government Sector

The U.S. Congress created the Securities Exchange Commission (SEC) after the market crash of 1929 precipitated the Great Depression. Members of Congress and the public in general interpreted the crash, and to a certain extent the Depression itself, to be a result of greed and lack of transparency in stock transactions. So the legislature required publicly traded firms in 1934 to provide open listings of their assets and liabilities and outlawed practices to manipulate stock prices for speculative purposes. It emphasized transparency in stock transactions and government oversight on stock trading. The SEC was designed to protect investors and maintain integrity in the securities market.[29]

Today the SEC requires public companies to disclose important financial information to the public. This provides a pool of knowledge for all investors to judge more fairly if a company's securities are a good investment. The SEC oversees the market in the public interest, including the stock exchanges, broker-dealers, investment advisors, mutual funds, and public utility holding companies. It is concerned with promoting disclosure of information, and enforcing the securities laws.[30]

But this government agency does not work perfectly any more than the private sector. It aims to bring society's values (e.g. freedom, equity, and transparency) into the market; it is intended to bring rules of openness and fair play into the exchange system. Yet critics argue that this is a classic case of the fox guarding the chicken house. The SEC fails to monitor and properly punish offenders because of its political context.[31] The agency, designed with good intentions, operates in a charged political field, characterized by power struggles, by business influence, by intrigue and collusion.

For example, top business executives in the securities industry are regularly appointed to the SEC. One SEC appointee, William Donaldson, was chairman of the New York Stock Exchange from 1991 to 1995. He was a co-founder of Donaldson, Lufkin & Jenrette, and a well-known investment-banking firm that is now part of Credit Suisse First Boston. His predecessor, Harvey Pitt, was a corporate lawyer dedicated to advancing corporate interests. He resigned from Chair of the SEC only after the catastrophic failures of Enron and WorldCom. Is there any wonder why the SEC fails to do its job?

It is difficult for SEC members to monitor and regulate a market in which they have friends, where they have played a vital role themselves. Critics say that this is not an issue of individual responsibility but rather a systemic problem. Nonprofit accounting and law professions are equally responsible. Enter Arthur Andersen, Merrill Lynch, Deloitte & Touche, PwC, and the profession of law.

Professionals like these offer advice on how to engineer takeovers, help set up golden parachutes for managers and deliver poison pills. They offer opinions on when to shred incriminating documents. The fact is: lying about the financial state of the corporation and corporate expenses has been part of the corporate world ever since it became possible to trade shares. This market mischief and fraud has caused public concern on a regular basis. So, the problem is systemic and ongoing.[32]

In light of recent fraud, a nonprofit “Public Company Accounting Oversight Board” was organized to monitor and set better standards for the accounting industry – according to Title I of the Sarbanes-Oxley Act of 2002. Members of this oversight board are appointed by the SEC and approve new rules that force auditors to preserve backup documents. This should allow inspectors and others to better review their work.[33]

Even with its systemic problems, the successes of the SEC cannot be ignored. Each year the SEC brings between 400-500 civil enforcement actions against individuals and companies that break the securities laws. Typical infractions include insider trading, accounting fraud, and providing false or misleading information about securities and the companies that issue them.[34]

But do all these successes outweigh all the failures?

In A CIVIL REPUBLIC we referenced business analyst Ralph Estes, who described how one out of each hundred dollars trading on public markets actually reaches corporations. The rest goes instead to stockholders who are simply speculating on the market.[35] Marjorie Kelly, editor of *Business Ethics* magazine sees the stock market as deeply flawed. The most damning charge is that the market is losing money, “totally counterproductive.” Looking at the Federal Reserve figures for net new equity issues (new stock issues minus buybacks) each year, Kelly found that for 1998 the figure was a negative $267 billion. The stock market is actually less than 0% productive; in fact, it’s losing money every year.[36]

There is no outside study on Kelly’s assertion to my knowledge. And there is no adequate study that can demonstrate how to stop crime in this market by merely arresting prestige investors like Ivan Boesky. There is no study of how an alternative system could make a real difference. This is the task for economic sociologists that would map the whole market.

Self Regulatory Organizations and Countervailing Powers

We noted that the SEC monitors a market that is growing into global exchange systems. Because the SEC does not have adequate staff, it must depend upon what it calls "self-regulatory organizations" (SROs).

SROs set standards and monitor the securities market. They include the stock exchanges and NASD noted above, along with other groups like the Municipal Securities Rulemaking Board (MSRB), and clearing agencies. SROs facilitate trade settlements and establish rules of conduct. These organizations exist to reduce the necessity of government to do all monitoring and the regulatory work. They keep the government from becoming a dominant bureaucracy overarching the whole system. [37]

Neil Fligstein – along with other sociologists – emphasize competition as the main characteristic of the market. Business firms want to eliminate competition and use the state to mitigate the effect of competition as a way to stabilize markets. But we argue that cooperation is real in both its negative and positive versions and must be studied. It is critical to understand this market picture where all three sectors are related to a market's success.[38]

Nonprofit corporations in the Third Sector are part of this self-regulatory structure. They are not recognized as SROs by the government but they are part of a sociological map of how this market works.

C. The Third Sector: Countervailing Powers

Third Sector nonprofits are a vital component for creating a new system. The National Council of Churches (NCC), for example, is a federation composed of 36 Protestant and Orthodox member denominations and includes more than 50 million adherents in nearly 140,000 congregations nationwide. It is not thought to be a part of the market but it acts to affect it. It organized the Interfaith Center on Corporate

Responsibility (ICCR), which counsels investors on ethics and standards. The combined portfolio value of ICCR's member organizations is estimated to be $110 billion.[39]

Each of these members acts independently as well as jointly with the ICCR. For example, the Presbyterian Church USA is a member of ICCR and urges companies to be socially and environmentally responsible. Each year religious institutional investors who are ICCR-members sponsor over 100 shareholder resolutions on major social and environmental issues.[40]

Social investors organize nonprofit corporations to change the system. Capitalist markets maximize financial returns while ethical investors optimize social and economic returns. They would link and synthesize social (ethical) and economic (financial) criteria in the markets. The U.S. Catholic Bishops' statement on social investing revealed the growing awareness of Third Sector corporations that were getting into the act. In 1991, the Bishops said,

> Although all members of the church are economic actors every day of their individual lives, they also play an economic role united together as church. On the parish and diocesan level, through its agencies and institutions, the church employs many people; it has investments; it has extensive properties for worship and mission. All the moral principles that govern the just operation of any economic endeavor apply to the church and its agencies and institutions; indeed the church should be exemplary.[41]

Universities, churches, unions, and mutual funds are today allocating capital based on ethical principles and the public got a taste of their collective power during the issue of Apartheid in South Africa. Studies show that "socially responsible investors" practicing divestment in the United States were a major part of the reason for the change in South Africa's policies on Apartheid, and the release of Nelson Mandela.[42]

What kinds of nonprofit corporations are shaping the stock market? Let's look at a few.

The nonprofit Social Investment Forum demands public standards. The Forum has over 600 financial professionals and institutions with some "influence." Membership is open to any fiduciary practitioner who wishes to participate. It has a joint membership with the nonprofit Co-op America Business Network, which provides direct services to members including a newsletter, networking, conferencing, the Forum's Mutual Fund Performance chart, and media programs – all seeking to make public standards part of this market sector.

This is part of the mixed sector mentioned in A CIVIL REPUBLIC. It is composed of for-profit corporations as well as nonprofits. Thus, it bridges the gap between the profit and nonprofit sectors. Members include mutual funds and businesses with clients who want to practice ethical investment.

The Council of Institutional Investors is another major nonprofit player in this mixed sector. It was founded in 1985 in response to controversial takeover activities that threatened the financial interests of pension fund beneficiaries. It is composed of large pension funds that are in all three sectors: the state, Third Sector (labor unions) and business. It encourages members and corporate shareholders to keep an eye on social and economic performance. The Council today is an association of 141 public, corporate and union pension funds with over $3 trillion in investments, and more than 125 honorary international participants and educational sustainers. It influences corporations to take ethical stands, as against excessive CEO salaries and accounting fraud. It is recognized as a powerful voice for shareholder interests.[43]

State pension funds are also nonprofit pressure groups in this market. The California Public Employees' Retirement System (CALPERS) pressures stock exchanges to work for the common good. CALPER's treasurer unveiled a plan that would combine the resources of the state's two giant pension funds to create an office charged only with pushing "aggressive corporate and market reform." Treasurer Phil Angelides says the California Office of

Pension Protection and Market Reform is critical of the scandals that have "rocked corporate America and socked investors with huge losses." [44]

In light of the scandals, the NYSE was proposing a new governing structure for itself but CALPERS board president Seam Harrigan argued that it was not in the public interest. On a conference call with reporters he said the new model did not constitute "meaningful reform." This "self-regulatory structure is doomed for lots of reasons," it is just "shuffling the deck" of old members. CALPER's has $154.2 billion in assets. Harrigan urged other pension funds to force the SEC to reject the proposal. Indeed, other pension fund investors have talked about starting up a new stock exchange.

