

Appendix G **A Civil Rationale for Markets**

It is in justice that the ordering of society is centered.

–Aristotle

Freedom is always and exclusively freedom for the one who thinks differently.

–Rosa Luxemburg

A civil rationale is different from an economic rationale. It is a process of social reasoning that is formulated for the whole economy. It looks at all organizations as they connect through systems of economic exchange. It includes not only business organizations but nonprofit corporations like schools, colleges, hospitals, museums, and libraries. A civil rationale explains how markets operate in non-commercial fields like education, science, religion, professions, and recreation, where buying and selling shapes the direction of production, distribution, and consumption. All these non-capitalist fields carry core values that shape the market. These Third Sector values differ from business values and cannot be explained by an economic rationale.¹

In A Civil Republic we examined how nonprofit corporations (e.g. hospitals and colleges) are collective buyers in the market. Some nonprofit corporations shape the direction of production and some of them become monitors of business practices. Physicians in hospitals normally want the best medical equipment and faculties in universities want the best books for their classes, the best classrooms, and the best laboratories for students. Some nonprofits are researchers for consumers and others are accreditors of markets for the public good. A civil rationale elaborates on this point. It explains how non-profit corporations encourage core values

to enter the market, and shows how civil associations could be organized into new market structures to accomplish this more effectively.²

The general economy requires a civil rationale to explain how markets really work. It is a social logic, an interdisciplinary rationale, so to speak, describing how markets develop with a combination of society's core values, like justice and freedom. A civil rationale explains how standards are created from civil orders in the economy, including religion, science, art, and the professions (law, medicine, accounting, social work, engineering, and architecture), along with business. It can explain and guide the development of a new market system.

The Call for a Civil Rationale

The writing of a civil rationale is an interdisciplinary task. Faculties in law schools, for example, must explain how to treat legal issues in capitalist markets in new ways. A civil rationale for law schools starts by recognizing how a market based on corporate self-interest leads *regularly* to fraud and misuse of money. It is a systemic problem based on many laws supporting capitalist markets. Law schools need to develop a civil jurisprudence for business, and talk about corporate charters with stakeholder accountability. They need to examine the meaning of civility in commercial law and public accountability in business law.³

This same task of defining a civil rationale applies to other schools and disciplines in the university. Faculties in schools of management need to develop a theory of responsible corporations and publicly accountable markets, explaining how trade associations can create public standards and enforce them. Faculties in divinity schools can develop a public theology

for ministers and priests, with a focus on teaching students about corporate codes of ethics.

Religious studies should also cover how internal (moral) market standards can be developed for human safety and health, as well as environmental protection.

Faculties in engineering schools need to develop a rationale on how their voluntary associations can work for the public good, emphasizing how members should *follow* their professional standards in business rather than adjusting them in the corporate interest. University scientists (physicists, chemists and bioengineers) need a philosophy in support of sharing scientific data in public, not keeping them secret in the market and business-run laboratories. Medical schools should develop a rationale for public health, so that physicians working in for-profit hospitals and clinics do not put economizing for profit purposes above the needs of their patients. Schools of education need to formulate a rationale for accreditors so that universities do not lose their academic values when they sign business contracts and work in business environments. Political scientists and policy centers need to formulate a rationale for planning civil (self-regulating) markets, not more exploitive markets.⁴

Why is a civil rationale needed so badly?

The economic rationale is the popular basis for explaining markets across all fields of knowledge. It represents the values of the culture in the form of a logical structure which underpins and guides the economic functioning of a society, and its hierarchy of values tends to be accepted almost unconsciously by most members of the culture. Currently, this rationale supports a capitalist economy and an economic logic, with its values of profit and efficiency,

rather than on a social logic, with values of fairness and justice. Moreover, this rationale assumes that the government should set standards of freedom, justice, equity and fairness; but this approach frees business from many civic and social obligations required of most citizens. It assumes, for instance, that governments should clean up the environment after firms have spewed their waste into rivers and lakes, fouled the air, and destroyed forests; that governments should take care of employees who have been fired by corporations. This economic rationale, which assumes that business corporations and trade associations have no civic responsibility for their actions, is the established worldview of markets.

A civil rationale, on the other hand, would look at how corporations and trade associations solve the problems that they create in a nation. When corporations cause environmental damages, they should, logically, correct them. When corporations fire employees, they should have kept some reserve capital to assist them in finding new employment. Business and trade associations in this rationale have public responsibilities like citizens. They should be accountable to their stakeholders.

And this civic responsibility includes corporations in the Third Sector, i.e. educational, religious, professional and science associations, not just trade associations. The American Bar Association, the American Accounting Association, and the American Association for the Advancement of Science are in the economy. They should be responsible for their actions in the marketplace. When lawyers twist the law and accountants break the rules of their profession,

they should face penalties inside their associations. They should risk losing their professional membership or face a tribunal.

When scientists fail to disclose scientific procedures, or physicians cause human injury, for instance, their associations should bring them into their own courts of judgment. Science ideals originally included an open and disinterested search for the truth, while current practice tends toward covert and secret investigations for profit. Physicians were originally committed to the welfare of their patients, not the profitability of their positions and institutions. The loss of idealism in these professions and others is not just a philosophical problem; it has practical repercussions for the society in which they operate. Science associations should be responsible for members who hide data in business and fail to follow their own standards. Medical associations should call to account physicians who fail to meet their obligations to their patients. This principle is part of a civil rationale, and when implemented properly, should have a major impact on public offenses.

