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EXPOSING THE MYTH OF HOMO ECONOMICUS

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Abstract

The prevalence of the "homo economicus" model of humanity has crowded out considerations of important noneconomic aspects of human nature - most importantly, the moral dimension of human thought and conduct. As a result, our understanding of the present ills besetting the business world and the market economy is incomplete, and the policy prescriptions flowing therefrom are often suboptimal (if not counterproductive).

This book review situates MORAL MARKETS within this larger debate over human nature generally. I show how, through the presentation of biological evidence and evolutionary theory, "Moral Markets" repudiates the "homo economicus" model of humankind, and supports the Aristotelian position that human beings are fundamentally moral creatures by nature.

After demonstrating that free markets cannot thrive in the absence of virtue, MORAL MARKETS leaps to the conclusion that free markets must be generally populated by virtuous actors. This book review asks whether another conclusion might be drawn: that the free markets of today lack a critical mass of virtuous actors, hence the current spate of corporate scandals and economic woes.
EXPOSING THE MYTH OF HOMO ECONOMICUS

Ronald J. Colombo*


INTRODUCTION

Enron. ImClone. Global Crossing. Tyco. WorldCom. Several prominent commentators have concluded that the corporate scandals that these names have come to represent are not mere market aberrations, but rather symptoms of a deep, systemic problem with capitalism today.¹ In order to fully understand this problem, and in order to select an appropriate means of treating it, we must first accurately diagnosis its root cause. As I and others have suggested, this cause is essentially moral in nature: “a loss of belief in objective ethical standards” as one commentator summarized it²; “a mentality . . . [of] putting profits ahead of all principle” in the words of another³; and a rejection of the commandment to “love thy neighbor” according to the former President and CEO of the Federal Reserve Bank of New York.⁴ And a problem that is fundamentally moral in nature counsels in favor of a solution that is, at least in part, moral in nature as well.

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² Michael Prowse, Why plastering over capitalism’s cracks won’t work, FIN. TIMES, July 13/14 2002, at 11 (“The root problem is a loss of belief in objective ethical standards.”).
³ See Bennett, supra note 1, at 1.
To others, morality does not enter into the equation. Or, even if it does, morality certainly does not enter into the solution. To them, the problem is merely one of properly aligning cost and benefit structures in such a way as to more severely punish wrongdoing, and/or more greatly reward appropriate conduct.\(^5\) This would be the approach taken by, among others, adherents to a law-and-economics perspective.\(^6\)

What becomes clear is that, at its core, the dispute over what ails the modern market economy (and what ought to be done to address it) turns on our understanding of human nature.\(^7\) And the prevailing modern understanding (at least within the context of economic thinking) is that human beings are little more than rational wealth-maximizers.\(^8\) Referred to as “\textit{homo economicus},” it is assumed that this person – “economic man” – populates the roles of consumer, entrepreneur, stockholder, employee, director, and officer in our modern economy.\(^9\) And unlike (hopefully) most readers of this review, economic man “is cold and calculating, worries only about himself, and pursues whatever course brings him the greatest material advantage.”\(^10\) \textit{Homo economicus} is a single-minded wealth-maximizing automaton, who does not take into account “morality, ethics, or other people.”\(^11\) Not surprisingly, subscribing to the \textit{homo economicus} model of humankind fuels characterizing problems, and framing solutions, in economic terms of benefits and costs, incentives and disincentives.\(^12\)

Many have doubted the existence of \textit{homo economicus}, challenging whether the evidence of actual human behavior fits the theoretical model.\(^13\)

\(^5\) An example of this approach would be the Sarbanes-Oxley Corporate Fraud and Accountability Act of 2002, passed by the U.S. Congress and signed into law by President George W. Bush in direct response to the aforementioned scandals. Pub. L. No. 107-204, 116 Stat. 745 (codified in scattered sections of 15 U.S.C.). Among other things, the Sarbanes-Oxley Act requires CEOs and CFOs to personally certify the accuracy of their companies’ filings with the S.E.C., and attaches a fine of up to $1 million and/or 10 years imprisonment in the event of a knowingly false certification (and up to $5 million and/or to 20 years’ imprisonment, in the event of a willfully false certification.). \textit{Id.}


\(^7\) Cf. James Q. Wilson, \textit{The Moral Sense} 235 (1993) (“Moral and political philosophy must begin with a statement about human nature. We may disagree about what is natural, but we cannot escape the fact that we have a nature – that is, a set of traits and predispositions that set limits to what we may do and suggest guides to what we must do.”).


\(^9\) See \textit{id.}

\(^10\) \textit{Id.}

\(^11\) \textit{Id.}

\(^12\) See Kapur, \textit{supra} note 6, at 37.

\(^13\) See Lynn A. Stout, \textit{On the Proper Motives of Corporate Directors (Or, Why You
And, if *homo economicus* does indeed exist, some have argued that he is to blame for what ails contemporary capitalism.\(^{14}\)

Into this fray steps *Moral Markets: The Critical Role of Values in the Economy*.\(^{15}\) Over the course of fifteen powerful essays, *Moral Markets* marshals some of the strongest evidence, and lays out some of the strongest philosophical, evolutionary, and biological arguments against the existence of *homo economicus*. The contributors to *Moral Markets* compellingly assert that (1) human beings are fundamentally moral by nature, and (2) the free market economy would not function if things were otherwise.

The full range of repercussions that follow is not entirely discernable, but would seem difficult to overstate. For, if correct, the conclusions reached in *Moral Markets* call into question the merits of economic analysis of the law, and suggest that solutions to corporate wrongdoing (and other economic ailments) take heavily into account the moral dimensions of humankind.\(^{16}\) In short, *Moral Markets* exposes the myth of *homo economicus*.

In the pages that follow, I summarize and critique the evidence and arguments set forth in *Moral Markets*. In doing so, I shall not provide fifteen separate analyses of the fifteen separate essays, but rather I shall review the book thematically. This thematic approach is particularly appropriate given the fact that the essays contained in *Moral Markets* are not completely independent of one-another, but rather reference, and build upon, each other.

Part I of the review shall briefly sketch the work that went into the publication of *Moral Markets*. This is important to fully appreciate the volume, for *Moral Markets* is not merely a collection of related essays, but rather the fruit of a two-year collaborative project among several distinguished contributors. The resulting product, therefore, is much more coherent and consistent than most multi-authored volumes.

Part II addresses the claim that human beings are fundamentally moral in nature. To be clear, the claim here is not that all people act properly all


the time, but rather that the vast majority of people possess the ability to recognize the difference between conduct that is good versus conduct that is bad. And although not everyone with this ability elects to do right instead of wrong, the overwhelming majority of individuals do indeed make this salutary election. Given my personal fondness of Aristotelian philosophy, I cannot resist, in this section, pointing out the happy confluence of Aristotle’s conceptualization of human nature and the empirical evidence of human nature derived from modern science.