This picture is changing at this writing. There is more on this point later but let's look at the map.[45]

<u>The Stock Market is a Tri-Sector System</u>

All sectors of society – the government, business, and the Third Sector – are organized to form the stock market. Nonprofit associations and federations develop standards, monitors, and methods of enforcement inside the securities market, not just government alone.

In Box 1 we see all these different sectors of society in a position to set public standards and rules for the allocation of capital. They monitor and enforce the rules. All three sectors are rule-makers, consultants, protestors, and enforcers in this market.

Box 1 **Stock Market Organization (Stakeholders)**

Government Examples	**Third Sector** Examples	**Business** Examples	**New Sector** Examples
U.S. Congress, the SEC, and state pension funds.	ICCR, churches, universities, unions, and other social investors.	NASD, stock exchanges, insurance firms, nonprofit corporations, trade groups.	Social Investor Forum, Council of Institutional Investors, mutual funds, etc.

In this mapping model, the stock market is in the general (tri-sector) economy, but a fourth, mixed sector is evolving. This mixed sector has new corporations that include the Social Investor Forum (SIF) and the Council of Institution Investors (CII). Groups like these would synthesize social and economic values, going beyond the orientation of business alone. This new sector is an important development. It is a different system becoming visible; it is latent within the capitalist system. We call it new because it is not a capitalist system of investment.

In a new nonprofit sector, the Council of Institutional Investors has representatives from state governments and the Third Sector, building a new culture for finance as part of a public domain. These cross-sector organizations are part of an evolving landscape. All these sectors are countervailing powers, all players in the social, economic, and political allocation of capital.

A Possible Future: Alternatives Rising

Where could this market be headed in the future? Our mapping shows that people make the rules, not market forces. Let's look at what could happen in each sector.[46]

First, the government could require stock exchanges (like NYSE and the NASD) to develop more transparency and a better self-enforcement system. It can require more competition and social innovation. All this has been done in the past to improve the system without (fundamentally) changing it.

For example, when the market fell suddenly in October in 1987, the SEC implemented a new regulation that required the big stock exchanges to buy a certain amount of stocks from small investors when they wanted to sell. It also created rules allowing individual investors to buy and sell shares by connecting directly to the markets, and made it mandatory for the traditional exchanges to handle the transactions.[47]

But what could alter the system in more fundamental ways?

In our scenario (A CIVIL REPUBLIC), the U.S. Congress could establish a Council of Social Advisers to conduct research on social investment and determine whether pension funds benefit from this new practice. The government could give recognition to social investment as a profession. It could support university certification programs for social investors; it could recommend that a public commission study how to "maximize social and economic returns" in the public interest.

A civic movement is afoot in the New Sector. Nonprofits are making recommendations to encourage competition to work more transparently and directly for the public good. The Council of Institutional Investors, for example, argued that the NYSE couldn’t concurrently act as a business and serve as a self-regulator to protect the public interest. They said,

> The only way to ensure the continued protection of the hundreds of millions of investors in U.S. equities markets is to separate the self-regulatory role from the trading role of the exchanges, by insuring that the regulators are not selected, directly or indirectly, by the individuals they are expected to regulate.[48]

The Council called for better disclosure by the NYSE and the SEC. At a minimum, the NYSE should commit to adopting the disclosure requirements of its listed companies. The SEC should publicly release "its 40-page report" on the NYSE and the NYSE’s response to the report. The Council says that the SEC has been reluctant to address real problems at the NYSE, and requests more SEC oversight of all stock exchanges. Some

Council members have called for a new stock exchange that would do a better job of working in the public interest. New York's Attorney General Eliot Spitzer filed and won a landmark suit against several large Wall Street firms accused of corporate malfeasance.

At the same time, there is a civic movement in Washington to modify the Corporate Accountability Bill. More than 80 million people, or one out of every two households in America, invest in mutual funds with over $6 trillion invested. Forbes magazine estimates the mutual fund business is at nearly $7 billion a year.[49]

An alternative stock exchange system may begin in the New Sector.

The National Coalition for Corporate Reform (NCCR) was organized in 2003 to unite institutional investors with other stakeholders to fight for a program of accountability. The Coalition stresses independent directors and boards of management that are accountable to shareholders. The Coalition focuses on corporate governance to oversight of management, such as the composition, membership and committee structure of boards of directors. It looks at the character of executive compensation, the independence and transparency of audits and reporting, the responsibilities of shareholders, as well as issues of individual companies.

NCCR is pursuing this agenda through proxy voting, litigation, intervention in the regulatory process, and lobbying. But there could be more ahead.

The Council of Institutional Investors has influence. *It could set up its own stock exchange and challenge the NYSE.* It could organize a new nonprofit exchange corporation based on its own standards – just as did NASDAQ when challenging the NYSE. *It could set corporate membership rules in the public interest, placing limits on the ratio of executive salaries, corporate guarantees on accounting practices, and other public standards.*

The Council's executors of state pension funds and trade unions are upset with the Enrons and Worldcoms; incensed at deceitful accounting and excessive CEO salaries. Some have said that they will pull out of the NYSE unless it establishes a more effective self-policing system for stockholders and the public good.

Critics have proposed solutions that would take over a decade to complete. For example, one starting step is to appoint public interest lawyers who know the stock market system and can alter its structure so that it has neutral monitors.

Another step is for Congress to provide sufficient money for the SEC to do its job. The SEC has a small budget. The market is more powerful than one government agency can handle. It cannot monitor all stock transactions or take all offenders to court. It works with a staff of lawyers that is smaller than the staff in many of the corporations it investigates. It does not have the power to investigate all fraud. So, it does symbolic work, hoping to frighten brokers by sending a few to jail. But it has yet to put the "fear of God" into the really big financial corporations, as critics say.

In sum, the rules and the behavior of markets are shaped by organizations in three sectors of society. The market should be mapped as the action of Third Sector corporations and government along with business. In this tri-sector picture we see how norms, customs, rules and standards are created and then enforced by stakeholders. This mapping is done in the general economy, not just in business.

2. The Baking and Bread Industry

The American Bakers Association (ABA) is a nonprofit corporation that represents business in the baking industry. It is a lobby group that goes before the United States Congress, federal agencies, state legislatures, and international regulatory authorities to promote member interests, but it does more than that. It settles issues facing grain-based foods and initiates reforms for the industry. It represents 80% of the wholesale bakeries in the

U.S. and their suppliers. It also provides consumers with information on nutritional benefits related to a daily diet.

The ABA lobbies Congress (like trade unions and the American Medical Association) but it also does more. The baking industry is an organizing link for nonprofit associations that help manage this sector. This makes baking corporations powerful; and contrarily, it also makes them interdependent, vulnerable to the influence of their allied associations.

These allied associations include the American Association of Cereal Chemists, American Institute of Baking, American Society of Baking, Baking Management Magazine, BEMA (Baking Equipment Manufacturers Association, an international association serving the baking and food industries), Campden & Chorleywood Food Research Association, Food Industry Environmental Council, Grocery Manufacturers Association, International Association for Cereal Science & Technology, the International Food Nutrition Education Program, the Wheat Foods Counsel, and others. Federations in baking also link to restaurant associations and cooking practices that are local to global.

Nonprofit trade corporations (like the ABA) set norms, rules, and standards for the whole industry. A more careful study of these nonprofits would show how core (non-business) values are created in the market. This is the latent (less obvious) function of the industry, as opposed to the manifest (more obvious) function of lobbying the government.

Economic sociologists Neil Smelser and Richard Swedberg say without qualification, "the analytic starting point for economics is the individual; the analytic starting point for economic sociology are groups, institutions, and society."[50] In this tradition of thought we see how nonprofit trade groups shape the rules for this market. They are not studied carefully from a sociological perspective.

Here are some nonprofit trade groups in the baking sector.

The *American Institute of Baking* (AIB) is a source for education and research in the science of baking, bakery management, equipment, ingredients, cereal science, nutrition, food safety and hygiene, occupational safety and maintenance engineering.

The American Society of Baking (formerly known as the American Society of Bakery Engineers) is a professional society comprised of members who are either engaged in wholesale or large-scale bakery production.

The *Bread Bakers Guild of America* is a nonprofit organization for professional bread bakers, bakery owners, suppliers and technical experts. It was formed to promote more social interaction among stakeholders, like more exchange of information between members. They want to raise professional standards of artisan bread bakers through programs in education.

The *Independent Bakers Association* (IBA) is a national trade association of over 400 mostly family-owned wholesale bakeries and allied industry trades. The Association was founded in 1968 to protect the interests of independent wholesale bakers from anti-competitive mergers and acquisitions. It asks Congress to support market-oriented farm commodity programs and seeks representation to enact federal labor, tax and environmental law favorable to its interests.

The *Retailer's Bakery Association* (RBA) is a nonprofit association creating industry-specific training programs, developing profit tools, and connecting retailers with suppliers and industry experts.

The *Wheat Foods Council* is a national nonprofit organization that tries to increase awareness of dietary grains as an essential component to a healthy diet. The site contains a grains nutrition newsletter, education resources and links to health-, nutrition- and grains-related sites.