The number of science associations today is in the hundreds, and includes the American College of Clinical Engineering, American Society for Biochemistry and Molecular Biology, American Society for Healthcare Engineering, American Society for Mechanical Engineers, and the American Society of Biomechanics. A civil rationale in public planning would provide a principled basis for such associations to make policy.⁵

A civil rationale looks the social and political facts in markets, not just economic facts. It provides the basis for public policy as it describes the responsibilities of the voluntary sector

(business and non-governmental associations) to various stakeholders. Professional and business associations should be able to prevent problems from happening in the first place, not just solve them after they happen, and this should be part of their agenda.

Let's look further at how a civil rationale is different from an economic rationale. We begin with the problem that economists now describe as "externalities."

Externalities: Who is Responsible?

How do economists define externalities?

Economists say that externalities occur when market prices do not accurately account for the actual (true) costs involved in producing a commodity. For example, a firm makes free use of a river on public land to dispose of wastes generated during its production process, killing fish and endangering other species. The economic rationale has assumed that the clean up cost is not borne by the corporation but by the government. The government costs, which are not calculated as part of the corporation's production costs, represent the type of externalities prevalent in an economy governed by the mainstream economic rationale.

If a forestry operation contributes to species loss or habitat destruction and these costs are not paid by the operator and not reflected in the final product's price, the government pays the price. Neo-classical economics, with the theory of comparative advantage, is based on the assumption that prices reflect scarcity or environmental damage. The World Trade Organization's Committee on Trade and the Environment accepts this argument that trade "liberalization" will lead to environmental benefits. It argues that in a well functioning market-

based economy, “prices register the relative scarcity of resources and consumer preferences efficiently.”⁶

Now this old rationale is changing through more enlightened policies. The U.S. government has begun to demand that corporations pay those clean up costs. The policy has not worked too well because governments are linked closely with corporations and trade groups in making decisions; the government often fails to act and becomes part of the problem.

For example, the federal Superfund toxic waste clean up program has been in dire straits for a long time. According to the General Accounting Office, the polluter-funded trust in the Environmental Protection Agency (EPA) ran out of polluter contributed funds, leaving taxpayers to shoulder the financial burden, putting communities across the country at risk, and slowing the clean up rate. The Sierra Club describes how the Bush Administration presents a false image of itself when it touts its environmental “accomplishments.” In fact, it is colluding with big business.⁷

How would the picture change with the development of a civil rationale for markets?

In a civil rationale, the term “externalities” would be broadened to represent the cost of capitalist markets to government. Capitalist markets have exploited workers, deceived consumers, and damaged the environment for a long time. This places enormous financial costs on the government. All these externalities involve expensive restorations. When government makes the restorations, citizens pay higher taxes.⁸

Externalities also represent private costs to injured individuals and families, who pay for injuries in the workplace, work-related personal problems, diseases, and hospital costs.

Empirical studies have shown that mass layoffs correlate with a rise in divorce rates and a rise in medical problems, such as heart failures, stomach ulcers, and various diseases. Families, hospitals and communities pay the cost of corporate layoffs, not just government. Corporations speak about the benefits they provide to society but not about the damage they do – the social costs.

The corporate profit and loss statement shows only costs internalized by the corporation. It does not measure the uncompensated costs to society, the external diseconomies. For the persons affected, these payments represent coerced assessments, a form of hidden taxation. Some analysts have estimated that the aggregate national external costs corporations impose on customers, employees, communities, and society total approximately \$3,051 billion per year (1995 dollars).⁹

Could these costs be prevented under a different market system? I think so.

In a civil rationale, city planners would work with business leaders to establish public accountability systems. These systems include stakeholders organized to prevent the damages from happening; thus reducing the need to pay for these external costs. (See Public accountability Systems discussed in A Civil Economy and a Civil Republic.)

In public planning, the government would encourage (jawbone, threaten, provide tax incentives) members of trade associations to set up public standards for all members to follow.

For example, trade associations would examine how members could set up reserves for severance pay and buy low-cost health insurance for employees – transferable anywhere in the corporate economy by agreement. The government would work with these associations and find the basis for uniformity in pension funds between profit and nonprofit corporations. The civil idea is that if all companies do this together, no company loses. The “associated economy” would provide these plans with support from government.

The government would encourage members of trade associations to hold training programs for employee self-management and ownership, organize medical departments to deal with employee health problems, and write codes of conduct in trade associations.

The government would encourage corporations in trade associations to save during upswings in the economy and spend during downturns in the economy. It would supply tax incentives for corporations to put capital reserves in the bank during times of economic prosperity and then spend the money during times of recession. This smoothes out business cycles and reduces the likelihood of an economic depression.¹⁰

Such points need to be elaborated in a civil economic rationale and implemented through public policies. The purpose is clear: change capitalist markets into civil (self-regulating) markets. A civil rationale explains how the market can be organized to regulate itself. It describes how governments persuade markets to develop core values and standards for the common good. The purpose of government is to reduce taxes, provide for the national defense, and promote the common welfare.

A civil rationale is already emerging and making headway. The concept of “good will,” for example, has developed in business to indicate publicly that a company has some measure of “trust” and “integrity.” As part of society, corporations and their associations need public confidence and trust to survive.

Good Will: Building Intangible Assets

CEOs and accountants cringe when they hear that more than 70% of corporate value is tied up with intangible assets like good will and employee know-how. This “good will” is connected to other values (or virtues) like “reliability,” “integrity,” “honesty,” and “ethics,” and other often incalculable attributes.

