Markets do not bring about morally beneficial results by and of themselves. Any moral evaluation of market outcomes is to a large extent contingent on the way markets are allowed to operate, i.e. by the boundaries that determine where and how the market is allowed to function. Labor standards and the ILO’s Decent Work Agenda, which is based on the normative concepts of human dignity and decency, can be seen as fulfilling this boundary function.

In this book Maarten Biermans (1974) discusses the relationship between markets and morality by way of this agenda. In this discussion the focus lies not solely on the content of that agenda but also on its two foundational normative concepts and the way they interact with markets. The concept of human dignity comes with a considerable history which is covered in the analysis. With regard to decency, the writings of the philosopher Avishai Margalit on the Decent Society are used in the appraisal of the ILO’s Decent Work framework.

The evaluation of the framework shows that the Decent Work Agenda will not be able to function effectively as a moral market boundary. The reasons for this outcome are predominantly found in the methodology that was deployed (e.g. the way the underlying concepts are defined) as well as in a general opposition against the idea of decency as an evaluative concept. The overall assessment presented in this dissertation offers various suggestions and routes on how to effectively incorporate the concepts human dignity and decency in moral market boundaries.
DECENCY AND THE MARKET
DECENCY AND THE MARKET
The ILO's Decent Work Agenda as a Moral Market Boundary

ACADEMISCH PROEFSCHRIFT

ter verkrijging van de graad van doctor
aan de Universiteit van Amsterdam
op gezag van de Rector Magnificus
prof. dr. D.C. van den Boom
ten overstaan van een door het college voor promoties
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Faculteit Economie en Bedrijfswetenschappen
To my father Alfons Biermans and my boys, Julius Biermans and Oscar Biermans
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So there we are; it is finished. At long last the answer to the questions surrounding the status of this PhD project has changed: “Yes it is done. Want to know more? Buy the book!” And now, as I find myself thinking of all the people that I could, should, want and indeed must thank for making this project possible I’m tempted to start with myself. Yet, apart from the fact that my name is already on the cover there are in fact (on balance) more reasons to start with an apology rather than with a self congratulatory note.

Having harassed unsuspecting people (friends, family, colleagues, and even complete strangers) for years with stories on this project, bored them to death with exposés on morality and markets, exasperated their sympathies and pushed the levels of their politeness to their natural limits with my endless descriptions of the challenges of writing a dissertation, I see and feel the need for an apology: I apologize and I promise I will never do it again.

The first time I discussed the notion of writing a dissertation was with Professor Veit Bader under whose supervision I wrote my master thesis for philosophy. It was on the topic of globalization and ethics with a special focus on international labor standards. Having completed the thesis he suggested I could use it as the first chapter if I were to start work on a dissertation. In the end the suggestion came a bit too early but it never lost its appeal. The seeds were planted and from time to time I found myself entertaining the suggestion of actually writing a dissertation in my spare time. And it was at this stage that my uncle Anthony (who thus deserves a special mention in helping me getting my ideas for the project in place) invited me to attend a conference on Morality and Business organized by the St Thomas University and the Universidad de Deusto in Bilbao. That was the moment when I really started to think about the possibilities of writing on the place of human dignity (and later decency) in relation to markets.

Having obtained some idea on what to write about I now had to find someone willing to take me on as a PhD candidate. This turned out to be surprisingly easy. A chance meeting with Harro Maas resulted in an appointment during which I was able to present my ideas and state my ambition in starting work on a dissertation. At the end of our talk he introduced me to this new American professor, Prof. John Davis. We had an almost instant connection. Our first
encounter was such that I can still quote bits of it, verbatim, to this day. And with this I have arrived at the two people who were so important in realizing this project.

There are multiple reasons why this project would have faltered without the assistance, encouragement and care of John B. Davis. There is of course the practical one, with him being the promotor and all, but far more important are those related to our personal interaction and the energy and stimulus I derived from that. Whether it is taking me along to the best live blues bars in Milwaukee or having in-depth discussions on politics, economics or culture, it was always interesting, stimulating and always great fun. Many thanks for your wit, wisdom, friendship, confidence and continuous support.

My gratitude for my co-promotor Harro Maas extends well beyond his role of matchmaker. He is an intellectual powerhouse and someone who has actually read all the books you can find in his office. I have learned a great deal from him and his guidance at the crucial final stages of this project was invaluable.

In the course of this project I was privileged enough to spend some time at the Graduate School of Business of Stanford University as a visiting scholar. I owe Prof. Robert Flanagan my deepest gratitude for making this possible but also for the discussions we had during my time there. His knowledge on labor standards and globalization were a tremendous help in framing my ideas.

Over the last couple of years I have been able to present and discuss my work at various conferences and symposia, including: the International Political Science Association at the Rothermere American Institute of the University of Oxford (2004), INEM at the University of Amsterdam (2004), the 2nd Pan Hellenic Conference on International Political Economy (2005), which included a wonderful 'private' session with Professor Paul Collier, The conference on Social Justice and Human Rights in the Era of Globalisation of the Globus Institute in Leuven (2006), the Good Company conference at the Pontifical University of St. Thomas (2006), die Salzburger Anstöße: Perspectives on work of the Salzburg Ethik Initiative at the University of Salzburg (2007), the Pathways of Human Dignity conference by the European Science Foundation in Vadstena (Sweden, 2007), the CERES Summer School of the CIDIN at the Radboud University in Nijmegen (2009), and the First annual Utrecht-
Nijmegen workshop in History and Methodology of Economics (2011) at Utrecht University. I’m grateful for the organizers and the other participants of these conferences and meetings for offering me the opportunities to present and discuss my project. For someone who was working outside the traditional walls of the university these encounters with scholars as well as their questions, suggestions and remarks have helped this project in more ways than one can imagine. For all the good parts in this dissertation I owe them, the lesser parts are of course most definitely mine and mine alone.

As an external promovendus I was in the position that my working life and my writing activities were to some extent separate spheres. Yet, I have been fortunate enough to have worked at places where my extracurricular activities were received with interest and support. Working at SEO Economic Research was a true lesson in applied economic research and how economic theory is translated to the real world. (By way of STATA of course, but that goes without saying) As a member of the labor market and education team and under the patronage of Marko van Leeuwen I was offered a surrounding wherein I could develop the necessary research skills that came in handy while working on the dissertation. I owe him and the other members of the team (Hana Budil-Nadvorniková, Djoerd de Graaf, Peter Berkhout, Ernest Berkhout and last—but definitely not least, Jaap-Anne Korteweg) my gratitude. The same goes for Prof. Barbara Baarsma, Prof. Coen Teulings, Joost Poort and all the others I had the pleasure to work with at SEO for their interest, support, fun, and in some cases, dare I say it, friendship!

My switch to the world of strategy consulting at Spring Associates opened up a whole new set of experiences and skills that go well beyond the martial arts of PowerPoint. It also introduced me to new and different ways of looking at the world and exposed me to the nuts and bolts of the business side of markets. In addition, the absolute luxury of working with really smart people who also have a sense of humor is nothing short of a true blessing. My sincerest gratitude to Ebel Kemeling, Matthijs Baan and Theye Veen for giving me the space needed to finalize the dissertation. It is hard to imagine that the support I received for this project would have been attainable at any other organization.
Although I was not part of the day-to-day workings of the faculty, the History and Methodology Group offered a basis from which I could develop my work. The advice and support from its members, which—apart from my promotors—included: Marcel Boumans, Tiago Mata, Geert Reuten, Edith Kuiper, Floris Heukelom, Peter Rodenburg, Ricardo Crespo and Dirk Damsma—were very welcome and for which I’m also very thankful. Alas it was not meant to be that Mark Blaug, former chair of the group, could fulfill his role as a member of my promotion committee, a task he had awarded himself during my first presentation for the group. I’m very grateful for his advice and lessons which I have tried to incorporate to the best of my ability. I would also like to thank Prof. Eric Fischer for his moral and practical support for this project.

Next I wish to express my thanks and gratitude for my paranimfen Jeroen Verberg and Jan-Hein Christoffels. They both helped me get through the difficult bits while we were studying economics and I’m very proud (but also relieved) that they are willing to continue to offer this assistance during the final phase of this project. Likewise, I wish to thank Frank Bijen for reading the manuscript and helping me in my preparation for my defense.

Writing a dissertation during the evenings, in the weekends and during the holidays means less time to spend with friends and family. To the distinguished members of het LDg ’93 (toch al weer bijna twintig jaar Saai, Volgzaam en Niet Leuk) and all my friends I want to express the hope they will forgive me my absence in the past and will welcome my presence in the future. It is very sad to realize that in some cases this is no longer possible as they are no longer with us. Chris Devries, my former boss at Citibank, who showed me the truth of his motto—“You have to be nice to people”—and who could make the best Bloody Mary in town. Nico Mensing van Charante, my paranimf *in absentia*. His insight in the human condition, his support and humor are sorely missed. Although they are gone their impact on me will never fade.

When it comes to maintaining sanity in a project like this, it is more often than not family that helps in providing some good (common) sense. Whenever I was running out my two wonderful sisters Karlijn and Saskia as well as my sister-in-law Alexa and brother-in-law Ewout helped me out; at times this was much needed and very much appreciated.
It is my good fortune that my father and mother in law, Prof. dr. Michiel and Sonia Eijkman-Baronesse van Heemstra, are not only amazing people but also have considerable experience with PhD projects. Their advice on how to handle a project like this (in combination with work and family life) was always spot on and very helpful. The same can be said for the pointers regarding substance and style. Their support in every way imaginable was at times truly invaluable. Likewise to my aunt Emmy Russell, who followed the entire process meticulously while offering helpful comments along the way, I owe my thanks.

There are not that many people—at least that I know of—who can justifiably be called a continuous source of inspiration. Even more exceptional it is to find someone who is additionally smart, loving, caring, challenging, and full of humor. So I have to conclude that I’m extremely fortunate to not only know such a person but that she is also my mother, Monica Biermans. Although my father Alfons Biermans has not lived to see the start, let alone the completion of this project, his advice and counsel were always present and I like to think that the result is the better for it. I thank them both, from the bottom of my heart.

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And now I would like to sign off with a small message to you, dear reader, by sharing this important insight with you: “I have suffered for my art. Now it’s your turn!”

Maarten Biermans
Amsterdam, May 2012
Introduction

Economics and ethics are often assumed to be fundamentally opposed. This view is not only found in the public domain but also in parts of the academic community. The general public, more often than not, views markets as being completely devoid of even the most basic morality. Morality—the argument goes—can’t be part of the search for profits.

Whoever looks at economics for an alternative account of this relationship is most likely to be disappointed. Neoclassical economics, still the dominant approach in economics, assumes a strong distinction can be made between facts and values. It asserts that when it comes to the selection of ends, economics is entirely neutral. (Graafland, 2006, p. 8) Economics is presented as a positive value free science. Economic agents may have their own moral convictions and values but these have no relevance beyond the personal sphere. For most neoclassical economists, moreover, there are no absolute moral values, only preferences.

The view that ethics has no place in economics is deeply rooted. This has led the discipline to exhibit a basic lack of interest in ethical traditions. (Sen, 1987, p. 48/50) This detachment of ethics from economics is questionable for various reasons. First, since economic agents are often guided by moral convictions, if economics wants to correctly describe economic activity it has to include some account of moral reasoning. Secondly, there are strong links between the moral commitments that underpin public policy and the conclusions of economic research. Thirdly, economists themselves have ethical values, and these may play a role in the issues they investigate, the methods they employ, and the criteria by which they assess economic research. (Hausman and McPherson, 1993)

Recognizing the difference between positive and normative economics is also especially important as neoclassical economics does in fact deploy its own set of moral values but fails to recognize this. It works—as Davis (2006, p. 69) notes—under a “false cover of value-neutrality” with efficiency, or maximizing individuals’ private preferences, as its sole normative criterion. With its policy recommendations this unacknowledged set of values actively shapes the world. With the emergence of what has become known as neoliberalism it has framed this commitment in terms of the idea of individual freedom.
At the core of neoliberalism—a conjunction of certain aspects of the political liberalism of the nineteen century and neoclassical economics—is the idea that human well-being is best served by “<…> liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices.” (Harvey, 2005, p. 2, see also Peck, 2010)

When taking a closer look at the neoliberal project one finds that there is one value that trumps all other values, namely freedom. The role of the state is to be as small and minimal as possible especially vis-à-vis markets, which are thought to generate beneficial results for society at large (M. Friedman, 2002). This idea that the workings of the market not only bring about an efficient allocation of goods but also comes with beneficial (unintended) consequences for society at large has a long history attached to it. (Hirschman, 1982, 1997) According to one interpretation of this relationship, interactions in the economic spheres of life would almost by necessity be accompanied by a refinement of one’s manners. (Montesquieu, 1989, first published in 1748) On a macro level it was thought that the introduction of commerce would lead to more sensible judgments and policies on the part of the lawmakers and the rulers of the land. This idea would re-emerge centuries later and find fertile ground in the globalization debate (see e.g. T. L. Friedman, 1999).

Yet this view overlooks the fact that the market does not exist by itself. There is no market without a society, or more specifically, there is no market without human beings. On this view, the market is part of society; it is embedded in society. (Finn, 2006; Fourcade and Healy, 2007) From this one can infer that the form, shape, size, workings and function of the market are to a large extent determined by the society in which it is embedded.

It would be wrong to classify these opposing positions as a mere theoretical problem, as ethics is central to human society. This thesis contributes to the debate on the relationship between the market and morality. As such, this book is about everyday life. And somewhere in everyday life the fairly basic and intuitive idea that humankind was not made to serve the market, versus the idea that the market exists to serve humankind, has somehow been forgotten.
Objective

The title of this thesis, *Decency and the Market*, indicates the topic at hand. This dissertation examines the relationship between the market and morality, between value and values. Specifically, this thesis seeks to identify to what extent morality (phrased in terms of decency and human dignity) has a place in the market system. The necessity for such an appraisal is in part derived from the premise that: “Beyond every ‘is’ lies a claim of ‘ought’. No system—not scientific or political or economic—is self-justifying, worthy of endorsement just because it happens to be what it is.” (Sacks, 2002, p. 89)

In order to discuss this relationship between morality and the market, the thesis uses the Decent Work Agenda of the International Labour Organisation (ILO) as its focal point. With this agenda, launched in 1999, the ILO refocused its activities and stipulated its overall objective, namely “to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity.” (ILO, 1999)

The justification for using the Decent Work Agenda to facilitate a discussion on the relationship between markets and morality is twofold. Firstly, the agenda is intrinsically tied up with labor, which can be seen as an explicitly human aspect of the economy. In economics and in markets, there are two identifiable roles for human beings, namely as consumers and as providers of labor whether self-employed or as an employee. The fact that the agenda specifically deals with human beings in relation with the market in general terms brings us to the second reason, which has to do with the nature of this relationship. A key component of the Decent Work Agenda is the ILO’s framework of international labor standards. These standards were introduced in order to protect workers against the workings of the market, and to steer market outcomes. The Decent Work Agenda thus combines a focus on human beings within an economic setting with a framework concerned with the nature of the relationship between human beings and the market.
This thesis is moves from the abstract and theoretical to a more concrete level, namely that of the Decent Work Agenda. More specifically, it is structured along the lines of the three main and closely intertwined questions that will be covered in the text and that can be phrased as follows:

• Does the market allow for moral deliberation?

• Is it possible to devise a coherent moral framework to evaluate market outcomes, based on concepts alien to the workings of the market, that addresses the normative significance of the individual?

• Can a policy framework, such as the Decent Work Agenda with its foundational moral values of human dignity and decency, be successful as a normative boundary against market forces?

Next we look at the way in which this thesis addresses these three research questions.

Outline

The book consists of three parts addressing the three questions above. These three sections are titled *The Market and its Boundaries*, *Decency and Dignity*, and *Labor Standards and Decent Work*, respectively.

The first part of the thesis, *The Market and its Boundaries*, focuses on the first of the three research questions revolving around the general nature of the relationship between markets and morality. It may seem trivial to ask whether the market allows for moral deliberation yet it may in fact be the most important question of the three, for if the answer is negative, then there seems to be little need to proceed.1

Chapter one starts with an overview of the debate regarding the normative consequences of the market on a societal level by reviewing the dominant theories on the subject. These theories cover the entire spectrum, with some asserting the complete absence of morality from the market system, while others contend that the workings of the market carry a clear moral dimension. From the discussion of some of these views, it will become clear that we need for

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1 A distinction needs to be made when talking about markets namely that between a market and the market. The distinction made here is based on Finn (2006) who states that the former refers “to any of a number of distinct markets—for corporate bonds, stocks, wheat, industrial equipment, or artworks.” The market, on the other hand, is used to indicate “that form of economic organization which allows individuals the freedom to do what they wish, to freely make and respond to offers provided they avoid a list of abusive behaviours forbidden by law.” (2006, pp. 115-116)
a more methodological approach for evaluating normative claims about the market system to help to structure the debate.

The second chapter of the thesis discusses such a framework. At the core of this framework lies the question of how one evaluates normative claims about market outcomes. Key to answering this question is the idea that the operations of the market are ‘confined’ by boundaries that are created by societies where the market operates. These boundaries contain the forces of the market and include—but are not limited to—social legislation that address issues like environmental policies and labor standards.

At the end of this first part of the thesis it will become clear that the market economy does not exclude the possibility for moral deliberation and action and economics does not operate in a moral vacuum. On the contrary, the market depends on moral values that in part are associated with the boundaries that confine market activity. These values are at the center of the second part of the thesis, Decency and Dignity.

Because this thesis uses the ILO’s Decent Work Agenda to talk about morality and markets, a review of the two key values that underpin that agenda, namely human dignity and decency, is warranted. This review will also help in assessing the potential of these values as guiding forces in the realm of economic policy making. Chapter three thus contains a discussion of human dignity while chapter four is devoted to the idea of decency.

A broadly shared component of the concept of human dignity is the idea that human beings are, in the words of the German philosopher Immanuel Kant, ‘beyond a price’. Chapter three discusses how this concept, which on a fundamental level is alien to the workings of the market, can and has been invoked by the ILO (and others) to steer market forces.

In his 1996 book The Decent Society, the philosopher Avishai Margalit offers a framework for appraising societal arrangements based on the notion of decency. In this work, he proceeds ex  

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2 It is not uncommon to see that ethics and morality used as synonyms. In this thesis, the term ethics is reserved as reference to the science of right and wrong and morality to describe the status of specific conduct, i.e., what is right and what is wrong. However, the adjectives ethical as well as moral are used to refer to the status (appropriateness) of a specific conduct, action, or human character. In addition, standards, e.g. international labor standards, can in turn be seen as carriers of norms and—depending on the issue that these standards are targeting—morality.
negativo arguing that the focus in these appraisals should aim at the eradication of the negation of decency, i.e. humiliation. Another important element of his work concerns the idea that the way something is achieved should be as much part of moral deliberation as the desired end state itself. His work forms the basis for the discussion of the topic of decency in chapter four.

The final part of the thesis—Labor Standards and Decent Work—is where the more theoretical findings of the previous chapters make a crossover to the practical. Although the Decent Work Agenda is fairly recent, international labor standards, which form an integral part of the agenda, have a long history. Chapter five takes a closer look at this history, including the emergence and workings of the International Labour Organisation. Since its inception in 1919, this last remaining institution of the League of Nations (and now a part of the United Nations) has played a pivotal role in formulating international labor standards. This chapter will also cover the obstacles (e.g. with respect to adherence) that have had to be overcome to introduce labor standards, as well as address the current state of affairs whereby a clear distinction is made between intentions and realization.

In chapter six, the ILO's Decent Work Agenda takes center stage. By applying the lessons and findings of the previous chapters this chapter offers an appraisal of the agenda as an approach to framing the market. Special attention will be devoted to the question of how the concepts of decency and human dignity are operationalized in the agenda and thus deployed to steer market outcomes. The final chapter of the thesis contains a discussion of the main findings and conclusions of the aforementioned parts as well as recommendations for further research.

There is a need to look closer at the relationship between morality and markets. And if anything this need has become more immediate in recent times. This thesis seeks to help fulfill this need. At the very least, it challenges the two popular views noted at the outset, namely that ‘morality cannot play a role in markets’ and that ‘morality does not play a role in markets’ by arguing that it can, it does and that it should.
PART ONE – THE MARKET AND ITS BOUNDARIES
1 Discussing the Normative Effects of the Market

This thesis is on the relationship between morality and the market. Many commentators (academic and otherwise) feel that there is some tension in the relationship between morality and economics, whether as an academic discipline or as a representation of the market (economy) that we see in everyday life (see for instance Graafland, 2006; Hausman and McPherson, 1996; van Staveren, 2001). The claim that economics and ethics are strange bedfellows is widespread. Some consider this to be a logical result of the idea that economics is a positive and, above all, a value free science. Others see it as the result of the workings of the market itself. According to this line of reasoning, the force of the market leave little or no room for moral considerations. Morals are presented as having value, namely a negative one in the form of costs and the fiercer the competition in the market the less room there is for moral deliberations. This raises the question of whether the market allows for moral deliberation. If the answer is negative, then any discussion of the relationship between the normative and the market becomes a mere theoretical, albeit interesting exercise. This and the next chapter of this thesis deal with this particular question.

Given the skeptical position on the relationship between markets and ethics, it is of interest that in the past the relationship was not always seen as being characterized by tension. On the contrary; in the eighteenth century many theories emerged wherein the connection between the two was viewed as a positive one. This line of reasoning is of particular importance as it has resurfaced in more recent times in the formulation of (economic) policy. In the case of international labor standards for instance, the argument that any (current) lack of adherence to these standards will automatically be corrected in time provided that the market is allowed to do its work (and thereby generate economic growth) is all too common.

In this chapter, we take a closer look at the different sets of ideas on the relationship between the market and its moral consequences. The main difference between the various views of this relationship can be found in the type of consequence, positive or negative. In addition, a division can be introduced according to whether these results are in fact due to the market or pre-market forces. The aim of this chapter is to get a clear picture of the theories that have emerged on the subject of the relationship between the market and society.
This chapter falls into two parts. The first part (sections one and two) covers the various views that have emerged over time on the societal impact of the market economy. In the second part of the chapter the focus will be on one particular thesis regarding this relationship. This thesis states that the market yields moral benefits for society that go beyond monetary gains. The implication is that the market is best left to its own device in order to generate these morally beneficial outcomes. In the subsequent section, the arguments of this view are reviewed and discussed. The chapter will be concluded with a summary.

1.1 Divergent views on the consequences of the market

There are commonly two main interpretations as to the effect of the market on moral standards and on society in general. First, there is the idea that the market has a morally positive or civilizing effect. This effect is in most cases presented as an unintended consequence of the competitive forces of the market. Contrary to this position, we find the argument that the market leads to immoral outcomes. These are of course the two extremes between which numerous other positions are to be found.

In recent times, research on the theories regarding the effects of commerce on a society has turned to a more holistic approach whereby each influences the other. This research emerged not only in economics but also from non-economic disciplines, especially sociology. A key element in these developments is the concept of embeddedness.

With the end of the Cold War and the demise of communism, the market system was (at least for some time) hailed as the only viable manner to organize a society. Concurrently, the debate on the merits of the market (merits that went beyond the more standard merits ascribed to the market system such as the efficient allocation of scarce goods) took a new turn accentuating the benign impact that the market had (or would have) on society at large.

There are roughly two ways in which the market system is thought to enhance the moral fabric of a society of people. The first and oldest route is related to the changes in the way people approach each other due to the incentives created in a market environment. This course is commonly referred to as the *doux-commerce* thesis. The other way in which the market system is
credited by some is that normative improvements in society are the result of economic growth. In the next sections these routes are looked at more closely, dubbed here as the virtue and income argument, respectively. However, before these two routes can be reviewed, an expansion on the various theories that have emerged over time regarding the interaction between morality and the market on a societal level is warranted. This will help in positioning the aforementioned routes in the overall intellectual context.