Part III will consider the claim that individual morality is an essential precondition to the free market economy. It is here that I find MORAL MARKETS most vulnerable to criticism. For MORAL MARKETS makes an unjustifiable leap from (1) the theory that individual morality is a precondition to the free market economy to (2) the implicit (and sometimes explicit) conclusion that today’s free market actors do in fact behave in morally appropriate ways. Such a conclusion is by no means unreasonable, but I do not think it ineluctably follows. An alternative, and quite worrisome conclusion, could also follow: that today’s market participants no longer behave in morally appropriate ways, and thus our free market economy is living on borrowed time—subsisting on the remnant of essential but vanishing values. Such a theory could, perhaps, explain the market breakdowns identified in the opening paragraph of this review.

A very interesting debate that some of the contributors of MORAL MARKETS address is whether the free market promotes, versus undermines, the moral values essential to its existence. At one extreme, there are those who argue that free markets not only promote, but rather generate the values and preconditions required for their existence. Others insist that markets do not create the values necessary for their existence, and are, indeed, inadequate at moral self-policing. Still others go so far as to argue that free markets are (non-symbiotically) parasitic, and serve to slowly destroy the very values that their existence requires. Part IV will address MORAL MARKETS’ contribution to this debate.

Part V will explore the policy implications that flow from the insights and data presented in MORAL MARKETS – some of which are noted and promoted by the volume’s contributors, and some of which are not considered in MORAL MARKETS.

In conclusion, I shall suggest that MORAL MARKETS is required reading for anyone interested in behavioral economics and economic regulation. For even if one disagrees with each and every conclusion reached by its

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18 Wilhelm Röpke, A HUMAN ECONOMY 125 (Wolff 1960).
19 See Kapur, supra note 6, at 46-47.
contributors, MORAL MARKETS brings together, in one convenient and accessible volume, the very latest research and thinking on the fundamental nature of human beings and the market economy. One would be hard pressed to participate in today’s broad array of debates and conversations on a host of issues ignorant of the facts and scholarship assembled by MORAL MARKETS.

I. MORAL MARKETS: THE PROJECT

MORAL MARKETS is more than a simply a book. As explained in the Introduction, the work “is the culmination of more than two years of research by a transdisciplinary group of scholars.” Its collaborators “spent six working meetings together over two and a half years,” and each chapter “evolved through the process of presentation, critique, and rewriting.” The resulting product is not merely a collection of fifteen essays, related by a common theme, but rather a coherent, albeit multi-authored, whole. Editor Paul J. Zak rightfully boasts that “the approach produced a high degree of cross-fertilization across both individual contributors and fields,” which is vividly underscored by the “extensively cross-reference[d]” chapters.

The authors of MORAL MARKETS include prominent biologists, anthropologists, economists, and philosophers; professors of business and law; a Nobel Prize winner (in Economic Sciences); and others. The project was spearheaded by Paul J. Zak, the founding director of the Center for Neuroeconomics Studies.

Zak and the other contributors shared a preconceived belief that “values might play an important role in supporting economic exchange,” yet “did not know if this was supported by solid evidence.” Indeed, they remained open to the opposite possibility, and wondered whether “markets and market participants might be inherently immoral,” and whether “markets devalue human beings and degrade their dignity.” They brought their diverse skills and training to bear upon these questions.

The consensus reached was consistent with the authors’ professed inclination that “the commonly held view that the economy is dominated by greed and selfishness” is inaccurate. Instead, the group’s research and

20 Paul J. Zak, Introduction to MORAL MARKETS, supra note 15, at xv.
21 Id. at xvi.
22 Id.
23 See Contributors in MORAL MARKETS, supra note 15, at xxxiii-xli.
24 See id. at xl.
25 Zak, supra note 20, at xv.
26 Id. at xv-xvi.
27 Id.
analysis revealed “that most economic exchange, whether with strangers or known individuals, relies on character values such as honesty, trust, reliability, and fairness.”

II. HOMO MORALIS

The evidence and arguments set forth in MORAL MARKETS strongly suggest that human beings are inherently moral creatures. Although they usually prefer more wealth to less, this preference is constrained by moral considerations time and again. Thus, to use a term not coined by MORAL MARKETS, one could say that homo moralis (“moral man”), rather than homo economicus, ought to be the model employed when considering the problems and predicaments of humankind.

A long and illustrious chain of philosophers have argued that human beings are fundamentally moral by nature. What this means is that certain moral laws apply to human behavior, just as certain physical laws apply to the behavior of all physical bodies. As Aristotle taught, human action in accord with these moral laws results in happiness and flourishing; human action not in accord with these moral laws poses as obstacle to happiness and flourishing. For this reason, Aristotelian philosophers have oftentimes labeled as “good,” “virtuous,” or “natural” those actions that comport with the natural moral law, and as “evil,” “vice,” or “unnatural” those actions that violate the natural moral law. Via the use of right reason, individuals are ordinarily capable of distinguishing good from evil, and naturally gravitate toward that which is good. That said, as we are all well aware, human beings do not invariably choose to do good over evil at all times. “To say that people have a moral sense is not the same thing as saving that they are innately good.” Human beings sometimes err in their moral reasoning: they sometimes incorrectly identify as “good” something that is not good. Additionally, individuals sometimes consciously elect to

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28 Id. at xvii.
29 See Zak, supra note 20, at xii (“Aristotle, Plato, Jesus, Buddha, and Muhammad all recognized that values are the foundation for happiness, and their wisdom has stood the test of time.”); see also ANTHONY J. LISSKA, AQUINAS’S THEORY OF NATURAL LAW 108 (Clarendon Press 1996); WILSON, supra note 7, at 225.
30 See Lisska, supra note 29, at 108-09.
31 Id.; see also WILSON, supra note 7, at 244.
33 See THOMAS AQUINAS, SUMMA THEOLOGIAE, I-II, Q. 94, Art. 2.
34 WILSON, supra note 7, at 12.
35 See THOMAS AQUINAS, SUMMA THEOLOGIAE, I-II, Q. 94, Art. 6; see also J. Budziszewski, WRITTEN ON THE HEART 71-75 (1997). An additional problem is weakness of will; many (most?) individuals clearly recognize the distinction between rightful &
override their moral inclinations, due to lack of self-control. The likelihood of such error can be increased by certain negative societal and cultural influences, thus giving rise to a degree of moral disorientation and/or weakening of the will.

Not only individual happiness, but, moreover, the flourishing of society as a whole has been thought to be dependent upon habitual compliance with moral law. This is not surprisingly when one considers the fact that most of the traditionally articulated virtues are social in nature. Consider, for example, the virtues identified by Aristotle (“courage, temperance, liberality, magnificence, proper pride, good temper, modesty, and friendliness”) or Benjamin Franklin (“temperance, silence, order, resolution, frugality, industry, sincerity, justice, moderation, cleanliness, tranquility, chastity, and humility”). Since market exchange is a form of social interaction, it stands to reason that these virtues play a role in the economic sphere of society as well as its non-economic spheres.