Many business leaders use their financial accounts to assess corporate success, but success depends on being able to respond to what CEOs call “soft” areas of performance, related to the core values of society. These senior executives look for non-asset based measures of performance. They look for progressive members of corporate boards who will demand that executives provide them with data on public relations and good will.

The concept of good will is complex. It covers environmental management, employee relations, and assessing joint venture arrangements that might be engaged in corporate wrongdoings. CEOs know that the best shareholders push companies to be accountable to the public. For example, watchdog groups want to know whether a company is environmental safe, and many consumers are more conscious today about their right to influence corporate decisions. These constituencies are non-asset stakeholders.

Stakeholder Group: Institutionalizing Core values

A civil rationale is building in business with the development of corporate codes of conduct, but there is much more to be done. Codes for trade associations and stakeholder groups are on the agenda for the future. A civil rationale looks to the development of stakeholder groups that become part of a market structure.

A “stakeholder group” is a nonprofit corporation whose members come from civil orders of society outside business. It embodies society’s core (noncommercial) values and develops systems of public accountability. We have described it as an ideal type. Ideal types never exist (flawlessly) in reality. Their attributes are studied only by approximation. An ideal type for the economist is “perfect competition.” An ideal type for the political scientist is a “democratic government.” An ideal type for the sociologist is a “stakeholder group.”

Stakeholder groups already exist in markets. What are some examples?¹¹

A stakeholder group is a nonprofit corporation that is governed by representatives in both the Third Sector and business. One example is the International Standards Organization (ISO), which is composed of professionals and business leaders. Another is the nonprofit Joint Commission on the Accreditation of Health Care (JCAHO). These nonprofit corporations are developed to set standards and regulate business behavior. They combine commercial values with core values like health and safety. They link formal rationality with substantive rationality.¹²

Take JCAHO, for example. Stakeholders in many professional orders are represented in JCAHO to establish public standards. For-profit HMOs and hospitals in the business sector of the United States must meet those standards. The Commission evaluates and accredits nearly 19,000 health care organizations and programs in the United States. It is a not-for-profit organization that is the predominant accrediting body in health care. It has developed state-of-the-art, professionally based standards and evaluates the compliance of health care businesses against good will benchmarks. Put another way, it is a stakeholder (professional and citizen) group for hospital management to help capitalist markets work in the public interest. The Commission Board members of JCAHO consist of 29 individuals, including physicians, administrators, nurses, employers, a labor representative, health plan leaders, quality experts, ethicists, a health insurance executive and educators. Commissioners serve three-year terms that are renewable.¹³

What are the attributes of a stakeholder group?

A stakeholder group *a) advances systems of public accountability in the private sector; b) is based on major core values in society; c) helps business set public standards related to those values; d) organizes neutral monitoring systems to determine that those values are maintained in markets; e) constructs judicial authorities to judge offenders; f) establishes procedures for civil (non-governmental) enforcement of those common standards; and g) is organized democratically.*

The government does not need a regulatory agency to oversee health care businesses because of JCAHO.¹⁴

Economists today measure market efficiency but they do not measure how core values enter into the market. They do not observe how existing stakeholder groups establish social goals and translate core values into standards that can be measured.¹⁵

Measurable Goals and Standards

Weber worried that too much emphasis in economic sociology would be placed in either extreme: formal or substantive reasoning. An emphasis on formal (pure) calculation would lead to an unacceptable narrowness while an emphasis on (pure) substantive thought would lead to “unacceptable ambiguity.” In a civil rationality, we are developing a connection between these two rationalities, a synthesis between these extremes. Developing substantive goals for markets is the first step.¹⁶

Substantive goals in business include fairness, transparency, democracy, freedom, human caring, public trust, safety, aesthetic values and artistic excellence. These goals can be developed through trade associations as well as corporations, and are calculable. They include the goal to meet public standards like “accounting transparency” and “fair competition.” The standard of “transparency” applies to many dimensions of market activity, such as disclosing major changes ahead for a corporation listed on the stock exchange.

Creating greater safety is a goal for manufacturing (trade) associations. Advancing artistic excellence is a goal for filmmaking associations. Substantive goals mix with formal

goals like profit making. To bring core (substantive) goals into corporate (formal) rationality involves the proper synthesis, and this entails government planning.

The Cost of Government

Creating a public domain inside a private domain requires calculating the cost of a market to government. It also involves estimating the achievement of substantive goals that reduce the need for state regulations. All of this calls for a synthesis of substantive goals with formal goals.

Researchers must show how stakeholder groups with core values (e.g. public health, environmental protection, artistic filmmaking and factory safety) build markets that are self-regulating. In the motion picture industry, for example, greater measures of efficiency and profit making should occur simultaneously with the advancement of artistic excellence. The synthesis should give markets greater human value along with greater efficiency. Stakeholder groups are one method for making this happen.

Government can reduce its cost of regulation by structuring a market to include stakeholder groups. It can do this by linking Third Sector nonprofits into markets (along the lines of JCAHO) to help the market work more directly for the common good.¹⁷

This is a method for civil-market development. With a push from governments, trade associations assume a new and better role in American life. They begin to set standards for members to protect employees, set aside severance pay for laid off workers, buy health insurance for workers, create human resource departments, and organize medical departments. A trade association then has a public purpose as well as advancing the profitability of members.

There is much to be researched. Trade associations could launch studies for members to organize “pollution clean up departments.” External costs (e.g. river pollution) could be internalized as a business expense as *a habit of excellence for members in associations*. This is a substantive goal for civic leaders in business and constitutes a tax saving for citizens.¹⁸

Achieving substantive goals – such as “environment protection in the forestry business,” or the monitoring of “due process” in trade associations, or the creation of artistic excellence in the filmmaking – should combine with greater efficiency and money making.