1.2 Main theories on the civilizing effect

In his 1982 article “Rival interpretations of Market Society: Civilizing, Destructive, or Feeble?”, Albert Hirschman deals with ‘the effects of commerce on the citizen and civil society’. The article makes a distinction between four different interpretations of the nature of these effects. Hirschman groups these divergent views based on the nature of these effects, positive or negative, on the one hand, and the importance of the market versus pre-market values, on the other hand. The focus of the article is not so much placed on whether the aspects of capitalism are right or wrong in an absolute sense but rather on what was thought to go right or wrong. In other words, the article is about the ideas on the likely economic as well as non-economic dynamics of the market-system. Figure 1–1 provides an overview of the four mentioned possible combinations.

The idea that the extent of human well-being or happiness might in part be the result of actively changing the social order became widespread in the eighteenth century. The idea that this order could be perfected arose around the same time as the emergence of the ideas relating to the unintended consequences of human action and decisions (Hirschman, 1982). The perfectibility idea is primarily the offspring of the French Enlightenment, while the theories relating to unintended consequences are principally the result of what is often referred to as the Scottish Enlightenment (See also Hirschman, 1997).
In the following sections, each of these four interpretations will be clarified. It should be noted—as Hirschman himself does—that the theories discussed below are by no means unified theories but that each is a collection of theories grouped according to shared basic insights.

### 1.2.1 The doux-commerce thesis

The starting point in Hirschman’s framework is the so-called *doux-commerce* thesis. The underlying idea of this thesis can be summarized in the words written in 1749 by one of its first advocates, Montesquieu: “for it is almost a general rule, that wherever manners are gentle (*moeurs douces*) there is commerce; and wherever there is commerce, manners are gentle.” ([Spirit of the Laws by Montesquieu cited in Hirschman, 1982, p. 1464, see also Cheney, 2010](#)).

The relationship between gentle manners and commerce is presented by Montesquieu as mutually reinforcing with the understanding that if there is a hierarchy in causality, the latter precedes the former.\(^3\) How this relation takes shape in practice and which mechanisms create this unintended outcome of commerce is less clear. Hirschman finds some indication in a text on commerce written by Samuel Ricard ([*Traité général du commerce*](#)) first published in 1704 in which the idea is put forward that commerce creates interdependence between people.

Furthermore, it views commerce as a powerful moralizing agent in that through commerce people learn to be honest, deliberate, prudent, reserved, and acquire manners: “Through commerce, man learns to deliberate, to be honest, to acquire manners, to be prudent and

\(^3\) This hierarchy becomes clear when Montesquieu writes: “Commerce … polishes and softens (*adoucit*) barbaric ways as we can see every day.” ([Montesquieu cited in Hirschman, 1982, p. 1464](#)).
reserved in both talk and action.” (Ricard, 1781, p. 463, translation from Hirschman, 1982, p. 1465).

Later contributors to this issue, such as David Hume (e.g. in his “Of Refinement in the Arts” first published in his 1758 book *Essays, Moral, Political, and Literary*, 1826; see also Boyd, 2008) and Adam Smith also mention virtues (e.g. industriousness, frugality, punctuality, and probity) that were expected to be enhanced or introduced by commerce and its complement manufacturing; progress through commerce (and the associated increase in wealth), division of labor and technological advancement would as a by-product generate a more “polished” human type.

This stands in dark contrast with the idea that the market eroded trust or trustworthiness. On the contrary, this is one of the virtues that commentators like Adam Smith thought to be actually enforced and strengthened by commerce because it is in line with the self-interest of the agents as Adam Smith explained in his *Lectures on Jurisprudence* (Adam Smith, 1766, 1978, pp. 538-539; cited in part in Maitland, 1997).

Writing on the normative impact of the market, Maitland (1997) maintains that trust, despite occasional well-publicized violations of the norm, is pervasive in our business culture. He subscribes to the view of Adam Smith that trustworthiness is a virtue closely linked with commerce (here Maitland uses the term “bourgeois virtue”, taken from the homonymous titled paper by McCloskey published in 1994) rather than a legacy from the premarket era and emphasizes the following from Adam Smith’s ideas: “Wherever commerce is introduced in any country probity and punctuality always accompany it. . . . When the greater part of people are merchants they always bring probity and punctuality into fashion, and these are the principal virtues of commercial nations.”4 (Adam Smith, 1776, 1978, pp. 538-539, cited in Maitland, 1997, p. 22; see also Reisman, 1976, p. 98 and Stigler, 1981).

This idea has found fertile ground among many economists and was subsequently used in debates on the benefits of markets. In his Tanner lecture entitled “Economics or Ethics?” George Stigler (also citing the passage from Smith quoted above) remarks that “I do not know

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4 Both these quotes are taken from Smith’s *Lectures on Jurisprudence* (Smith, Meek, Raphael, and Stein, 1978).
whether in actual fact the participants in economic transactions behave more honestly than those in diplomatic exchanges or in primitive barter, and I am reasonably confident that Marshall and Smith also did not know when they wrote these passages, whatever they have learned since. But I do believe that they, and most modern economists, accept the substance of their [Smith’ and Marshall’s] position on commercial morality.” (Stigler, 1981, p. 173). One could argue that the years since this lecture have shown Stigler’s observation to be correct in that the inherent morally beneficial nature of the market system has become an article of faith among the members of the economic profession especially for those active in the mainstream.

One more remark on the doux-commerce thesis is warranted at this stage. Montesquieu—one of the earlier champions of this theory—described the blessings of the market vis-à-vis a system controlled by a monarch. Although later (more contemporary) supporters of the doux-commerce thesis invoke the writings of Montesquieu, they present the case in favor of the market regardless of the original state. We shall return to this in the text below (see §1.4.2) but for now it should be noted that the doux-commerce thesis emerged during a transition period and thus covers the transition from a pre-capitalist society to one characterized by the free market, i.e. capitalist society. And the ‘improvements’ in manners and mentalities should in principle also be seen in that light: commerce cleans up the pre-capitalist legacy.

### 1.2.2 The self-destruction thesis

The nineteenth century saw the rise of the opposite of the doux-commerce thesis, in which the market system was seen to be harboring processes, tendencies, and forces that will ultimately lead to its demise or at the very least weaken the foundations of society. This thesis, dubbed the self-destruction thesis, sees the market depleting or even destroying the moral fabric of society. Although Marx and Engels are commonly credited with advancing this thesis, they were by no means the only ones, let alone the first. In the seventeenth century, the view that the market system trumps all traditional and “higher” values was already expressed as a conservative reaction to the emergence of the market society. However, it was only later that the idea was added that the market system “might corrode, not only traditional society and its moral values, but even those essential to its own success and survival.” (Hirschman, 1982, p. 1468).
The industrial revolution, so goes the argument, did away with the idea of doux-commerce. As competitive pressures were introduced, and manufacturing was extended, the laborers involved became obsolete and were displaced. Simultaneously the passion for riches led to the creation of disenfranchised groups that were anything but gentle or soft. The emergence of industry and commerce was widely seen as contributing to the downfall and breakdown of traditional communities and the loosening of social ties.

Hirschman describes the ‘simplest model’ for the self-destruction of market society as the *dolce* *vita* scenario. Here, the emergence of capitalism is thought to be accompanied by thrift and its subsequent accumulation of capital. At some point these attitudes will give way, in part due to the increased wealth, to more demands for the good life (“instant, rather than delayed, gratification”, Hirschman, 1982, p. 1468) and the enervation of the spirit of frugality.

Hirschman refers to Joseph Schumpeter’s *Capitalism, Socialism, and Democracy* (1976, originally published in 1942) as containing one of the best known examples of the self-destruction thesis. Dealing with the question of whether capitalism can survive Schumpeter comes up with a rather negative answer, predicting its downfall. This would not be the result of a backlash from the masses but more the logical outcome of the mindset created by the market system: “… capitalism creates a critical frame of mind which, after having destroyed the moral authority of so many other institutions, in the end turns against its own; the bourgeois finds to his amazement that the rationalist attitude does not stop at the credentials of kings and popes but goes on to attack private property and the whole scheme of bourgeois values.” (Schumpeter, 1976, p. 143 cited in Hirschman, 1982)

The argument seems to exclude the idea that apart from having tendencies geared towards self-destruction the market system might also possess forces steering it toward self-preservation. The first enactments of factory legislation might be viewed as examples hereof. Hirschman adds that Schumpeter’s argument might become more persuasive if it is posed that capitalism corrodes its own moral foundations *inadvertently*. This idea was developed by the (first) Frankfurter School, e.g. by Max Horkheimer. (Hirschman, 1982, p. 1469) Later contributions to the idea of inherent self-destruction (aside from much Marxist orientated research), include the *Social Limits to Growth* by Fred Hirsch (1976, 1995). This work deals with the idea of the ‘depleting moral legacy’ of capitalism. Among the arguments put forward that underpin this thesis are: the emphasis on self-interest makes it difficult to secure collective
goods, macro management of the economy should be based on the common good (i.e. general interest) rather than the self-interest of those responsible for its execution, the individualistic and rationalistic base of the market undermine social virtues such as truth and trust that are needed for the functioning of the economy. According to Fred Hirsch there are several ‘social virtues’ that play a central role in the functioning of an individualistic, contractual economy: truth, trust, acceptance, restraint, and obligation. The question now becomes how these virtues, especially the level of trust, assist the workings of the market. Because defection can create considerable profits, at least in the short run, there is the dilemma that being virtuous creates a competitive disadvantage. From this, one might infer that the only reason that the market is still able to function is because of its older pre-capitalist legacies from earlier moral and religious traditions (Maitland, 1997, p. 20). This is one of the central claims of the fourth interpretation of the effects of the market on society, what Hirschman calls the feudal blessings thesis. We return to this thesis in the text below but first the focus will be on the third thesis identified by Hirschman, the one whereby pre-capitalist traditions hold back the full potential of market forces and, therefore, its blessings. This is the topic of the next section.

1.2.3 The Feudal-shackles thesis

One of the ways the doux-commerce thesis re-emerged in the nineteenth and twentieth century is as a part of a critical view of capitalist development. This critical view was not founded on the ideas already discussed under the heading of the self-destruction thesis. The criticism against capitalism was not that it was eroding social norms and values but that it was not doing so enough (!), i.e. the forces of the market were too weak to neutralize the (negative) influences of pre-capitalist society. The penetration of capitalism in a number of societies was considered to be too timid and half-hearted to bring about its civilizing effect. Societies are held captive by pre-capitalist notions or institutions depicted as ‘feudal shackles’ that hold back the ‘bourgeois revolution’.

Interestingly, both of the major critiques of the doux-commerce thesis now discussed, the self-destruction thesis as well as feudal-shackles thesis, can be traced to the work of Karl Marx. His writings on the economic situation in Germany led him to conclude that the country was tied up in feudal cobwebs that were not swept away by the emergence of the market, which consequently did not become the dominant force for societal arrangements.
The effect of the market was deemed too weak to fulfill the progressive role it was supposed to play in bringing about change. The idea of the inability of market forces to fulfill the promise of doux-commerce received renewed attention in the twentieth century as a possible explanation for the poor economic record of Latin America. (Hirschman, 1982, p. 1477)

1.2.4 The Feudal blessings thesis

It was already noted above that trust plays a key role in the workings of the market yet simultaneously it is under threat from these very same workings. Therefore, the question that is raised is why trust would remain in a society wherein the pressure of the market is at work. One of the answers put forward in the past is that the continuous presence of trust is found in the pre-capitalist legacy. This stands in stark contrast with the previous account where the pre-capitalist legacy was thought to be withholding the realization of the benefits the market society would bring about.

In the writings of Alexis de Tocqueville one can find praise for the way society in the United States of America had developed and more importantly one can find the idea that this was the result of the absence of an ancien régime. The United States was taken as an example of how the absence of a feudal past resulted in true equality and opportunity for all its citizens. Therefore, its development can and was seen as a vindication of the shackles thesis discussed in the previous section. However, in some later writings this view was questioned and in effect reversed the analysis given by Tocqueville and others. Hirschman uses the work of Louis Hartz (The Liberal Tradition in America, 1991) as an example of the theory of how the absence of a feudal past is in fact the source of many shortcomings that have befallen the country. Hartz states that the US suffers from a lack of social and ideological diversity that, according to him, are the prime constituents for genuine liberty. Hirschman adds to this the idea that “the absence of an authentic conservative tradition is responsible for the often noted weakness of socialist movements.” (Hirschman, 1982, p. 1479). The lack of diversity is seen as stimulating the tendencies towards the tyranny of the majority. Harz sees the similarities between welfare state policies in other countries and the New Deal in the US but the latter failed to achieve full legitimacy in the sense of becoming part of a new economic order and was (and still is) seen as a deviation from the liberal ideal as perceived in the US. In short, in this thesis, having a feudal background is a favorable factor for subsequent democratic-capitalist development.
The fact that the first manifestations of much of what is now deemed basic social legislation (i.e. the welfare state) emerged in Germany in the nineteenth century, which if we recall the words of Marx was far from a capitalist society at the time, might be considered to support this line of reasoning.\(^5\) Examples of this type of social legislation include: the introduction of social pensions, unemployment insurance as well as health insurance. The overall goal of these legislative innovations was to reduce the degree of uncertainty in the life of workers, or in the words of the main architect of these legislative changes, Otto von Bismarck: “Indessen für den Arbeiter ist das immer eine Tatsache dass der Armut und der Armenpflege in einer großen Stadt zu verfallen gleichbedeutend ist mit Elend, und diese Unsicherheit macht ihn feindlich und misstrauisch gegen die Gesellschaft.” (von Bismarck, 1884, p. 165). At the same time, various German companies were also introducing new policies geared toward the improvement of the lives of their workers (and their families), for instance in the form of company lunches but also pensions (e.g. in the case of Siemens as early as 1872, see Kastl and Moore, 2009) and the provision of housing (Honhart, 1990).

1.2.5 Hirschman’s framework revisited: recent contributions

The topic of Hirschman’s inquiry has not received as much attention in the field of economics compared to its impact on the discipline of sociology. Fourcade and Healy (2007) aim to go beyond what they see as the more straightforward approach used by Hirschman depicted in Figure 1–1. They see a body of literature that rejects the division made by Hirschman and that is “<…> united by a view of markets as intensely moralized, and moralizing, entities.” (2007, p. 286) Fourcade and Healy specifically target the propositions of the doux-commerce thesis which they see as having “<…> become the liberal dream of market society, with market exchange variously seen as a promoter individual virtue and interpersonal cooperation, the bulwark of personal liberty and political freedom, and the mechanism by which human creativity can be unleashed and its products made available to society at large.” To this they add the observation that the “story for most economists usually ends there, with minor adjustments—but not for critics, who relentlessly warn that the dream can turn nightmarish on all three counts.” (2007, p. 288).

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\(^5\) There were of course many other initiatives geared towards social legislation in other countries during that time, e.g. the Fabian Society (founded in 1884) in the UK, but these were on a whole private initiatives rather than government backed programs.
They expand on Hirschman’s framework by widening the net of contributions taken into account that convey theories on the effect of the market on society. Veblen for instance stated that the drive for “conspicuous consumption” has a profoundly degrading effect on individual judgment and conduct. Indeed Veblen’s insight that people do not consume to satisfy their own hedonistic wants, but to impress others by showing off their wealth, has in some sense been vindicated by the happiness research that found that it is when wealth increases vis-à-vis others that it generates additional happiness (see e.g. Lane, 2000; Layard, 2005).

The overall social critique of affluence, to which Veblen contributed, has two underlying mechanisms: the competitive instinct (at the individual level) and secondly (on a macro-level) the acknowledgement that our wants and tastes are not simply internally driven but are also created by the market. This last mechanism stands in contrast with the assumption in mainstream economics that desires and wants are treated not as endogenous but as exogenous to market processes (see e.g. Davis, 2003). These claims raise important questions regarding the (nature of the) relationship between wealth (or affluence), choice, and happiness especially given the fact that in the past there was an implicit assumption that there was a clear positive (or even casual) relation between these three.

Polanyi (1944) emphasized the dehumanizing effect that modern capitalism has on social relations and an individual’s personality. Everything becomes commodified and so do human beings who stop being seen as ends in themselves. The starting point of this ‘great transformation’ according to Polanyi was the indictment and subsequent reform of the Old Poor Law relief system in the UK. The premise for this reform was the thesis that relief discouraged “demographic and moral restraint among the poor.” (Fourcade and Healy, 2007, p. 293). The interesting aspect of this is that it is in essence a form of moral reasoning, which turns the supposed causality between the market and morality under the doux-commerce thesis on its head in that moral deliberation leads to the widening and deepening of the market. Polanyi saw in the reforms the institutionalization of the concept of a self-regulating labor market and hence the transformation of labor into a commodity and the subsequent dismissal of human solidarity as a legitimate basis for social order. (See also Hirschman, 1991; Polanyi, 1944; Thompson, 1980).
The middle ground between the two ‘extreme’ positions on the influence of the market, doux-commerce and self destruction thesis, was taken up in Hirschman’s overview by the feudal blessings and feudal shackles thesis. In both of these cases, the effect of the market is deemed too feeble to negate pre-market societal arrangements, which alternatively are considered to be beneficial or detrimental to society. The major theme here is that markets are embedded in society. Fourcade and Healy identify three main variants of this thesis in contemporary scholarship: the realist view (“capitalism thrives in certain cultures, whereas other cultures remain stuck”), an approach based on a voluntarist understanding of the world (market system supporting conditions can be implemented via political intervention), and thirdly as a differentiated perspective (there is not one universal path that capitalism will always follow but it will develop differently in different places).

One of the most influential contributions to the realistic view in recent times is the work of Acemoglu and Robinson published in 2006 titled *Economic origins of dictatorship and democracy*. In their study, the mortality rates in colonial times are used as an instrument for the development of institutions mitigating the effects of reversed causality between economic growth and institutions. Their study indicates the long-lasting effects of different types of colonial rule on the quality of present day economic and political governance.

In what Fourcade and Healy deem the voluntaristic view, the major point is that institutions can be conducive or disadvantageous to economic development, e.g. strong property rights or certain models of corporate governance. Furthermore, it is thought that these institutions can be created or brought into being by policymakers.

The differentiated view posits that there are various pathways towards growth. The choice of the growth path may depend on the different moral perceptions about how to maintain social order; in other words, there is more than one way to organize an effective, productive economy. In line with this thesis, it is said that policy options are typically presented “as economically inevitable trade-offs <but> are in fact more similar to political choices that might or might not be pursued without strong effects on economic performance.” (Fourcade and Healy, 2007, p. 299).
After reviewing various contributions that are deemed to be in line with Hirschman’s framework, Fourcade and Healy point towards a relatively new body of literature mostly drawn from sociology that is geared towards the idea that markets are “explicitly moral projects, saturated with normativity.” (2007, pp. 299-300). This, they see as going beyond the aforementioned framework where the causality primarily goes (for good or bad) from the market towards morality. The focus thus becomes one area where this idea has been explored, which is the research conducted on the role the market plays in creating moral boundaries between individuals or societies. With Weber’s ‘Protestant Ethic’ as a point of departure they conclude that in modern societies money plays a pivotal role in the evaluation of the moral worth of individuals. As an example, they point towards the way different forms of payments are made to inhibit some indication of the type of work which was done but also conveys some information regarding the status of the work done. Citing the work of Zelizer (1983, 1994) on the history of life insurance and the elimination of child labor, the point is made that markets and their moral boundaries shift and recombine in practice. The first example, the spread of the insurance market, is an example of the spread of commodification, whereas the second is an example of how children were removed from the market and became “priceless objects of sentiment.” (Fourcade and Healy, 2007, p. 300).

This approach is regarded as ‘Durkheimian’ in that morality is not understood or approached as a universal ethical standard but as what is deemed appropriate (good/bad) by a group. This is, in essence, approaching morality as a sociological phenomenon, which as Fourcade and Healy note, does not mean there is no discussion of its definition. However, by separating market and morality as distinct albeit closely connected spheres, the door is opened to talk about the market in apparently neutral terms, for instance: “The logic of efficiency seems to depoliticize social relations, for example, by masking the political conflicts inherent in many kinds of economic policy, and this apparent objectivity helps reinforce its legitimacy.” (2007, p. 302).

Economists are more often consulted on the formation of institutions compared to others and hence their influence on actual policies is greater namely “in providing recipes for creating a framework for national development, corporate management, or organizational reform.”(p. 302). This influence creates (according to Fourcade and Healy) the need to study if and how economics makes markets work based on economic thinking; in other words whether economics is shaping markets rather than studying and describing markets. They note that, in
this world, such is increasingly the subject of economics. Thinking actors “are thus progressively turned into calculative agencies. Homo economicus <is made flesh> by economic technologies; economic models, formulated through a process of abstraction and disentanglement from reality, thus get entangled again.”(Fourcade and Healy, 2007, p. 302).

This issue has occupied many commentators over the years, and not only sociologists, but also philosophers and economists themselves. (See e.g. Davis, 2003; and 2006).

In the final section of their article, Fourcade and Healy cover the current debates in relation to the market that saw the emergence of notions such as “transparency”, “corruption”, but also “fairness”. The latter, of course, being used as an adjective in connection with a plethora of issues, such as fair wages, fair prices, or fair trade. They see in this a reaffirmation that the conditions under which economic behavior is deemed immoral or moral are and always will be social. One of the examples they provide is the changing attitude of people toward coffee-growing practices.6

In their analysis, Fourcade and Healy move beyond Hirschman’s framework. They rightly call attention to the fact that economics and morality inhabit the same social spheres, and hence cannot be seen in isolation.7 However, their analysis makes both so integrated that they become one and the same. This is unfortunate as well as unnecessary since, although they point towards important issues, their analysis makes it difficult to go beyond providing a description and move towards a framework that can be used to decide where to go. In the next chapter we shall take a closer look at the idea of the embedded market whereby the market should be approached in the context of the society (or moral ecology) where it is manifested. The next section focuses on some of the modern variants of the doux-commerce thesis.

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6 “Similarly, few people cared about coffee-growing practices just a few decades ago. Now these practices are classified as either conventional or ethical. The latter are the target of strict standards of certification and even claim a separate market. Consumers, business actors, and policy makers have at their disposal elaborate technologies and theories to define the moral criteria against which prices and wages are compared, the degree of competitiveness in a particular industry is evaluated, and the extent of corruption in a nation is measured.” (Fourcade and Healy, 2007, p. 304).

7 “<...> much of the rationalization and moralization that takes place is dominated by economists and often relies on the elevation of purely economic criteria such as efficiency or profit making to the status of a moral rule.” (Fourcade and Healy, 2007, p. 304).
1.3 The doux-commerce thesis in contemporary times

The focus in this section is placed on those accounts that assert that the market (economy) generates beneficial results for a society overall, and not in the least in the normative dimension; in short, the more recent variants of the doux-commerce thesis. There are two main reasons for taking a closer look at this particular view of the moral impact of the market. First of all, this thesis is one of the four presented by Hirschman where the possibility of falsification is arguably the most present. The idea that commerce creates a morally better society can—although arguably not very easily—be tested. In comparison, the statement that the market has not resulted in the downfall of a society can be countered by a just-you-wait-response, i.e. it hasn’t happened yet but it will. Therefore, the main difference here is the fact that commerce has grown significantly and, accordingly, ‘manners’ should be less barbarous. A second reason to review the doux-commerce thesis more closely has to do with the implicit and at times explicit position it has occupied in policymaking; the idea that commerce—or economic growth will (almost) automatically resolve any societal moral issues is widespread.