One philosopher within this tradition was Adam Smith, as Robert Solomon emphasizes in his contribution to MORAL MARKETS entitled “Free Enterprise, Sympathy, and Virtue.” Contrary to the usual characterization of Smith’s argument – that the free market’s success is driven by individual pursuit of raw self-interest – Solomon points out that Smith instead believed that “[o]ther-interest, not self-interest, is the engine of a health free market system.” This fits well within the Aristotelian tradition, as rampant self-interestedness has commonly been recognized as “a perversion … of human wrongful conduct, yet nevertheless choose to engage acts that are wrongful. See Richard Holton & Stephen Shute, Self-Control in the Modern Provocation Defense, 27 Oxord J. Legal Stud. 49, 53 (2007) (“For Aristotle, the continent person (the enkrates) feels the pull of temptation or anger or whatever, but resists acting on it as a result of her judgment that such action would not be best; the incontinent person (the akrates) does not resist.”).


36 Id. See also Zak, supra note 20, at xx (opining that in corporate scandals such as Enron, “the particular corporate culture and likely physiologic state of employees conspired to overcome their innate sense of moral values”).


38 See THOMAS AQUINAS, SUMMA THEOLOGIAE, I-II, Q. 61, Art. 5; see also Robert C. Solomon, Free Enterprise, Sympathy, and Virtue, in MORAL MARKETS, supra note 15, at 35 (“The central feature of all [Aristotle’s] virtues … is that they aim at solidifying our social relationships and our aspirations to excellence.”

39 Paul J. Zak, Values and Value, in MORAL MARKETS, supra note 15, at 261; see also Budziszewski, supra note 35, at 26-29.

40 Id.

41 See Zak, supra note 20, at xv; RAJENDRA S. SISODIA ET AL., FIRMS OF ENDEARMENT 31 (2007).

42 See Robert C. Solomon, supra note 39, at 17.

43 Id. at 34.
nature," whereas empathy and the “desire to please” others are consistent with human nature. In other words, human beings are naturally other-regarding, and the success of the free market system is dependent upon this particular aspect of human nature. Indeed, within the Aristotelian framework, a successful societal institution (such as the free market), would have to be grounded upon virtuous human behavior, for happiness and flourishing (success) can only come about within a virtuous individual or society.

The essays that immediately follow Solomon’s contribution take into account the advances over the last couple of millennia since the advent of Aristotelian reasoning. These essays attempt to ascertain, via the science of evolution, whether there is evidence to support the view that human beings are virtuous by nature (biologically) – or, more specifically, whether human beings are indeed other-regarding and truly possess moral virtues such as empathy and fairness. And, in most respects, Aristotle’s insights “precisely anticipate the findings of modern science.”

Robert Frank considers the evolutionary basis for empathy, trustworthiness, and “moral emotions” in general. Although moral sentiments “often motivate people to incur costs that they could avoid,” he remains open to the possibility that natural selection favors moral individuals because of the societal benefits that flow from moral behavior. He posits that certain moral miscalculations that individuals tend to make today are possibly the result of the fact that our morality evolved in a different environment (namely, prehistoric society) than that in which humankind finds itself today (namely, modern civilization). Thus, individuals today are confronted, at times, with moral quandaries that human morality is ill-equipped to handle instinctively. Frank adds, however, that human moral intuitions nevertheless “provide useful guidance more often than not,” and that the quandaries he speaks of are exceptions to

45 Id. at 17.
46 Id. at 25-26.
47 See id. at 17-18.
48 See supra text accompanying notes 31-38.
49 WILSON, supra note 7, at 236.
51 Id. at 46-54.
52 See id. at 56-57.
53 Id. An example Frank provides is that concerning the much greater willingness of human beings to kill one another from afar via long-ranged weapons. See id. He speculates that the norm against killing most likely evolved within the context of face-to-face interactions, and thus the strength of its application outside of that context is weakened. See id.
the general rule of their helpfulness.54

Peter Richerson and Robert Boyd expand upon Frank’s evolutionary hypothesis.55 They commence their article by noting that Charles Darwin had concluded that “all human populations have essentially the same ‘mental and moral facilities.’”56 As to the content of mankind’s moral facilities, like Smith, Darwin believed that human beings were, among other things, naturally endowed with empathy and sympathy.57 This is necessary because “without the other-regarding virtue of sympathy, the social life human beings enjoy today would not be possible.”58 As for the tension that Frank observed, between an individual’s strategic best interest and those of society generally, Richerson and Boyd present Darwin in his own words concluding that natural selection comes out in favor of those virtues that favor society:

> It must not be forgotten that although a high standard of morality gives but a slight or no advantage to each individual man and his children over other men of the same tribe, yet that an increase in the number of well-endowed men and an advancement in the standard of morality will certainly give an immense advancement in the standard of morality to one tribe over another. A tribe including many members who, from possessing in a high degree the spirit of patriotism, fidelity, obedience, courage, and sympathy, were always ready to aid one another, and to sacrifice themselves for the common good, would be victorious over most other tribes; and this would be natural selection.59

54 Id.
56 Id.
57 See id. at 117.
58 Id. See also Milton C. Regan, Jr., Moral Intuitions and Organizational Culture, 51 ST. LOUIS U. L. J. 941, 966-967 (2007) (“moral judgments help promote and reinforce the cooperative behavior necessary for humans to survive and flourish”).
Frans B.M. de Waal, in “How Selfish an Animal?” and Sarah Brosnan in “Fairness and Other-Regarding Preferences in Non-human Primates,” offer empirical evidence to support the claim that virtue is a product of natural selection. Their essays describe how experiments with monkeys, apes, and chimpanzees demonstrated strong altruistic tendencies, and strong “negativity to inequity” on the part of these animals, across a variety of situations. Brosnan stresses that this objection to unfairness per se is particularly revealing since, unlike humans, these animals’ reactions “are not constrained by complex cultural phenomena such as religions, schools, and governments,” which, in humans, affects experimental responses and, consequently, makes it more difficulty to assess raw human nature. The conclusion reached is that these tendencies are biologically innate to monkeys, apes, and chimpanzees. And, if one assumes that human beings are descended from these non-human primates, then these experiments strongly suggest that humans may have inherited some if not all of these same tendencies.