This is a civil rationality that adds core values to markets. Markets develop public goods, not just private goods.

Public Goods

Public goods do not cost anything. This economic concept refers to properties that are shareable and useful to everyone. They include scientific knowledge, highways, lighthouses, and city parks, available to every citizen. Their use by one person does not exclude their use by others. For example, many different boats on the sea can steer their way home at no charge by the use of a privately owned lighthouse. The marginal opportunity cost is zero.

Mainstream economists say that there is no profit incentive to produce public goods. Therefore, the production of public goods is the task of government. It is (virtually) impossible for a market to supply such goods naturally and therefore the supply of public goods – like useful information and scientific knowledge – becomes a government responsibility.¹⁹

In a civil rationale, however, we see business and Third Sector organizations providing those goods. Government has a responsibility to encourage them.²⁰

The production of public goods takes place through nonprofit universities, hospitals, day care centers, museums, libraries, etc. In nonprofit universities the production of scientific knowledge becomes common property. There are artistic productions in public exhibits and artifacts in nonprofit museums for all to see. Professional information (bookkeeping methods, legal documents, etc.) is part of the public domain. Indeed, we argue that the Third Sector has public goods that can help the market become self-governing.²¹

The Certification of Public Goods

Public goods, when defined broadly, involve substantive values. They are in the nonprofit sector in those civil orders of family (e.g. “caring”), religion (e.g. “compassion”), science (e.g. “truth”), recreation (e.g. “relaxation”), art (e.g. “beauty”), and so on. Such values are not calculable but when they are shared commonly, they are like public goods. They have properties that are available to everyone without charge. Individuals express their “compassion” without a financial cost to anyone. Some core values (goods) increase by sharing them, like fairness and safety. We are talking about nonprofit organizations that carry these values into the economy.

In other words, public goods are both tangible (like furniture and food) and intangible (like good will and compassion). The tangible goods are interwoven with the intangibles. We noted how JCAHO certifies safety as an intangible good that balances against healthcare costs.

Now this method of certifying intangible goods is catching on through Third Sector groups. The Third Sector is certifying intangible assets, like fairness and safety.²²

The fair trade movement promotes international agreements to enforce price supports for commodities exported from poor countries to rich countries. Fair trade advocates see this certification as a way to help poor farmers when big firms destroy their work. They want to halt the rise in global poverty. Endowed Third Sector parties and charitable groups do this certification without charging anybody. Fair traders seek a "just" price for exports in foods that exceeds the cost of production; they want to provide a decent living for workers in poor nations.

Fair trade refers to the certification of "just markets." Trade unions and environmentalists advanced the idea and proponents today apply it to reform the World Trade Organization. Fair-trade certification allows consumers to identify goods that meet agreed-upon standards of fairness. A program advanced by Oxfam America on fair trade, for example, ensures producers in developing countries that they get a fair deal through:

- A fair price for their goods – one that covers the cost of production and guarantees a sustainable living.
- Long-term contracts which provide real security.
- Support in gaining the knowledge and skills needed to develop their businesses and operate successfully in the global economy.²³

Fair traders have many different objectives. They want "life-sustainable prices" for poor farmers along with quality products but they also want companies to follow principles set by the International Labor Organization agreements (ILO), which include banning child labor and slave labor, guaranteeing a safe workplace, and the right to organize unions. They support

adherence to the United Nations charter of human rights. They want to protect and conserve the environment. They want “long-term business relationships that are transparent” in the “production-distribution chain of command.” They want to guarantee products by a fair trade label for consumers to identify at the time of purchase.

Governments could support these Third Sector methods of certification. The fair-trade practice saves money for taxpayers because governments otherwise must create standards of fairness and safety. Governments have a costly tradition of legislating for agencies to advance fairness. When small businesses lost out in competition with big business, the U.S. Congress established the Small Business Administration. But government support for the Third Sector programs should not cost anything.

Citizens pay taxes to support the Small Business Administration, but supporting Third Sector certification means only offering these voluntary organizations public recognition. Third Sector organizations need national attention to do this work. The government could sponsor public conferences on the subject of fair trade and safety; the President of the United States could assume the bully pulpit powers of the White House. U.S. Senators could argue that justice is a public good for everyone in the market. These steps would involve no cost to taxpayers.

These Third Sector organizations are accrediting organizations for public goods. They are like the accreditors in education that assess excellence in private schools and universities. They certify public goods in the private sector without charging anyone a penny. The public needs to know about these certification programs.²⁴

A grassroots movement for *safe trade* complements *fair trade* and the public should know about it. Safe trade focuses on the preservation of biodiversity, biosafety, biosecurity, and the prevention of serious global climate change. Worldwide green parties and global NGOs like Greenpeace and Rainforest Alliance advocate safe trade and fair trade. The two concerns are discussed separately at diplomatic conferences, and have resulted in different treaties. Supporters of safe trade see it as the foundation for fair trade, since ecological damage is implicated in social problems.²⁵

Third Sector organizations in science, religion, and the professions have yet to move on this certification process. The members of a church or a temple engage in business and are affected by business; they suffer diseases from environmental damages that could have been prevented by certification and environmental protection. They go through divorces from lost jobs that could have been prevented if the corporation which made the layoffs had been certified as having severance pay and job search programs. Their *latent* power becomes real (*manifest*) with a growing awareness of their connection with the problem. They may at some point bring collective action to solve these market problems. Public sociologists could bring these programs into national attention.