In recent times, the idea that the market leads to morally optimal outcomes has been reviewed and discussed or even championed in various publications. Some of these publications emerged from the globalization debate—see for instance Bhagwati (2002b) and Wolf (2004). Others deal specifically with this issue. Examples hereof are Benjamin Friedman’s 2005 book *The Moral Consequences of Economic Growth* and *The Bourgeois Virtues* by Deirdre McCloskey published in 2006. The latter is arguably one of the more outspoken examples to have emerged in recent times.

Before turning to these contributions it might be helpful to have some idea as to what the market is thought to introduce or facilitate in the area of morals. In his book *The Moral Ecology of Markets* (2006), Finn distinguishes ten major claims made on behalf of markets and self-interest. Table 1–1 provides an overview of these claims. Note that this list is not exhaustive and does not constitute any logical framework; it is possible to ascribe to one or several of these warrants for the market without ascribing to them all.
Table 1–1 Moral warrants for Self-interest and Markets

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<thead>
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<tbody>
<tr>
<td>1.</td>
<td>Markets encourage invention and technological change</td>
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<tr>
<td>2.</td>
<td>Markets create wealth for all</td>
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<tr>
<td>3.</td>
<td>Markets give people what they deserve</td>
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<tr>
<td>4.</td>
<td>Markets are just</td>
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<tr>
<td>5.</td>
<td>Markets reduce discrimination and bigotry</td>
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<tr>
<td>6.</td>
<td>Markets encourage self-interest rightly understood</td>
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<td>7.</td>
<td>Markets encourage individual virtues</td>
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<td>8.</td>
<td>Markets encourage political freedom and democracy</td>
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<tr>
<td>9.</td>
<td>Markets should not be blamed for the failures of culture</td>
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<tr>
<td>10.</td>
<td>An invisible hand leads self-interest to serve all</td>
</tr>
</tbody>
</table>

Source: Finn (2006, p. 41)

What is striking about this list is that the claims include causal claims (markets will generate a particular state or outcome), identity statements (e.g. markets are just) and also warrants regarding processes such as statements regarding the way the market is to be beneficial. This diversity also gives a first indication of the breath of arguments that typically emerge when morality in relation with the market is discussed. The work discussed in the next section invokes most if not all of these warrants.

1.3.1 The Bourgeois Virtues

In *The Bourgeois Virtues* Deirdre McCloskey (2006) states that modern capitalism does not need a counterforce in order to be good in a normative sense but can actually be virtuous in itself. Following Winston Churchill’s famous defense for democracy via negative selection, McCloskey writes that capitalism is better than any other available alternative. This positive assessment of capitalism is based on two main arguments. Firstly, capitalism, according to McCloskey, nourishes virtues. The underlying idea is similar to the doux-commerce thesis discussed above: “The more common claim is that virtues support the market. Yes I agree. Other economists have started to admit so. It’s been hard, because it goes against our professional impulse to reduce everything, simply everything, to prudence without other
virtues. I say that the market supports the virtues.” (McCloskey, 2006, p. 4). We shall return to this argument, which we can call the virtue argument, in the next section.

The second main argument that McCloskey uses in her “apology” for capitalism is that “modern capitalism makes us richer.” Although the world’s population increased by a factor of six between 1800 and 2000, the volume of production (goods and services) increased by a factor of approximately eight and half (p. 15/16). To this, she adds the assertion that quality of life has increased to no end in comparison to earlier generations; there are more goods and people live longer and healthier lives. McCloskey also provides several examples of issues that are still of concern, such as poverty. However, here too she sees a lot of improvement, which is the result of capitalism that makes the current situation better than the one in yesteryears. This income argument will also be reviewed in the text below, but first the focus will be on the virtues argument.

1.3.2 The Virtues – argument

McCloskey sees the market economy as having a beneficial moral impact through the income effect as well as by way of fathering virtuous behavior. In this section, we focus on the latter argument. In her book she addresses in her own way what is sometimes called the ‘Adam Smith problem’. This refers to the apparent paradox that comes to light when comparing the underlying theories of the two main books written by Adam Smith: The Theory of Moral Sentiments (1759) and The Wealth of Nations (1776). In the second book, Smith describes how by pursuing their self interest people can create wealth. In the former, he described how we should concern ourselves with the wellbeing of others as well as how we are motivated to be just; this is not through our self-interest alone but through our capacity for sympathy. In addition, this drive towards feeling concern for others is influenced by us hoping to be well thought of by ourselves as well as others. Therefore, at the core of the problem is the question of whether Smith’s work contains two irreconcilable anthropological views; an egoistic and an altruistic view.

10 “I need to persuade you that capitalism and bourgeois virtues have been greater forces eliminating poverty than any labor union or welfare program or central plan. <...> Some poor people now work long hours and can’t make it. No one should deny that. But it was worse in 1900, and worse yet in 1800.” (McCloskey, 2006, p. 27).

11 For the problem is also known as the ‘Adam Smith Paradox’ (see e.g. Skousen and Taylor, 1997).

12 See Göçmen (2007) for an in-depth discussion of this issue
McCloskey writes that real market economies cannot function properly if people are greedy and short-sighted in their pursuit of their own interests. Therefore, this is where the notion of ‘self-interest well understood’ makes its debut. Prudence ensures that the self-interest pursued will not result in adverse consequences. However, this is not the complete story as McCloskey adds that capitalism nourishes not only prudence but also other virtues.\textsuperscript{13}

In his 1997 article, Maitland reviews the question of what capitalism’s (or “doing business”) effects are on people and specifically whether it makes people more or less virtuous. Economic arrangements, he argues, not only produce goods and services but also certain types of people. According to the “pessimists” (those who think the more completely a society is dominated by market relations, the weaker its capacity is to foster the virtues) one of the functions of the virtues is to serve as a counterweight to the disintegrating effects of the market.

The virtues that Maitland discusses in this respect include self-control, sympathy and fairness. Self-control in his view does not constitute a trade-off between the public good or public interest and self interest. Maitland does however acknowledge that there is a trade-off from the individual’s point of view and that it is a trade-off between short-term and long-term self-interest. The virtue of sympathy is viewed as an almost necessary ingredient as it enables the anticipation of needs and, therefore, helps to supply the right goods, and hence contributes to economic success. Maitland further cites Adam Smith on how taking into consideration the passions of others might be in our self-interest. This leads him to conclude that “while sympathy may not be reducible to self-interest or selfishness, it is likely that participation in the market develops and reinforces the capacity to share the feelings or emotions of others.” (Maitland, 1997, p. 22). Even when personal feelings are left outside of the equation, the repeated contacts between people in the marketplace are likely to generate some level of minimal politeness. Here the threat of defection is again introduced as an enabling force by the market to promote civility. The defection, however, is now placed in the hands of those people who have the option to take their business elsewhere. When it comes down to fairness

\textsuperscript{13} In her analysis, she identifies seven of these virtues. Four of these are the classical (pagan) virtues: courage, temperance, justice, and prudence. These four are supplemented with three Christian virtues: faith, hope, and love. For other (and some earlier) examples of invoking the language of virtues when talking about the impact of the market system please see Nussbaum and Sen’s Quality of Life (1993) and The Values of Economics by van Staveren (2001).
Maitland points out that having a reputation for fairness is conducive to doing business (“it is likely to create business opportunities”) and its subsequent commercial success. Cases derived from day-to-day business practices, especially in relation to dispute settlements provide examples of fairness, and play an important part, whereby the give-and-take attitude that comes with it is considered to be of great value in business.

In short, Maitland sees two ways in which virtues can be a source of economic success, namely through their assistance in creating long-term exchange relationships and through creating future business opportunities. Conversely, he states that the market strengthens its own foundations and reproduces a moral culture that is functional to its own needs. A counterargument against this line of reasoning is that although the market may encourage the formation of ties and commitments, these relationships are purely instrumental and calculating.14 Maitland counters this view by asserting that such a strategy of narrow-minded calculus is self-defeating. He contends that it “rests on the fallacy that the potential gain from fleeting, discrete, instrumental exchanges is greater than that from durable, “moralized” relations infused with sentiment and sympathy.” Lasting relations are in his view economically more attractive and hence superior.

It is interesting that when Maitland writes about fairness he states that what is good for business is having a reputation for fairness and not fairness per se. This is closely related to one of the objections against the line of reasoning often found when the moral forces of the market are discussed. It would seem that many arguments in support of affirming the positive side of the market’s influence are in fact an advertisement for hiring a good public relations company: it is not so much a matter of actually having these virtues but more a matter of others seeing these in you.

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14 See for instance the writings of Émile Durkheim (1893, p. 222, cited in Hirschman, 1982, p. 1471)
Another aspect of the argument is that for the positive force of the market to come about there should be repeated interactions or transactions. In an ‘imperfect market’, setting reputations of the participants matter. Maitland thinks that an economic exchange can often be done more efficiently (and presumably less costly) when the parties concerned make some form of investment, that is of no use outside of this relation and is, therefore, denoted as a ‘specialized investment’.15

There are various ways in which the market is thought to be nurturing morally sound behavior. A dominant feature in this line of reasoning is the idea of ‘self-interest well understood’. Because behaving in a moral manner is thought to yield benefits in the marketplace, the market in effect supports the dissemination and promotion of virtues. On close inspection, the necessity of this relationship may not be as robust as it is often presented to be and should in fact be considered as an article of faith rather than fact.

1.3.3 The Income – argument

The second main argument that McCloskey deploys to argue for the beneficial impact of the market economy is related to income. Its basis is formed by the assertion that increased wealth has enabled us to lead better and longer lives. McCloskey makes much of the fact that the increase in wealth (or the amount of goods and services produced and consumed) has considerably superseded the increase in population over the last two hundred years. Overall, the quality of life has increased. This improvement, so McCloskey claims, has not only manifested itself in the material side: modern economic growth—the result of the market system—has made it possible for people to lead longer, healthier, and more meaningful lives. The increased wealth has enabled people to spend time on leisure and education. In addition, the market system has led to the urbanization of the world population and thus contributed to making the world more civilized in the literal and broader sense of the word: “Participation in capitalist markets and bourgeois virtues has civilized the world. It has ‘civilized’ the world in more than one of the word’s root senses, that is, making it ‘citified’, from the mere increase in a rich population. It has too <…> made it courteous, that is, ‘civil.’ <…> Richer and more

15 “For example, where an employee has acquired specialized skills or knowledge, employee and employer have a mutual interest in keeping the employment relation going.” (Maitland, 1997, p. 23)
urban people <…> are less materialistic, less violent, less superficial than poor and rural people.” (McCloskey, 2006, p. 26).

In short, apart from the advances in production, consumption, and health, the increased material well-being has also enabled people to be more concerned with morality in general. This assertion can also be found in other publications. The main thesis of Benjamin Friedman in his book *The Moral Consequences of Economic Growth* is that economic growth can create positive moral outcomes and that further economic growth needs those outcomes. The usage of the word “can” in the previous sentence is not by accident. The contingency of the book’s central claim becomes clear when the formulation of the first part of the thesis is reviewed: “Economic growth—meaning a rising standard of living for the clear majority of citizens—more often than not fosters greater opportunity, tolerance of diversity, social mobility, commitment to fairness, and dedication to democracy.” (B. M. Friedman, 2005, p. 4).

The reverse according to Friedman also holds in that the stagnation of the economy is a threat to the moral character of a country. Friedman discerns between virtuous circles (economic growth, socio-political progress and liberty reinforce each other) and vicious circles (stagnation breeds violence and dictatorship). In addition to this, Friedman notes that the relationship between economic growth and democracy is a two-way street in that they both affect each other for the better and worse.

Two things are striking in the way Friedman formulates the hypothesis. First, there is the addition of “more often than not” in the phrasing, hence opting for a non-falsifiable statement. Secondly, and more important in the present discussion, he specifies that economic growth must have a strong distributional component. Prosperity needs to be shared, as an unequal distribution of prosperity does not generate good moral consequences.\(^\text{16}\)

Benjamin Friedman is in effect saying that when people are confident that they will be better off, they will be more receptive to the needs of others. This in effect turns the Rawlsian ‘veil of ignorance’ (Rawls, 1971) on its head in that people will seek justice only after they know

\(^{16}\) One review of the Friedman’s book noted that Friedman is less clear about the extent to which living standards must improve (or indeed the supposed duration hereof) in order to make its moral consequences materialize. In his empirical sections he sometimes utilizes GDP as a measure for growth and sometimes per capita income (Seligman, 2005).
what their position is and provided theirs is a good one. Friedman sees in his analysis another important implication, namely: “The hypothesis that economic growth (rather than the level of income) nurtures these positive developments has a number of important implications, among them that the market mechanism, left unimpeded, will systematically under-provide economic growth so that there is a resulting role for public policy to stimulate growth beyond the market-determined rate of increase.” (see Friedman's entry in Blaug and Vane, 2003, pp. 270-271).

1.4 Evaluating the arguments

This section evaluates the arguments put forward by those publications about the positive relationship between society and the market. Keeping in line with the previous section, the main focus will be on the account provided by McCloskey. This section is not about questioning the validity of all her arguments. The focus is rather on the question of whether the way the thesis on the positive relationship between the market and society has been argued is sound. I contend that there are three issues relating to the arguments that warrant a review of the idea that the market will generate morally beneficial results by and of itself. The three issues that will be discussed below are: the moral counterfactual, historicism, and the discounting of future wellbeing.

1.4.1 Invoking the moral counterfactual

The problem of the counterfactual is one of the biggest methodological challenges facing empirical research in the social sciences including economics. It denotes the fact that we can only perceive that what has occurred. We are unable to reproduce the exact circumstances to see what would have happened if certain policy measures or other factors were altered.

When economists discuss the merits of the market it is not uncommon to find the argument that the market system has proven itself to be superior vis-à-vis any other system that has been tried and tested, in other words with existing proven alternatives. In his book *Globalization and Why it Works*, Martin Wolf states that critics are inclined to point out the evils of the free market but not cite any realistic alternative: “Those who condemn the immorality of liberal

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17 For more on Rawls and the veil of ignorance see §4.1.3 of this thesis
capitalism do so in comparison with a society of saints that has never existed—and never will.” (2004, p. 57). Similarly, when pressed to state his case regarding the market system (or free enterprise system) in front of a live television audience Milton Friedman replied: ‘<..> you have got to compare something with something. Will you tell me the alternative which has improved the lot of the ordinary people?” (M. Friedman, 1980).

A third and final example is to be found in Deirdre’s McCloskey’s book *The Bourgeois Virtues*, where she writes: “If capitalism is to be blamed for systemic evils, then it also is to be given credit for systemic goods, compared not with an imaginary ideal but with actually existing alternatives.” (2006, p. 29).

These are all examples of the ‘is-should’ type of argument; that what is, is what should be (otherwise, it wouldn’t be what it is). It is strongly grounded in an empirical standpoint in that it dismisses the counterfactual as irrelevant. In this sense, it is beyond the ‘is-should’ argument but more like the tyranny of what is. This argument was famously refuted by Immanuel Kant (1793b) in his article “Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis”. In responding to criticism leveled against his writings on moral philosophy, Kant responded that from the way things are we cannot deduce how they should be. This opens up the debate in a holistic manner for when that which is, is combined with that which should be, we have a different set of issues that need to be resolved.

1.4.2 Historicism

Historicism is the doctrine that states that any knowledge of past thought is only really understandable in that particular time; it has a historical character that rules out an ahistorical angle. Therefore, based on this doctrine one would for instance argue that although we may be able to read the writings of Smith or of Montesquieu this does not mean that we can be sure of their precise meaning. In order to fully grasp the ideas, one needs the historical context in which these ideas were developed. This approach can be contrasted with a reductionist approach whereby knowledge is based on fundamentals that are not sensitive to context or history.

Regardless of the question of whether or not one is able to fully comprehend the writings of yesteryears in the case at hand, there is one aspect that is associated with the problem of interpretation that needs to be highlighted. One of the problems with applying the original
ideas of the doux-commerce thesis is that they pre-dominantly cover the transition from a pre-
market society to a market society. ¹⁸ The only possible modern-day situation that could come
close to being considered equivalent is the recent transition of the former communist
countries from centrally led economies to market based societies. And if we were to accept
this as a legitimate example we are faced with the fact that this transition was wrought with
human suffering (see e.g. Ellman, 1997; Stuckler, King, and McKee, 2009) and can, therefore,
hardly be said to be an argument in favor of the doux-commerce thesis.

Leaving the aspect of transition aside, there is another issue that faces the modern incarnations
of the doux-commerce thesis compared to the earlier contributions related to the nature of the
causal relationship. The earlier contributions to the doux-commerce thesis were mostly
concerned with the link between the market system and morals and not between economic
growth and moral improvement. Indeed it is fairly easy to point to examples in history
whereby there was the latter without the former and vice versa. For instance, in his Magnus
opus *A History of the English-Speaking Peoples* Winston Churchill contends that during the
Roman occupation of Britain, “[t]he conquerors who so easily subdued and rallied the Britons
to their method of social life brought with them no means, apart from stopping tribal war, of
increasing the annual income derived from the productivity of the soil. <...> there was no new
science, no new thrust of power and knowledge in the material sphere. Thus, the economic
basis remained constant, and Britain became more genteel rather than more wealthy.”(Churchill, 1956, pp. 30-31) Even in recent times, examples of countries that as a
whole have become richer (e.g. through the exploitation of natural resources) but hardly more
moral are relatively easy to find.

A counter argument could of course be that the presumed link between economic
development and society becoming more genteel only materialized after the emergence of the
market society. The causal relationship would then be seen as moving from the emergence of
the market as the dominant force in a society via increased wealth as a result of this (thus
excluding the increase in wealth due to other causes) to society becoming more civilized. This

¹⁸ In fairness it is unclear as to what transition Montesquieu had in mind. It could be that the doux-commerce thesis states
that people become more genteel when society moves from a feudal state, that is a pre-capitalist state to a market
based society rather than a mere increase in market activity.
obvious trap here is that this invites us to start to extrapolate from the past to the present, in
effect the *post hoc ergo propter hoc* fallacy. It is by no means obvious that the current situation is
the logical outcome, let alone the foreseeable *intended* direct result, of past developments or
actions. The links between past, present, and indeed the future are far more sensitive and far
more dependent on accidental occurrences.

The earlier proponents of the doux-commerce thesis saw the extra beneficial effects of the
market as *unintended* consequences, and a by-product of the core mechanism at work. This
raises the question of what to think of a situation wherein these unintended consequences fail
to materialize. In any case, it provides yet another indication of a reductionist view of the
world whereby progress is viewed as moving along a stipulated or marked path guided by
fundamentals: “The concept of unintended consequences originally introduced uncertainty
and open-endedness into social thought, but in an escape from their new freedom the
purveyors of the perverse effect retreat to viewing the social universe as once again wholly
predictable.” (Hirschman, 1991, pp. 36-37).

In returning to the adjusted causality of the doux-commerce thesis with the introduction of
increased wealth as the result of the market system, there is still the issue of how the
interaction is taking place. When McCloskey argues that the market system has made us richer,
it conveys little about the merits of the system. Yes it is true that we are now better off than
100 years ago in terms of income. However, income can only explain so much. A simple
comparison between Vietnam and the UK when they had comparable income levels bears this
out by indicating that the former can be considered to be more civilized in terms of e.g.
education and health (Kenny and Kenny, 2006, p. 67). In addition, it should not be ignored
that standards of living improved even under societies based on slavery and communist
dictatorships. We can buy more goods now and we have a greater selection to choose from—
but that is not the point. No one would imply that simply more goods make for better morals.

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19 Hirschman’s book *The Passions and the Interests: Political Arguments for Capitalism before its Triumph* contains an exposé of these consequences and how they were thought to materialize; some of these were already covered in the section above on doux-commerce. Amartya Sen, in the foreword of the twentieth anniversary edition praises the fact that Hirschman has brought attention to the notion of ‘intended but unrealized effects.’ (1997, p. xvii).

20 The comparison is based on data for Vietnam in 2000 when income per capita was $1,860 and the data for the UK in the early 19th century with an income of $1,700 per capita.
A second point that is often made is that we are now healthier and that this is the result of economic development (see e.g. McCloskey, 2006, p. 18). However, this relationship is not as straightforward as it is sometimes presented. The problem with this argument is that it makes the causality one-way, namely from increased income to better living conditions. This, however, muddles the fact that most of the health improvements are in effect the result of technological progress (Kenny and Kenny, 2006, p. 53). In addition, if one is to accept this point it would mean that the causality is now expected to run from economic development to technological progress and from there to improved living conditions. However, the more standard assumption regarding the relationship is that technological progress leads to economic development and this development leads to improved living conditions.

Next to technological progress there is also the issue of the role of the government in the presented virtuous relationship between markets and morals. If any good is to come from the market economy, so runs the argument that it will do so only if there is a higher authority present, i.e. an effective government: “In a market economy with imperfect and asymmetric information and incomplete markets—which is to say, every market economy—the reason that Adam Smith's invisible hand is invisible is that it does not exist. Economies are not efficient on their own. This recognition inevitably leads to the conclusion that there is a potentially significant role for government.” (Stiglitz, 2005).

One of the criticisms leveled against the thesis put forward by Benjamin Friedman is that despite the many references to the interconnection between morality and economics, in the end he equates morality with government intervention on behalf of those less fortunate regardless of whether this intervention was successful or not. Friedman sees a clear and important role for government intervention to ensure that economic growth captures the potential moral consequences, or as Joseph Stiglitz remarks in his review of the book: “The market economy does not automatically guarantee growth, social justice, or even economic efficiency; achieving those ends requires that government play an important role.” (Stiglitz, 2005).

In his book, Friedman asserts the existence of a positive relationship between economic growth and democracy. A rising standard of living will lead to more openness in a society and to more democracy. For now, it should be noted that the link suggested by Friedman between...
development and democracy has some historical validity to it, but that multiple studies find only a weak link and one that is getting weaker (Bueno de Mesquita and Downs, 2005). Then, there is the econometric analysis by Eichengreen and Leblang (2006, 2008) which focuses on the interaction between democracy and globalization. Using data going back to 1870 the authors find that increases in democracy lead to increases in globalization whereas the reverse is also true. The extent of this relationship does however decrease by each successive increase. Similarly, shocks to either trade or democracy can move either in a negative or positive direction but within limits.21

Modern incarnations of the doux-commerce thesis have (out of necessity) altered the original assumed linkages between the market and morality, introducing the impact of increased wealth as a driver. Closer inspection makes it clear that this relationship between morality and wealth by way of the market system is not as clear-cut as it may look at first glance with other variables being taken for granted too much. Examples of these include technological progress and the role of government as outlined in the text above.

1.4.3 Discounting future well-being

The last issue relating the idea that the market will generate morally beneficial results by and of itself to be discussed here deals with the wellbeing of people. Although Montesquieu can be described as cheering on commerce for all the good it would bring, he did have some reservations regarding some of the other effects he thought would accompany the spread of commerce. For instance, he did express regrets about the monetization of human relations (Hirschman, 1997, p. 80). This particular aspect is of interest here as it shows that he opened up the idea of human relations becoming part of the market sphere, and in a sense becoming commodities and reducing personal autonomy. It is of course possible that this loss of autonomy is itself the result of an expression of autonomy, i.e. a voluntary action. Here my interests are on those situations wherein the loss of autonomy is not voluntary and thereby raises moral issues.