Rounding out the scientific examination of morality is Paul Zak’s own essay, “Values and Value: Moral Economics.” Zak’s essay begins by observing that the phenomenon of anonymous charitable giving, and the fact that most marketplace participants refrain from misconduct even in circumstances where getting caught is highly unlikely, both strongly suggest that something other than self-interest motivates human behavior. Zak proceeds to set forth the biological basis of morality, arguing that “[s]everal brain mechanisms seem to function together as a moral compass, guiding us on appropriate modes of behavior in our daily interactions with

62 See de Waal, supra note 60, at 75.
63 See Brosnan, supra note 61, at 77-78.
64 Id. at 79.
65 Id.
66 Id.
67 Zak, supra note 40, at 259.
68 See id. at 260-61. At this point, it might be helpful to define the terms “self-interest” and “other-regarding.” For at a very high level of generality, one could say that all human action is “self-interested” if by that term we mean that it is undertaken because of some net benefit it provides to its undertaker. Even the most charitable or altruistically motivated behavior could be deemed self-interested because, in economic terms, the utility gained by engaging in such behavior exceeds the cost of such behavior. Cf. de Waal, supra note 60, at 74. A dividing line could (and shall) be drawn based upon the primary motivation of the actor: an actor’s actions are “self-interested” when he or she acts primarily (and consciously) for personal gain; an actor’s actions are “other-regarding” when he or she acts primarily (and consciously) for the benefit of another.
other humans.” Primary among these mechanisms appears to be the role played by the hormone oxytocin, which “appears to induce a temporary attachment to others,” thus generating the tendencies of fairness and altruism witnessed in nonhuman primates. And although cultural and social influences can undeniably affect human morality, some moral values “appear to be universal” and “difficult to suppress” neurologically. Zak suggests that these values serve as important biological “constraints on utility maximization.”

Moral Markets does an excellent job in pulling together the most recent scientific data regarding human morality – and nicely ties the data to traditional philosophical arguments regarding the nature of humankind. What emerges is an image of man not as homo economicus, but instead as homo moralis: as a creature with an innate understanding of right versus wrong, and an innate inclination toward morally appropriate conduct. Although Aristotle reached this conclusion via a contemplation of the purpose of individuals within society, and although “a divine, designing power would have good reason as a matter of mechanism design to put such capacity into humans, a gift as essential to their well-being as sight and locomotion,” Moral Markets backs up this conclusion with the empirical evidence. And although a more exhaustive exploration of the science would undoubtedly have been possible, such an approach may have transformed Moral Markets into a reference book, instead of the accessible, readable volume that it is.

There are, however, a few possibilities that Moral Markets could be criticized for overlooking here. With regard to the evolutionary argument, I would have preferred a deeper analysis of the tension between the advantages that morality offers to society as a whole and the disadvantages that morality arguably places upon the individual. As Darwin pointed out, it is not difficult to see why a society with a more moral populace would have a comparative advantage over a society with a less moral populace. But within any given society – especially within one with a highly moral populace – a significant free-rider problem presents itself. For a selfish, immoral individual could do quite well for himself or herself in a town of self-less, morally upright neighbors; he or she would enjoy all the benefits

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69 Id. at 266.
70 Id. at 267-269.
71 Id. at 262.
72 Id. at 270.
73 Id.
74 See supra notes 31-33 and accompanying text.
76 See supra text accompanying note 59.
of such a society, without bearing the costs and sacrifices that come with morally appropriate behavior. It would appear, therefore, that natural selection would favor such individuals, who would prosper at the expense of others.

This subject is not completely overlooked, however. Robert Frank’s contribution addresses it, arguing that natural selection would indeed favor moral individuals because of the benefits that societies bestow upon its trustworthy members. But this nevertheless neglects to consider the difference between truly moral (and trustworthy) individuals versus apparently moral (and trustworthy) individuals. It is only apparent morality that society could reward, as society has no means of exploring the inner recesses of an individual’s heart or mind. This gives rise to both false positives and false negatives, for there are many individuals who appear to be moral but are in fact not, and there are also many individuals who do not appear to be moral but in fact are. Although Frank suggests that there are some observable, involuntary characteristics of morality, overall I suspect that society’s ability to discern individual morality is weak at best, and therefore unlikely to be the basis of natural selection.

Lastly, regardless of humanity’s potential evolutionary past, genetics are certainly not the only things that make a human being a human being; culture and environment play a tremendously important role as well. Thus, Brosnan’s remark that by studying nonhuman primates, we can isolate human nature stripped of “complex cultural phenomena such as religions, schools, and governments,” reveals both the promise and the pitfalls of such an approach. For, although such a study might give insight into our biological nature as human beings, the effect of nurture might be substantially more significant. As philosophers (and others) have observed, human beings have an unfortunate tendency to make moral miscalculations, and, at times, disregard what their better judgment would suggest, engaging in conduct that runs contrary to their natural inclinations toward the good. This can be caused by external, environmental factors. As Zak discusses, there are biological explanations for this phenomenon:

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77 It should be noted when referring to the “costs and sacrifices” of moral behavior, I am speaking within the very specific contexts of economics and evolutionary biology. Outside of those specific contexts, and within the broader context of human existence in its totality, I do not, nor would not, claim that morality imposes costs and sacrifices on its practitioners, but would rather assert with Aristotle that morality is the key to true human happiness and flourishing. See supra note 34 and accompanying text.

78 See Frank, supra note 50, at 50.

79 See id. at 50.

80 Id. at 79.

81 See supra notes 35-37 and accompanying text.

82 See id.
Oxytocin appears to facilitate a representation of what another is feeling. These mechanisms are automatic and largely beyond our conscious control. That is not to say that these mechanisms are not modulated by the external and internal environment. For example, during episodes of extreme stress, other-regarding behavior is typically suppressed as survival of the individual becomes paramount.... This may be one explanation for the lack of moral behavior by those at Enron—the enduring stress of “making the numbers” caused them, at some point, to make up the numbers. This moral violation appears to be modulated when others nearby are doing the same thing. This explanation is given for “ordinary” German citizens who tortured and killed Jews under the Nazi regime—their neighbors were doing the same thing so it became acceptable.... Social psychologist James Waller (2002) calls this “moral disengagement.”

This, in turn, raises a critically important question: does the free market foster, or undermine, humanity’s natural moral impulses? For all of our purported biologically based goodness as human beings amounts to very little if we are laboring within an economy that systematically suppresses it. To this issue we shall turn in Part IV. But before that, we shall examine the claim that the free market is dependent upon human morality (regardless of whether the market promotes or dampens that morality).

III. Morality and the Market

The second major theme of Moral Markets is that individual morality is necessary for the proper functioning of the free market. As the volume’s Preface proclaims, “our open, self-organizing economic system ... is effective only because most of the time most of its participants abide by internally motivated ‘positive’ values, such as trustworthiness, fairness, and

83 Zak, supra note 40, at 267.
honesty.” Most directly propounding this theme are the previously considered contributions of Robert Solomon, Peter Richerson & Robert Boyd, along with an essay by Oliver Goodenough.