The *Food Industry Center* is "a community of scholars that develops and disseminates knowledge and analysis about how food reaches consumers." The Center focuses on how food retailers (grocers, restaurants, and take-out) serve consumers and how they interact with various suppliers in the food distribution channel. It comprises a working group of faculty, students, and industry leaders. The Center works on solutions to what the staff call "challenges" that arise out of new science, lifestyles, and management relationships.

The *American Society of Baking and the Bread Bakers Guild of America* keeps members informed about nutritional standards and rules on labeling. It is a functional substitute for government in this respect. It is a self-regulatory, self-financed organization.

Some nonprofit trade groups work with universities on degree programs. The Retail Food Industry Center at the University of Minnesota, for example, helps advance instructional courses. The Retailer's Bakery Association holds regional bakery conferences and workshops for bakery owners, operators, and employees. Industry experts are teachers of public standards in university workshops. Courses are designed on practical information about cooking, standards and ethics of practice. Kansas State University has a four-year undergraduate degree program in Bakery Science, Milling Science and Management, and Feed Science and Management.[51]

There are thousands of competitors in the specialties in this market sector. In baked goods alone these companies would begin alphabetically with Amay's Bakery and Noodle Company (producer of almond and fortune cookies, fresh noodles and flour skin wraps), Arguydal (producer of ceramic figures and novelties used to decorate cakes), Art House Dessert Inc. (offering pastries and cakes to the food service and airline industries), and they end with Yehuda Matzos (matzo products and matzo flour manufacturer with strict kosher and quality requirements), Yohay Baking Company (Pastries), Your Best Bakery (manufacturer of non-yeast bakery products), Pameals (liqueur and glazed butter cakes), Zhongshan Tianleyuan Food (manufacturer of egg rolls, cookies, moon cakes, and candy), and

Zhongshan Xiangxiang Food Co., Ltd. (manufacturer of moon cakes, almond cakes, cookies, and biscuits).

Communist nations that want to successfully privatize industries should study the way American industries develop a nonprofit sector that (partially) governs the for-profit sector. The symmetry of functions among industry associations in such markets should also be studied by economic sociologists.

Map 2 **Nonprofits in the Baking and Bread Industry** (Examples)

Business Sector (Examples)	**Third Sector (Examples)**	**Government Sector (Examples)**
Role: Market competitors and standard makers; legitimizers of the law.	*Role: Teachers in colleges and universities on standards. Market protectors in consumer organizations.*	*Role: Market standard makers and law enforcers.*
Nonprofit corporations: RBA, American Society of Baking, the Bread Bakers Guild of America, Retailer's Bakery Association, etc.	Nonprofit corporations: University of Minnesota, Kansas State University, etc. Folkways, mores, customs, conventions, and tradition.	Government agencies: Food and Drug Administration Laws: Nutritional Labeling and Education Act, Fair Labor Standards Act, etc.

Let us review what is going on here.

The Retailer's Bakery Association (RBA) is a trade association, a nonprofit cooperative, so to speak. It creates industry-specific training programs, develops profit tools, and connects retailers with suppliers and experts to build profitable bakeries. It was organized in 1918 and today has more than 3,500 member companies. Its managers claim to bring consumers “quality bakery foods” from independent bakeries to supermarket bakery departments and foodservice facilities. Members of the RBA include baking instructors, students and suppliers of ingredients, equipment, supplies and services as members of RBA. In other words, they help define the bakery industry. They create industry standards through their Master and Journey Baker certification programs, baking school and onsite training programs and intensive industry research.

The RBA leaders read the Nutritional Labeling and Education Act and related legislation and inform members about the requirements of food labeling set by the Food and Drug Administration (FDA). The RBA, in effect, legitimizes government rules for members. It could also do the opposite. It might fight against the government as well.

Notice. *The government does not have the power to make all these rules enforceable in the market.* Indeed, the government needs these nonprofit associations to teach and instruct enterprises about rules. Trade federations provide a basis to give efficacy and authority to government law.

A dissent from the law or a revolt by these trade federations could be very difficult for any government to manage. This is one reason that big business and big government are so tightly interlocked. Neither side can survive very well without the other.

This is true across all industries. The nonprofits are part of the free market economy that is so highly organized that it could support at any point a fascist state. On the other hand, they could stop the state from acting if they were motivated and organized to do so.

Communist governments create "administrative departments" and "bureaus" as a functional alternative for trade associations. Non-governmental trade associations are part of the capitalist market, but there must be constant communications and accord between business/government sectors. The social interaction between these sectors is what needs to be mapped.

The American Institute of Baking, for example, works closely with the FDA on matters of law. Seasoned observers say that the implementation of FDA rules could not work without help from the Institute. The government and trade associations may have differences but they are at the moment a team, part of a system of “mutual aid” that sustains the economy.

Look at this from the evolutionary perspective. The 19th century biologist Petr Kropotkin said the key principle of evolution was cooperation (he called it "mutual aid"), not competition. In the spirit of mutual support, the Retail Bakers collaborate with government. Kropotkin would (likely) say that the two sectors work like flocks of geese and schools of fish.

In schools, literally, the bakers instruct new members about the Fair Labor Standards Act that governs minimum wage, child labor, wage discrimination, and record-keeping requirements. "Teaching" is a form of self-education, they say, as opposed to "instructing," which is telling members what must be done to abide by the law.

Government rules can be complex; trade associations teach their members about that complexity. The government is dependent upon these federations to make the market work. The Retail Bakers teach members about all relevant details in federal laws. They say to members, for instance, "If you have 15 or more employees (counting part-timers), the Americans with Disabilities Act (ADA) applies to you. Be careful."

The General Economy Picture

Economic sociologists know that there are functions and dysfunctions in this market economy. One function is that trade federations make it possible for a nongovernmental market to work. The federations are virtual substitutes for government. They are like private sector versions of socialist bureaus, working closely with government.[52]

There are dysfunctions. A trade association will push for government legislation in its own interest, not the public interest. It will influence heads of agencies and congressional leaders to act in its favor, not for the common good. Markets must be mapped for all functions and dysfunctions. The general economy has a host of inter-sector organizations that are countervailing powers.

What is important to conclude here? Nonprofit federations, from production to distribution to consumption, organize the market. This is where the federal government can insist on public accountability systems. These systems can create a greater balance of power between all the counterweight powers in the market, like producers, distributors, retailers, and consumers.[53]

3. The Banking Industry

In the field of economics, banks are not studied from a tri-sector perspective but rather as institutions through which money is produced, distributed and stored. By contrast, here we examine a select portion of banking in each sector. More specifically, we look at the history of related institutions within each sector and the interactions between them. Rather than analyzing the entire banking industry, we're attempting to identify the role of government in stimulating Third Sector organizations to become a countervailing power in the banking industry.

Three types of banks developed in the American economy: commercial banks, savings and loan associations, and investment banks. While these have been studied by economists, not much attention has been given to alternative banking forms like credit unions, or to the social networking between banks, insurance companies and general financing companies. Our inter-sector mapping here displays this networking, and shows a few connections between banks, credit unions and the government. These connections are closely linked to a concern with the public good.

While banks have always been independent and competitive entities, they have also formed banking associations to establish greater market stability and protection from outside influences like trade unions and state governments. These associations are confederations that comprise the main body of support for the industry. For instance, the nonprofit American Bankers Association (ABA), founded in 1875, represents banks of all sizes on issues of national importance. It brings together different categories of banking, including community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks.

Such associations can also work for the public interest. The ABA not only encourages industry standards, it also supports local leaders in community development. It has supported local schools, clubs, and public housing, along with youth-serving organizations like Big Brothers, Big Sisters, Junior Achievement, Head Start, and youth development.[54]

Still, while banking associations may support the community, their protection of their members' economic interests can actually run counter to the interests of some of their stakeholders. For example, banks do not always have their customers in mind when they lobby Congress. Their customers do not belong to their association, and banking interests are not necessarily the same as customer interests.

In part as a reaction to these shortcomings, credit unions developed in the early 1900s as a grass roots movement in the Third Sector. A credit union is a cooperative institution, owned and controlled by the people who use its services. Credit unions serve groups that share something in common, such as where they work, live, or go to church. They are not-for-profit, and exist to provide a safe, convenient place for members to save money, as they say, and to get loans at reasonable rates.

The real growth of credit unions, like the establishment of the SEC, took place during the Depression of the 1930s and illustrates the attempt of government to protect consumer rights and interests. When the U.S. Congress passed the Federal Credit Union Act in 1934, it took the lead to generate some counterbalance to the banking industry. It wanted to foster the development of countervailing powers, and credit unions fit the bill.

Credit unions were in the early stages of Third Sector development when the Act was put into effect to support them as competitors. Since then, the credit union industry has grown and prospered to become like traditional financial providers. They offer a full range of retail financial products and services and their associations are competitors in the banking industry.

Credit union leaders emphasize a different way of banking. As they put it, credit unions create a “common bond” among members that are different from other financial services. This idea of a “common bond” for the public good became a hallmark in the movement. Now hundreds of credit union federations are organized in different parts of the country, serving entire regions and states.