In sum, economists have a formal rationality but no substantive rationality. Third Sector organizations are developing a civil rationality that includes substantive values in markets. They are developing a public philosophy for policies in the market economy.²⁶

Conclusion

The idea of a civil society developed with capitalist markets, which became the framework for studies in political economy. Karl Marx critiqued political economy and equally criticized the idea of civil society laid out by G.W.F. Hegel. He called for a new social order in the economy to treat class inequalities and reduce state bureaucracy. He would expect this new social order to be based on substantive values.²⁷

Sociologist Max Weber says “substantive rationality” invokes reasoning by “ultimate values” that are not calculable. These values in religion (e.g. “compassion”), family (“caring”), science (“truth”), and art (“beauty”) are not marketable. Yet some values do appear to be marketable by partial measure in standards. In the past, parents cared for their children, but “caring” for children has now become a business, usually with standards. In the past, scientists in the pursuit of truth shared their findings; the scientific process was a public good and the information was given away free by universities. Scientists have now gone into business where are involved with the production of private goods.

There is a problem for government to address here. Nonprofit corporations are changing their charters to become businesses. This increases the likelihood that the public goods they provide will become private goods, that is, proprietary. Scientists, when in business, conceal information, making it available to people only at a price. If this trend continues, the challenge becomes how to incorporate public goods into the market.

Weber notes how private goods (like pharmaceuticals, money, furniture, and toys) have calculable value. They are the basis for economic reasoning (“formal rationality”) through

which we calculate prices, or “worth” on the market. But Weber worried about the extent to which an increase in formal rationality might destroy substantive values. Our argument is that Weber’s ideal types (substantive vs. formal rationality) should be studied together in a civil rationale. While it appears as though there is no connection between these two types of reasoning, connections actually occur in the market.²⁸

Substantive values generate public standards in government, the Third Sector and business. In government planning, public standards, based on these core values, become “substantive goals.” A substantive goal is, for example, providing “excellence” in the care of children and revenue “fairness” in daycare centers. A goal in the insurance business is to create contracts that are honest, transparent, and trustworthy. While substantive goals such as “care,” “trust,” “fairness” and “democracy” are not altogether measurable, some part of them is measurable. They become the tangible side of intangible goods.²⁹

Civil (public) planners combine substantive goals. They maximize “fair competition” and “transparency” together. Something new then happens.

Educational organizations (not just individual teachers) in markets then insist on “accurate legal, medical, engineering, and scientific information” as part of their goal for academic excellence.

Scientific associations (not just individual scientists) then demand “accuracy and transparency” in business. Learned societies stand firm on “sharing information in the public

domain,” rather than keeping information secret. Educators in accrediting institutions insist on academic excellence for universities, even when they become chartered as a business.³⁰

Market standards become “public goods” because everyone enjoys and shares them. When governments and Third Sector organizations insist on monitoring and maintaining standards inside markets, they change the structure of the economy. Public standards regulated inside the markets through certification then lead to a civil economy.³¹

If public planners want to reduce the costs of government, Third Sector organizations must insist on public goods: transparency, honesty, and fairness in markets. They build trust through civil market mechanisms, like civic enterprises, as in business-Third Sector partnerships. They build reliability through Third Sector monitoring of market performance.

This is the paradox that must be solved in this century. Market values are calculable, but substantive values are not calculable in the economy. Core values in Third Sector organizations are not calculable – like “tenderness,” “faith” and “beauty” – but these incalculable values can work their way into markets. They do so through public standards constructed inside markets. Public planners develop them through accountability systems and stakeholder groups, which carry “substantive goals.” In a civil rationale, planners advance “social reasoning” into market structures. They plan markets that bring society’s core values into the economy.³²

Could nonprofit/for-profit corporations work for the common good? The answer demands a public philosophy.

¹ A term that is frequently used to represent the ideological side of the economic rationale is neoliberalism. Neoliberalism is generally intertwined with a belief in the ability of capitalist markets to use new technologies to solve social problems better than any alternative course. Neoliberal policies call for markets to be deregulated and, in practice, this means that they are “re-regulated” to serve corporate interests..

² In A Civil Republic we asked questions like those below.

Is government paying too much to sustain and to regulate markets? Could associations (rather than government) introduce public standards and enforce them effectively? Could markets be organized so that civil associations (enlightened trade and Third Sector associations) establish, monitor, and enforce public standards? Could a new market system internalize and enforce some regulatory functions of government?

The civil orders of society can help reduce the need for government to monitor markets.

Nonprofits become a functional substitute for government, partly reducing state bureaucracy.

3 For example, Forbes magazine lists long violations for firms at this moment of writing. John J. Rigas and his sons and former assistant treasurer Michael C. Mulcahey "were accused of massive fraud that cost Adelphia, the nation's sixth-largest cable company, \$2.5 billion, driving the company into bankruptcy." "Prosecutors say the Rigases used Adelphia as their personal piggy bank, taking money from the company for lavish vacations and other personal uses, while misleading investors about the state of the company's finances." On May 1, 2003, an additional round of charges came down in the Enron case. Former Enron finance chief Andrew Fastow and his wife Lea are accused of skimming profits from the company's wind farm operations and of tax evasion. In addition, treasurer Ben Glisan and former finance executive Dan Boyle have been charged with securities fraud, insider trading, and falsification of accounting and tax records. Seven former members of Enron's broadband and Internet group have been charged with securities fraud, wire fraud, and money laundering. At ImClone Systems Inc., Sam Waksal, former CEO, was charged last year with insider trading, and pleaded guilty to six counts, including bank fraud, securities fraud, conspiracy to obstruct justice, and perjury. As of mid-2002, the list of cases was very long; it can be found at Forbes, "The Corporate Scandal Sheet," <http://www.forbes.com/2002/07/25/accountingtracker.html>.