Solomon, as previously indicated, reminds us that Adam Smith was a moral philosopher. Smith shared with Aristotle the belief that “nature, when she formed man for society, endowed him with an original desire to please, and an original aversion to offend his brother.” And although human beings certainly possess a substantial desire to pursue their own material self-interest, this desire is “greatly qualified and restricted” by this natural endowment of morality. And it is upon this basis, the basis of self-interest restrained by and coupled with morality, that the successful free-market economy is founded. “Other-interest, not self-interest, is the engine of a health free market system.” This should not be surprising, as “[e]xchange is inherently other-regarding – both you and I must benefit if exchange is to occur.”

Moreover, as Richerson and Boyd argue, our “sophisticated systems of cooperation such as business” are only made possibly by “evolutionary forces that build cultural systems of morality and convention.” Empirical research has shown that “most economic exchange, whether with strangers or known individuals, relies on character values such as honesty, trust, reliability, and fairness.”

Without such values, transaction costs would rise, due to monitoring needs, and may even make commerce prohibitively expensive. After all, “because a policeman does not lurk on every corner, our economic system cannot be – and is not – maintained solely by coercive enforcement.” Thus, as Goodenough argues, “[v]alues don’t just lower transaction costs, as Posner suggests; in many contexts, values make transactions possible.”

The importance of honesty, trust, and reliability to commercial exchange are not difficult to grasp. Even with strong and sophisticated laws

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85 See Robert C. Solomon, supra note 39, at 17.
86 Id (quoting Adam Smith, Theory of Moral Sentiments).
87 Id. at 34.
88 See Id.
89 Id. at 34.
90 Zak, supra note 20, at xv.
91 Richerson & Boyd, supra note 55, at 114-15; see also id. at 116 (“the moral hidden hand deriving from our tribal social instincts is one foundation upon which our immensely successful free enterprise systems rest.”
92 Id. at xvi; see also Richerson & Boyd, supra note 55, at 118.
93 See Goodenough, supra note 75, at 239.
94 Goodenough and Cheney, supra note 84, at xxiv.
95 Goodenough, supra note 75, at 239.
and enforcement mechanisms governing trade, resort to private litigation is rarely something anyone looks forward to. But fairness, too, is something essential to the free market system according to Goodenough. More than “just a nice add-on … [fairness] is a value that free enterprise … must have at its heart.” Without fairness, the economy risks both instability and the potential of coercive redistribution.

In sum, Moral Markets echoes and amplifies what many have asserted for some time: that virtue is most salutary, if not indispensable, to a free market economy. Although this assertion may seem novel to generations reared on law & economics, it actually restores the understanding of free market economics as originally expounded by Adam Smith.

Just because a successful free market relies upon a certain degree of virtue does not, however, mean that the participants in our current free market system contain the requisite degree of virtue. And this is where, I believe, Moral Markets stumbles. For Moral Markets leaves its reader with the impression that our existing free market economy is rich with virtuous actors because free market economies require virtuous actors. This reasoning overlooks the possibilities that (1) our free market system is not operating successfully, and (2) that our free market system, although perhaps currently successful, is living on borrowed time because the well of virtue upon which it depends is running dry.

Although invoked frequently, the adjective “successful” in the phrase “successful free market system” is not defined in Moral Markets. Presumably, a “successful” free market system is one that allocates goods and services well and efficiently. A good allocation of goods and services would be one which avoided the twin disasters of surpluses and shortages, by steering goods and services to those who most desire them. Efficiency in allocation would mean maximizing society’s production and output given its limited supply of resources. On both measures, it is

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96 Id. at 246.
97 Id.
98 Id.
99 E.g. Colombo, supra note 4, at 147-149.
100 Cf. Richerson & Boyd, supra note 55, at 117 (“Some business management scholars believe that the influence of neoclassical economists with their rational-selfish models and intuitions has crowded out the moral hidden hand in the behavior of management school graduates.”).
101 See supra text accompanying notes 85-89 .
102 Cf. Zak, supra note 20, at xxii (“Our collective view is that the characterization of market actors as greedy and selfish is farcical and egregiously needs to be remedied by the verity of moral markets.”)
undeniable that free market economies perform superior to economies that are not free. But another, more difficult question, must be asked: are the free market economies of the 21st century performing as successfully as they could? In other words, are today’s free market economies suffering from significantly diminished efficiency and significant misallocations? For example, studies have identified “the apparent decline in the ability to rely on the honesty of other people (including employees) as a factor in reduced U.S. productivity growth in the late 1970s.” Is such a phenomenon at work today?

The fall of Rome did not occur overnight, and an argument could be made that our free market economies, although currently successful, are on their way to becoming “unsuccessful” due to a decline in the virtue of market participants. Indeed, the seemingly greater and greater need for government intervention to control vice and limit greed suggests the decreasing ability of our market economies to sustain themselves as “free”. At a certain point, the legal and regulatory regimes within which our markets operate may become so dense that it is no longer accurate to speak of our economies as “free market economies” as that term was previously understood. Although the contributors to MORAL MARKETS recognize the need for legal and governmental support of free market economies, they do not address whether that need has increased in recent decades, nor, a fortiori, do they consider the causes and repercussions of such a development.

Some have argued that, regardless of whether it was successful in the past, the free market economy is not working today. Of these, many have identified as the culprit a lack of virtue on the part of market participants. MORAL MARKETS inadvertently suggests that these critics may very well be on to something: for if market participants today are indeed less virtuous than in the past, the successful operation of the free market economy would be in serious jeopardy.

Whether market participants today are less virtuous than in years past, and the full panoply of causes potentially contributing to such a phenomenon, are well beyond the scope of this book review. That said, one

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104 See Richerson & Boyd, supra note 55, at 108 (“today, the democratic, free enterprise society, usually with a more or less generous welfare safety net, has outcompeted all challengers and is spreading rapidly across the globe”).

105 See Kapur, supra note 6, at 36-37.

106 See supra note 5.

107 Cf. Goodenough, supra note 75, at 239 (observing that the “free enterprise system” is “dedicated to a relatively low level of governmental involvement”).

108 E.g. Goodenough and Cheney, supra note 84, at xxiii.

109 See supra text accompanying note 1.

110 See supra text accompanying notes 2-4.
aspect of this inquiry is completely appropriate to consider here: whether the free market economy fosters or undermines the very virtues upon which its existence depends. To that question we now turn.

IV. THE MARKET: A VIRTUE PRODUCER OR A VIRTUE CONSUMER?

Wilhelm Röpke, one of the most influential economists of post-World War II Europe, was a staunch defender of the free market economy. Nevertheless, he was wary of those who would ignore the limitations of the free market. One major limitation, according to Röpke, was that the free market required a foundation of virtuous participants – a foundation that the market could neither build nor maintain on its own:

The market, competition and the play of supply and demand do not create ethical reserves; they presuppose and consume them. These reserves must come from outside the market. . . . Self-discipline, a sense of justice, honesty, fairness, chivalry, moderation, respect for human dignity, firm ethical norms. All of these are things which people must possess before they go to the market and compete with each other.