Credit unions are federally insured and generally offer a full line of deposit and credit services. Many credit unions have developed into "full-service financial providers," serving broad and diverse customer bases.

There are a growing number of “billion dollar credit unions.” In February 2000, there were 37 credit unions with more than $1 billion in assets - larger than 95 percent of all banks.

Bankers do not like credit unions because they have certain tax exemptions. They argue that exempting credit unions from [federal income] taxes protects credit unions from competition with them and other financial service providers. The imposition of federal taxes on banks increases their cost of doing business.

Notice. This battle is not simply between *for-profit corporations*. It is a battle is between *nonprofit federations*.[55]

Although not-for-profit credit unions are exempt from some taxes, like a federal income tax, credit unions do pay other taxes – including payroll taxes, real estate taxes, and sales taxes. But the battle over taxes is complex because banks also make themselves exempt from taxes.

For example, some banks evade state taxes by creating shell corporations in Nevada. An investigative report by the Credit Union National Administration (CUNA) showed, for example, that 11 of the 15 largest banks in Wisconsin had funneled their profits to their Nevada shell corporations. This enabled them to report a paper "loss" in Wisconsin and evade state income taxes.

The banks argue that they need to avoid taxes to compete with credit unions but unlike credit unions, Mike Schenk (vice president of CUNA Economics and Statistics) says that banks are "not passing their tax savings on to consumers." Banks charge higher fees and reap a much higher return on assets than credit unions.[56]

Bankers argue that their industry works in the public interest in the midst of this battle. All different types of "banks" set public standards. Members of the American Banking Association, for example, set standards for “fair value accounting,” ATM access fees, privacy of customer information, and more.[57]

These two types of nonprofit corporations (banking and credit unions) are countervailing powers. John Kenneth Galbraith has explored how countervailing powers emerged and changed government regulation. Concentration of corporate power brings powerful buyers into play, he argued, as well as sellers; large retailing firms offset the power of oligopolist producers and consumer power is given greater voice in forms of state intervention.

We are saying that government planners supported credit unions originally to be a countervailing power, to help advance the working class.[58]

Banks and credit unions today are still fighting. On November 25, 1996, the Credit Union National Association and National Association of Federal Credit Unions (NAFCU) joined forces to create the Credit Union Campaign for Consumer Choice. They started lobbying and promoted a public relations program to defend credit union federations. The credit federations fought attempts by banking federations to destroy their legitimacy.

Other nonprofit organizations have joined the battle, such as the National Association of State Credit Union Supervisors (NASCUS), Credit Union Executives Society, various credit union councils, consumer and cooperative organizations, and providers of products and services to credit unions pledged to support CUNA and NAFCU in their defense of the credit unions.

All these federations are in effect stakeholders in the banking (credit) industry. They are in effect “political parties” in a market system of “self-government.” They must reconcile their differences in establishing public standards in this general economy. Banks are still in the lead.

<u>The Government</u>: Federal Reserve

The Federal Reserve is the central bank of the United States, founded by Congress in 1913 to provide “a safer and more stable monetary and financial system.” Today the Federal Reserve's duties fall into four areas: (1) conducting the nation's monetary policy; (2) supervising and regulating banking institutions and protecting the credit rights of consumers; (3) maintaining the stability of the financial system; and (4) providing certain financial services to the U.S. government, the public, financial institutions, and foreign official institutions.[59]

Economic sociologists and social economists should map the different roles of financial institutions in this tri-sector economy. In Box 3 we note illustratively how the three sectors are counterweight powers in banking. This is an abbreviated list (there are so many more players) only to emphasize how there are three sectors in this market system.

Box 3 **The Banking Federations: Stakeholders**

Business Sector Countervailing Power	**Government Sector** Countervailing Power	**Third (Mixed) Sector** Countervailing Power
American Banking Association (ABA)	U.S. Congress, Federal Reserve Bank, states and municipality banks.	Credit Union National Association (CUNA), National Association of Federal Credit Unions (NAFCU)

The competition continues based on the cooperation within tribes opposing one another in the market. On February 25, 1998, the banking industry tribe was successful in persuading the United States Supreme Court in NCUA v. First National Bank & Trust Co. to construe section 109 of the Federal Credit Union Act (FCUA) as "not allowing for multiple common bond credit unions to exist."

In doing so, the Supreme Court refused to reach a conclusion on policy grounds. Rather, the Court played a judicial role by reaching a holding based strictly on sound legal analysis and fundamental principles of statutory construction. The banks' legal victory was short-lived, however, as Congress passed the Credit Union Membership Access Act, which amended the Federal Credit Union Act of 1934 to allow for multiple common-bond credit unions. The Act's purpose was to ensure the safety and well being of the credit union industry and to protect consumers of "modest means."[60]

The issues between these banking federations are too complex to discuss for our purposes but the point is that mapping this industry should include all three sectors. If we were to map "the banking industry," we would include the organization of banks with credit unions and we would then see how the government introduced a balance in the power structure.[61]

4. The Construction Industry

We now look into the construction industry to see how nonprofit associations set public standards in world markets.

The construction industry is complex with hundreds of different trade and professional associations shaping its direction. Professional associations include the Associated Builders and Contractors (ABC), Builders Exchange, Construction Financial Managers Association (CFMA), Construction Industry CPAs Consultants Association (CICPAC), Heating & Air Conditioning Associations, Home Builders Associations (HBA), Independent Electrical Contractors (IEC), and the National Association of Women in Construction (NAWIC). Mapping in a social perspective would consider this array of associations but our purpose is to look at how labor standards do (and can) become created through global associations.

Global construction corporations subcontract with professionals in associations like those listed above, as well as with small businesses, scientists, and unions who are associated all over the world. They are like other business markets, say, the auto industry and the oil industry, but what is noteworthy in these global markets is their power. Global corporations can develop or waste resources, develop or destroy standards around the world. Here we illustrate one corporation that contracted for labor standards in a global market.

In March 2000, Hochtief, one of the world's biggest construction groups, signed an agreement committing itself to observe labor standards in its building activities anywhere in the world. They agreed that the International Labour Organization (ILO) would write the standards.

The significance of this case for our purposes is that the agreement imposed this contractual obligation on all Hochtief's subcontractors. Hochtief's combined workforce totals many times the corporation's own 37,000 employees. The signatories are the Hochtief Executive Board and the company's General Works Council together with union federations, the German Construction Workers' Union, Industriegewerkschaft Bauen-Agrar-Umwelt (IG BAU), and the International Federation of Building and Wood Workers (IFBWW). The agreement set a precedent for the whole market.

Hochtief was the first international construction company to conclude such an agreement with the ILO but others have now followed. Hochtief and its contractual partners comply with what they call "a social charter" that imposes workplace standards. These standards include a ban on child labor, freedom of association and collective bargaining, adequate wages, working time and working conditions.[62]

In Box 4 we see international nongovernmental organizations (INGOs), intergovernmental organizations (IGOs) and international business organizations (IBOs) that are trade associations.

Box 4 **The Construction Industry: Standard Making and Monitoring**

Stakeholder Federations	
INGOs (Examples)	**IGOs** (Examples)
<u>Trade Union Federations</u> German Construction Workers' Union, IG BAU, the International Federation of Building and Wood Workers (IFBWW). <u>Educational Federations</u> The American Council for Construction Education (ACCE)	<u>United Nations</u> Affiliate: International Labor Organization (ILO)

<table>
<tr><td colspan="10">IBOs (Examples)</td></tr>
<tr><td colspan="10"><u>International Business Associations</u>:
Examples
The Business Roundtable
The Construction Industry Institute (CII)</td></tr>
<tr><td colspan="10"><u>Global Firms</u> (One Example)
Hochtief
Global Enforcer</td></tr>
<tr><td colspan="10">Subcontractors Around the World</td></tr>
<tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr>
</table>

The numbers listed under the subcontractors are there to suggest the influence that one corporation can have on businesses around the world. The

Business Roundtable, listed under IBOs in the table above, is an association of chief executive officers of leading U.S. corporations with a combined workforce of more than 10 million employees in the United States. It advocates public policies that promote economic growth in global markets, and the well-trained and productive U.S. workforce essential for future competitiveness. It legitimates this standard making process.

The Construction Industry Institute (CII) in Box 4 is a consortium of leading owners, contractors, and suppliers who have joined with academia to find better ways of planning and executing capital construction programs. The idea began when the Business Roundtable conducted a five-year study of industry problems that resulted in over 200 recommendations for improving the industry. One of those recommendations led to the creation of CII, established in 1983 to study problems in construction.

In this process, the American Council for Construction Education (ACCE) was created as a 501 (C)(3) non-profit corporation. Its mission is to be a global advocate of “quality construction education programs” and to promote, support, and accredit quality construction education programs. The primary goal is the improvement of postsecondary construction education in this field. The ACCE accredits construction education programs in colleges and universities that request its evaluation and meet its standards and criteria.