4 When Third Sector organizations collaborate with business to establish public standards, it is partly social and partly economic action. We have proposed that this civil market agreement

should reduce the cost of government, but let us make this point more vivid in reference to “externalities” that occur within industries.

Third Sector groups cannot collaborate too closely with business or a type of collusion is created. They must remain countervailing powers. They must remain as “counterpoised partnerships,” sustaining their differences, each developing their integrity, while working together. This is a principle in the communitarian movement.

5 Some of associations are moving in this direction of civic responsibility. The American College of Clinical Engineering, for example, sponsored a Symposium in Boston in Hynes Auditorium on June 5th, 2004 featuring expert speakers addressing the topic: “Engineering Safety in the Healthcare Press.”

6 “Environmental Benefits of Removing Trade Restrictions and Distortions,” Geneva, World Trade Organization - Committee on Trade and the Environment, 1997.

7 Carl Pope, Sierra Club Executive Director says that the government should not be proud of putting the brakes on the “polluter pays” principle and slowing the rate of toxic clean ups to a crawl. “The Bush Administration’s approach to Superfund will merely add it to a long list of chronically underfunded federal programs, leaving communities across the country at risk.” The Sierra Club, News Release, November 4, 2003, Annie E. Strickler, “EPA Releases So-Called Superfund ‘Accomplishments’ Administration Fails to Acknowledge End of Polluter Trust Fund, Communities Left at Risk.” The Sierra Executive Director goes on to say

President Bush has refused to push for the renewal of polluter-pays tax that expired in 1995, the first president not to support the principle that polluters should pay to clean up their messes since President Reagan signed the Superfund reauthorization into law in 1986. With more than 1,200 toxic waste sites still in need of cleanup, the ramifications of a dwindling polluter trust fund to cleanup toxic waste places our communities and environment at risk. Already, one in four Americans, including 10 million children, lives within a short bicycle ride of a toxic waste site that is considered a Superfund cleanup priority. We teach our children that they are responsible for cleaning up the messes that they make. The Bush administration should demand no less of corporate polluters... They are letting wealthy corporations off the hook while strapping taxpayers with the burden of cleanups.” Next year, American taxpayers will pay about \$1.1 billion for the Superfund program, an increase of about 400 percent since the fee expired in 1995. According to a Congressionally mandated study concerning the future of the Superfund program, the cost of implementing the program between FY 2000 through FY 2009 ranges from \$14 billion to \$16.4 billion. Underfunding cleanup of America’s toxic waste sites is yet another example of the administration putting corporations over public interest.

8 Much work is ahead for what could be called “civil economics.” A rise in the Gross National Product is thought to be a good thing, but economists know that social problems are created at the same time, never measured. “Externalities” that adversely affect human welfare are not included in the GNP. Pollution, for instance, is a negative external cost that counts positively in the GNP. A business will include the private costs of materials, labor and capital used in producing goods, but would not include the social and government costs of pollution. Thus, much lies ahead for this concept of “externalities” as it invokes a cost-benefit analysis. And much lies ahead for a revised GNP that counts externalities. Economists calculate how people can obtain utilities, but we need to see how a different “reasoning” and “goal structure” would bring together business and the Third Sector. These two sectors should become countervailing

powers so that the market system develops a path toward a larger good. Christopher Pass, et. al.

The HarperCollins Dictionary of Economics (NYU: HarperPerennial, 1991) p.185. Herman

Daly and John B. Cobb, Jr., For the Common Good. (Boston: Beacon Press, 1989),

9 The Stakeholder Alliance, “The Public Cost of Private Corporations,

<http://www.stakeholderalliance.org/corpcost.html>.

10 The point is that the external costs of free markets can be prevented in a civil market system within the business system. Core values and substantive principles would be introduced into stakeholder organizations. This mode of civil development should by its accumulative effect add efficiency to the market, reducing government costs. In planning for civil development, customers would pay their “tax” directly into the market, i.e in contributing to the cost of environmental clean up or medical costs for injuries by companies. Clean ups and medical costs are already done in markets in some measure, but public planning increases the likelihood that this would be done effectively. In this plan, customers pay staff in trade groups or stakeholder associations to formulate public standards by paying higher prices for goods; they also pay for arbiters to settle conflicts between competitors; they pay for neutral observers to monitor markets in the public interest. But there is no added cost for government to do it. Government simply monitors the process for its effectiveness.

11 Civil planners would support stakeholder groups along with optimizing “perfect competition” in economics with “democratic organization” in political science. Combining ideal types like this joint optimization creates a civil market. A stakeholder group represents sectors

of the economy (e.g. safety, health, education) that are affected by corporations. Its members participate in managing, overseeing, or monitoring that sector for the common good.

12 For a description of these nonprofits, see [A Civil Economy](#) and [The Civil Republic](#).

13 Board members have clinical experience in health care fields that JCAHO serves, including ambulatory care, behavioral health care, health care networks, home care, hospice, hospitals, laboratories, long term care and assisted living. Advice from experts in these fields is routinely obtained. In 2002, an at-large home care representative was invited to participate in Board of Commissioners meetings, and in 2004, an at-large long-term care representative was added. These direct links to the current health care environment enable board members to guide the JCAHO in developing state-of-the-art evaluation services.