As we have seen, the contributors to MORAL MARKETS agree with Röpke insofar as he identifies virtue as essential to the successful operation of the free market. However, without mentioning Röpke by name, a number of these contributors part company with him over the market’s ability to foster, or maintain, the prerequisite of virtue. Instead, they assert that the free market supports, if not generates, the virtues and values necessary for its existence. Since the market rewards honesty, fairness,

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112 See id.
113 WILHELM ROEPKE, A HUMAN ECONOMY 125 (Wolff 1960).
114 See supra Part III.
115 See Zak, supra note 20, at xxii (“Markets are moral in two senses. Moral behavior is necessary for exchange in moderately regulated markets, for example, to reduce cheating without exorbitant transaction costs. Market exchange itself can also lead to an understanding of fair exchange and in this way build social capital in non-market settings.”); William D. Casebeer, The Stories Markets Tell, in MORAL MARKETS, supra note 15, at 12 (“exchange environments afford incentives to develop and maintain moral standards”); Carl Bergstrom, Ben Kerr, & Michael Lachmann, Building Trust by Wasting
integrity, and other virtues (via an increased volume of business), the market inculcates (it is argued) and/or promotes these virtues. Additional support comes from the internal development of private institutions that provide third-party monitoring of virtue, as the existence of these institutions further incentivizes correct conduct.

As previously discussed within the context of natural selection, this reasoning fails to consider whether it is true virtue that the market rewards, versus merely the appearance of virtue. Barring the advent of an accurate crystal ball, the market cannot directly ascertain a participant’s moral makeup, but must instead rely upon external signs of morality—signs that could potentially be mimicked. Thus, it could very well be the case that markets do not promote virtue, but rather promote the simulacrum of virtue. Consideration of this possibility would have improved MORAL MARKETS.

Nevertheless, it would seem that there is probably truth in both the positions of Röpke and MORAL MARKETS. As the market economy is situated with a broader societal framework, it stands to reason that the values presented in the market would come from, or least be derived in part

\[\text{Time, in MORAL MARKETS, supra note 15, at 142 ("We argue that markets need not rest upon values that arose before them; instead, markets may create the values that allow them to function effectively.") (emphasis in original); David Schwab & Elmer Ostrom, The Vital Role of Norms and Rules in Maintaining Open Public and Private Economies, in MORAL MARKETS, supra note 15, at 207 (discussing the advent and role of “trust-enhancing institutions” in market economies).}\]

\[\text{See Bergstrom, Kerr, & Lachmann, supra note 115, at 149.}\]

\[\text{See Schwab & Ostrom, supra note 115, at 207 (discussing the advent and role of “trust-enhancing institutions” in market economies).}\]

\[\text{See supra text accompanying notes 78-79.}\]

\[\text{Some may wonder whether this distinction is relevant; does it really matter why someone is behaving in a virtuous manner, so long as his or her conduct comports with virtuous behavior? It matters, I suggest, for at least three reasons. First, to argue that the free market promotes virtue is rhetorically quite powerful, and serves to place a halo over the heads of market participants and the market’s defenders. For it suggests that the free market not only best serves our economic interests, but broader social interests as well – a suggestion not lost upon the editor of MORAL MARKETS, Paul Zak. See Zak, supra note 20, at xxii (“Market exchange itself can also lead to an understanding of fair exchange and in this way build social capital in non-market settings.”). Second, someone who is mimicking virtue may decide, at some point in time, to really “cash in” on his or her virtuous reputation by taking advantage of his or her counterparties in one final transaction; an individual who is truly (intrinsically) virtuous is, by definition, unlikely to do such a thing. Cf. THOMAS AQVNAS, SUMMA THEOLOGIAE, I-II, Q. 55, Art. 1 (defining virtue as the “habit” of doing good). Third, to the extent that we care about individual happiness and flourishing, and to the extent that we buy into Aristotelian philosophy, happiness and flourishing can only be achieved by living a life of actual, as opposed to misrepresented, virtue; thus it matters whether the market promotes the former versus the latter. See supra text accompanying note 31.}\]
from society at large. Similarly, the free market does appear to reward many of the virtues identified as such to a degree.\textsuperscript{120} For even if one can reap many of these same reward by merely appearing to be virtuous, one of the most effective ways of appearing to be virtuous is to, in fact, behave virtuously.\textsuperscript{121}

However, there is a darker proposition that none of the contributors of \textit{Moral Markets} tackle: that the market economy actually consumes the virtues it relies upon. This argument proceeds as follows: businesses in market economies are dependent upon sales to succeed; marketing and advertising are employed to increase sales; marketing and advertising encourage greater consumption; the desire for greater consumption fuels a desire for greater wealth; and the desire for greater wealth leads to a materialistic, dollar-driven culture.\textsuperscript{122} So, what might start out as the opening of a shoe shop to \textit{fulfill} a pre-existing need (namely, the need for shoes), transforms, over time, to an enterprise that attempts to \textit{create} illusory needs via marketing and advertising for heretofore unnecessary goods and services (hence, for example, the phenomenon of ever-changing styles to encourage the purchase of additional clothing and accessories before one’s existing wardrobe has been worn out). To profit via the fulfillment of a neighbor’s needs is indeed “other-regarding” behavior (at least in part); to profit via convincing one’s neighbor that he or she needs an unnecessary item is not other-regarding at all. Add to this the sale and promotion of harmful goods and services that people most certainly do not need, but might want or be made to want (e.g., cigarettes and tanning salons), and we have moved even further away from commercial exchange as an exercise in virtue. So what might have started as a desire to profit by serving one’s neighbor, quickly grows into a desire to profit at the expense of one’s neighbor.\textsuperscript{123} Thus, as explained by economist Basant Kapur, market economies appear ultimately to undermine the very virtues that \textit{Moral Markets} identified as prerequisites to the successful functioning of the economy:

\begin{itemize}
\item \textsuperscript{120} See supra text accompanying notes 40-41.
\item \textsuperscript{121} Cf. supra note 119.
\item \textsuperscript{122} Cf. Patricia Donahue-White, \textit{A Response to D. Eric Schansberg}, 2 J. Markets \& Morality 132 (1999).
\item \textsuperscript{123} Some commentators are heralding an “entirely new stage of capitalism” referred to as “capitalism with a conscience.” \textit{Sisodia}, supra note 42 at 30. To them, 21\textsuperscript{st} Century society demands, and businesses are recognizing, the need for “a more human face for capitalism” based on “environmental integrity and the needs of people rather than on the contrived needs of companies (narrowly defined as maximizing profits”). \textit{Id.} Although there is some evidence of this, there is also much evidence to the contrary; only time will tell whether we are truly upon such a “new stage.”
\end{itemize}
there is an inherent long-term contradiction in the capitalist system, namely, the mentality of self-interest that it tends to engender, or perhaps facilitate, due to growing affluence, becomes, over time, increasingly pervasive in society, and eventually undermines the institutional framework that is necessary for the success of capitalism.124