The ACCE is recognized by the Council for Higher Education Accreditation (CHEA) as the accrediting agency for 4-year baccalaureate degree programs in construction, construction science, construction management, and construction technology, and as the accrediting agency for two-year associate-degree programs of a like nature.[63]

So, what does all this mapping of markets add up to for public policy? What does it tell us about civil decline and development?

Mapping for State Policies Against Decline

In this social mapping we should learn how national governments work with nonprofit federations. This can tell us how the state may cultivate in markets self-regulation and public standards at the same time. These maps should tell us about the competing powers of all three sectors, how public norms, and essential values are developed in both profit and nonprofit sectors.

The government can advance civil development in the market by promoting competition and countervailing powers, as it did during the Great Depression with legislation for credit unions. Banks had gone too far in their search for profits; “the working class” was suffering and needed financial support for the benefit of the entire society. The government can give recognition to the practice of social investment. It can organize a Council of Economic Advisers to monitor changes in market sectors.

A national government cannot control all corporate decisions and cannot monitor all data flowing from private markets – as in stocks, baking, construction, chemistry, genetic engineering, DNA research, and nanotechnology – but it can encourage inter-sector federations to set public standards.

Capitalist markets are systems of exchange that emphasize economic values (e.g. material wealth, competition, efficiency, productivity, and profits) but Third Sector corporations have social and cultural values that are a little more complex. Sociologists can study how associations in these different sectors interact with one another.

Does mapping inter-sector relations reveal decline or development?

Civil decline is a process in which business interests disproportionately influence core values in the Third Sector (e.g. religious organizations and schools) and government. (See A Civil Republic, chapter 3.) Business goes to its own extreme: the quest for profits becomes profiteering; commerce becomes commercialism; economizing becomes economism.

In the process, the subsets of culture in the Third Sector are affected by this emphasis on economic values. The profit sector enters into the Third Sector to advance its economic interests, diminishing (or replacing) social and cultural values.

Civil development, on the other hand, is a process in which business markets acquire core values in the larger society, such as honesty, accountability, and fairness. It is about the cultivation of society's larger values to shape the direction of markets. When this happens, capitalist markets become more civil, i.e. emphasizing and synthesizing core values with economic values.[64]

Economic sociologists can map the links between these three sectors of the economy. Researchers can study the conflict and the meshing of values in business, government, and the Third Sector. Mapping markets allows us to see how that influence and networking takes place.[65]

It is then possible to see how the nonprofit sector and government can both play a stronger role in shaping the direction of markets. We noted the role of nonprofits – like the ACCE and the International Labour Organization – in developing standards inside markets.

The role of the state is important. The state can mitigate competition, collaborate with business interests, and promote legislation that is essentially written by trade associations. All this is true but the state can also stimulate cooperation inside the market for the common good. We need to see all sides of this reality.

Conclusion: Countervailing Powers

Business, government, and the Third Sector are part of a general economy. Organizations within these three sectors are countervailing powers that influence markets, but there is not much study done on the power of nonprofit federations and the Third Sector to shape the economy.

The government monitors *the stock market* based on justice and fairness but the Third Sector and its nonprofit corporations are also a part of this market structure. Social investors could play a major role in the future of the stock market, and the state could do more to encourage self-organizing systems.

In *the baking and bread industry*, we saw how business is linked to the Third Sector through nonprofit universities, which teach core values and insist on public standards. In *the banking industry* we saw how the federal government can encourage nonprofit federations to offset the power of big banks. In *the construction industry* we saw how a Third Sector world federation, the International Labour Organization, sets standards by contracting with global corporations. In sum, this tri-sector mapping of markets should give us a better picture of the capitalist economy. The capitalist economy could develop civility in a system of self-governance.

We need more research on the role that nonprofits play as latent corporations in the market as a system. Nonprofit corporations (e.g. pension funds, universities, etc.) monitor business conduct; they influence corporate policy. Others (e.g. nonprofit trade and professional associations) set market standards and monitor compliance.

Social mapping is critical to the gathering of information for new government policies. There are over a million nonprofit associations in the Third Sector that are connected to the market, at least 25,000 nonprofit trade associations in the business sector. This is the general economy where sociologists could reveal more information about how the economy develops or declines in a civil society.[66]

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[1] For some relevant studies on how markets work, see 1. Mitchel Abolafia, Making Markets (Cambridge, MA: Harvard University Press, 1996). 2. Alice Amsden, et. al., The Market Meets Its Match: Restructuring the Economies of Eastern Europe (Cambridge, MA: Harvard University Press, 1994). 3. Fred Block, PostIndustrial Possibilities: A Critique of Economic

Discourse (Berkeley, CA: University of California Press, 1990). 4. Karl Polanyi, The Great Transformation (Boston, MA: Beacon Press, 1944). 5. Richard Swedberg, Max Weber and the Idea of Economic Sociology (Princeton, NJ: Princeton University Press, 1998).

[2] Fred Block, "The Roles of the State in the Economy," in Neil Smelser and Richard Swedberg, The Handbook of Economic Sociology (Princeton, NJ: Princeton University Press, 1994).

[3] We argued that increasing the basis for public accountability in private markets reduces the need for state regulation. This theory of state respects the whole voluntary sector but expects it to be publicly responsible and accountable. The state in this case encourages private markets to develop a public domain that is competitive but also transparent and accountable. (See A CIVIL REPUBLIC.)

[4] In the framework of Max Weber, social action refers to "subjective patterns" of decision-making in the market. (Economic action, on the other hand, refers to the assumption that people act rationally to maximize utilities, profits, and wealth.) Ethnographers would then observe patterns of social (subjective) action and learn how repeated actions can be seen as

"objective patterns." Other sociologists find social patterns through surveys and empirical studies.

[5] Max Weber, Economy and Society: An Outline of Interpretive Sociology (Berkeley: University of California Press, 1978) pp. 48-50.

[6] Neil Fligstein, "Markets as Politics: A Political-Cultural approach to Market Institutions," American Sociological Review 61:656-73.

[7] For a more definitive discussion on the markets, see Richard Swedberg, "Markets as Social Structures," in Neil Smelser and Richard Swedberg, editors, The Handbook of Economic Sociology (Princeton, NJ: Princeton University Press, 1994).

[8] The psychological questions on "hubris" are systemic. A study by The Corporate Library found that CEO total compensation among S&P 500 companies rose by a median of 27.16 percent in 2003, from $3.6 million to $4.6 million (the leading earner was Colgate-Palmolive CEO Rueben Mark, who earned $140 million, $131 million of which came in the form of stock options). Another study by Pearl Meyer & Partners found that the average pay package for a CEO at the 50 biggest companies was $10.3 million for last year. (Many of the biggest winners were from Wall Street: Sanford Weill of Citigroup was given a $44 million paycheck, while Stanley O'Neal

of Merrill Lynch earned $28 million. James Cayne of Bear Stearns received $27 million. Henry Paulson of Goldman Sachs earned $20 million, as did Bill Harrison of J.P. Morgan. On average, the typical big company CEO earns almost 300 times more than the average worker. These pay packages represent for social investors a disturbing transfer of wealth from stockholders and employees to executives. These pay disparities skew the distribution of wealth, which is now at levels equivalent to the period just preceding the Great Depression. Institutional shareholders are talking about their right to vote on executive compensation. “It is our money.” See Lee Drutman, the communications director of Citizen Works and the co-author of a forthcoming book: The People’s Business: Controlling Corporations and Restoring Democracy.

[9] Profit is the difference arising when a firm’s total revenue exceeds its total costs. This definition differs from that used by business people in determining “accounting profit,” which only measures explicit costs. Economists view profit in different ways. For example, it is “the return accruing to entrepreneurs after payment of all explicit costs—payments such as wages to outside factor-input suppliers – and all implicit costs—payments for use of factor inputs – that is, capital and labor supplied by the owners, a

residual return to owners of a firm for providing capital and for taking a risk." Christopher Pass, Bryan Lowes, et al., *The HarperCollins Dictionary of Economics* (Harper Perennial, 1991) pp. 427-428.

[10] Walter W. Powell and Laurel Smith-Doerr, "Networks and Economic life," in Neil J. Smelser and Richard Swedberg, Editors, The Handbook of Economic Sociology (Princeton University Press, 1994).

[11] The process of cooperation explains how markets survived in the midst of anarchy (Marx) and anomie (Durkheim). Marxists today believe that the market lacks a coordinating mechanism. Business cycles are seen with periods of fast growth followed by deeper and deeper depressions, a growing "army of unemployed," excess production on one hand and poverty and misery on the other, all symptoms of market anarchy. Emile Durkheim introduced the concept of anomie in his book The Division of Labor in Society published in 1893. Anomie describes a condition of deregulation. This means that rules on how people ought to behave with each other are breaking down and people do not know what to expect from one another.

[12] Charles F. Sabel, "Learning by Monitoring: The Institutions of Economic Development," in Neil J. Smelser and Richard Swedberg, editors, The

Handbook of Economic Sociology (Princeton, N.J.: Princeton University Press, 1994) pp. 137-165.