21 The relationship between trade and democracy was not always seen as a positive thing in the past, see for instance the remarks of Robert Lowe, a British MP in the nineteenth century: “Look at free trade. If we have one jewel in the world, it is our free trade policy. It has been everything to us. With what eyes do Democracies look at it? <…> America <..> outprotects protection.” (Robert Lowe, 1866; cited in Hirschman, 1991, p. 96)
As Adam Smith pointed out, improving our condition is an overriding motive of all people (Hirschman, 1997, p. 39). Similarly, it is almost universally acknowledged that parents strive for the improvement of the standard of living for their offspring. An important element in both of these cases is that there is a close relationship between the party that is working for the improvement, in other words the party that has to sacrifice something for a set target, and the beneficiary party. It is the individual who chooses to forego pleasures now in order to reap the rewards for themselves or some other specified party at a later point in time. In the modern economy, however, not everyone is in a position to make this decision for him or herself. Nowadays, people’s daily lives, especially in the economic sphere, are influenced by many forces that are completely beyond the control of the individual. Actions (e.g. economic policies and the associated trade-offs they entail) geared toward improving the economy are guided by the impact on the aggregate level and not by the impact on the wellbeing of the individual.

An example hereof can be found in the issue of child labor. The occurrence of child labor in a developing economy is often described as a phenomenon that will automatically disappear with increased economic growth and the associated improvements in income. To this assertion is often added the claim that the free market system is the most efficient way to increase growth and income and that, therefore, the less intervention in the market there is the quicker the economy can grow and the faster child labor will cease to exist. By actively addressing the issue now—so goes the argument—in the form of e.g. government labor market or education programs would divert funds away from market activity or in the case of stricter regulations would actively hinder market activity and thus may even deter the eradication of child labor. In short, we do not intervene in the current state (addressing current wellbeing) in order to allow for a more desirable state to realize itself in the future (future wellbeing). This type of reasoning raises some moral questions.22

One issue that springs from disregarding current wellbeing, in favor of future wellbeing, touches on legitimacy in terms of consent. The promise of a better life for him or herself or (grand-) children might induce a person to agree to forego current wellbeing. Most

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22 For more on the normative dimensions of treating the well-being of the current generation different than that of future generations see Gravel (2001, p. 487).
commentators will find this an acceptable and sound line of reasoning. However, in most cases of economic policy there is no personal consent other than perhaps the legitimization through political voting. This is a standard problem facing democratic decision making, balancing the preferences of the majority and the minority. In this case, the individual is not an explicit party in the trade-off between current and future wellbeing, so how can we justify asking someone to forego the improvement of their position now in favor of a better position in the future?

This discounting of wellbeing of those who are not party to the trade-off is morally questionable at the best and (depending on the context) morally unsound and indefensible at worst. Therefore, the first problem is that it usually is not the individuals themselves who are expressing the preferences underlying such a discount. The second issue has to do with the problem that the expected benefits may befall not the person(s) who are expected to make the sacrifice but some other unidentified future individual. A third issue that is raised by this type of reasoning has to do with realization. As with most investments here, there is no guarantee that the pay-off will materialize. Any person advocating refraining from intervention in the current situation in favor of a better situation in the future has to acknowledge that there is a possibility that in the end, although the sacrifice is made, the payoff fails to materialize.

Touching on the existence of these issues does not and should not be seen as a dismissal of these types of policies. This presentation rather aims to point out that when current wellbeing is externally sacrificed for future wellbeing, there are a number of assumptions at play with a clear moral connotation. However, in many accounts wherein the said policies are prescribed, these aspects remain more often than not ignored possibly under the delusion that there are no normative judgment calls at play. The trade-off may at the end of the day still be acceptable but this can only be determined after acknowledging and weighing these normative issues.

1.5 Chapter Summary

There has recently emerged a renewed interest in the relation between the market and morality with the prevailing view that the relation is filled with tensions; where there is a market there cannot be serious talk of morals and vice versa.
In this chapter, using the framework of Albert Hirschman, several theories about the interaction between the market and morality were discussed. One of these theories, known as the doux-commerce thesis, was subsequently singled out and reviewed in greater detail. According to this thesis, the market has beneficial consequences in a normative sense on a societal level. Commerce, its central message states, leads to more civilized societies. This idea has re-emerged in various guises over the years. This is all the more interesting given that one could argue, as Hirschman (1997) himself does in the epilogue of his book The Passions and the Interests: Political Arguments for Capitalism before Its Triumph that the doux-commerce thesis has proven to be false, and that one merely has to take a look at all that has passed during the twentieth century to see that it has turned out to be a false claim: “… no twentieth-century observer can assert that the hopeful Montesquieu-Steuart vision has been triumphantly borne out by the course of events.” (1997, p. 118). Nevertheless, it is still around and can, as we shall see, even be found in current economic policy.

The market will not bring about morally beneficial results by and of itself. The argument that this is the case has been found to be flawed. From this, we can conclude that not only does it make perfect sense to talk about morality in connection with the market (as indeed many have over the last three hundred years) but also that we need some form of a compass or framework by which we appraise and thus steer market outcomes. A first step in this direction is to determine how we should view the market and subsequently how we should approach the market in relation with morality. This is the topic of the next chapter, where the notion of moral market boundaries is introduced. With the introduction of this notion of boundaries the idea of the market as the carrier of morality is abandoned and is supplanted by the premise that the market is in essence amoral and that the moral evaluation of its outcomes depends not so much on its own workings but rather on the context wherein it is allowed to operate. Morality, it will be argued, be it in the guise of labor standards or standard human rights, is instrumental in how the world is while it simultaneously reflects how we would like the world to be.
2 The Boundaries of the Market

Many contributions to the debate on morality and the market suffer from the absence of an approach that can be used to frame the discussion. In the last chapter, it was argued that the market will not yield morally beneficial results all and by itself. This stands in contrast with the doux-commerce thesis that sees the basis of a moral justification of the market system in the normative beneficial (unintended) consequences that it is said to produce. The arguments used to defend this position were found to be flawed including its apparent confusion between technological progress and the increase in wealth and the way it fails to take into account individual wellbeing. There is, however, another issue at play here that is not just relevant for this particular account of the interaction between the market and normative but that also rather touches on all such accounts, namely the importance of consequences. In the absence of an approach to structure the debate we are faced with the question of which consequences should be taken into account. In other words, how can or should the distinction be made between the consequences that are to be ascribed to the workings of the market. Without a framework there is of course the risk of ‘outcome shopping’—taking into account only those consequences that suit the argument—but more importantly, the absence of a framework that guides the answering of this question makes it rather difficult, if not impossible, to facilitate a coherent debate on the moral desirability of the market system.

Secondly, it would seem that with the focus on consequences the approach is already locked into a consequentialist approach to the normative, whereby other strands of normative thought are overlooked. It is my belief that the way consequences are generated is or should at the very least be as much subject to normative deliberation as the consequences themselves. In addition, it can be argued the regulations such as labor standards (which form a cornerstone in the ILO’s Decent Work Agenda) are introduced precisely to ensure that the route towards beneficial consequences is also deemed acceptable from a normative standpoint. However, it can also be argued that these standards, which by definition are normative, were introduced because it was believed that unchecked competition (i.e. the market process) would lead to undesirable outcomes for workers. In short, discussing standards entails discussing the

23 See also §4.1.3
consequences of the workings of the market and how market outcomes are to be appraised. This is the subject matter of this chapter.

Note that we are now looking at ways in which to appraise the market in normative terms. However, there is one argument that has not been reviewed in this regard, and that is the amoral defense of the market. In many cases, the defense or rejection of the market (system) is based on a normative evaluation of the consequences that it is thought to generate. However, there have also been attempts that follow a different approach in appraising the market. Indeed there have been various attempts at providing a justification of the market without resorting to normative claims. Most of these attempts have at their core the idea that economics is a value-free positive science wherein normative issues have no place.

Therefore, before we look at the proposed framework by which market outcomes can be evaluated in normative terms, we first take a closer look at an attempt to provide an amoral justification of the market. The focus lies with the reasons why it was thought unnecessary to provide any moral arguments for the market system. It will be shown (using the analysis as laid out by Daniel Finn in his 2006 book *The Moral Ecology of Markets*) that this type of justification is in fact not completely devoid of morality. Subsequently, the focus will turn to Finn’s framework, which helps in framing questions regarding morality and market outcomes. At the heart of this approach lies the question: under what conditions can the market produce just outcomes? And one of the important elements in this framework has to do with the boundaries that limit market activity.

2.1 An amoral defense of the market

As a response to the dichotomy between the free market and a centrally planned economy, some economists have tried to defend the capitalist system purely in scientific terms whereby any recourse to morality is avoided. Finn (2003 and 2006) shows that any such attempt is ultimately futile; without exception moral arguments are ultimately used to resolve a debate

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24 Please note that amoral is not a synonym for immoral; amoral signifies the absence of morality whereas immorality acknowledges the presence of morals but also indicates that it does not adhere to these.
about the merits of the market. As part of his case, he reviews and dissects the work of, among others, Milton Friedman.25

The work of this Nobel laureate is arguable one of the more outspoken examples of an attempt to provide an amoral defense of the market. Over the course of his career, Milton Friedman became a very visible proponent of the market system and was of great influence on policy making. Both of these traits make Friedman’s work especially suitable in testing the possibility of an amoral defense of the market.

Characteristic of the work of Milton Friedman is a particular outlook on societal arrangements wherein the blessings of the market system play a pivotal role. To this may be added the attempt to provide purely scientific arguments in defense of the capitalist system. Finn reviews Friedman’s attempt at defending the market without (explicitly) resorting to morality and shows how this attempt failed because in the end there is distinct moral reasoning. This is important because once the argument is found to be moral after all—the issue as to which line (or type) of moral reasoning is used comes into play.

Friedman posits three main arguments why a normative defense of the market is unnecessary and even unwanted. The first is that moral argumentation has no place in debates on economics. This argument is closely connected to the idea of economics as value-free and positive science. Secondly, he posits that in most cases the disagreement between people is not about values but rather about the empirical question of how to attain the realization of those values. The third argument is centered on the importance of freedom. Each of these arguments is reviewed in greater detail in the text below.

2.1.1 A value-free and positive science

At the core of many attempts to provide a justification of the market in neutral (i.e. amoral) terms is the view that economics is a positive and value-free science. One of the more important contributions to the debate of economics being positive science came from Milton Friedman, most notably in his 1953 publication entitled *The Methodology of Positive Economics*.

25 Finn also covers the work of James Buchanan and Friedrich Hayek. These three economists are each representative of a specific school of economics, namely the Chicago school (Friedman), Public Choice (Buchanan), and the Austrian school (Hayek).
“Positive economics is in principle independent of any particular ethical position or normative judgments. As Keynes says, it deals with “what is”, not with “what ought to be.” Its task is to provide a system of generalizations that can be used to make correct predictions about the consequences of any change in circumstances. Its performance is to be judged by the precision, scope, and conformity with the experience of the predictions it yields. In short, positive economics is, or can be, an “objective” science, in precisely the same sense as any of the physical sciences.” (M. Friedman, 1966, p. 4).

It should be clear that the emergence of the idea of economics as a positive science and the way economics was approached have contributed to the idea that morality has no place in it. 26 This idea has encountered opposition over the years. Among the major objections is that by applying the tools from the physical sciences it loses sight of the fact that it deals with (actual) people and the communities they live in, hence becoming somewhat detached from reality. 27

2.1.2 The question of realization

As noted in the previous chapter (§1.4.1), Milton Friedman believed the market system to be the superior system compared to other systems. This led him to conclude that the only debate left is about the how to achieve the goals, whereby he considered the basic values as given: “I venture the judgment, however, that <…> differences about economic policy <…> derive predominantly from different predictions about the economic consequences of taking action—differences that in principle can be eliminated by the progress of positive economics—rather than from fundamental differences in basic values, differences about which men can ultimately only fight.” (M. Friedman, 1966, p. 5).

A classic example used to illustrate this position is the issue of the minimum wage law. Friedman is of the opinion that no one who would know about the actual effects that such a law would have on employment would support it. To be clear he envisioned a negative effect

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27 This remoteness is especially worrying as economists generally aim to provide a rigorous analysis of the real world. The claim that economics has lost touch with reality is, again, not new: “Remoteness from reality’ is one of the oldest indictments which economists have had to fight from the very beginnings of modern economic theory.” (Surányi-Unger, 1939, p. 1) See also von Beckerath (1944, p. 36), Thomas Mayer’s Truth versus Precision (1993) and John B Davis’ book The theory of the individual in economics (2003) for a discussion of this issue (also in connection with the positivist approach to economics).
of a minimum wage on unemployment. However, as Finn (2006, p. 13) points out with this position Friedman completely ignores countervailing evidence on this issue. This shows that his resistance against minimum wage conceals a moral argument which he doesn’t acknowledge. According to Finn, Friedman ignores the more cautious/careful argument for the minimum wage, namely that there must be a moral consensus that acts as a glue that holds society together (see also Waltman, 2000).

2.1.3 The importance of freedom

Apart from the arguments related to positivism and outcomes, Friedman’s position is complemented by a third argument that is related to his belief in the fundamental importance of freedom for humans. Freedom is considered by Friedman as the ultimate goal in judging social arrangements, or as he puts in: “<…> we take freedom of the individual, or perhaps the family, as our ultimate goal in judging social arrangements. <…> in a society freedom has nothing to say about what an individual does with his freedom; it is not an all-embracing ethic. Indeed, a major aim of the liberal is to leave the ethical problem for the individual to wrestle with.” (M. Friedman, 2002, p. 12).

In short, Friedman posits that moral issues should be left to the individual for him or herself to solve. Finn summarizes that Friedman’s position on freedom is thus: “In a sense, Friedman has taken the classic liberal virtue of tolerance into the public realm and has generalized it into the single moral value that trumps all others, that one moral value which is to structure all of human society.” (Finn, 2006, p. 14). Here it will suffice to say that Friedman contended that in order to have political freedom (which for him stood for the “absence of coercion of a man by his fellow men” (2002, p. 15)) there has to be economic freedom.28 This relation does not necessarily work the other way round in that it is not necessary to have political freedom to achieve economic freedom yet Friedman contends that they usually go hand-in-hand.

This contention raises the question of why if the relation between the market system and individual freedom and liberties is so intimate it is not more commonly invoked? Hausman and McPherson (1996) answer this question: “Indeed we conjecture that economists rarely

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28 A position that Friedman made explicit: “Economic arrangements play a dual role in the promotion of a free society. On the one hand, freedom in economic arrangements is itself a component of freedom broadly understood, so economic freedom is an end in itself. In the second place, economic freedom is also an indispensable means toward the achievement of political freedom.” (M. Friedman, 2002, p. 8).
argue for markets on grounds of individual liberties and rights, because they believe that arguments based on premises concerning liberty and rights are more philosophically controversial and ambitious than is the benevolence argument. Justice is one of the “other things” that must be equal, and a Pareto improvement that leads to distributional injustice may be morally undesirable.” (Hausman and McPherson, 1996, p. 43/44).

Not explicitly defended but nevertheless put forward by Friedman is that physical force and fraud should be eliminated by law. Society, accordingly, has the obligation to invest the funds to make this possible. And here Friedman is taking a shortcut by not explaining why a government should apply its resources in just these two areas and not in others, such as for the provision of other basic needs. Therefore, in the end, Friedman invokes a moral argument, namely the one that he needs to decide as to what constitutes acceptable government behavior. Based on this insight, Finn concludes that Friedman’s vision of the government’s role in the market “differs in degree and not in kind” compared to other accounts wherein there is less dependence on the market to bring about desirable outcomes.

The refutation of Friedman’s approach leads to the conclusion that a defense of the market in neutral terms does not work because in the end a moral argument (of one sort of another) is always invoked. Nevertheless, as stated in the introduction of this chapter, the idea that the market can be defended based on neutral arguments is widespread and not in the least among economists themselves. To this should be added that the recent global financial crisis has altered the way the market is perceived by the public at large. To some extent it has had the effect of a turning of the tables, whereby the workings of the market are no longer viewed as beneficial but as harmful to societies at large. However, such a claim also supposes that there is an inherent morality to the market.

The views of the market having intrinsic beneficial or harmful consequences is best contrasted with the simple yet very important observation of Rabbi Jonathan Sacks: “[Markets] are about prices and not about morals.” (Sacks, 2002, p. 33). In his work, Finn argues that the fact that many still endow the market with an inherent morality is in part the result of a Babel-like confusion when people speak of the market as well as a misconception about what is needed for a market to function in real life. In the next section, we look at his account of the connection between morality and markets.
2.2 The Moral Ecology of Markets

With his 2006 book *The Moral Ecology of Markets*, Finn is trying to create a common framework in which all perspectives about the morality of markets find their place. His aim is not to resolve the various disputes but to create a framework that makes dialogue possible. This dialogue will be about the strength and weakness of market institutions and their moral context.

Finn believes that there is an ethically respectable “economic defense of self-interest” in markets but that this argument is often misunderstood. And this misunderstanding is especially manifest among those who use it. (2006, p. 6) Markets, according to Finn, cannot by themselves be branded as just or unjust. The question “Are markets moral?” is in his view the wrong question to ask. This is quite a break in the debate as this is precisely the question which is raised in most publications on this topic such as in *Is the Market Moral?* by Blank and McGurn (2004). Finn argues that it all depends on the context (political, social, and cultural) wherein a market is allowed to operate. He dubs this context the “moral ecology” of the market. Therefore, the correct question to ask in this respect is the following: ‘under what conditions are market outcomes just?’ Note that this approach shifts the focus away from the workings of the market being understood as a separate entity to be analyzed in isolation from society but that the market becomes embedded.29 Secondly, the key factor in this question is the context (or the conditions under which the market is allowed to operate). This determines whether the market, which by itself is considered to be neither moral nor immoral, generates normative beneficial outcomes.

After reframing the central question, the next step becomes determining which aspects of the context are needed to come to an answer. Finn selects four aspects that need to be reviewed in order to come to a moral evaluation of markets: the character of markets themselves, “the provision of essential goods and services, the morality of individuals and groups, and civil society.” (Finn, 2006, p. 108). As for the character of the market, Finn presents a picture (literally as well as figuratively) where the market is depicted as occupying a spatial area within

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29 Note that this use of embeddedness differs from Fourcade and Healy (2007) — as discussed in the previous chapter — where the separation between market and society is completely blurred. With Finn’s analyses, however, there is and remains a distinct separation — albeit one that may change over time — in the form of boundaries.
a society.\textsuperscript{30} The next section turns to this particular aspect of his framework where the notion of market boundaries plays a central role.

\subsection*{2.2.1 The character of the Market}

The market can be seen as a space in a society, and its boundaries are formed by the prohibitions against practices deemed to be wrong, or immoral. These prohibitions are in place in that it is considered likely that in their absence someone will undertake precisely those practices in order to secure a personal benefit or profit. Therefore, the boundaries can be seen as representing the laws (or regulation) of the society wherein the market is active (see Figure 2–1) or as Finn puts it “the rules that define market operations” (2006, p. 124). In order to secure adherence, it may be necessary to impose punishment on trespassers. An example of a boundary would be the prohibition of slavery found in nearly all countries, i.e. there is no market (allowed to function) for human beings as property. Likewise, there are no officially sanctioned markets where human organs can be bought and sold in the world today—despite that an economic argument invoking efficiency can be made in favor of such a market.

Therefore, what we are talking about here is the notion of boundaries determining where and how the sphere of the market is allowed to function. Nothing as yet is said about the nature and content of these boundaries. Finn’s ambition is to offer a framework that can help guide the debate on morality and the market so he is careful not to step too far ahead with assumptions on the nature of these boundaries that could be seen as taking position in this debate beforehand. This way, Finn argues even libertarians who are deeply committed to the least amount of interference in market activity should be able to subscribe to this framework. Even in the most libertarian views, the functioning of markets requires some ideas of morality as well as an institution that will take action against fraud and theft; property rights need to be enforced otherwise there can be no meaningful system of exchange.\textsuperscript{31}

\textsuperscript{30} Finn does, however, recognize that there can be markets outside of society. Here he refers to the work of Polanyi and his theory on the introduction of the market in society that by definition means they (society and the market) were not connected from the start.

\textsuperscript{31} When libertarians invoke the word ‘free’ when discussing “free markets” they are seemingly not acknowledging the fences described here but ultimately will have to acknowledge that they are necessary; Finn refers to “free market” references in this respect as a “disservice” to the debate on markets being nothing more than a “rhetorical technique”: “... Libertarians don’t really believe in completely “free” markets. They understand that truly unrestricted interaction of individuals would be unjust.” (Finn, 2006, p.119).
It should be noted that the representation is not static; in Figure 2–1 we also see how Finn describes the possibility of changes in the composition of these fences. The space wherein the market is allowed to operate, e.g. due to changes in (public) perception or morality, can lead to certain areas, which used to be part of an area wherein the market was allowed to operate, to become off limits for market forces. Such an action would in effect reduce the area wherein the market is allowed to operate; in the figure this is represented by the decrease of area B. An example hereof is already mentioned namely the trading in human beings, i.e. slavery. Over the course of many centuries, the attitude toward slavery changed ultimately leading to the emergence of the abolition movement in the 18th century and its near universal abolition in the 19th century.\footnote{32 In §5.1.2 we shall discuss the abolition of slavery in greater detail} Similarly, changes may lead to the introduction of market forces in areas previously excluded (such as medical care), and thereby expanding the area of market activity, denoted in the figure by area “A”.\footnote{33 In the past twenty years much research in macro-economics was devoted to the question of why economic growth occurs in some countries and not in others. Much of this research has been on the role of institutions, which can be thought of as nearly anything ranging from the political to the cultural but also the economic. A key component that is vindicated as such, time and time again, is the existence of property rights; but these as Douglas North points out are themselves part and parcel of institutions: “The formal economic constraints or property rights are specified and enforced by political institutions, and the literature simply takes those as a given. But economic history is overwhelmingly a story of economies that failed to produce a set of economic rules of the game (with enforcement) that induce sustained economic growth. The central issue of economic history and of economic development is to account for the evolution of political and economic institutions that create an economic environment that induces increasing productivity.” (North, 1991, p. 96) This insight lends itself to an easy translation to the framework presented by Finn, when the institutions mentioned are envisioned as the fences or boundaries wherein the market is allowed to operate. It becomes a carbon copy if under institutions we also introduce the other elements, which according to Finn are needed in the moral evaluation of the market.}

Figure 2–1 The market is defined by its fences that can be altered through legalizing or prohibiting activities

Source: Finn (2003, p. 155; and 2006, p. 116)
The boundaries as discussed here, however, not only indicate in which areas of society we allow market activity, they also outline under which conditions the market is allowed to operate. In other words, the boundaries also determine how the market is to operate. Finn puts forward the example of the right or prohibition to hire scabs in case of a strike. Note that we are not discussing whether an employer has the moral right to do so (which deals with the issue of the morality of actors discussed in §2.2.3) but rather whether he or she has the legal right to do so, whether the boundaries of the market allow him or her to do that. And here too we find that attitudes and positions change over time. Much of the contemporary social legislation that guide market operations (i.e. the market boundaries) wasn’t necessarily seen as desirable or acceptable by the ruling classes in yesteryears. The place of women in the marketplace is a clear example hereof. First, there was the question to what extent women should be allowed to enter the market (if at all) and then there was (and still is) the issue of under which conditions this should be allowed. The establishment of gender equality (equal pay for equal work for both men and women) in social legislation provides a clear example of how boundaries also determine how the market is to operate. Given the widespread disparities in pay between the genders, this example also serves as an illustration of how the construction of boundaries by way of implementing rules does not automatically equal adherence to these same rules.

In summation, the boundaries to the market not only determine in which parts of society we allow the forces of the market to operate but also how we allow the market to operate. In them we can also see the normative deliberations of a society. Discussing the nature of these deliberations means moving beyond Finn’s ambition of providing a framework for facilitating debates on the merits of the market. By focusing on the work of ILO and the standards it has set over the years this is precisely what we shall do in the coming chapters.