Kapur cites to others who have made similar observations:

Sociologist Daniel Bell maintains that our society comprises two conflicting sets of values. On the one hand, there are the values of the Puritan ethic: hard work, thriftiness, and sobriety, these are the values upon which capitalism was built. On the other hand, there are the values of hedonism: immediate gratification, personal pleasure, and expressiveness, these are the values of corporate capitalism, working to undermine the very values that made capitalism a success…. Sociologist Robert Bellah also blames capitalism. It used to be that the Protestant ethic ruled the land, holding society together. Capitalism, with its “get-ahead” individualism, destroyed the social fabric by releasing the individual from the grasp of kinship, community, and inherited status.125

Although the contributors of MORAL MARKETS do not confront this dilemma, some of them do acknowledge that economics and business school training tends to diminish other-regarding behavior.126 Herbert Gintis and Rakesh Khurama bluntly state that “current business school

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124 Kapur, supra note 6, at 46.
125 Id. (emphasis and ellipses in original; internal citations omitted).
126 E.g. Richerson & Boyd, supra note 55, at 117 (“Some business management scholars believe that the influence of neoclassical economists with their rational-selfish models and intuitions has crowded out the moral hidden hand in the behavior of management school graduates.”); Frank, supra note 50, at 54 (“economics training – both its duration and content – affects the likelihood that undergraduate students will defect in prisoner’s dilemma games”).
teachings socialize students into an ethic of selfishness and limited accountability.”

127 It seems, therefore, that merely proffering the homo economicus model gives rise to its existence; if we teach and believe that individuals are self-interested, wealth-maximizers, we become and create individuals that are self-interested, wealth-maximizers. 128 And if, as MORAL MARKETS contributor William Casebeer points out, the “story” of capitalism conjures up images of “selfish and insensitive robber barons,” that too will have profound societal consequences. 129 For Casebeer asserts that “stories” – how an individual or society packages an idea – is “foundational to thought.” 130 Conceding that some might consider this theory a “stretch,” Casebeer proceeds to point out that there is “ample evidence” that stories:

influence our ability to recall events, motivate people to act, modulate our emotional reactions to events, cue certain heuristics and biases, structure our problem-solving capabilities, and ultimately, perhaps, even constitute our very identity. 131

But these issues – namely, the effect of our understanding of the free market upon our conduct – is removed from the issue of the potential role that free market plays in undermining virtue. MORAL MARKETS would be a better book had it addressed this latter issue as well.

V. POLICY IMPLICATIONS

An important topic that MORAL MARKETS does not overlook is the implications that flow from its findings and conclusions. For once one departs from the homo economicus model of human behavior, numerous policy considerations present themselves. These considerations largely revolve around the use of law and policy “as a means of reinforcing values which are internally motivated.” 132 For the better we understand these values (in terms of their substance and their importance), the more able we

127 Herbert Gintis & Rakesh Khurana, Corporate Honesty and Business Education, in Moral Markets, supra note 15, at 301.
128 See id.
129 Casebeer, supra note 115, at 3.
130 Id. at 6.
131 Id. (emphasis is original).
132 Goodenough and Cheney, supra note 84, at xxiii.
are to improve the public and private “institutions that support markets.”\textsuperscript{133}

The significance of this understanding is difficult to overestimate. For there are serious limitations on the ability of coercion (economic or otherwise) to deter wrongdoing and protect the innocent, and an understanding of the moral dimension of human nature liberates societies from these limitations, granting access to a broader array of tools to desirably influence individual behavior.

We should first pause to consider why coercive solutions to undesirable behavior are so often unsatisfactory. For starters, most law is reactionary: passed in reaction to some specific wrongdoing in an effort to prevent a recurrence of such wrongdoing.\textsuperscript{134} Consequently, the reach of such laws is largely limited to the particular acts of wrongdoing addressed. Moreover, even the most forward-looking legislation cannot sufficiently foresee the myriad of ways that an individual might evade its dictates; since the creativity of fraudsters is seemingly inexhaustible, we can be assured that someone, somewhere, someday will find a way to circumvent both the letter and the spirit of any law passed to deter circumscribed misconduct.\textsuperscript{135} For this, and other reasons, the use of law to curtail wrongdoing (although undoubtedly essential) suffers from serious and problematic limitations, regarding both efficacy and desirability:

Even in an ideal world with perfectly unbiased decisionmaking processes, legal sanctions can never be made sufficiently precise to deter or condemn all undesirable activity because we lack perfect information and cannot perfectly define or adjudicate undesirable activity. Trying to eliminate those imperfections in information and adjudication would not be only unfeasible and costly but also undesirable in principle because of the harms that perfect surveillance would impose. Even if we could eliminate imperfect information by constantly videotaping everyone at zero financial cost, we

\textsuperscript{133} Id.
\textsuperscript{134} See, e.g., Sarbanes-Oxley, \textit{supra} note 5.
\textsuperscript{135} This has been made abundantly clear by the spate of corporate scandals that have broken since the enactment of the Sarbanes-Oxley Act (designed to address corporate fraud in the wake of the Enron scandal, see \textit{supra} note 5), namely: the market-timing scandal, the late-trading scandal; the research analysts scandal; and the options-backdating scandal. \textit{E.g.} Edwin G. Schallert, \textit{Variable Annuities and Enforcement Issues}, 893 PLI/COMM 487 (2007) (discussing market timing and bid-rigging); Nancy Kestenbaum et al., \textit{When is Dating Illegal? Stock Options Investigations: Cases and Issues}, 1599 PLC/CORP 27 (2007) (discussing stock option backdating).
probably would not find it worth the harm to privacy and the resulting deterrence of innovation and desirable spontaneous interaction.  

For similar reasons, financial incentives and disincentives, based upon a regime of material punishments and rewards, have demonstrated themselves to be limited in their ability influencing human behavior.\(^{137}\) Taken together, this explains the difficulty in relying on solutions proffered from legal, economic, and law & economics perspectives alone.