[13] Public standards are created through nonprofit corporations. The American National Standards Institute (ANSI), for example, is a private, non-profit organization (501(c)3) that administers and coordinates the U.S. voluntary standardization and conformity assessment system. The Institute's mission is "to enhance both the global competitiveness of U.S. business and the U.S. quality of life by promoting and facilitating voluntary consensus standards and conformity assessment systems, and safeguarding their integrity."
http://www.ansi.org/about_ansi/overview/overview.aspx?menuid=1.

[14] In A CIVIL REPUBLIC we noted this phenomenon with nonprofits like The Joint Commission on Accreditation of Healthcare Organizations (JCAHO). JCAHO establishes the health and safety standards in business HMOs and hospitals and enforces compliance.

[15] To maintain its independence and impartiality, Consumer Reports accepts no outside advertising, no free test samples, and has no agenda other than the interests of consumers. It supports itself through the sale of information products and services, individual contributions, and a few noncommercial

grants. A board of 18 directors, who are elected by its members and meet three times a year, governs it.

[16] In 1996, EPA partnered with the US Department of Energy for particular product categories. The ENERGY STAR label is now on major appliances, office equipment, lighting, home electronics, and more. EPA has also extended the label to cover new homes and commercial and industrial buildings. Through its partnerships with more than 8,000 private and public sector organizations, ENERGY STAR provides technical information and tools that organizations and consumers need to choose energy-efficient solutions. It is partnering with businesses and consumers to protect the environment. This is a government/industry partnership that offers businesses and consumers "energy-efficient solutions." It has by its own account delivered energy and cost savings across the country, saving businesses, organizations, and consumers more than $9 billion a year, and is a force behind the widespread use of such technological innovations as LED traffic lights, efficient fluorescent lighting, power management systems for office equipment, and low standby energy use.

[17] This is a trade association that sets standards, among other activities.. CRI membership and staff are involved in making "cooperative solutions to

industry challenges." Company personnel provide expertise to more than forty committees and subcommittees. CRI's overall fields are technical services, member services, governmental and consumer affairs, and public relations.

[18] The National Consumers League was formed in 1899. It is concerned that goods be produced and distributed and services rendered not only at reasonable prices and in adequate quantity, but under fair, safe, and healthy working conditions that foster quality products for consumers and a decent standard of living for workers.

[19] City, county and state consumer protection offices provide consumers with services. These offices mediate complaints, conduct investigations, prosecute offenders of consumer laws, license and regulate a variety of professionals, promote strong consumer protection legislation, provide educational materials and advocate in the consumer interest.

[20] Selling of shares of stock in a company was not common in colonial times because there were few businesses worthy of public investments, but in 1791 twenty-four people established a special trading organization that was to become The New York Stock Exchange (NYSE). The Governing Committee was the primary governing body until 1938, at which time The

Exchange hired its first paid president and created a thirty-three member Board of Governors. The Board included Exchange members, non-member partners from New York and out-of-town firms, as well as insider-selected public representatives.

Major foreign exchanges (and their respective Indexes) are located in Germany (DAX), France (CAC), Hong Kong (Hang Seng), Japan (Nikkei), and London (FTSE). Equity markets trade stocks (securities) while other exchanges specialize in bonds, commodities, futures, and options. A small fee is paid to the exchange for each share that changes hands utilizing its services.

[21] In 1971 NASDAQ was organized as a nonprofit but in the year 2000, it restructured into a shareholder-owned, for-profit company.

[22] When the World Trade Center was attacked, the NYSE shut down. The air in the New York Stock Exchange's headquarters at Wall and Broad streets was stinging with smoke and much of the building's interior was covered with dust. On the first floor, crews worked in a tangle of wires and dirt trying to restore communications with traders and brokers. Terrorists saw the government, the World Trade Center and the NYSE as their enemy.

The NYSE is chartered as a nonprofit (“cooperative”) leading one to think that it operates for some larger good, but it is basically a business. Its top executives are paid in market competition. On September 10, 2003, the NYSE said it owed $48 million to its Chairman and chief executive Richard Grasso. This was after a $139.5-million payout to him. On June 6, 2003 the New York Stock Exchange approved reforms in a storm of criticism over the way it is run. The reforms included disclosing the pay of top officers, and forbidding them to serve on the boards of listed companies. The Exchange also said that representatives of organizations regulated by it could not serve on the committee that sets officers' pay.

The problem is "late trading" by elite investors for profit. Investors are allowed to trade after the close of markets at pre-closing values. This is happening in one out of six mutual fund families at a cost to ordinary investors of about $400 million a year. New York Attorney General Eliot Spitzer and the Securities and Exchange Commission made criminal and civil charges against former Bank of America employee Theodore Sihpol over late-timing activity they say cost investors millions of dollars. Hope Yen, "Widespread Problem: Study Suggests Illegal Late Trading May Be

Common in Mutual Funds," ABC News.com. Sept. 18, 2003. http://abcnews.go.com/sections/business/Funds/mutualfunds_030918.html.

[23] A few examples of changes proposed to reduce privilege can illustrate rule-setting processes for our purposes. On June 5, 2003 under pressure from the SEC, the NYSE announced 10 changes on rules, including the public disclosure of Big Board officials' pay. The NYSE governance committee sought input from its major stakeholders (i.e. its investors, listed companies and members) about rule changes. Concerned about the publicity about NYSE board members on the boards of listed companies, it has made more rule changes, saying, for example, a director will not qualify as “independent” unless the Board of Directors makes an affirmative determination that the director has no material relationship with a listed company. Material relationships can include commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships. The ownership of a significant amount of stock is not a bar to an independence finding. TSC Staff, "New York Stock Exchange Unveils New Governance Rules," 06/05/2003 04:41 PM EDT, http://www.thestreet.com/markets/marketfeatures/10091868.html.

[24] NASDAQ lists the securities of nearly 4,100 of the world's leading companies and each year enables hundreds of companies to make the transition to public ownership. http://www.nasdaq.com/about/about_nasdaq.stm

[25] There are four basic types of market organization: 1. Bilateral Trade (buyers and sellers self-search for trade partners), 2. Over-the-Counter (OTC, managed by dealers), 3. Auction (managed by brokers), 4. Organized Exchanges (combined auction and OTC market features in that they are managed in part by "specialist traders" who combine broker and dealer functions). Examples of Organized Exchanges: New York Stock Exchange, electricity power exchanges, real estate markets.

[26] NASD operates the largest dispute resolution forum in the securities industry. It assists in the resolution of monetary and business disputes between and among investors, securities firms, and individual registered representatives. See the NASD, http://www.nasdadr.com.

[27] NASD owns some exchanges, which worries critics. However, Robert Glauber, Chairman and CEO of NASD says, "One of our key goals over the last few years has been to exit NASD's ownership of exchanges, and to focus our entire organization on NASD's core mission as a regulator to promote

market integrity and protect investors." NASD News Release, Monday, June 2, 2003. NASD agreed to sell its interest in the American Stock Exchange (Amex) to GTCR Golder Rauner a Chicago-based private equity firm. http://www.nasdr.com/news/pr2003/release_03_024.html

[28] NASD manages some 90 percent of this kind of arbitration and mediation in the United States. It recruits and trains and manages a large roster of neutral arbitrators, mediators and administrators. Parties can choose from more than 7,000 arbitrators and over 900 mediators carefully selected from a diverse cross-section of professionals.

[29] Tempted by promises of "rags to riches", early investors gave little thought to the dangers inherent in an uncontrolled market. During the 1920s, about 20 million shareholders set out to make fortunes in the stock market. Of the $50 billion in new securities offered during this period, half became worthless.

[30] The SEC has five Commissioners who are appointed by the President of the United States with the advice and consent of the Senate. Their terms are staggered and for fairness, no more than three Commissioners may belong to the same political party. The President also designates the Chairman. It facilitates communications among exchanges. For example, the Electronic

Data Gathering, Analysis, and Retrieval system (EDGAR) performs "automated collection, validation, indexing, acceptance, and forwarding of submissions by companies and others who are required by law to file forms with the SEC." Its purpose is to increase the efficiency and fairness of the securities market.

[31] The Securities and Exchange Commission failed for years to police the mutual fund industry effectively because analysts acknowledge that it was captive to the industry. Former officials like Arthur Levitt say that when writing new regulations, it was preoccupied by other problems on Wall Street and was severely short of staff and money. Top executives with the market were accused of trading rapidly in and out of their own funds to reap profits at a cost to other fund investors. Many brokers failed to give appropriate discounts to customers. And a large percentage of funds provided confidential and potentially lucrative portfolio information to large customers, in exchange for their business. Wall Street now controls $7 trillion for 95 million investors. “There have been decades of looking the other way,” says Gary Gensler, a former Treasury under secretary in the Clinton administration. Steven Labaton, "S.E.C.’s Oversight of Mutual Funds Is Said to Be Lax," New York Times, November 16, 2003.

[32] Note the Savings and Loans debacle, Milken, Boesky, Bre-X, Baring, Royal Trust, Livent, Northland Bank. This problem continues today with Enron, Martha Stewart and others. Poison pills have become a commonly used tool for companies to counter abusive takeover tactics and unsolicited bids. Hostile takeovers have become a part of business life. Firms with money buy up those that can no longer afford to operate independently. Large firms buy small ones at a fraction of their true value.