2.2.2 Provision of essential goods and services

The second of the four elements that Finn considers relevant to evaluate markets in normative terms relates to the provision of ‘essential’ goods and services. Finn acknowledges that this inclusion may seem controversial as it more or less states that governments should be active in an area that not all, especially those with libertarian views, deem to be appropriate for a government to be active in. However, such reservations depend on what is to be included under the heading of essential provisions. It was already mentioned that given the fact that the
market is encapsulated by (moral) fences there has to be some party to ensure compliance. This requires law enforcement institutions such as a police force and a judicial organization (i.e. courts and the like). The list of possible candidates for essential provisions is of course not confined merely to ones related to security of contract; education and basic medical care (including the guarantee of some form of subsistence) can and have been included in the past. Also the discussion centers on the issue of who should be eligible? Finn lists various positions, notably those of Robert Nozick, John Rawls, and Michael Walzer. He ends this overview with the observation that although there is much discussion on the issue of distribution (what, how much, and to whom) there is agreement on the fact that there should be a distribution of certain essential goods and services; for if they are not, “the outcomes of self-interested action in the marketplace will not be just.”(2006, p. 132).

2.2.3 Morality of actors

The next element that is an important part in the composition of the moral ecology of the market is the morality of the actors involved, i.e. the morality of individuals and groups. People are, even in libertarian accounts, social beings and this fact has consequences on a moral level, or as Finn puts it: “One does not need to be a Rawlsian to recognize that a person’s sense of self-respect is grounded in the respect shown by others, both in personal life and in the institutional configuration of society.” (Finn, 2006, p. 133).

Here, the concept of “self-interest rightly understood” as discussed in the previous chapter re-emerges. In order to be successful in the market, so goes the argument, one has to be respectful of one’s business relations and customers. This in effect means that morality is “essential for addressing the problem of allocation in economic life.” And this is true for revenues and cost alike; for instance morality may reduce the cost of control and monitoring in the work process.

34 The provision of such institutions and the role they are required to fulfill requires some form of taxation which may explain the hesitation by those who feel that any taxation is a form of robbery to acquiesce to the idea that these institutions are in fact necessary.

35 See for instance Reuten and Williams (1989) for a dialectical approach to identifying which state held responsibilities should be in place in order to let the market function.

36 This human trait — the ability and need to form meaningful relationships with others — has been gaining importance in economic theory (Davis, 2003). Here, it will suffice to note that an atomist view of human beings is not suitable in an account of everyday life.
It should be clear that a libertarian conception of the world would not really be a living world given that all of human interaction would be classified in two groups, namely those that are codified in law and those that are not and are, therefore, not considered of use in the realm of the market. The plain fact of the matter is that not all ‘evil deeds’ can be forbidden or punished by law; any attempt at this, Thomas Aquinas noted in his *Summa Theologiae*, “while aiming to do away with evils it would do away with many good things and would hinder the advance of the common good.” (cited in Finn, 2006, pp. 135-136). In the real world, people can expect (and justifiably so) that those around them (in the guise of family, friends, or colleagues) will generally speak the truth and will exhibit other (basic) moral attitudes, such as being civil and cooperative and the like. Here, Finn makes another connection with the Rawlsian framework, which holds that the “minimal expectations of the natural duty of mutual respect form the foundation for the individual’s own sense of self-respect.” (p. 136)

One further comment on the relationship between morality and law is called for. Although most if not all laws are founded in moral deliberation, they are by no means equal; the law is not a synonym for morality. The fact that a particular activity is legal does not automatically convey to an individual whether it is also morally right. Neither are moral judgments to be equated with public opinion. Using a poll can divulge what most believe to be true or even morally right; this does not mean they are right (see Hausman and McPherson, 1996, p. 5).

Among the various moral attributes that can be deemed relevant is trust, which is the one most commonly invoked as being essential for the workings of the market. Indeed, many economists have written about the importance of trust for economic efficiency (see e.g. Guiso, Sapienza, and Zingales, 2006). And just like in the case of self-interest rightly understood, here too the argument can be made that trust reduces costs. The recent turmoil on the financial markets has provided us a glimpse of what can happen if trust disappears from the economic system and what devastating consequences this can generate. In any case, here too Finn

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37 A position often summarized by the quote attributed to the French poet and playwright Bernard Joseph Saurin (1706-1781): “The law often allows what honor forbids.”

38 Note that when we speak of trust, this does not necessarily refer to the trust between individuals or even companies that have the largest impact on the workings of the market. In the wake of the recent financial and economic crisis, the idea emerged that the trust needed for the market to function smoothly has over time been shifting from an interpersonal level to a system level so that trust in the system, for instance the financial system, has become a key element in allowing the market to function.
stops short at stating which moral principles are needed for the evaluation of the market; his aim is merely to show that they play an important part in the normative evaluation of market outcomes.\textsuperscript{39}

\subsection*{2.2.4 A working civil society}

The last factor of interest in this overview is the question of whether there is a working civil society. The term civil society denotes anything that is larger than the family unit yet smaller than the state; it includes the usual suspects such as labor unions, chambers of commerce, but also hobby clubs and religious organizations. One way of viewing these types of organizations is that they constitute platforms where people cooperate for whatever purpose of the organization. A key element here is that people can join these organizations and associations freely. Having a vibrant civil society is not only a guarantee against totalitarianism but contributes also to the creation or deepening of social cohesion; and both of these examples are by themselves important elements in the evaluation of market outcomes.

It might be argued that it automatically flows from two of the other elements mentioned, namely the provision of essential goods and services and the morality of individuals and groups. You cannot have a civil society if these two are not present or taken care of. This is akin to the theory of basic rights as laid out by Henry Shue in his eponymous titled book published in 1996. At the core of this argument is that if particular goods and services are deemed to be essential to say human existence they become ipso facto goods and services to which people can lay a claim, then they have a moral right to these provisions if a right to life is to be adhered to.

One very important point that emerges from this overview is that the market is a manmade construct. The argument that specific (normative) policies are not possible due to the

\textsuperscript{39} And it can be argued that self-interest as a guiding force was never deemed to be enough, even Adam Smith did not believe this to be the case. It is a widespread and persistent misunderstanding that Adam Smith propagandized selfishness; his claim was that self-interest, self-love and concern for one's own advantage were what motivates activity in a commercial society. (Heyne, 1998) And a simple or indeed simplified reproduction of Adam Smith's insight that self-interest plays an important role is incorrect in that it is incomplete. Adam Smith included many preconditions that should be in place before the blissful effect on society by private interests would materialize. Among these preconditions are that the bearers of these private interests have a sense of justice and a sense of community. Self-interest by itself does not do the trick. Many authors in fact (albeit mostly tacitly) acknowledge this for instance by invoking an adjective and stating that only rational self-interest brings about prosperity to society at large. This rational self-interest includes a sympathetic regard for the well-being of others. This definition shows incidentally great similarity with the ideas of Thomas Reid, who succeeded Adam Smith at the University of Glasgow in 1766, who wrote about “our self-interest considered upon the whole.” (cited in Young, 2003, p. 6).
constraints of the market or of market forces is simply incorrect. At the end of the day the only real truism is that politics (i.e. human deliberation) always trumps economics; recent introductions and innovations, such as the broadening of the usage of cost-benefit analysis notwithstanding (see e.g. Tomain, 2005).

2.3 Chapter Summary

The idea that that economics or more specifically the market system has little to do with ethics is widely shared in the public and academic domain. In part, this position can be explained by the various ideas that contributors have on the market itself. For when the market is presented as something that lies outside the control of any individual or collective then it is almost placed outside the realm of the normative by definition; or as Finn formulates this position: “The Earth’s gravity is not a moral issue. Why? Because there is nothing we can do about it.” (Finn, 2006, p. 39). And for a long time the mainstream position was that the market system as a whole was to be viewed as being in that category. However, once the realization emerges that this and other institutions can in fact be altered and shaped according to one’s preferences they become by default a subject of moral reflection.

An important element in this discussion is to make a distinction between a market and the market, or in other words between the actual manifestations of market forces, on the one hand, and the workings of the market, on the other hand. The latter is indeed devoid of moral deliberations given its nature as a process. The meaningful question becomes how to appraise the outcomes of the market process. With his framework, Finn offers us four aspects of the market that each influences the answer to this question, whether the market outcomes are just.

The answer depends firstly on the framework of the market, which tells us in which parts of society the market is allowed to operate. The fences that contain the market forces can said to represent the moral boundaries of the market. Secondly, the answer will depend on to what extent the provision of essential goods and services is provided for. The morality of the actors involved in the market process and the presence of a functioning civil society are the third and fourth relevant aspects.

Of this framework, it is the element of market boundaries that is of interest in this thesis. It provides a point of entry to discuss the ways in which the market is steered toward morally
beneficial outcomes. And this in turn offers the opportunity to frame a specific example of a market boundary, namely the ILO’s international labor standards.

Influencing market outcomes lies at the very heart of the ILO, with the founders even alluding to this in the 1919 preamble of the organization’s constitution stating that unchecked competition between nations would have a detrimental impact on social justice. In order to lead the market to have beneficial outcomes, it would be necessary to lay down the rules regarding the position of labor in these markets not only on a national but also on an international level and thereby create a protective wall for workers around the globe.

With the launch of its Decent Work Agenda in 1999 as a framework for the convergence of its activities, the ILO created a market boundary based on the notion of decency. In the next two chapters, we turn our attention to the normative underpinnings of market boundaries. First, we shall look at one specific normative concept that has been invoked as a grounding principle in various moral traditions and that serves as a key component in the Decent Work framework, namely human dignity. In the subsequent chapter, the focus will be placed on the review of a specific example of a normative theory based on the notion of decency, namely the one devised by Avishai Margalit in his work *The Decent Society*. Here, we will find our first examples of market boundaries wherein the notion of decency plays a pivotal role. These two chapters constitute the second part of this thesis that in turn is followed by the third and last part and focuses solely on international labor standards and the ILO’s Decent Work Agenda as moral market boundaries.
PART TWO – DIGNITY AND DECENCY
3 Grounding Market Boundaries on Human Dignity

The previous chapter covered the idea that market activity is confined by boundaries. These boundaries (e.g. in the form of laws and regulations) tell us where and how we allow a market to operate and these are guided in part by moral convictions. In this thesis, we are particularly concerned with one manifestation of a boundary encapsulating the workings of the market, namely the ILO’s Decent Work Agenda and the associated international labor standards. In this market boundary, the concept of human dignity can be identified as a grounding principle. In this chapter we take a closer look at this specific moral concept in order to obtain a better understanding of the implications of invoking this concept.

This chapter is divided into three sections. In the first section, I discuss the concept of human dignity vis-à-vis the market. The second section contains an exploration of the way the concept of human dignity is deployed in the religious, philosophical, and legal sense, respectively, and what implications there are when viewed as a foundation for market boundaries. This exploration will show that the application of human dignity comes with certain methodological issues. The subsequent section addresses these issues using the work of Avishai Margalit.

3.1 Discussing dignity vis-à-vis the market

When the German philosopher Immanuel Kant speaks of human dignity, he refers to that which has no price. Therefore, when the International Labor Organization states, as it did in 1999, that its mission is to secure decent work for all, which in turn enables human dignity, it is invoking a concept (i.e. human dignity) that is alien to the logic and workings of the market. This goes for all institutions that use this concept while serving as fences around market activity including the Universal Declaration of Human Rights (and its subsequent Covenants) that use human dignity as a grounding principle. The fact that these boundaries are entwined with the concept of human dignity—as well as the fact that the concept has presented throughout the history of Western thought as a concept that could mitigate or steer market outcomes—warrants a closer view of this concept.
Economics in general and mainstream economics in particular has devoted little to no attention to the concept of human dignity. This is in no doubt due to the belief that economics is a positive and value-free science as noted in the previous chapter (see e.g. Lutz, 1995). In addition, it could be argued that when there are no prices involved—as in the secular account of human dignity by Immanuel Kant—it has no business in economics. However, as pointed out above, the concept serves as a cornerstone for contemporary (international) legal theory including the institutions that can rightfully be regarded as market boundaries. If only through this connection, human dignity provides what Davis (2006) calls “a normative point of entry for social-economic policy”.

Any exploration of the concept of human dignity will be immediately presented by a considerable hurdle, namely the absence of a broadly shared definition of human dignity. The term dignity originates from the Latin "dignitas" that roughly means social honor, refers to that aspect of virtue or excellence that makes one worthy of honor. In this sense, dignity refers to a kind of deserving and to something deserved. Human dignity could subsequently be derived from this by assuming that that which makes one worthy of honor (or respect) is one’s humanity and it is in our nature. Marcus Tullius Cicero (106 BC–43 BC), who was the first to speak of human dignity in his essay "On Duties or De officiis" (44 BC), stated that in our nature there already is a dignity and that this is not merely the result of or contingent on the way we dress, walk, or talk. (Wetz, 2005, p. 21)

From this very rudimentary etymology it does not become clear as to why one should assume that a human being should be worthy of respect to begin with. Even if one were to accept that human beings (for whatever reason) deserve respect and that there is such a thing as human dignity, one is subsequently faced with a new hurdle. This second hurdle is related to the question of how the concept is operationalized: should it be seen in terms of having or in terms of being? In other words, is human dignity something human beings have and thus may lose and possibly (re-)gain whether in a binary fashion or in terms of degrees? Or is human dignity such an integrant part of human beings that it, therefore, should be seen as part of the existence of the human being itself, and thus as intrinsically linked with being? The answer to

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40 See also Davis (2009)
this question has practical consequences once the concept of human dignity is deployed in a social-economic setting, as we shall see in the next section when the concept is reviewed in greater detail.

3.2 Exploring the concept of dignity

The standard way to discuss the concept of dignity is to review it by the eras and the way it is incorporated. However, rather than presenting a historical argument on the relationship between human dignity and market forces, I will here explore the concept and review how it was discussed vis-à-vis the market in selected settings.

The first of these deals—using the papal encyclical *Rerum Novarum*—with the way in which human dignity from a religious perspective was invoked to provide a foundation for the reining in of the forces of the market and strengthening the position of workers. Subsequently, I intend to discuss the way in which (secular) philosophy deployed the concept in order to steer (influence/limit) market outcomes. The work of Immanuel Kant, who provided a definition of human dignity (i.e. that which has no price), which is in direct opposition with the market, is central to this exploration. Lastly, I will look at the more pragmatic perspective on human dignity. The focus will be placed on the way the concept became part of the (international) legal tradition of universal human rights and international labor standards, actual manifestations of boundaries against the market.

3.2.1 Religious perspective: Rerum Novarum

In the religious sphere, human dignity is closely associated with the idea of divine creation and the assumed special place for humanity herein. There exists a large body of literature on the place of human dignity in the three major monotheistic religions. For a comprehensive overview and discussion of the history of the concept in the major religions see e.g. Sacks (2002), Kraynak and Tinder (2003), Soulen and Woodhead (2006) and Kamali (2002). In this section, we shall confine ourselves to the way dignity in the religious sphere is used in relation

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41 So, for instance, Dalton (1999) subdivides the history of the concept of human dignity in the Western tradition into three eras: the Biblical and Christian, the Enlightenment and the Twentieth Century. McCrudden (2008) in his article “Human Dignity and Judicial Interpretation of Human Rights” talks about three strategies in order to talk about human dignity, which he dubs the religiously based, philosophical and lastly the historical. Franz Josef Wetz in his book *Illusion Menschenvürde* (2005) provides a cultural history of the concept wherein he distinguishes between six eras ranging from the Antiquities, late Antiquities and Middle Ages, Humanism and the Renaissance, Modern Times to Present day.
with the market and with a specific example hereof, namely the papal encyclical *Rerum Novarum: On the Condition of the Working Classes* by Pope Leo XIII (1891). This encyclical—the first of what is now known as the social encyclicals—is one of the first instances in the Catholic, if not religious, sphere where a link between market activities (and specifically labor) and human dignity was explicitly made; its main topic being that of the “rights and duties of capital and labour”.42

The aim of the encyclical was in part to draw attention to the destitution and perilous situation of the worker while subduing the rise of communism and the call to revolt. Overall, it was a response of the Church to the new political and economic landscape dominated by the nation state and the forces of the free market.43

Pointing towards an alternative way to address the “misery and wretchedness” common to the majority of the working classes, the encyclical defends the market system as being morally superior to the socialist alternatives which it asserts would hinder workers in their liberty and development. The basis for this is found in the idea of natural rights (or laws of nature), which is in turn used to provide a justification of private property. Any proposal to address the situation of workers that goes against the existence of private property is considered to be against justice itself.44

Turning to the situation of the workers the text points towards historical developments that have helped shaped it. The encyclical argues that the demise of the ancient guilds (and with “no other protective organization <taking> their place”) had ensured that workers had

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42 The introduction by Leo XIII of the concept of human dignity can be seen as a novelty — in general and especially in relation with the issue of labor. A review of the encyclicals of his immediate predecessors in the nineteenth century (Popes Pius IX, Gregory XVI, Pius VIII, Leo XII and Pius VII) did not yield any reference to the term “human dignity”. Although these encyclicals contain many references to “dignity”, these are all in relation to an office or position rather than in terms of “human dignity”.

43 Commonly the works of two bishops are identified as having been instrumental in the realization and creation this encyclical, namely the German Wilhelm von Ketteler (1811–1877) and the Englishman Henry Edward Manning (1808–1892). (Coleman and Baum, 1991) The influence of the latter was especially prevalent as he (in his then role of Cardinal) actively helped in the drawing up of the text of the encyclical. Many of his ideas on the position of labor in modern society (which he had laid out in a lecture titled “The Dignity and Rights of Labour” and delivered at the Leeds Mechanics’ Institution in 1874) ultimately found their way in the encyclical. In his lecture, he laments what he calls the depreciation of unskilled labor and asserts that a laborer “…must be first and last the judge and the controller of his own life, and he must pay the penalty if he abuses that freedom. This carries with it also the right to say whether he can subsist upon certain wages.” (Manning, 1877, p. 84).

44 The introduction of the language of natural rights was a novelty for the teachings of the Roman Catholic Church (Fortin, 1992). Although he is not mentioned by name, the ideas of John Locke play a key role in the defense of private property.
surrendered to “the hardheartedness of employers and the greed of unchecked competition.” (Catholic Church and Pope Leo XIII, 1891, §3). This in turn had led to a situation wherein the burden of laborers was deemed to be very much comparable to that of slaves. In order to mend this situation the encyclical argues that both capital and labor need to be reminded of their duties towards each other. Theirs is a mutual relationship of dependence; labor needs capital just as capital needs labor.45

The most important duty of workers is—as discussed above—to respect private property. In the case of capital these duties are presented thus: “The following duties bind the wealthy owner and the employer: not to look upon their work people as their bondsmen, but to respect in every man his dignity as a person ennobled by Christian character. They are reminded that, according to natural reason and Christian philosophy, working for gain is creditable, not shameful, to a man, since it enables him to earn an honourable livelihood; but to misuse men as though they were things in the pursuit of gain, or to value them solely for their physical powers—that is truly shameful and inhuman.” (1891, §20)

One striking aspect of this quote is the way the encyclical aims to lift the status of labor and that it should not be looked at with contempt.46 But more important is the prescription of the need to not treat men as if they were things and demand that employers respect the dignity of every man. Here, the explicit position is taken up that people (and thus labor) are always more important than capital. The encyclical also outlines other duties for capital stating, for instance, that employers need to provide safe working conditions (physically as well as spiritually) and pay fair wages, meaning above the subsistence level, enabling the worker to further his/her development.

Apart from stating the duties of employers/owners of capital and workers, the encyclical also covers the role and duties of the state in relieving the plight of the working classes. It asserts that the state has as its primary duty to ensure that the laws and institutions are geared towards the improvement of the public at large adding that “<...> the more that is done for the benefit of the working classes by the general laws of the country, the less need will there be to seek

45 This assessment can be contrasted with the work of Polanyi (1944) who accords a greater role of this transformation to changes in the regulative and legislative framework. See also §1.2.5
46 This idea translated as the Dignity of Labor became one of the pillars of the tradition of Catholic Social Thought
for special means to relieve them.” (1891, §32) Governments should, therefore, actively intervene to counter the results of market forces, e.g. by introducing laws covering working conditions as well as the regulation of working hours (introducing ceilings), wages based on the notion of a fair wage (introducing minimums) and the prohibition of child labor. The encyclical also expresses the desirability of trade unions and discusses the criteria by which they should be guided. (1891, §57)

The role of unions assigned in the encyclical is predominantly in the provision of a social safety net. When it comes to protecting workers against employers, i.e. when the latter fails to observe the duties outlined above it is the state that ultimately needs to be called into action: “<…> or if employers laid burdens upon their workmen which were unjust, or degraded them with conditions repugnant to their dignity as human beings; finally, if health were endangered by excessive labor, or by work unsuited to sex or age—in such cases, there can be no question but that, within certain limits, it would be right to invoke the aid and authority of the law.” (1891, §36) In other words, the state was supposed to play a crucial role in the realization of the ideas stated in the encyclical.

When it comes to the question of to whom the laws and intuitions of the state should be applicable, the encyclical returns again to the concept of human dignity—which states that “[no] man may with impunity outrage that human dignity which God Himself treats with great reverence”—and infers from this the equality of all human beings whatever their worldly circumstances or social position (1891, §40).

**Dignity as Imago Dei**

The way human dignity is used in the encyclical can be considered to be innovative on two levels. First of all, the fact that it was used at all was a relative novelty compared to the previous papal encyclicals. To this may be added that the usage of the concept in the
religious sphere is not as straightforward as it may seem given the fact that neither the Old nor the New Testament contain an explicit reference to human dignity. The second innovative aspect of the way human dignity is used in *Rerum Novarum* lies in the fact that the way the concept is used differs from the way it was used in the (Biblical and Christian) religious tradition up until then. Under the traditional religious sense or biblical version of human dignity the concept is directly linked with the idea of divine creation of the world and man. The main focus is on the usage of “Imago Dei” that refers to the idea that man is created in the image of God. It is this attribute shared by all human beings that sets them apart from all other beings. Over the centuries (especially in medieval Christianity) this was translated in what has come to be called ‘the Great Chain of Being’: the idea that in the natural world there is a “hierarchy with the human species at the top, possessing a special right of dominion over the lower species.” (Kraynak, 2003, p. 85; see also Dalton, 1999).

In the encyclical, this approach to human dignity can be found stating that it is “the soul which is made after the image and likeness of God; it is in the soul that the sovereignty resides in virtue whereof man is commanded to rule the creatures below him and to use all the earth and the ocean for his profit and advantage.” (1891, §40) However, the encyclical expands on this conception by introducing the capacity of reason. It notes that reason is the basis of the difference between human beings and animals. Animals are said to have only two driving instincts, namely self preservation and the propagation of the species. Animal nature is there to serve and obey humankind because humans are endowed with reason. Note that this argument is not put forward to denote human dignity but to argue specifically that humans have the right to have possessions, that is to own something in a durable and permanent sense rather than in temporary use. Nevertheless, the inclusion of reason (which paved the way for the introduction of natural law) endows human beings with another shared trait apart from being created in the image of God. In short, the concept of human dignity used in *Rerum Novarum* is grounded in the idea of Imago Dei—a hierarchical or vertical understanding of human dignity—but with an added twist in reason being the grounding of the equality of all humans.