14 A stakeholder group would maintain transparency in a public accountability system. See [A Civil Republic](#) for a discussion of accountability systems that are composed of “contracts, standards, monitors, and self-enforcement procedures.” Also see Severyn T. Bruyn, [A Civil Economy](#) (Ann Arbor: University of Michigan Press, 2000) for an elaboration of accountability systems in global markets.

15 The government has done this in the past. Fair competition, for example, is a substantive standard translated into a goal related to an incalculable value, as we call justice. A government standard like fair competition is a goal related to justice and is measurable. Governments measure the degree to which competitive markets are free and fair. The government measures fairness, but does not measure the degree to which justice exists in the whole market sector.

16 Max Weber, eds. G. Roth and G. Wittich transl. Economy and Society (NY: Bedminster Press, 1968) [o.d. 1922]. Some sociologists in the Frankfurt School took a different view and argued that improvements in substantive rationality must be a central focus of sociological efforts.

17 A restructured market sector with stakeholders should, in theory, require less government supervision. Stakeholder groups and Third Sector organizations that collaborate and compete with business to establish public standards should work more effectively to develop viable standards and reduce government costs than business alone. Government should therefore calculate how to reduce its need to supervise a market sector and encourage civil associations to develop in markets and Third Sector. This would build systems of accountability that lessen the need for citizens to pay for external costs.

18 This mode of civil development, by its accumulative effect within the business sector, should in theory add efficiency to the market system. In planning for civil development, customers pay their “tax” directly into the market, such as for the cost of environmental clean up and medical costs for local injuries. Clean ups and medical costs are done in markets today, but public planning would increase the likelihood that they would be done effectively. In this plan, customers pay staff in trade groups or stakeholder associations to formulate public standards. This could result in paying higher prices for goods in a whole industry. No competitor loses. Customers may also pay for arbiters by the market price to settle conflicts between competitors;

they may pay for neutral observers to monitor markets in the public interest. The government monitors these practices.

19 A public good stems from core values such as “trust” and “good will,” which sustain the economy in ways that are not altogether calculable. Some economists define public goods as a “social product” or a “collective product;” as in the goods and services supplied by government that are of a collective nature not definable by a market price. Eating popcorn while watching a movie is a “private good” because its consumption deprives others of the opportunity to enjoy some of it, but the movie is a public good whose consumption by one individual does not preclude consumption by another. A commodity is a “pure public good” if in addition to being “non-rival,” it is not possible to exclude individuals from consuming it. Watching a movie does not affect the consumption of it by others. The concept can present a problem in market theory because there are “free riders” that pay nothing for this type of “good.” Stephen D. Casler, Introduction to Economics (NY: Harper Perennial, 1992) p. 369. “Social products, merit goods, and public goods” can refer to the fields of education and health services that are provided by the government. “There is no direct link between consumption of a social product and payment for it. Social products are paid for out of general taxation and not by individual consumers buying in the marketplace.” C. Pass, B. Lowes, L. Davies and S.J. Kronish, Economics, (NY: HarperCollins, 1991) p.486.

20 Religious organizations and professions live by intangible assets, i.e. what Max Weber calls “substantive rationality.” They “reason” by an “ultimate value” and then translate that

intangible value into a social contract in market transactions. And they are subject to the same mistakes as business and conversely the same potential for civil development. The National Council of Churches showed its potential for development when it initiated a program to invest only in corporations that are socially responsible. This is their form of “fair trade.” For details on the Council, see chapters in my books on The Field Of Social Investment, A Future For The American Economy, A Civil Republic, and A Civil Economy.

21 For more, see Herman E. Daly and John B. Cobb, Jr. For the Common Good (Boston: Beacon Press, 1989) p.51. In the spirit of Aristotle, we could say that this set of extremes in markets does not represent a “habit,” a steady state of excellence or peak performance. The principle of freedom in markets should keep the evolutionary forces active, but a government should aim for a habit of “peak performance” in the market. It should steer a steadier path between the principles of freedom and order. Government does not want economic recessions that lead to excessive poverty or runaway inflation that, in turn, causes the elderly to lose all the capital in their pension funds.

As we shall see, public planners should seek a path between extreme principles that appear to be opposites, such as freedom vs. order, private interest vs. public interest, and competition vs. cooperation. Principles are used as a basis for setting standards. A creative path in market re-organization occurs when people set standards that transcend the tension between these opposing principles.

22. There is latent power in the nonprofit sector that goes beyond the analysis of consumer preference. When religiously cherished material goods like Christian crosses or kosher foods enter the market, economists consider them only as an object with a price. But that does not measure their significance in society. It does not measure how markets enable that cross and those foods to make visible the Christian and Jewish culture to the public. These goods are sold with a price but they are also a symbol of a religious faith, even perhaps, a symbol of danger for people in other religions, a symbol to love or to hate. But they are commercial products that represent a considerable body of people in the United States. The nationwide organization of these religious believers influences the production and the demand and their visible “presence” in society. They are symbols of this particular society. Their social and spiritual meaning stand apart from the market but their nonprofit organizations are a powerful influence in the market. The power of Third Sector organization is not to be dismissed lightly in this economy.

23 Supporters of Oxfam's Make Trade Fair campaign condemn the international trade system's “rigged rules and double standards that have such damaging consequences for developing countries and small-scale farmers around the world.” The US and the European Union, they say, are the biggest culprits in this “egregious behavior.” There are numerous Oxfam websites on this subject. See

www.oxfamamerica.org/whatwedo/campaigns/agriculture/what_oxfam_is_doing.