On the other hand, policy prescriptions based upon an understanding of individual morality offer great promise. As Oliver Goodenough and Monika Cheney noted in Moral Markets, “[v]alue-based approaches, where they work, provide private, internal institutions that come at a far lower monetary cost than government enforced laws and other externally enforced institutions.”\(^{138}\) Richerson and Boyd echo these sentiments, writing that “[b]usinesses and other modern organizations are complex cooperative systems that function best when the moral hidden hand is ‘operating most freely.’”\(^{139}\)

Other implications follow as well. As Richerson and Boyd also observed, “attempts to control individual behavior by the use of power to set up incentives designed to appeal to selfish motives risk ‘crowding out’ the “moral hidden hand” of values at work.”\(^{140}\) In other words, not only are the typical solutions derived from law and economics thinking fundamentally limited for the reasons set forth above, but, moreover, such solutions could actually interfere with the natural operation of virtue and morality. Zak provides a stunning and concrete example of this – one that is most counterintuitive to those reared on law and economics reasoning:

In a recent experiment at two day care centers in Israel, both with a rule in place that parents must pick up their children no later than 4:00 pm, one imposed a fine of $3 each time the child was picked up late. The other simply depended on the parents’ following the rule.

\(^{136}\) Einer Elhauge, Sacrificing Corporate Profits in the Public Interest, 80 N.Y.U.L. Rev. 733, 774 (2005).

\(^{137}\) Cf. Kapur, supra note 6, at 37.

\(^{138}\) Goodenough and Cheney, supra note 84, at xxiv. See also Regan, supra note 58, at 970-71 (explaining that values-based approaches to ethics trigger an individual’s natural moral responses, whereas external strictures do not).

\(^{139}\) Richerson & Boyd, supra note 55, at 118.

\(^{140}\) Id. at 116.
with no sanction for not failing to do so. At the center that imposed a fine, parents’ mindset apparently changed; the fine seemed to remove the implicit social sanction associated with being late, because now one just had to pay a penalty. Over a three-week period, the day care center with the fine saw twice as many parents arriving late, and the proportion of latecomers remained steady thereafter.\footnote{Zak, supra note 40, at 265; accord Regan, supra note 58, at 973 (noting how the presence of extrinsic sanctions can cause an individual to substitute his or her moral reasoning with cost-benefit calculations).}

Zak concluded that the “lesson … is that oversight and penalties may crowd out the good behaviors that most people, most of the time, follow.”\footnote{Zak, supra note 40, at 265.} This is not to say that financial disincentives (and the threat of other forms of punishment) do not play a role in the proper ordering of our economy (and our society as a whole), for they certainly do; “[t]he trick is to get the balance right.”\footnote{Richerson & Boyd, supra note 55, at 116.}

In addition to recognizing the efficacy of appealing to human values, and in addition to recognizing the potential for undermining the effectiveness of such values via the imposition of economic / coercive disincentives, a third policy implication flows from the data presented in MORAL MARKETS: society’s need to protect and promote human virtue, since virtue is critical to (among other things) our free market economy.\footnote{See supra Part III.}

Although, as the contributors to MORAL MARKETS point out, human values are an innate, evolutionary, biological phenomenon,\footnote{See supra Part II.} human beings are a complex mix of both nature and nurture.\footnote{See supra text accompanying notes 80-83.} Our culture, upbringing, and training play an important role in the development and transmission of our values.\footnote{See id. As James Wilson eloquently put it: “Mankind’s moral sense is not a strong beacon light, radiating outward to illuminate in sharp outline all that it touches. It is, rather, a small candle flame, casting vague and multiple shadows, flickering and supporting in the strong winds of power and passion, greed and ideology. But brought close to the heart and cupped in one’s hands, it dispels darkness and warms the soul.” Wilson, supra note 7, at 251.} In short, “values can be learned.”\footnote{Zak, supra note 40, at 270; see also Sisodia, supra note 42 at 197-234 (addressing the ability of firms to influence the behavior of their members via the establishment of a}
values can be, and should be, taught. In the concluding essay to Moral Markets, entitled “Corporate Honesty and Business Education,” Herbert Gintis and Rakesh Khurana suggest this very thing.\textsuperscript{149} They suggest that:

\begin{quote}

business schools develop and teach a professional code of ethics similar to that promoted in law, education, science, and medicine; that the staffing of managerial positions be guided by considerations of moral character and ethical performance; and that a corporate culture based on character virtues, together with stockholder-managerial relationships predicated in part on reciprocity and mutual regard, could improve both the moral character of business and profitability.\textsuperscript{150}
\end{quote}

Enhancing the prospects of such proposals’ successfulness is the fact that virtue and morality are already part of humanity’s makeup.\textsuperscript{151} Thus, these proposals are not attempting to create something new out of whole cloth, but rather, more modestly, attempting to draw out, and reinforce, pre-existing human tendencies.\textsuperscript{152}

Of course, the promotion of virtue need not stop with education alone – the law itself can play a role here.\textsuperscript{153} This is not a possibility that the contributors of Moral Markets examine at length, although some of them do touch upon it.\textsuperscript{154}

It sum, therefore, in confronting misconduct in the marketplace, we need not limit ourselves to a set of solutions that will be imperfect and incomplete at best. Instead, policymakers can take into account both the moral promise, and the moral shortcomings, of modern men and women, affording access to important supplementary solutions to the problems affecting contemporary capitalism and society. And such solutions, predicated upon our knowledge and understanding of human morality,

\begin{footnotes}
\item[149] Gintis & Khurana, supra note 127.
\item[150] \textit{Id.} at 301.
\item[151] \textit{See id.} at 302.
\item[152] \textit{See id.}
\item[153] \textit{See, e.g.}, ROBERT P. GEORGE, MAKING MEN MORAL (1993); Budziszewski, supra note 35, at 44-48.
\end{footnotes}
arguably hold far greater potential, as they could remedy not only the wrongdoings specifically identified as problematic, but oftentimes also future, unrelated wrongdoing as well. This strongly suggests that society undertake independent measures to shore up humanity’s moral capital, by inculcating virtue as can best and most appropriately be done. Lastly, we ought to be careful not to undermine virtue by reliance on methods and solutions that impair its operation.

CONCLUSION

MORAL MARKETS has been published in the wake of several corporate scandals, and at the precipice of what appears to be (or may already be) a major global economic recession. The timing could not be better. For as criticism of the free market economy escalates, those who would attack the market economy, those who would defend it, and everyone in between, need to understand how markets really work, and how people really act. MORAL MARKETS sheds new light on these two questions, and in doing so challenges much of the conventional wisdom. Given the importance of its subject matter, its short length, and its superb readability, there are few good excuses for not reading this book.

Additionally, MORAL MARKETS helps resituate the science of economics where it belongs: within the larger framework of moral philosophy. People and societies are human beings and cultures first, consumers and economies second. MORAL MARKETS makes clear not merely that this is how things should be, but how things actually are. Generations of law and economics scholarship have obscured this fact (in the academy, at least), and have given rise to the myth, if not the sub-species, of homo economicus. MORAL MARKETS is the most significant effort taken to date to expel this myth. In short, MORAL MARKETS reminds us that our planet is, and cautions us that it had better remain, populated by not by homo economicus, but by homo sapiens.

\[155 \text{ See id.} \]