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48 To this can be added that unlike the Tanakh and the Bible, the Quran does contain an explicit reference to human dignity, namely in reference to Adam: “We have bestowed dignity on the progeny of Adam (laqad karramna bani Adama)... and conferred on them special favours, above a great part of Our creation. (al-Isra’, 17:70)” (Kamali, 2002, p. 1); Similar to the account given by the early church fathers, human dignity in Islam is closely associated with the concept of a spiritual ranking as well as the affirmation of God’s love for humankind.
Implications

In his review of the reception of the encyclical, Schäfers (1991) notes that in certain countries the reception of the encyclical was lukewarm at best. This he attributes to the fact that the ideas of *Rerum Novarum* were already widespread and proposed legislation was already in place. So, for instance, by the time of publication the German Catholic trade union had already been in operation for nearly half a century (Schäfers, 1991). Likewise, many European countries had already passed legislation prohibiting child labor.

Thus, on a practical level, the impact of the encyclical may not have been that great. Nevertheless, it did provide a framework on how to think about the market in moral terms based on the ideas that a) man was created in the image of God and is, therefore, endowed with dignity and, b) because we are all creations of God we are all equal. The implications for the market of all this can best be seen as the re-appraisal of the relationship between capital and human beings. The encyclical lays out why people are more important than capital and its recommendations or provisions safeguarding the position of workers should be seen in that light. Employers and owners of capital are instructed to acknowledge the shared traits between themselves and workers (i.e. the endowment of human dignity) and act accordingly by not treating people as if they were objects or animals, by not taking advantage of them, paying them fair wages, etc. Similarly the state through its laws and institutions should be geared towards the improvement of the working classes and thus contribute to safeguarding the respect for human dignity.

Critiques

Although the encyclical introduced rationality as a shared trait among human beings it is not presented as the source or foundation of human dignity. Here, human dignity is based on *Imago Dei* and the hierarchical relationship vis-à-vis the rest of nature. Against this religious account of human dignity, two important critiques can be identified. The first concerns the objection against the introduction of God (or any form of deity) as a foundation or source for human dignity as it would hinder the concept from becoming truly universal i.e. for those whose beliefs differ in this respect. The second critique has to do with the idea of placing one species (i.e. human beings) above all other species. This critique, known as speciesism, moves beyond the theological debate and is one of the more poignant criticisms levied against the concept of human dignity. At the heart of the objection lies the idea that human beings are not
more special than other species, which are also capable of experiencing pain. We shall return to this argument in the next section that covers the Kantian account of human dignity.

Towards a Kantian conception of Dignity

As said in the text above, the encyclical stated that rationality is a shared human trait yet human dignity is derived from God and exemplifies man’s place in the hierarchy of nature. Later, the publications of the Catholic Church saw a transformation of the underlying definition of human dignity from being based on *Imago Dei* to a more Kantian idea of humans as being beyond any price and equal. This is especially visible in *Gaudium et Spes*, one of the four Apostolic Constitutions that came out in the Second Vatican Council (published in 1965), and ultimately in the Pope John Paul II encyclical letter *Evangelium Vitae* that refers to “the incomparable worth of the human person” (Catholic Church and Pope John Paul II, 1995). This idea of the incomparable worth of human beings can be traced back to the writings of the 18th century philosopher Immanuel Kant, which is the topic of the next section.

3.2.2 Philosophical perspective: Immanuel Kant

We now turn to the philosophical account of human dignity. The focus lies especially with humanistic morality, which takes human beings to be the measure of all things yet makes no appeal to the divine for a justification. Here, Kant’s work on this subject is especially of importance in bringing the concept to prominence.

For Immanuel Kant (1724–1804), the dignity of man is unconditional and an intrinsic aspect of humanity. Only people, as he famously declared in his *The Metaphysics of Morals* published in 1797, have dignity, they have no price but are to be prized in themselves: “In the system of nature, man (*homo phaenomenon, animal rationale*) is a being of slight importance and shares with the rest of the animals, as offspring of the earth, an ordinary value (*pretium vulgare*). <…> But man regarded as a *person*, that is, as the subject of a morally practical reason, is exalted above any price; for as a person (*homo noumenon*) he is not to be valued merely as a means to the ends of others or even to his own ends, but as an end in himself, that is, he possesses a *dignity* (an absolute inner worth) by which he exacts *respect* for himself from all other rational beings in the world. He can measure himself with every other being of this kind and value himself on a footing of equality with them.” (Kant, 1991, p. 254; also cited in Shell, 2003, p. 64/65).
From this description, several aspects of dignity can be inferred. The first aspect of his account of dignity is that of unconditional worth. Secondly, the value of that which has dignity cannot be compared with anything else as there is no equivalent for it. In his *Groundwork of the Metaphysics of Morals* first published in 1785, he phrased it thus: “What has a price can be replaced by something else as its equivalent; what on the other hand is raised above all price and therefore admits of no equivalent has a dignity” (Kant, 1998, p. 42; also cited in Kerstein, 2002, p. 175). This entails that that which has dignity cannot be exchanged nor ever be replaced or (legitimately) surrendered for something that has a price (and hence no dignity). In addition, but less clearly so, Kant states that, that which has dignity cannot be replaced by something else that also has dignity. This derives from the premise that there is no equivalent for an entity endowed with dignity. Therefore, in practical terms, Kant says it is not permissible to sacrifice, that is to kill a being with dignity even if it was in order to save another(s) who is/are also endowed with dignity (Kerstein, 2002, p. 175). This position stands in dark contrast with the teleological ethical traditions, most notably with utilitarianism. Under the basic utilitarian approach, the only relevant issue in deciding whether an act is morally sound is its consequences. Therefore, in its basic incarnation, the act of sacrificing a human being is permissible provided that the subsequent consequences warrant and legitimize such an act. The key point here is that utilitarianism in its basic form does not from the outset prohibit the taking of a life in order to save (an)other(s).

As to the question of why human beings are endowed with dignity, the answer for Kant lies in his assertion that a human being is “subject of a morally practical reason” (Kant, 1991, p. 254; also cited in Shell, 2003, p. 64/65). As such a human being is not only capable of understanding morality and, therefore, capable of following it but also a potential creator of moral law. As lawgiver, man is in turn bound by reason to follow the categorical imperative, which Kant presented in various formulations. He published his first formulation of the categorical imperative in *the Groundwork of the Metaphysics of Morals*: “Act only on that maxim through which you can at the same time will that it should become a universal law.” (Kant, 2005, p. 97). Reason, in short, is paramount in Kant’s account of human dignity (Shell, 2003, p. 69). However, this close connection between rationality and dignity creates a new set of questions, again relating to the problem as to whom dignity shall refer to. If we accept that it is a shared human trait and that it is derived from reason, are human beings with slight
rationality still eligible for the endowment of human dignity? 49 We shall return to this issue after first discussing the overall implications of this conception of human dignity.

Implications and Issues

Any discussion on the implications of Kant’s conception of human dignity for the market must start out with making a distinction between what we can argue that Kant’s philosophical work entails for social arrangements and Kant’s own judgments on social arrangements (Wood, 2008, p. 11). Firstly, there are clear contradictions between the way we actually live and the way we should live based on moral principles; this is just as valid nowadays as it was in Kant’s era. Secondly, there is the issue of changes in Weltanschauung that may explain some of the contradictions that we now find in the philosophy and judgments of the past. For instance, although Kant was a champion of liberty, which he saw as an essential ingredient of personal autonomy, he saw no contradiction with the idea that liberty was less applicable for women, children, and servants (Wetz, 2005, p. 69). Similarly, the framers of the US Declaration of Independence saw no problem with combining the assertion that all men are created equal and the inequality of colored people and women (Wood, 2008, p. 11).

Another reason why we cannot rely on Kant’s own writings on the market is that he did not devote any significant attention to this topic. Much of what constitutes a Kantian approach to the market or economy has come from later commentators. 50 With regard to market boundaries it can be noted that Kant is considered to be a theorist within the liberal tradition and held the position that the sole purpose of the state is to protect “individual rights and property through coercive force” (Wood, 2008, p. 193). However, the extent of government intervention in society is subject to debate with some seeing in Kant a representative of a libertarianism while others find that the demands of the categorical imperative imply and point towards a requirement of a welfare state (Wood, 2008, p. 194 & 197).

Given these considerations, we now turn to an account of the implications of the Kantian conception of human dignity for the market. One of the most important ones is that human beings themselves are beyond the realm of the market; they may be active in the market but as beings never subject to it. The most obvious example hereof is the prescript that follows from

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49 See also Sedgwick (2008)
50 See for a discussion of various contributions chapter 11 on Social Justice in Allen Wood’s *Kantian Ethics* (2008, pp. 193-205)
Kant’s imperative of not treating humanity as a thing or object with a price, which clearly rules out slavery. This imperative, as Bowie (1998, 2002) notes in his writings on Kantian business ethics, does not prohibit commercial transactions from the outset, but it does, however, put a limit on the nature and scope of these transactions, i.e. one person cannot use another to satisfy their interests and we cannot treat people as objects, as in the case of slavery.

In more general terms, one can also deduce from Kant’s writings that a human being should not be subject to coercion or deception as either would entail using a person as a tool. Bowie (2002) finds additional implications by introducing Kant’s preoccupation with freedom (which autonomy requires) and especially with positive freedom. The Kantian notion (derived from the categorical imperative) of positive freedom entails the freedom needed to develop one’s rational and moral capacities, in short one’s human capacities. With this the market implications of the Kantian maxims including his conception of human dignity can be said to demand that people in a commercial relationship should not be used, which again includes not being coerced or deceived. Secondly, commercial structures should be organized in such a way that they “contribute to the development of human rational and moral capacities, rather than inhibit the development of these capacities.” (Bowie, 2002, p. 8). In addition, I would contend that from these demands there flows a logical requirement of creating the institutions that determine that the market should at least also take them into account.

Critique
Kant’s philosophy is deemed to be one of the foundational contributions to the deontological (rights-based) traditions in ethics. With its assertion that it is not the consequences of an action but the action itself that determines its moral status, it stands in clear juxtaposition with the traditional utilitarian accounts of ethics. There is another important matter of dispute between the Kantian approach to morality and utilitarian accounts which is related to the question what should be the scope of our moral concern. One of the key thinkers of the utilitarian school of thought, Jeremy Bentham (1748–1832), not only advocated a

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51 Bowie further distills from his analysis of Kant’s positive freedom a definition of meaningful work consistent with Kant’s views. In describing what he believes to be the characteristics of this type of work, he starts out with the assertion that it is work that is freely chosen and that allows the employee to exercise autonomy on the job. In addition, it is work that does not undermine the rationality of human beings (as this is immoral) but rather supports this rationality. The third characteristic has to do with the height of the pay that should be such that it enables physical welfare for the employee. Finally, the work should not interfere with the moral development of the worker (Bowie, 1998, p. 1083, 2002, p. 10).
consequentialist approach in ethics but also thought that our moral concern should not be confined to human beings but should include all those who are capable of suffering. Stating that there are two sorts of agents that are susceptible to happiness and under the influence of human action (namely other human beings and other animals), he includes the following in a footnote: “It may one day come to be recognised that the number of the legs, the villosity of the skin, or the termination of the *os sacrum*, are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason, or perhaps the faculty of discourse? But a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day, or a week, or even a month, old. But suppose they were otherwise, what would it avail? The question is not, Can they *reason*? nor Can they *talk*? but, Can they *suffer*?” (Bentham, 1823, p. 311; also cited in Singer, 1979, p. 56). This position lies at the heart of the critique mentioned earlier in §3.2.1 under the heading of “speciesism”. There is no coherent reason, the argument goes, that justifies positioning human beings as a separate and superior class of animals.52

There are two interconnected aspects in this critique. One has to do with the idea of separating human beings from other animals, which we term the vertical dimension. The second issue has to do with the horizontal dimension as it questions whether this account of human dignity is capable of providing justification of dignity with human beings that lack in mental abilities. Many contributors to this critique levied against the Kantian account of human dignity focus primarily on this second issue; presumably because if there is no horizontal dimension to human dignity, then the claim of species membership weakens or even falters and with it the basis for the vertical relationship.

Therefore, for instance, Tinder in his essay on personal dignity addressed the issue of horizontal dimension as follows: “We speak of “dignity of the individual.” What do we mean? Not <…> that every person commands respect by virtue of his potentialities, for we affirm the dignity of those who are mentally retarded and hopelessly ill.” (Tinder, 2003, p. 28) This

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52 Objections of this kind have been put forward by many groups but especially by philosophers with a utilitarian background. Häyry (2004), for instance, argues that: “According to the utilitarian view, dignity cannot be limited to humanity or rationality, and it cannot be based on theological or biological considerations. Its foundation is the empirical phenomenon of suffering, and its protection is aimed at promoting the well-being of sentient, including human, animals” (2004, p. 11)
leads Tinder to conclude that the Kantian approach to human dignity is not able to explain the dignity of those “whose potentialities are relatively slight.”

Likewise, Peter Singer, the Australian philosopher who has taken a very critical stance on the concept of human dignity in various publications once noted that: “We are always ready to find dignity in human beings, including those whose mental age will never exceed that of an infant, but we don’t attribute dignity to dogs or cats, though they clearly operate at a more advanced mental level than human infants. Just making that comparison provokes outrage in some quarters. But why should dignity always go together with species membership, no matter what the characteristics of the individual may be?” (Singer, 2007). However, whereas Tinder seeks to resolve this issue of the Kantian conception of human dignity by introducing the idea of the divine destiny of human beings, Singer sees in the failure of providing a coherent justification of dignity among all the members of the human species the refutation of the entire concept.

Although the critique of speciesism is the more dominant, there are other critiques levied against this account of human dignity. While writing on Kant’s conception of human dignity, Schopenhauer laments the concept, calling it “the shibboleth of all perplexed and empty-headed moralists” (1840, 1903, p. 100). To this he adds that the way it is presented as an absolute value (incomparable and unconditional) is in essence unthinkable not unlike “the highest number” or “greatest number” (p. 102). This idea, that the concept of human dignity is an empty concept and that it does not add anything to the debate of morality has found resonance in recent times in the field of applied ethics, which is discussed in the next section.

Despite these critiques, the account provided by Kant has had a great impact on the development of Western philosophy and ultimately also in the realm of politics and judicial spheres. The concept of human dignity, besides providing grounding for deontological morality, also creates a basis for the idea of rights. Kant’s contribution can be seen as one of the important hinges that facilitated the transition of earlier doctrines of human “duties” to the conviction that human “rights” should be central in political theory and a preoccupation of political philosophy (Dalton, 1999, p. 33). Ultimately, these rights found their way into the traditions of international ethics (see e.g. Nardin and Mapel, 1992) and in the language of international organizations (e.g. the ILO and the UN) and (legal) texts such as the Decent
Work agenda and the Universal Declaration of Human Rights. This, the institutional and legal sphere, is the topic of the next section.

3.2.3 Legal sense: Decent Work and Human Rights

There is what Jürgen Habermas calls “a striking temporal dislocation” between the history of human rights, on the one hand, and the rise of human dignity in the legal discourse, on the other hand (2010, p. 466). While the former can trace its historical roots well into the seventieth century, the latter only came to prominence after the Second World War.

This assessment sits well with the assertion (as made by Dicke, 2002) that the concept of human dignity is one of the most important and innovative elements introduced in international law by way of the UN charter, signed on June 26, 1945, and subsequently in the 1948 Universal Declaration of Human Rights (UDHR). Although these two institutions (the charter and the declaration) have been paramount in advancing the concept into the (international) legal sphere, they were not the first to do so; the Declaration of Philadelphia, issued by the International Labour Organization in 1944, already contained a reference to dignity. Of all these institutions, the overall impact of inclusion in the UDHR was by far the largest if not only based on the number of publications devoted to it in addition to the frequency that the concept is invoked in the text itself.

The Universal Declaration of Human Rights contains a total of five references to dignity: twice in the preamble in the first article and twice in connection with social and economic

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53 For a bibliography of the use of dignity in a legal setting see Broberg and Ladegaard Knox (1999)
54 There is one further example that needs to be mentioned and that can be found in the constitution of UNESCO (Adopted in London on 16 November 1945). Here, too, the concept of dignity is invoked but it is done ex negativo. By this is meant that the constitution in its preamble does not offer a definition of dignity in positive terms but by alluding to what happens when it is not respected, namely the horrible results of WO II: “That the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races;” (p. 7). Although this approach has not been the subject of intense study, its approach is distinctive enough to be mentioned here especially given that the ex negativo approach will be discussed at greater length in the next chapter.
55 From the preamble: “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,” and “Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women” (United Nations, 1948)
56 From the first article of the UDHR: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”(United Nations, 1948)
From these references in the preamble and first article, Dicke (2002) distils three arguments that constitute what he calls the founding function of human dignity. First, dignity is something that is to be recognized (discerned). This is amended in the second reference to dignity, whereby the recognition is equated with faith (see footnote 55 of this thesis). Dicke extracts from this that the existence of dignity does not depend on it being recognized, which simultaneously implies an obligation to recognize dignity given that it is the foundation of freedom, justice, and peace. The third argument distilled by Dicke is from the reference in the first article, which indicates that human dignity is “quality owned by all members of the human family.” (2002, p. 114).

The UDHR—which can be seen as a boundary protecting the individual against governments but also against other forces, including those of the market within a society—abstains from referring to any specific philosophical or religious tradition. Therefore—Dicke’s analysis notwithstanding—the exact location of dignity, i.e. its origin, remains open for debate. This begs the question of why the framers of the declaration did not take the time to add what is meant by human dignity; the document after all was on all accounts already filled with philosophical language, so it would not have been that out of place.

Precisely how the concept of human dignity became to be included in the UDHR also remains unclear (McCrudden, 2008, p. 675/676). However, the work of the French philosopher Jacques Maritain and his involvement in formulating the Universal Declaration of Human Rights in 1948 can shed some light on the matter at hand.

Maritain was of the opinion that the common human experience could lead to agreement among the members of the UN on “practical truths regarding their life in common”. And this agreement would subsequently lead to the consensus and formulation of a set of shared fundamental human rights. The knack in achieving this feat is the ‘neutral language’ of practical truths. On the achievement and the issue of the common ground, Maritain said “We

57 From articles 22 and 23 of the UDHR: “Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” and “Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.” (United Nations, 1948)
agree on these rights, providing we are not asked why. With the ‘why’ the dispute begins.” (cited in Alford and Naughton, 2001, p. 23/24; see also McCrudden, 2008, p. 678).

Although this account provides some insight into how the concept was incorporated in the UDHR, it does not acknowledge or take into account that the concept of human dignity had been hovering around international law for some time already. It had already found its way into official documents like the aforementioned UN Charter of 1945 and the 1944 Declaration of Philadelphia of the ILO.\(^5\) It is, therefore, striking that although much has been written on the inclusion of human dignity in the UN institutions including the UDHR, this has not been matched in degree or in kind with regard to the inclusion of the concept by the ILO; comparatively little has been written about how human dignity was included in the Declaration of Philadelphia and thus in the ILO’s constitution. The same can be said for the discussion on the meaning, grounding, and ultimate usage of the concept of human dignity in this context.

The second article of the Declaration of Philadelphia, which was to become an amendment of the ILO’s 1919 constitution, reads as follows: “(a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;” (ILO, 1944, 2009). This citation also shows another difference between the UDHR and the ILO’s approach to dignity; the way it is deployed in the latter (“in conditions of dignity”) does much less in working toward dissecting its meaning. Based on this, one could argue that it refers to conditions befitting human dignity (i.e. an intrinsic aspect) but it could just as well allude to a more external and social aspect of human beings. The text itself is not very clear on this issue. A better insight in what is meant by dignity here can be obtained by reviewing the work done in preparation of the 26th International Labour Conference (1944 in Philadelphia) and the Declaration itself. Via this route, the inclusion of the reference to dignity can be traced back to the report of the Committee on Employment that was presented and discussed during the conference and that included the following statement: “First and foremost, the Committee wishes to state its conviction that policies to assure full employment constitute an

\(^5\) In the case of the UN Charter, Paul Tiedemann in his *Was ist Menschenwürde* (2006) describes how the South African Prime Minister Jan Christiaan Smuts played an important role in the initial suggestion of including the concept. (p. 13) Smuts initial contribution to the preamble included references to the “dignity of human personality”. After the term “human personality” was dropped in favor of “human being” Smuts withdrew his support, undoubtedly because the ramifications this alteration had for his policy of apartheid.
indispensable condition for the successful solution of the problems with which this Conference is faced. Access to employment in the production of useful goods or services is essential for the preservation of human dignity as well as for the proper support of physical existence.” (International Labour Office, 1944, p. 352). Here, the concept of dignity, explicitly named “human dignity”, is deployed in a more specific manner compared to the declaration. However, here too, we are not offered a clarification of its meaning and the apparent separation of human dignity from physical existence does not make it easier to unearth its precise meaning.

Without the advantage of additional indications in the text itself, one further attempt at uncovering the status of human dignity was executed by reviewing the Record of Proceedings, transcriptions of the various International Labour Conferences (ILC) that have been held annually ever since the ILO’s inception in 1919 in the hope that they may shed some light on the matter.

This review shows that the first time that the concept of human dignity was used within the sphere of the ILO it was invoked by a representative of the Brazilian government by the name of Dr. Fausto Ferraz. During the first ILC in the fall of 1919, he noted the following: “It is a fact that everywhere are to be found unjust labor conditions, and even hurtful to human dignity, resulting in misery and privation to millions of individuals who, are living outside of the social community, for whom justice has been merely an abstract idea, an Utopia which does not console, and, being very ambiguous, rather irritates and revolts, causing subversive ideas which tend to tear away the world’s axis from the hinges of peace and order, to cast it into the unknown, to the abyss of social war, to the exterminating fight between capital and labor.” (League of Nations, 1920, p. 195). This early usage should not, however, be taken as an indication that the concept was commonly invoked, as it was not, but it does show that the concept was hovering within the ILO for some time before the Philadelphia declaration.

It is nearly impossible to precisely determine what the origin is of the first usages of human dignity in relation to the workings of the ILO. The concept of dignity had of course already

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59 During the first ten years of the ILO, the phrase “human dignity” shows up only nine times in over more than ten thousand pages of transcriptions of ILC proceedings.
been invoked quite often in relation with labor before the emergence of the ILO and often so with a reference to the Catholic concept of “the dignity of labour.” (e.g. Manning, 1877; Sorely, 1907) as discussed in §3.2.1. This and other circumstantial evidence would seem to support the hypothesis that there is a link between the two in that the Catholic conception of human dignity and the idea of the dignity of labor contributed to the incorporation of the concept in the workings of the ILO. There is, for instance, the observation that most of the contributions that included this concept during the early years of the ILO (199–1929) came from the citizens of (predominantly) Catholic countries, such as Argentina, Brazil, Belgium and France.\textsuperscript{60} However, in the absence of more definitive proof, the conclusion must be that there is no way of knowing the philosophical underpinnings of the concept of human dignity within the realm of the ILO. In addition, one could argue that given the way some ILO representatives have talked about human dignity in recent times there is in fact no foundation; human dignity is alternatively viewed as an external attribute to human beings (which can be enhanced) and as an intrinsic component of human beings (which is either respected or not). We shall return to this issue in chapter 6 when the focus is placed on the ILO’s Decent Work Agenda.