24 In the Small Business Act of July 30, 1953, Congress created the Small Business Administration, whose function was to "aid, counsel, assist and protect, insofar as is possible,

the interests of small business concerns." The charter also stipulated that the SBA would ensure small businesses a "fair proportion" of government contracts and sales of surplus property.

By 1954, SBA already was making direct business loans and guaranteeing bank loans to small businesses, as well as making loans to victims of natural disasters, working to get government procurement contracts for small businesses and helping business owners with management and technical assistance and business training.

25 See Greenpeace, "Safe Trade in the 21st Century, [PDF] 0901 greenpeace [st] 6f on the Internet.

26 It is important to note how the Third Sector has been involved in shaping justice and fairness in corporate markets. When business corporations did not respect the core values of workers (e.g., human dignity and fairness), employees organized nonprofit trade unions. Unions demanded that the core values of "justice" be introduced into business contracts. It is because of such (Third Sector) union activity that business began to accede to the development of core values and standards for workers. This pressure led to the creation of pension funds, higher wages, and social benefits. Because of that union presence, often supported by leaders in the religious and professional orders, standard making in the workplace is now a custom, self-generating, not pushed by government alone. In capitalist markets, the government sets those public standards and monitors compliance. In a civil market the government would encourage Third Sector and nonprofit corporations to participate in the process. The Antitrust Division of the Justice Department calculates "fairness" by counting the number of competitors and

proportionate power in a market sector. The Environmental Protection Agency protects public health and safety by gathering statistics on the levels of pollution in the air and water. The government insists that business maintain those standards, but we are now suggesting that researchers can study how nonprofit associations can do much of this monitoring.

27 Note Marx's opening statement:

The first work which I undertook to dispel the doubts assailing me was a critical re-examination of the Hegelian philosophy of law; the introduction to this work being published in the *Deutsch-Französische Jahrbucher* issued in Paris in 1844. My inquiry led me to the conclusion that neither legal relations nor political forms could be comprehended whether by themselves or on the basis of a so-called general development of the human mind, but that on the contrary they originate in the material conditions of life, the totality of which Hegel, following the example of English and French thinkers of the eighteenth century, embraces within the term "civil society"; that the anatomy of this civil society, however, has to be sought in political economy. The study of this, which I began in Paris, I continued in Brussels, where I moved owing to an expulsion order issued by M. Guizot. The general conclusion at which I arrived and which, once reached, became the guiding principle of my studies, can be summarized as follows.

In the social production of their life, [people] enter into definite relations that are indispensable and independent of their will, relations of production which correspond to a definite stage of development of their material productive forces. The sum total of these relations of production constitutes the economic structure of society, the real foundation, on which rises a legal and political superstructure and to which correspond definite forms of social consciousness. (See Karl Marx, Preface to *A Critique of Political Economy*.)

28 We have said that Weber despaired about too much emphasis placed in either form of reasoning. Pure quantitative calculation would lead to an unacceptable narrowness and pure substantive reasoning to unacceptable ambiguity. In our formulation, we are talking about a

balance and creating a middle path. Max Weber, eds. G. Roth and G. Wittich transl. Economy and Society (NY: Bedminster Press, 1968) [o.d. 1922].

29 A public good resides in “trust” and “good will,” which sustain the economy in ways not altogether calculable. Economists define public goods as a “social product” or a “collective product;” as in goods and services supplied by government that are of a collective nature not definable by a market price. Eating popcorn while watching a movie is a “private good” because its consumption deprives others of the opportunity to enjoy some of it, but the movie is a public good whose consumption by one individual does not preclude consumption by another. A commodity is a “pure public good” if in addition to being “non-rival,” it is not possible to exclude individuals from consuming it. Watching a movie does not affect the consumption of it by others. The concept can present a problem in market theory because there are “free riders” that pay nothing for this type of “good.” Stephen D. Casler, Introduction to Economics (NY: HarperPerennial, 1992) p. 369. Some say that social products and public goods can refer to the fields of education and health services that are provided by the government. “There is no direct link between consumption of a social product and payment for it. Social products are paid for out of general taxation and not by individual consumers buying in the marketplace.” C. Pass, B. Lowes, L. Davies and S.J. Kronish, Economics (NY: HarperCollins, 1991) p 486.

30 Nonprofit organizations can measure these goals, just like the government. The government defines “fair” competition in ratios of market concentration and “transparency” in stock markets. In practice this means that the government requires the disclosure of information by a

corporation registered on the stock exchange. It requires CEOs to share information with the public, for example to disclose impending financial deals impacting on the stock market. Fair competition and transparency are substantive goals, calling for exacting definition in each market context, while the general concept remains not fully definable. The variables defining “concentration” are multiple and so an absolute operational definition is difficult. For more on the difficulty in defining market concentration and “fair competition” see Chapter 8. “A Method of Measurement” in Severyn T. Bruyn, A Future for the American Economy (Stanford, CA: Stanford University Press, 1991).

31 Every public standard carries its ghost – certain meanings about what is actually “fair” – not altogether definable and visible to the naked eye. “Transparency” carries its shades – certain meanings that cannot be assessed in a market system. Yet, definitions are needed and legal guidelines must be established.

32 As Weber would see it, social factors are linked with economic factors although not always visible in the market. For our purposes, an economic factor (e.g. calculable efficiency) can carry a social factor (e.g. “fairness” and “equity”) as an integral part of a market plan. The type of instrumental (rational) action that emphasizes self-interest has been called “utilitarian.” This has an economic meaning but utilitarianism as a philosophy also expresses social goals, like the desire to achieve a state of happiness. See E. Gellner, Plough, Sword, and Book (London: Collins Harvill, 1988).