[33] The Oversight Board was created to develop guidelines after a 2002 obstruction of justice conviction against Arthur Andersen LLP, which shredded work papers related to client Enron Corp. Congress created the oversight board to wrest control over discipline and standards setting from the accounting industry and put them in the hands of independent overseers. Carrie Johnson, "Board Approves Accounting Rules Auditors Will Be Required to Preserve Backup Documents," Washington Post Staff Writer, Thursday, June 10, 2004, page E02.

[34] The toughness of this regulatory body depends upon the integrity of appointees, but even then only so much can be done when the problem is systemic. For example, in 1996 Arthur Levitt, Jr, Chairman of the Securities & Exchange Commission, censured the National Association of Securities

Dealers, which owns the Nasdaq Stock Market, for failing to police its members in an effective manner. But there was much corruption and collusion there and his powers to stop it were limited. This means that much more work must be done to introduce countervailing powers. An SEC investigation found Wall Street dealers had colluded to keep artificially wide spreads between buy and sell prices on Nasdaq shares, to let dealers profit at the investor's expense. Nasdaq dealers paid more than $1 billion to settle the case. Levitt then pushed for new trading rules in all stock markets to promote more rules for disclosure, more competition, and better self-monitoring.

NASD and the federal government are both "private" and "public" on one sense. They are "private" in the sense that certain transactions and documents in both the stock market and government are kept secret. In the development of a civil republic, however, each system should become more public, i.e. and more open and transparent in all transactions.

[35] Ralph Estes, *Tyranny of the Bottom Line* (San Francisco: Berrett-Koehler, 1996). Reported in Marjorie Kelley, *The Divine Right of Capital* (San Francisco: Berrett-Koehler, 2001) 189.

[36] Marjorie Kelly, The Divine Right of Capital: Dethroning the Corporate Aristocracy (Berrett-Koehler, November 2001) p. 190.

[37] A self-regulatory organization (SRO) is a member organization that "creates and enforces rules for its members based on the federal securities laws." SROs, which are overseen by the SEC, are the front line in regulating broker-dealers. http://www.sec.gov/about/whatwedo.shtml#create

[38] Neil Fligstein, "Markets as Politics: A Political-Cultural Approach to Market Institutions." Op. Cit.

[39] For over thirty years the nonprofit ICCR has been active in the corporate social responsibility movement. ICCR's membership has 275 faith-based institutional investors, including national denominations, religious communities, pension funds, endowments, hospital corporations, economic development funds and publishing companies. Each year ICCR-member investors sponsor over 100 shareholder resolutions on major social and environmental issues. Through the NCC, members join with partners in more than 80 countries, including the United States, in ministries of disaster relief, development and refugee assistance; unity, justice, education, and public witness. It authorized ICCR http://www.iccr.org.

[40] Dan Rosan, Program Director at ICCR, reported that in 2003 alone, the Presbyterian Church and other ICCR Members engaged over two dozen financial institutions, including Citigroup, Lehman Brothers, and Wells Fargo Corporation, on issues ranging from predatory practices to compliance with the Community Reinvestment Act." Their impact is widely felt as financial institutions begin to realize that in today's economy, every stakeholder is important to their business."

[41] "The U.S. Catholic Bishops' Statement on Socially Responsible Investing," November 1991, p. 347. This statement can be found on http://www.osjspm.org/sri-uscc.htm.

[42] Big investors were submitting ethical resolutions to boards of directors and pulling their money out of business corporations located in South Africa. This public effort to divest from South Africa helped fuel the rise of social investment that had begun during the 1970s and1980s. One study shows that the fall of apartheid in September 1993 was critical to advancing the position and power of social investment. Almost one out of every 10 dollars under management in the U.S. today is part of a responsibly invested portfolio. In the 1990s a total of 182 major investing institutions (including pension funds, community development funds, and

foundations) were making socially responsible investments of one type or another totaling $639 billion in assets, roughly 9 percent of the $7 trillion in funds under management in the U.S., according to Nelson's 1994 Directory of Money Managers. Social Investment Forum, http://www.socialinvest.org/areas/research/trends/1995-Trends.htm.

[43] Council of Institutional Investors, http://www.cii.org/

[44] The influence of these pension funds is a story in itself. California's treasurer unveiled a plan in March, 2003 that would combine the resources of the state's two giant pension funds to create an office charged with "pushing aggressive corporate and market reform." The office would be a joint operation of the $135-billion California Public Employees' Retirement System and the $93-billion California State Teachers' Retirement System, the nation's first and third biggest pension funds. Mr. Angelides, who sits on the board of both pension funds, said, "We are going to put the muscle of our pension funds behind the push for corporate reform." The two California pension funds have long taken an active role as corporate governance watchdogs. Angelides said the new office would build on that policy by leveraging their huge impact in financial markets. Cracking down on corporate misconduct has become a major issue after scandals at major U.S.

companies, including Enron Corp. and telecommunications company WorldCom Inc., have left investors with great losses. Angelides said Calpers and Calstrs lost a combined $800 million in WorldCom investments. He was joined by New York State Attorney General Eliot Spitzer, in cracking down on misconduct in financial markets. Michael Kahn, Reuters, March 6, 2003, http://securities.stanford.edu/news-archive/2003/20030306_Headline18_Kahn.htm.

[45] New York State Attorney General Eliot Spitzer contends that executive compensation must be legally "reasonable" and "commensurate with services provided." But legal experts say that Spitzer's suit may be on shaky ground, because the NYSE is not a nonprofit in the classic sense. Spitzer's suit gives a misleading impression that executive pay can be addressed as a law enforcement problem. Critics say that the problem is really the system that creates these pay packages, a system of corporate governance that is bristling with conflicts of interest and "a vacuum of accountability," where directors sit by as managers secure themselves pay packages and grow richer at the expense of workers and shareholders. Lee Drutman, for example, argues that Spitzer's attack on the NYSE chairman doesn't attack the heart of the problem because there is nothing illegal about Grasso's pay package. The

escalating CEO compensation—which rose almost 600 percent in the 1990s—is not a law enforcement issue. Reform that gets at the root causes is needed. Duckman says that Spitzer is letting off the hook a host of other directors who should have also been responsible, such as Wall Street CEOs James Cayne of Bear Sterns, Henry Paulson of Goldman Sachs and David Komansky of Merrill Lynch.

A study by The Corporate Library found that CEO total compensation among S&P 500 companies rose by a median of 27.16 percent in 2003, from $3.6 million to $4.6 million (the leading earner was Colgate-Palmolive CEO Rueben Mark, who earned $140 million, $131 million of which came in the form of stock options). Another study by Pearl Meyer & Partners, found that the average pay package for a CEO at the 50 biggest companies was $10.3 million for last year. (Many of the biggest winners were from Wall Street: Sanford Weill of Citigroup was given a $44 million paycheck, while Stanley O'Neal of Merrill Lynch earned $28 million and James Cayne of Bear Stearns received $27 million. Henry Paulson of Goldman Sachs earned $20 million, as did Bill Harrison of J.P. Morgan.) On average, the typical big company CEO earns almost 300 times more than the average worker. Put another way, by mid-morning on January 2, the average CEO has earned what the average worker will earn in an entire year. See Lee Drutman, the communications director of Citizen Works and the co-author of a forthcoming book: The People's Business: Controlling Corporations and Restoring Democracy.

[46] Today there are four types of market-making firms: retail, wholesale, institutional, and regional. Each has a different distribution network and provides a distinct advantage to the trading of a company's stock. Retail market makers have brokerage networks serving both institutional and retail investors, providing a continuous flow of orders or sales opportunities. Wholesale market makers trade shares primarily for institutional clients and other broker/dealers that are not registered as market makers in a company's stock but need to execute orders in the stock for customers. They help create liquidity for a company's stock by being an important source of shares for retail, institutional, and regional firms. Institutional market makers specialize in executing large block orders for pension funds, mutual funds, insurance companies, and asset management companies, among others. Regional market makers focus on both the companies and the investors of a particular region. A regional market maker gives a company the advantage of specialized, in-depth knowledge of the stocks and investors of a particular

area of the country, providing more extensive coverage than might be available elsewhere.

[47] Over the next couple of years, these changes resulted in the up-dated Small Order Execution System (SOES). SOES is the conduit for the individual investor to bypass the old exchange system. This new system allowed “electronic” day traders to start their companies. Then NASDAQ created the Electronic Communication Network (ECN). It was named Instinet (INCA) and was owned by Reuters. ECN was originally designed for use by the big exchanges. But it allowed "market makers" to trade anonymously. (A "market maker" is a firm that stands ready to buy and sell a particular stock on a regular basis at a publicly quoted price.) It did not take long then for the day traders to discover the uses of the automatic execution system of the SOES and the growing ECN network. The 1990’s, saw the creation of new market makers like Island, Attain, RediBook, Bloomberg Trade book and others.