**Meaning and Implication of Dignity in Legal texts**

From the analysis presented above, one must conclude that the way dignity is included in international legal institutions can best be described as pragmatic. And this pragmatic approach has created a point of departure to talk directly about dignity in the realm of policy yet also leaves the door open for multiple mutually exclusive definitions to be used. On the one hand, this absence of an elucidation on the origin and meaning has created a diverse set of definitions all claiming to capture the same thing. Simultaneously, due to the inclusion of the concept, especially in the social-economic rights it has also taken up the function of a normative benchmark in socio-economic debates: extreme poverty, for example, can (and is) now framed as constituting a violation of human dignity and hence of human rights. Because of this, the inclusion of human dignity in these institutions (and particularly in the UDHR) has in effect created a concept of human dignity that goes beyond theoretical moral philosophy in that it is closely attached to specific conditions that are deemed to be minimal requirements for life worthy of human dignity.\textsuperscript{61}

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\textsuperscript{60} Or countries with considerable Catholic communities such as Canada

\textsuperscript{61} See e.g. Eijkman (2007) for a discussion and application of an instrumental approach to human rights.
The socio-economic rights of the UDHR are formulated as being ‘indispensable for the dignity of man and the free development of his personality.’ In this sense, dignity has become a representative yardstick for success: “Our evaluation of dignity should not be a question of whether this person subjectively feels devalued or if a reasonable person in his position would feel devalued. Instead the focus should fall on the impact of the denial of basic needs and whether enough has been done by the society to remedy this situation.” (Liebenberg, 2005). This representation of human dignity as a form of an ‘under defined’ yardstick is also discussed in Dicke (2002). What most contributions to this topic, however, fail to acknowledge is that the language used in the separate Covenants that constitute the declaration makes a distinction between the required compliance for what is commonly described as political and civil human rights, on the one hand, and the social, economic and cultural rights, on the other hand.62

The economic, social, and cultural rights are treated differently compared to the other human rights listed in the UDHR when it comes to the demands set for compliance. While adherence to political and civil rights is expected from every country regardless of their political or economic circumstances, this is not the case for the socio-economic rights. This difference is clearly marked in Article 22 in the addition, ‘in accordance with the organization and resources of each state’. No demand is made for full compliance but countries are expected to ensure the ‘progressive realization’ of these rights (Biermans, 2005). It is not entirely clear as to how this separation may have an impact on the concept of human dignity, if at all. However, it does seem odd to state that, based on human dignity, one is immediately entitled to certain political (and mostly negative) rights while other aspects that, according to the declaration are indispensable to live a life worthy of dignity, are things that depend on exogenous factors, such as the level of development in terms of resources. This touches upon the capabilities approach to development as laid down by Amartya Sen (see e.g. Sen, 1987, 1999, 2000, 2002 and Nussbaum and Sen, 1993). At the basis of this approach is the idea that income, as a

62 This distinction is in part based on the notion of negative freedom and what a government is supposed to do or rather not do. As such, the distinction has been contested over the years as some of the political rights actually go beyond the provision of negative freedoms while some of the social rights are in fact negative freedoms (e.g. the right to form and join trade unions as laid out in article 23 of the UNDHR). In addition, it is argued, notably by Henry Shue (1996) in his book Basic Rights, that in order to be able to fully enjoy the substance of certain political rights, enjoyment of some of the social rights is indispensable.
yardstick for development, is by itself insufficient and that any evaluation of social arrangements should have at its core the extent of freedom that people have to promote or achieve objectives that they themselves value.63

Klein Goldewijk (2002) in her work on dignity uses the capabilities approach in order to operationalize a direct link between human dignity and the social and economic rights by way of human agency and functioning. This approach differs from the accounts of others (such as Dicke and Liebenberg) in that she creates a conceptual framework based on the premise that dignity is foremost a category of being and not just of having, in that human dignity cannot be limited to something people ‘have’ and that the inherent nature of human dignity goes beyond this (2002, p. 6). By way of the capabilities approach, she links the intrinsic nature of human dignity with the possibility of human beings to be (or become) the authors of their own lives; Respect for human dignity is warranted because it creates the possibility of meaningful autonomy (2002, p. 7). Klein Goldewijk is right in making the distinction between understanding human dignity in terms of having or in terms of being. Only if we take human dignity to allude to an intrinsic value does the term add anything meaningful to the debate.

**Issues with Dignity**

The exploration of the concept of human dignity in this section showed that it is not without opposition and comes with certain methodological issues attached to it. With regard to the religious and Kantian accounts of human dignity there is the critique of speciesism. In the latter, there is also the issue of providing a basis for human dignity for those who are not in full possession of reason. In the legal sphere, the concept although used (even extensively in some areas) is under-defined and consequently allows for different and even contradictory definitions to be deployed. The only condition that needs to be fulfilled in order to have

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63 This was argued by Sen in his monograph “Inequality Re-examined” (1992). The freedom that is needed is by no means a form of mere negative freedom. If it is to mean anything, it is the type of freedom that secures the functioning needed for the life one chooses to live, to secure autonomy, or as he writes together with Martha Nussbaum: “The life that a person leads can be seen as a combination of various doings and beings, which can be generically called functions. These functioning vary from such elementary matters as being well nourished and disease-free to more complex doings or being, such as having self-respect, preserving human dignity taking part in the life of the community, and so on. The capability of a person refers to the various alternative combinations of functioning, any one of which (any combination, that is) the person can choose to have. In this sense, the capability of a person corresponds to the freedom that a person has to lead one kind of life or another.” (Nussbaum and Sen, 1993, p. 3). Therefore, the key element here is that the assessment of social arrangements must include more than mere economic arrangements; the non-economic aspects of life, such as dignity and self-respect should be included. See also Graafland (2006, pp. 168-170) and Morris (2010)
human dignity in the legal sphere is to be human and no further justification is provided nor any further elaboration on its meaning.

The fact that there is not much consensus on what human dignity exactly means has led some to abandon the concept in its entirety on the grounds of it being an elusive concept that adds little in substance to practical discussions or applied ethics. Macklin (2003), for instance, in an editorial for the *British Medical Journal* argues that the concept as used in medical ethics adds “nothing to an understanding of the topic” and appeals to dignity “are either vague restatements of other, more precise, notions or mere slogans”. The argument here is that human dignity means no more than respect for persons or their autonomy that contributes little extra to the field of medical ethics.

Concern over the ‘usefulness’ of the concept of human dignity has a considerable history of its own. In an article on the dignity of man published in *Ethics* in 1946, it was noted that: “Few expressions call forth the nod of assent and put an end to analysis as readily as “the dignity of man”. It sounds wholesome and real, and its utterance easily quiets our critical faculties.” (B. Morris, 1946, p. 57). This view of human dignity, as a concept to end all discussion is voiced by several writers on the topic. In Bayertz (1996), a similar argument can be found and likewise in Kass (1990) who phrases such a position—without subscribing to it—thus: “[Human Dignity and the sanctity of life] convey elevated, indeed lofty, ideas: what, after all, could be higher than human dignity, unless it were something sacred? As a result, each phrase often functions as a slogan or a rallying cry, though seldom with any regard for its meaning or ground.” (p. 34). These assertions that the concept of human dignity is empty and does not rise above mere rhetoric echoes Schopenhauer’s claim that it constituted a shibboleth without real meaning.

This skepticism points towards the importance of providing a sound definition. Only through offering a well defined concept can we avoid the pitfall of ending up with mere words, with empty moral language. Furthermore, when introducing a concept such as human dignity as a boundary value one must also explain what this means for economics and especially for economic policy making. Currently, it is the concept of efficiency that functions as the “normative point of entry” in mainstream economics. This automatically brings with it an agenda for economic policymaking. However, as Davis points out: “The goal of efficiency recommendations is of course to eliminate inefficiency. What, then, is the goal of policy
recommendations that make dignity a central value standing between freedom and human rights? Conversely, what is it that we wish to eliminate in the interest of promoting human dignity?” (Davis, 2006, p. 80).

One possible answer can be found in the work of Avishai Margalit. The next section takes a closer look at this work, which in turn addresses the three main issues raised during this exploration of human dignity so far. His work is of extra interest, as he has created a moral framework based not only on the notion of human dignity but also on the concept of decency that are both central in the ILO’s Decent Work Agenda.

Before moving on to the next section a short recap of these issues is provided. First, there is a problem associated with the vertical hierarchy depiction of human dignity. This assumption raises the question of why people should be more important than other creatures. The second issue relates with the basis for the horizontal view of dignity. What is the foundation for the assertion that we are to consider all human beings as equal? If we were to assign reason to this, one needs to explain why we also attribute dignity to those human beings not capable of rational thought. Both of these issues are captured under the header of speciesism. The third and last issue derives in part from the previous two issues, and deals with the question of whether the concept of human dignity can really be a meaningful addition rather than constituting mere rhetoric.

3.3 From Human Dignity to Decency – Margalit

In his book *The Decent Society*, Avishai Margalit (1996) developed *ex negativo* a concept of human dignity by defining what constitutes a violation of human dignity. The theory developed in this book is built on the notion of humiliation (a society is decent when its institutions do not humiliate) that in turn is closely linked with self-respect: “Humiliation is any sort of behaviour or condition that constitutes a sound reason for a person to consider his or her self-respect injured.”. Therefore, here we have a framework wherein the notions of decency and dignity play important roles as is the case with the ILO’s Decent Work Agenda. In the next chapter, we will review the framework of *The Decent Society* in greater detail, and in this section we focus on Margalit’s account of human dignity as found in his various publications.
In a more recent publication (“Human Dignity between Kitsch and Deification”), Margalit (2007) revisited and expanded on his conception of human dignity in order to clarify what makes human beings so special that each should deserve respect, and why; respect or indeed honoring them for what they are and not so much for what they do or have done. He starts out with the remark that this is a particularly difficult task as the mere observation that human beings deserve respect because they are human beings is often not considered to be an adequate justification. This, however, is precisely the claim that Margalit (2007) makes adding (in the extended lecture versions) that, from a humanistic point of view, “being human is all we have for justifying respect for humans, or rather it is the ability of every human being to be an icon for all the rest of humanity.” Margalit believes that moral honor has only one dimension, namely a horizontal one. This type of honor deals with the idea that all human beings should be respected regardless of their material circumstances or mental conditions. It has a horizontal dimension in that it refers to the honor one bestows on one’s equals or peers. He contrasts this idea of moral honor with what he calls social honor that has, in addition to a horizontal dimension, also a vertical dimension that alludes to the honor a person bestows on those who are superior, that is above him or her.

This assertion with regard to moral honor immediately brings about a possible objection, namely that moral honor might also be seen to have a vertical dimension; and if this is not the case it assumes ex ante a hierarchy between human beings and other types beings. This objection (“speciesism”) is as we have seen in §3.2.2 one of the key critiques in the human dignity discourse wherein the assumption is made that humans stand at a higher level than other beings. Margalit does not explicitly counter this objection but does provide an argument

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64 Margalit delivered an earlier and more extended version of the publication referred to here as the 2004-5 Litowitz Lecture hosted by the Program in Ethics, Politics and Economics at Yale University on October 14, 2004. More recently (November 16, 2011) he again delivered the extended lecture “Human Dignity Between Kitsch and Deification” in Berlin for the research network Recht im Kontext. In this text the published article is used as point of departure complemented with the (extended) lecture incarnations, namely (2004b) and (2011) respectively.
that to some extent sidesteps this issue by focusing on the nature of the horizontal relation between human beings, which he dubs an “iconic relationship”.  

Before going deeper into this argument I will first discuss his position regarding other attempts of the grounding human dignity in specific human traits.

With the denotation ‘kitsch’—as used in the title of his publication “Human Dignity between Kitsch and Deification”—Margalit refers to the sentimentalism associated with kitsch and the way this sentimentalism distorts reality. The term is used to describe the attempts at providing a justification of the respect a human being should have by pointing towards the idea that all humans are capable of suffering and that this trait could serve as a justification for respect. Margalit thinks that this route risks perceiving humans as victims and, moreover, as innocent victims and that trait would then constitute their shared identity. He considers this distortion to be potentially harmful given that one of the moments that it is most crucial to treat someone with respect is when he or she lacks purity or innocence. This account presents the danger that respect becomes contingent on sympathy: “Kitsch sentimentality creates a culture of victimization. It sentimentalizes others, the marginal, by endowing them with great spirituality to compensate for their lack of power and thus making them objects of great innocence, who are constantly attacked by the soulless mighty.” (2007, p. 12) In summation, Margalit’s main objection to the sentimentalist account of the grounding of respect, i.e. the respect human beings deserve for being human in suffering is the risk of a culture of victimhood whereby there is a serious risk that what is created is pity rather than respect.  

At the other end of the spectrum regarding the justification of human dignity is what Margalit calls the ‘deification’ justification, of which he views Kant as being very much a representative. Margalit thinks that Kant is on the mark with asserting that people should not be treated as things, or in the case of means and ends, as a mere tool. However, when it comes to

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65 Margalit does acknowledge that animal welfare is an important issue in its own right but sees this in terms of physical cruelty. (1996, p. 84)

66 Here, Margalit invokes an example of moral reasoning from Victorian times to make clear that the sentimental picture of humans cannot only distort the basis of respect (e.g. victimization) but also the idea of justice. It was after all quite acceptable to help the poor, who should be pitied, but a structural adjustment in terms of redistribution was definitely not part of it. (Margalit, 2007, p. 12) Although he is not explicit about this, one can assume that Margalit is here referring to the idea that emerged in Victorian times (see §1.2.3) that a redistribution of wealth towards the poor would have dire consequences for the morality of those receiving it (See chapter two of Hirschman, 1991, for a concise overview of this argument; as well as Polanyi, 1944).

67 He does, however, add that there is an even worse situation imaginable, namely that of a person not even being treated as a mere tool (Margalit, 2007, p. 15).
deploying reason as the ultimate grounding for human dignity, Margalit expresses some reservations, like what this approach would mean for those who lack the mental capabilities. Furthermore, Margalit does not feel that Kant was really revolutionary in his conception of dignity but that he rather offered a secular version of the religious or divine account of human dignity, namely the idea that the source of dignity is reflected glory. In the religious account, as Margalit phrases it, human beings are by themselves not special, but God is and, because human beings are created in the image of God (\textit{imago Dei}), people are special too and thus worthy of respect. The similarities between this account of the Kantian account lie in the fact that in the latter people are obliged to follow the moral law and that it is the moral law that first and foremost deserves respect. Respect for human beings is thus a derivative of this respect for the moral law.

These attempts outlined above and in the previous sections of this chapter can be described as examples of attempts to provide a positive justification for respecting human beings. This approach seeks to ground the respect that people deserve based on their humanity in finding traits that are shared by all human beings that in turn ground this type of respect. Margalit himself puts forward an interesting trait of human beings, namely that of radically changing one’s life as a potential basis for a positive justification (Margalit, 1996, p. 71). This trait is most definitely a human one; it is shared among humans and it is not to be found among ‘other animals’ in that only humans possess this trait: “Thus in one direction the human capacity for living a moral life deserves respect in that it is a proven ability that constitutes a presumption for the future, while in the other direction respect should be based on the presumption that human beings are capable of changing their life.” (Margalit, 1996, p. 75). However, this assessment still leaves open the issue of relevance for those with very slight mental capabilities.

In the end, Margalit concludes that this route of positive justification will ultimately not be successful; it is futile to look for a good-making feature wherein we can ground human dignity as there will always be an exception, i.e. someone who does not—by way of defect or disease—have this feature. His own approach starts with what at first may look contradictory, namely the assertion that respecting “<…> Man generically, coheres best with all our other
moral beliefs.” (Margalit, 2004b, p. 20) With this approach, he in fact starts out with assuming that which should be demonstrated.68

However, Margalit does make an argument along these lines. He asks whether we are capable of acting in such a way as befitting to human dignity, without a grounding of the concept itself. Margalit argues that we can and he uses the analogy of the use of paper money. Pieces of paper once derived their value from the gold that guaranteed its underlying value. Paper money has evolved whereby the link between the gold, that guaranteed its underlying value, from promissory note to a consented carrier of value, to the value people are willing to accept as such. Correspondingly, human beings can be said to have value not because of an intrinsic value but because other people value them. This reverses the justification: instead of looking for a shared trait that justifies respect it is “<…> the attitude of respect for human beings that gives value to the trait of being human.” (1996, p. 77).

Margalit’s concept of human dignity (which Julia Glahn (2009) has dubbed the social concept of human dignity) is thus based on the idea that all human beings are capable of recognizing other human beings as human beings; in other people we recognize ourselves. To this, Margalit adds that not recognizing others as human beings requires an effort namely that of ignoring their humanity thereby failing to recognize them as members of the human commonwealth.

In short, dignity for Margalit forms the basis of the respect that is to be awarded to every member of the human commonwealth precisely because of this membership. And it is (especially) when dignity is not adhered to, in the form of humiliation that we recognize dignity (Margalit, 2002, p. 115). Humiliation in turn is defined by him in terms of injuring a person’s self-respect, and their sense of intrinsic value. And this brings us to the proposed relationship between self-respect and dignity.

Margalit differentiates between self-respect and self-esteem. In the former, he sees the honor an individual bestows upon themselves by virtue of their humanity while the latter has to be validated through interaction with others. To make the distinction even more clear: respect,

68 His justification to restrict himself to human beings (i.e. excluding non-humans) is itself also grounded in the idea that this “coheres better with the totality of moral judgements” (Margalit, 1996, p. 84).
according to Margalit, constitutes a ground for treating people equally, whereas esteem forms a basis for ranking people. He matches this differentiation by contrasting dignity with pride. Pride, he explains, is the expression of self-esteem; dignity, on the other hand, is the expression of the feeling of respect individuals feel toward themselves as human beings. Therefore, in this sense, dignity constitutes the external aspect of self-respect; as a representation and not as a presentation of self-respect (Margalit, 1996, p. 51).

The account provided by Margalit of human dignity, dubbed by him as the sceptical solution (1996) as well as the iconic justification (2004b, 2011), is an attempt to break through the impasse found in the efforts to justify the respect for human beings regardless of who or what they based on specific traits. In the end, he is less interested in determining what is conducive for human dignity but in identifying what constitutes a violation of human dignity in the form of humiliation. And subsequently by identifying forms of humiliation determining what needs to be done to make it stop. In the next chapter, we take a closer look at this overall framework whereby we shall also review in greater detail what the implications are for the market and its boundaries.

3.4 Chapter Summary

In order to discuss the normative desirability of market outcomes one needs to look at the boundaries that confine and thereby determine where and how the market in a society is allowed to operate. The Decent Work Agenda of the ILO including the associated labor standards can be viewed as fulfilling this boundary function. An important element in these institutions is the concept of human dignity, which serves as a grounding principle.

In this chapter, we explored this concept in greater detail by reviewing its usage in various settings. What most of these settings had in common was an attempt at coming to a concept of human dignity by way of identifying specific traits (e.g. rationality) that could be ascribed to all human beings. This approach is not without difficulties as in most cases it is possible to identify some human beings that do not possess this specific trait.

69 In other words: “Dignity, unlike social honor, is not a positional good.” (Margalit, 2002, p. 114)
In the case of the international legal sphere, it was found that the concept was and is invoked without a clear foundation of the concept itself resulting in various and at times contradictory interpretations; for instance regarding the issue of whether human dignity should be viewed as a matter of *having* or as a category of *being*. The answer to this has important implications when the concept is operationalized, for instance, by way of policies; aiming at safeguarding something that is already there as opposed to enhance or secure realization.

Avishai Margalit offers a concept of human dignity that is based on the idea that each of us can recognize the humanity in the other. His conception of human dignity is ultimately prompted by practical concerns rather than metaphysical ones. Margalit’s concern lies with the violation of human dignity, i.e. not treating someone as a person and thereby excluding him from the human commonwealth. One of the key differences between this and other accounts of human dignity is that the focus is not placed on the question of which conditions are befitting to human dignity but rather which conditions are a violation of human dignity.

In his book *The Decent Society*, Margalit presents a normative framework for the running of a state. This framework almost by default also covers issues that can be considered as boundaries against market forces. Before turning our attention to ILO’s Labor Standards and the Decent Work Agenda (based on two explicit normative concepts) the focus will first be placed on Margalit’s attempt at creating boundaries based (among others) on the same two concepts, namely decency and dignity.
4 The Decent Society and the Prescriptive Negative

With the launch of the Decent Work agenda, the ILO has created a moral market boundary based on the notions of decency and dignity. In the previous chapter, the latter concept was explored by looking at how it was brought forward in various spheres as a countervailing force against market forces. Attempts to capture the concept of human dignity in positive terms (i.e. identifying foundational and shared traits among human beings) were found to be wanting. One alternative account that was also discussed and originates from Avishai Margalit (1996, 2007) is based on the idea that each human being stands in an iconic relationship with all others; we recognize the humanity in others and thereby their membership of the human commonwealth. And it is when dignity is not adhered to (i.e. violated by treating people as if they were not members of the human commonwealth) that we recognize human dignity. This idea is one of the basic underpinnings in his book The Decent Society wherein he outlines his requirements of how a society should function. This book has a specific focus on society’s institutions and has in effect created an account of decent boundaries. Therefore, before turning to the ILO’s International Labor Standards and its Decent Work Agenda we first take a look at this account of the notion of decency and how it can be operationalized in a societal setting.

For this discussion of Margalit’s account of decency (which will zoom in on the issue of work), we look especially at the already mentioned The Decent Society (1996) as well as his more recent book On Compromise and Rotten Compromises (2009). In these works, the notions of decency and humiliation play a pivotal role.

This chapter is divided into two sections. In the first section, the focus is on the theoretical antecedence of The Decent Society together with the methodology deployed by Margalit. A key characteristic of the framework that he presents in The Decent Society is that it is constructed using a negative approach (ex negativo) for philosophical theorizing and policy making: the prescriptive negative. This method is also found in the works of the philosophers Karl Popper and Isaiah Berlin, and both served as inspiration for Margalit in the way he has approached the topic of decency. Therefore, in this section, we will also review their contributions insofar as these relate to the project at hand. A third philosopher who will be covered in this section is
the American John Rawls. His work was instrumental in devising the notion of the decent society that was framed as a response but also as an addition to the Rawlsian idea of a just society.

This discussion of the framework of *The Decent Society* and its theoretical antecedence and methodology will help us in the following chapters to assess the ILO’s Decent Work Agenda. However, before turning to that specific case, we first take a closer look at the application of Margalit’s framework to employment to see what—if any—the implications of this framework are for economic policy in this specific area.

### 4.1 Framing the Decent Society

Avishai Margalit’s moral theory is grounded on the notion of decency. A decent society, Margalit argues, is one whose institutions do not humiliate, or to quote him: “A society is decent if its institutions do not act in ways that give the people under their authority sound reasons to consider themselves humiliated.” (Margalit, 1996, p. 11). Margalit contrasts his idea of a decent society with what he calls a civilized society; a society is civilized when its members do not humiliate each other. As Margalit points out in the introduction of his book, it is quite possible for a society to be civilized but not decent and vice versa (1996, p. 1). For instance, according to Margalit, the transition in Eastern Europe can be seen as a transition from a civil yet non-decent to a more decent society yet less civilized.

Turning to the methodology of *The Decent Society* we see that its point of departure is a society whereby the adjective (or denotation) of “decent” is made dependent on the fulfillment of a specific criterion, namely the absence of humiliation on the part of that society’s institutions. This begs the question of what he means by humiliation and secondly what is meant by society, i.e. who is to be included and who not. Before we can discuss these issues we first need to deal with one key characteristic of Margalit’s approach, namely that the answer he proposes is phrased *ex negativo*; it prescribes what the institutions in a society should not do.

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70 Margalit accentuates the difference by declaring that a “civilized society is a microethical concept concerned with the relationships between individuals while the decent society is a macroethical concept concerned with the set-up of society as a whole.” (1996, p. 2)

71 It should also be noted that this view is contested, e.g. by the first Hungarian Ombudsman Gönczöl (2002); See also Leadbetter (1996);
4.1.1 The Prescriptive Negative

In *The Decent Society*, Margalit lists three reasons for this negative approach, what we shall call here the prescriptive negative. The first reason, what he calls the ‘moral’ reason, is that eradicating evil takes precedence over doing or promoting good. Secondly, he asserts that this approach will help to make a distinction between direct achievable goals and by-products. The third reason has to do with cognition: it is easier to detect and identify an illness (humiliation) than health (respectful behavior) (1996, pp. 4-5).