The SEC and NASD realized that this platform of trading had to be open to all, not just big corporations. The big corporations called these new direct electronic traders “SOES Bandits” because of their quick hits and fast trades which opened the door to greater speculation than before. In turn, the day traders said that they provided a level of liquidity that was never seen before and their ability to set their own prices and live off their trading reduced the price of brokerage commissions. Standby critics said the market is now a public casino where everyone can play. There are now ten ECNs operating in conjunction with the NASDAQ. Day trading firms have sprung up across the country and even internationally. With direct electronic access, speed of light execution, and the availability of ECNs, electronic day trading is becoming an institution, a legitimate, regulated and organized profession competing with the old trading houses. The NYSE and other exchanges are discussing the reconstruction of their organizations to reflect the new age of the NASDAQ and Direct Access Trading.

[48] See Council of Institutional Investors, news releases, http://www.cii.org/pressreleases.asp

[49] But these funds practice a number of questionable transactions. For example, late trading is illegal, as it involves placing a buy order for a mutual fund after 4 p.m. ET and getting it at that day's closing net asset value. It lets an investor benefit from events that happen after the closing bell — changes that aren't reflected in the stock's closing price. NOW (a TV

Series) with Bill Moyers, http://www.pbs.org/now/politics/mutualfunds.html.

[50] Neil Smelser and Richard Swedberg, The Handbook of Sociology, (Princeton, NJ: Princeton University Press, 1994) p. 5.

[51] These programs set standards in their own way. How? A poor grade on a test, a scalding look from a teacher, or a gentle reprimand can be more powerful in seeing that standards are followed than the law. Studies in economic sociology should show how teachers and instructors influence the way rules and standards are created and transmitted. Standards are shaped and taught through courses.

[52] In a capitalist market the trade group maintains its autonomy and makes the market work with additional standards, such emphasizing courtesy and respect among market competitors. A government agency can regulate conduct but not courtesy, esteem, and respect, matters beyond its control.

[53] That power is available when corporations in these industries break the law. Government policies can encourage competing trade associations and Third Sector associations to reduce oligopoly and oligarchy. Government incentives can help decentralize and democratize trade associations to reduce

their business power. It can also promote countervailing powers in the Third Sector.

[54] American Bankers Association, http://www.americaspromise.org/community/copmain.cfm

[55] Bankers, like all business leaders, look for any vehicle that would reduce taxes. Over 1,800 banks have organized as S-corporations in recent years so they can pass tax obligations on to shareholders. CUNA's Economics and Statistics Department projects the dollar value of Subchapter S banks' tax benefits will exceed the dollar value of credit unions' federal income tax exemption by 2006 "at the rate Subchapter S banks are growing." If the bankers' legislation becomes law in the current Congress, CUNA says that the banks' Subchapter S tax breaks will exceed credit unions' benefits even sooner. At the same time, the American Bankers Association (ABA) and its state bankers associations continue to lobby for higher taxes on credit unions.

[56] CUNA News Now. http://www.cuna.org/newsnow/archive/list.php?date=052903#story1 Mike Schenk, vice president of CUNA Economics and Statistics addressed these competitive issues and more in a June 22 research paper, Commercial

Banks & Credit Unions: Facts, Fallacies & Recent Trends. (See the first resource link on CUNA under footnote 56.) State-chartered banks would get another tax break if the Financial Services Regulatory Relief Act of 2003 (H.R. 1375) becomes law.

[57] For our purposes, it is important to notice the socialization. Bankers had to establish a “common identity” and develop toward “mutual self-governance” in this whole market sector. Individual competitors had to become familiar with each other, to get to know one another, before they could pool their resources and organize a democratic organization. A common bond had to be generated; a common good had to be established in order for competitors to organize their federation.

[58] Banking Committee Chairman Jim Leach (R-Iowa) speaking before the House of Representatives on the Credit Union Membership Act said that “written in huge letters in the basement of a credit union in Iowa City is a quote from one of Iowa’s heroes[:] ‘People must come before profit.’ That is what the credit union movement is all about.”

[59] The seven members of the Board of Governors are appointed by the President and confirmed by the Senate to serve 14-year terms of office. Members may serve only one full term, but a member who has been

appointed to complete an unexpired term may be reappointed to a full term. The President designates, and the Senate confirms, two members of the Board to be Chairman and Vice Chairman, for four-year terms. Only one member of the Board may be selected from any one of the twelve Federal Reserve Districts. In making appointments, the President is directed by law to select a "fair representation of the financial, agricultural, industrial, and commercial interests and geographical divisions of the country." These aspects of selection are intended to ensure representation of regional interests and the interests of various sectors of the public.

[60] The American Banking Association asked a federal court injunction to forbid any federally chartered credit union from accepting new members from companies outside their "core" employee groups. Although a "partial stay" of that injunction has been issued, the court's actions put all credit union members on legal notice. The credit union federations face issues about their nonprofit status. The ABA believes that the unions have special tax treatment but the government must make the final decision.

The American Bankers Association believes that the thrust of a number of proposals by the National Credit Union Administration to change laws that refer to "a meaningful affinity and bond among members . . . is essential to the fulfillment of the public mission of credit unions." The ABA believes that the NCUA has expanded opportunities for many Federal credit unions to ignore the "meaningful affinity and bond" that rests at the core of the credit union industry. To the ABA, credit unions are in business just like bankers. See "Credit Union Competition," http://www.aba.com/Industry+Issues/Issues_CU_Menu.htm. http://www.cuna.org/data/consumer/whatis/campaign/cu_campaign.html.

[61] In a sociological perspective there would be much more to say about issues of race and gender as well as class. For example, sociologists could map differences in the banking industry based on gender, race, and ethnicity, which opens issues on "countervailing powers" in a way that was not intended by J.K. Galbraith. This story lies ahead. The story of black-and-ethnic oriented banks becomes part of a social map of how this market works in the general economy. When women met in Mexico City as part of the 1975 United Nations Decade for Women, they identified a universal problem: women had no access to credit in any country in the world. Those attending examined the facts on how women perform over 65 per cent of the world's work, but earn only 10 per cent of the income, and own less than 1

per cent of the world’s property. Subsequently, a Women's World Bank was organized.

[62] At the signing ceremony, Friedel Abel, Member of the Executive Board and human resources director at Hochtief says “the Code of Conduct being signed here will have an impact that goes far beyond the boundaries of Hochtief.” The President of IG BAU, Klaus Wiesehügel, welcomed the step that HOCHTIEF is taking with the General Secretary of the International Federation of Building and Wood Workers, Ulf Asp. Ulf Asp says: “Hochtief is leading the way. Globalization of the construction industry calls for global rules, which take account of social and ecological standards. The agreement with Hochtief is a major contribution to improving working and living conditions for many building workers and thus a contribution to sustained development.” IFBWW Press Release, “IFBWW, IG BAU and Hochtief agree globally valid social standards,” 15 March 2000.

[63] ACCE was organized in 1974 and has the support of principal building and contracting national associations, such as the American Institute of Constructors (the constructor’s professional organization), the Associated Schools of Construction, and academic institutions that fit the needs for

trained members of the construction industry as a “profession.” The concept of profession is a self-description in the publications of ACCE.

[64] Third Sector associations – like those in religion, education, the professions, the sciences, the arts and learned societies – emphasize non-economic values, even while economic values play a role in their organization. What would social researchers ask about the impact of these associations? In this social action between sectors, how do these different value systems connect? How does the Third Sector affect the business sector?

[65] Civil markets are governed by a synthesis of "substantive rationality" in markets that includes principles vital to the development of society, such as justice, goodness, truth, and beauty. These philosophical values are not quantifiable but they do generate public standards in markets.

[66] A theory of civil development is based on a philosophical position: “maximizing individuality with community values.” Maximizing individual values alone is called individualism, or from another perspective, libertarianism. We have argued that to emphasize the individual – without equally recognizing the community – is not civil development. Civil development requires maximizing the values in both the individual and the

community, whether in a business, a university, a profession, a temple, or a set of federations.

Similarly, civil development is not based on optimizing private values (privatism) without optimizing public values (governmentalism) at the same time. Civil development is not based on optimizing diversity (pluralism) without recognizing the need for unity and/or consensus (universalism). “Pluralism,” taken to its extreme, is anarchy. Federations at best optimize both unity and diversity at the same time. The task of building consensus in diversity is the golden mean.

These issues are discussed in the literature on the common good. For example, David Hollenbach discusses how liberals and conservatives opt for maximizing the high principle of plurality. He notes how "pluralism," rather than for a quest for unity, seems symbolized by the idea of a "common good." Scholars argue that any effort to shape a single vision of the good society will lead to tyranny and oppression. The pluralist alternative means that the moral life of society should not be governed by a comprehensive vision of goodness. Rather, society should be governed by simple virtues like tolerance, reasonableness, and fairness.

The meaning of the common good is discussed in David Hollenbach, S.J. "The Common Good Revisited," Theological Studies, 50 (1989). See also David Hollenbach’s The Common Good and Christian Ethics (Cambridge: Cambridge University Press, 2002) and Aristotle, Politics 1280b, 6-7, tr. in Richard McKeon, ed., The Basic Works of Aristotle (NY: Random House, 1941) 1188-89.