Of these three reasons, it is the third that is unquestionably true. In his 2002 book *The Ethics of Memory*, he revisits this argument to justify the negative approach: “Is it not injustice rather than justice that “hurts us into politics”? And tyranny rather than freedom, poverty rather than equality, humiliation rather than dignity? The situation is not unlike medicine as the art of curing and alleviating disease. It is disease that brings us to medicine, not health.” (Margalit, 2002, p. 112).

With regard to the second reason, Margalit cites the work of Jon Elster wherein he discusses various psychological and social states that “can never <…> be brought about intelligently and intentionally, because the attempt to do so precludes the very state one is trying to bring about.” (1981, p. 431). A famous example hereof is the injunction “Be spontaneous” that is internally inconsistent. Spontaneity, Margalit argues, is essentially a by-product and not a primary goal. To this he adds that respecting people may be “a by-product of one’s general behavior toward people, while this is not true for nonhumiliation.” (1996, p. 5). Margalit argues that even if it were true that offering someone respect is *always* a by-product of some other act, there are always acts identifiable wherein humiliation is the primary goal. Therefore, the act of specifically not humiliating someone requires that to be the goal of the act.

The validity of the first reason is a bit more complicated. At the end of the day, it has to be acknowledged that it constitutes a belief or as Margalit himself describes it a conviction. Margalit seeks out (just like Judith Shklar in her 1989 publication *The Liberalism of Fear*) the *summum malum* instead of going on the quest for *summum bonum*. The importance of this premise becomes clear when viewed through the implications for theory as well as for

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72 See Shklar and Hoffmann (1998); see also chapter two of Bader (2007) and Benhabib (1994)
policymaking or as Margalit notes in a 2001 article entitled “Privacy in the Decent Society”: “Negative politics, the politics that counters evil, should come before positive politics, which promotes good. There is more urgency, if not importance, in fighting evil than in furthering good. Moreover, there is greater clarity and agreement in identifying evil than in recognizing and agreeing on the good.” (2001, p. 255). This last assertion regarding the greater clarity and agreement in identifying evil does not mean that this is also done in practice.

In contemporary debates on justice, it is far more common to see efforts geared towards formulating how justice and just societies look rather than at how to reduce injustice. In the aforementioned book, The Ethics of Memory he also cites the opening of Tolstoy’s Anna Karenina: “Happy families are all alike. Every unhappy family is unhappy in its own way.” (Margalit, 2002, p. 117). It is an expression of the widespread belief that it is more ‘economical’ to focus on the positive ultimate outcome (e.g. “the one positive idea of justice”) than it is to deal with the various forms of injustice. Margalit stresses that in moral theory one should refrain from applying the rule of the excluded middle, whereby the negation of that what is considered wrong will automatically lead to that outcome that is considered right.

With regard to this assertion that there is an asymmetry between good and wrong as well as the idea that the minimizing the wrong should have precedence over the promotion of good, Margalit acknowledges and references Karl Popper’s book The Open Society and its Enemies. This alone warrants a closer look at Popper’s work in this field. Reservations regarding unifying positive theories are found in Popper’s work as well as that of Isaiah Berlin. In the next section, the focus will be on the work of these two philosophers in order to obtain a clearer picture of the theoretical antecedence of The Decent Society. No such picture, however, would be complete without taking a closer look at the work of John Rawls (which was the driving force behind Margalit’s project), which we shall do in §4.1.3.

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73 See also Amartya Sen’s The Idea of Justice (2009, p. ix)
74 In his discussion of bureaucracy Margalit paraphrases this line stating that “All good regimes are alike, while every bad regime is bad in its own way.” (Margalit, 1996, p. 217). The quote can also be read — as he himself does in his homage to Isaiah Berlin — to convey that good values are not all alike, see Margalit (2003)
75 See Margalit (2002, p. 113)
4.1.2 Standing on Popper and Berlin

The approach whereby the prescriptive is phrased in the negative is similar with Popper’s scientific method of falsification, which states that only through the falsification of propositions can we advance knowledge. Indeed in Popper’s own work on political philosophy, *The Open Society and its Enemies* (1996a, first published in 1945), he acknowledges this: “There is some kind of analogy between this view of ethics and the view of scientific methodology which I have advocated in my *The Logic of Scientific Discovery*. It adds to clarity in the field of ethics if we formulate our demands negatively, i.e. if we demand the elimination of suffering rather than the promotion of happiness. Similarly, it is helpful to formulate the task of scientific method as the elimination of false theories (from the various theories tentatively proffered) rather than the attainment of established truths.” (Popper, 1996a, p. 317). Note that he uses the adverb ‘similarly’ here and not the adjective ‘identical’ when discussing ethics and his scientific method. Popper did not see ethics as a science and asserted that it was impossible to argue in favor or “prove the rightness of any ethical principle” in the way this can be done with regard to a scientific statement. (Popper, 1996b, p. 263). He describes his own position as based on the humanitarian and equalitarian principles of tolerance, the moral urgency of suffering and pain, and thirdly the rejection of tyranny meaning that safeguarding these principles should be done by institutional means rather than rest with the benevolence of rulers (Popper, 1996a, pp. 255-256).

With the urgency of suffering, Popper assigns priority for the eradication of ‘evil’. He states: “I believe that there is, from the ethical point of view, no symmetry between suffering and happiness, or between pain and pleasure. <…> human suffering makes a direct moral appeal, namely, the appeal for help, while there is no similar call to increase the happiness of a man who is doing well anyway. <..> from the moral point of view, pain cannot be outweighed by pleasure, and especially not one man’s pain by another man’s pleasure. Instead of the greatest happiness for the greatest number, one should demand, more modestly, the least amount of avoidable suffering for all.” (Popper, 1996a, p. 317).76

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76 With regard to the denotation “avoidable suffering” Popper refers presumably to the suffering that is man-made as opposed to those who are the result of natural occurrences (see Popper, 1996a, pp. 333-334). In addition, his position on the least amount of suffering indicates that when it comes to morality, Popper abandons the principle of the excluded middle, a notable aspect of scientific method; after all we cannot divide the state of human beings as either being happy or suffering. See also Griffin’s article “Is Unhappiness Morally More Important Than Happiness?” for a discussion on this reversal of the utilitarian principle (1979) and Kiesewetter (1995) for a discussion of Popper’s ethical foundations.
The Open Society was written as a critique of the way Hegelian and Marxist theory understands society with its collectivist and historicist approach; other ‘enemies’ of the open society, such as Plato, are also discussed. Popper’s undertaking constitutes his opposition against so-called “blue-print” societies. These blueprint or closed societies are considered static: all aspects of social and institutional life (e.g. its religion or system of law) are not susceptible to change. The defining element of a closed society is the collective, the membership of a group in the tribal sense of the word. Members of a closed society function against a background that itself is not allowed to be called into question. Submission to its institutional arrangements (including its moral system) is mandatory on the punishment of exclusion. In contrast, the open society is based on the rejection of absolute authority, individualistic and “sets free the critical powers of man.” (Popper, 1996a, p. xvii).

At the core of the political view of Popper lie rationality (which for him was to be seen as being open to criticism) and freedom (Gattei, 2009, p. 4). By ensuring that people are free to voice their criticism against existing institutional structures, totalitarianism can be averted; so what is needed is freedom from interference, i.e. negative freedom. Popper also points out that every action may have unintended consequences (and hence unintended results) and large-scale political change is especially prone to this. This leads him to the conclusion that a society is better off when it applies a political system whereby great transformations are avoided and where change should progress in small steps with continuous iteration so that when a mistake is made it can be easily corrected and without great costs; a process that he calls piecemeal engineering. For Popper, only a democratic society is able to fulfill this task as it is the only form of government that “provides an institutional framework that permits reform without violence, and so the use of reason in political matters” (Popper, 1996, p. 4 cited also cited in Shearmur, 1996, p. 114).

Some of the criticism levied against the way Popper constructed his opposition against totalitarianism is based on the assertion that the way Popper deals with the envisioned proponents of totalitarianism is incorrect. On the one hand, so the critique goes, he fails to put the statements of these ‘proponents’—which he cites—into the context (philosophical and otherwise) wherein they are made, for instance, in Popper’s discussion of Hegel. On the other hand, Popper’s method of presenting his argument (incl. the way he uses the various
quotations) opens up the question to what extent he is being selective in his quoting (Ball, 2004, p. 22).

An objection of being insensitive to the (historical) context of philosophical statement is one which will most likely not be leveled against the work of Isaiah Berlin given his preoccupation with the study of ideas with a special focus on their historical and philosophical context. In his work—most of which has come in the form of a history of ideas—a comparable position with the one held by Popper can be found, namely an opposition against grand theories.

In his study of the succession of philosophical analysis and commentary on topics such as equality and justice, he finds that it is incorrect—although understandable—to speak of development in moral theory as such. He is inclined to follow the ideas of Giambattista Vico (1668–1744) who contends that every society creates its own moral philosophy and that it is not possible to compare these without taking into account the other differences between the current and former society. Given that past societies had a completely different Weltanschauung or outlook (i.e. way of looking at the world); this renders it impossible to create a full and coherent comparison between the two. From this it is easy to see how this analysis by Berlin may lead to the conclusion that the approach entertains a relativist stance towards morality. However, this is not the case. Berlin is not denying the existence of morality or indeed of universal moral concepts; his concern is with the danger that might follow from a grand moral theory.

The title of a collection of his essays, *The Crooked Timber of Humanity* is taken from a quote by Kant from his work entitled “Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht” (published in 1784 in the *Berlinische Monatsschrift*). In the translation of Berlin, this reads: “Out of the crooked timber of humanity no straight thing was ever made.” (Berlin, 1991, p. 48). Berlin takes this to be the admission of Kant that man ultimately is not perfect.

77 The original quote is as follows: “Das höchste Oberhaupt soll aber gerecht für sich selbst und doch ein Mensch sein. Diese Aufgabe ist daher die schwerste unter allen; ja ihre vollkommene Auflösung ist unmöglich; aus so krummem Holze, als woraus der Mensch gemacht ist, kann nichts ganz Gerades gezimmert werden. Nur die Annäherung zu dieser Idee ist uns von der Natur auferlegt.”(Kant, 1793a, p. 15). Note that in the original, Kant is presenting a regulative idea, stating that out of the crooked wood from which Man is made, nothing completely straight (or correct) can be made. Berlin’s translation, on the other hand, reads more like an assessment.
Berlin takes his cue from this to argue that the path towards one encompassing moral theory is at the end of the day the road to inhumanity\(^7\) (1991, p. 19).

Isaiah Berlin states that the pursuit of a definitive form of a society based on singular important concepts such as justice or equality (what he calls ‘Great Goods’) is not only impracticable but also incoherent. Some ‘Great Goods’, or so Berlin argues, cannot live together, that is cannot be achieved at the same time (Berlin, 1991, p. 13). Another problem is that practical obstacles such as new problems are created by every solution—“unknown consequences of consequences of consequences” cannot be taken care of in advance. An ultimate or ‘final solution’ (Berlin uses this term notwithstanding its dark connotation given to it by the Nazi-era) is also incoherent. For such a solution, no cost would be too high to assist in its realization.\(^7\) His answer is compromise between theories and the establishment of priorities creating a ‘list’ that should never be absolute or final. Topping his list of priorities is the avoidance of extremes of suffering.\(^8\) He does leave open the possibility that extreme measures may be required but also reminds us that there is no guarantee that those acts will indeed lead to improvement or have the desired effect of improvement.

There are various similarities between the works of Popper and Berlin apart from the already mentioned opposition against grand theories.\(^9\) Just like Popper, Berlin believes that a priority in policies exists and that the first focus should be on negative freedom over positive freedom. In his view, to be able to achieve the good life is second to the freedom from interference.

Let us now turn to Margalit, who was a close friend of Berlin.\(^10\) Although he subscribes to Berlin’s analysis, Margalit adds that in his view negative freedom, i.e. freedom from interference should be seen as the freedom from humiliation. Freedom, he contends, has an intrinsic value in that it is good in and of itself, but that there are limitations on the idea of the

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78 Interestingly, Roncaglia (2005, p. 125) notes that Adam Smith wrote in similar terms about the human condition in his *Theory of Moral Sentiments* first published in 1759: “The coarse clay of which the bulk of mankind are formed, cannot be wrought up to such perfection”; Roncaglia views both quotations as a reaction to the idea of benevolent human nature that in turn was a reaction to the idea of a substantially selfish human nature.

79 This however is a point to which Margalit’s work has an interesting contribution, namely his assertion that the way justice is done has to be part of any deliberation (see also § 4.1.3 of this thesis).

80 See Berlin (1991) but also Horton (2004)

81 Similarities that were not always publicly acknowledged, see and compare, for instance, Berlin and Polanowska-Sygulska (2006, p. 123) and Berlin and Hardy (2004, p. 682)

primacy of negative freedom. Margalit is above all concerned with humiliation and sees no problem in inhibiting this (i.e. negative) freedom provided that the limitation does not constitute humiliation. Therefore, it is possible for there to be restrictions of freedom in a decent society provided that these restrictions do not amount to humiliation. It is in this light that Margalit’s assessment of the relation between positive and negative freedom should be interpreted when he asserts that “‘freedom from’ has priority over ‘freedom to’, and it is ‘freedom from’ that is predominantly the sort of freedom required for a decent society.” (1997, p. 159).\(^83\) However, when the lack of freedom, for instance, manifests itself in terms of coercion as “the subjection of the victim’s will to that of the subjugator” (1997, p. 158)—something we shall revisit in the second section of this chapter—it constitutes humiliation and has no place in a decent society.

This concise overview of Popper and Berlin leaves us with three identifiable aspects that we can also find in the works of Avishai Margalit, namely the overall negative approach (or prescriptive negative as it is dubbed here), the idea that the eradication of evil takes precedence over the promotion of doing good, and lastly the idea of compromise. Seen as there are considerable similarities between Margalit’s approach in *The Decent Society* and the work of Karl Popper and Berlin, it is striking that both only get a passing reference in this book.\(^84\) The work of John Rawls, however, is discussed at length due to the fact that the work was the main inspiration for Margalit’s work. Margalit states in the introduction that he got the term ‘decent society’ from Sidney Morgenbesser in the 1970s during a discussion of John Rawls’ work on justice and the just society (1996, p. ix).

### 4.1.3 Building on Rawls

Rawls’ magnum opus *A Theory of Justice* (Rawls, 1971) starts out with the observation that political theory is caught between two extremes, namely utilitarianism and that what Rawls calls ‘intuitionism’ (1971, p. 30). Under the header of intuitionism falls the manifold of approaches in political theory characterized by an absence of an overarching framework and that share in Rawls’ opinion of two specific features. First, is the absence of a first principle, and they opt for a plurality of first principles whereby it is not impossible that these may be in

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\(^83\) See also Riley (1997) and Gaus (2003)

\(^84\) With respect to compromise Margalit attributes this explicitly to Berlin in his various publications on the topic. (Margalit, 2003, 2009)
conflict with each other. Secondly, he notes the absence of a coherent method by which these principles may be weighed against each other.85

In order to determine what justice is, Rawls put forward a thought experiment that underpins his conception of justice, namely the ‘veil of ignorance’. His conception, as will become clear, is predominantly focused on the distribution of justice and it is this focus that led Margalit to believe that the Rawlsian account is incomplete. The process of attaining justice, so argues Margalit should be as much part of moral deliberation as the outcome.

In the Rawlsian thought experiment, one is invited to envision a new society as well as the (social) institutions that will exist in it, but this is done behind a veil that precludes any information regarding what place one is going to have in this society. Given that one does not know if one is among the destitute or among the wealthy and powerful, Rawls argues that the logical outcome will be that this new society—a just society—will have a relatively equitable distribution of primary goods.

Margalit argues that this (Rawlsian) calculating of the just distribution of income and rights is not enough: apart from seeing that justice is delivered, one must also examine how justice is delivered. And here the concept of the decent society gains weight. A welfare state or a centrally planned economy might deliver a just distribution of income and benefits, thereby fulfilling at least some of the demands of Rawls (and others) when it comes to the concept of justice. However, as Margalit points out, the cost of such forms of justice is generally (especially in the case of a centrally planned economy) a de-humanizing bureaucracy, which humiliates people by turning them into little more than “numbers”. In The Decent Society, Margalit introduces a framework that addresses precisely this issue (among others) by introducing the demand to abstain from humiliation.86

85 See also chapter three in Kymlica (1990) for a discussion of the Rawlsian project
86 This includes another difference of interest between Rawls and Margalit and that relates to the question of who is to be included and who is not when the societal arrangements are to be made. John Rawls confines himself to the citizens of a society while Margalit expands this to include all those who fall under the jurisdiction or responsibility of a government. Hereby, Margalit explicitly includes all non-citizens in that he asserts that a decent society “<…> is a society whose institutions do not humiliate people who depend on them.” (1997, p. 147)
This demand raises the question of how one should view the place of the decent society vis-à-vis other societal classifications. There exist a number of other types of social notions that can be complementary to the decent society and not necessarily always rival. Margalit differentiates among others between a bridled, just, decent, and civilized society. He adds a lexicographical order of priorities starting with the bridled society (in which physical cruelty is ruled out) followed by the decent society and ending with the just society (1996, p. 148). This order is cumulative in that every just society must be a decent one but that the opposite does not always hold: not every decent society is necessarily a just society (1996, p. 3).

As already noted, Margalit was not the first to use the phrase “decent society”; there are numerous examples to be found. Two of the three philosophers singled out in the text above for their influence on Margalit’s project (Isaiah Berlin and John Rawls) had in fact used the term before the 1996 publication of *The Decent Society*. In the case of Isaiah Berlin, it can be noted that he did not use the denotation of decent in a conceptual manner but rather in a casual form to formulate the best attainable society: “The best that can be done, as a general rule, is to maintain a precarious equilibrium that will prevent the occurrence of desperate situations of intolerable choices—that is the first requirement for a decent society; one that we can always strive for, in the light of the limited range of our knowledge, and even of our imperfect understanding of individuals and societies.” (Berlin, 1991, pp. 17-18).

Although Rawls was aware of Margalit’s work, he himself didn’t, at least not in his published writings, take it upon himself to write about the decent society as Margalit envisioned it. However, in his 1993 paper entitled “The Law of Peoples”, Rawls coins the term ‘a decent society of peoples’ to describe well-ordered political regimes that care about the well-being of all of its peoples. A modified version of this article was published in book form in 1999 under the same title. In this publication, Rawls uses the concept “to describe nonliberal societies whose basic institutions meet certain specified conditions of political right and justice (including the right of citizens to play a substantial role, say through associations and groups, in making political decisions) and lead their citizens to honour a reasonably just law for the Society of Peoples.” (p. 3, fn 2). As far as an explicit discussion of Margalit’s work in the 1999 publication, Rawls confines himself to the remark in a footnote stating that his usage of the

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87 Since the publication of Margalit’s book, several interpretations have emerged with their own accounts of the decent society incl.: Arneson (2007); Blau, Santos, and Sessoms (2009) and Reich (2002); See also Muller (1993)
term ‘decent society’ differs from Margalit’s whereby the emphasis lies, according to Rawls, with “consideration of social welfare”. (p. 3, fn 2).

This treatment of Margalit by Rawls is striking in that it is incorrect. Margalit’s work draws attention to the process of getting to a just society (with the theme of humiliation at its core) as opposed to solely the outcome of a just society. To this we can add that the latter (i.e. the outcome of the just society) being the topic of Rawls’ own book *A Theory of Justice* has the “consideration of social welfare” playing a pivotal role. In this light, the claim that *The Decent Society* is preoccupied with social welfare only stands insofar that it was written as a response to *A Theory of Justice*. The description offered by Rawls can only be valid if we choose to ignore Margalit’s work on humiliation and the importance of the process apart from the outcomes of this process.

In his book on Rawls, Samuel Freeman notes that the main difference in the way the two philosophers use the concept of the decent society lies in the place each attaches to the concept of rights. These are essential in Rawls’ account but not deemed necessary *per se* in Margalit’s version (S. R. Freeman, 2007, p. 513). This assessment too misses the main point that Margalit argues in *The Decent Society*. The major difference between them is the importance of the *process* of achieving justice. Secondly, although Margalit talks at length as to whether or not rights are essential for a decent society and ultimately argues that this is not—at least theoretically—the case (pointing towards the possibility of a society based on duties, see §4.1.5 of this thesis), he does acknowledge their importance if only in the examples he gives of the practical application of his ideas.

Some have taken issue with the way Margalit puts the spotlight on the claimed omissions in Rawls’ work. Patten (2001), for instance, notes that the arguments provided by Margalit for his claim that a truly just society must *ipso facto* be a decent society together with the claim that a Rawlsian just society need not be a decent society, will not convince a ‘committed Rawlsian’. The main reason for this, according Patten is that Margalit is positioning his approach based on the omissions or blind spots in Rawls’ theory and the fact that Rawls has not written about a specific topic (e.g. on certain institutions and practices such as religion, on the method of distribution or on the status of non-members) is *not* the same as him having a divergent position.
Another claim that Patten (2001) takes issue with is the sequencing whereby achieving the decent society has a higher level of urgency than achieving a just society. Only the achievement of a bridled society supersedes the decent society. Patten states that he is unconvinced by this sequencing whereby social justice takes a back seat and the avoidance of humiliation is given priority: “If Margalit is right to think that it is often humiliating to accept charity (pp. 235–246), then his lexicographical priority claim seems to have the (arguably) counter-intuitive implication that charitable schemes aimed at promoting justice should, in general, be abandoned.” (Patten, 2001).

This assertion, however, is an incorrect representation of Margalit’s ideas on this topic in that charitable organizations are not prohibited under the framework; the point that Margalit makes is that the government should not provide assistance as a matter of charity but should pass it on as an entitlement. Patten lists another reason for doubting the hierarchy, namely that the determination of humiliation needs considerations of justice. In other words, Patten argues that one needs justice to assess whether there is a case of a “sound feeling” of humiliation. However, this argument fails again to acknowledge that the decent society itself or in the sequence of societies (that is from bridled by way of decent to just) is not a binary affair. Concepts of justice are not absent in a decent society and need not be so.

In this section, we have discussed the theoretical antecedence of the decent society whereby some of the building blocks of the framework itself have already been touched upon. In the next section, we will explore these in greater detail, especially the concepts of decency and humiliation. The discussion of these concepts is particularly important given that Margalit has opted to use existing concepts instead of creating new ones to put forward his theory. In fact, this is one of the methodological differences between Margalit and other philosophers, including Rawls.

Rawls arrives at his conclusions by way of a selected set of basic assumptions and a deductive theory that is built around the concept of justice. He introduced new concepts such as the ‘veil of ignorance’ and ‘primary goods’ along the way. In contrast, Margalit does not use a grand deductive theory to develop his notion of the decent society. He also does not introduce new

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88 “What I am suggesting is that the decent and the just society may be too closely intertwined for us to be able to say that one or other has clear priority as an ideal.” (Patten, 2001)
concepts to explain his account of the decent society. He utilizes concepts that have a history in their own right. Koenis (2001) notes that the approach Margalit deploys is more dependent on analytical depth and plausible descriptions of examples of—in his case—humiliation and humiliating situations instead of relying on the formulation of a testable hypothesis. This does not mean he presents no such hypothesis. As will become clear in the next section—he in fact confronts his notion of the decent society with ‘real life’ situations and issues to see whether it yields new insights; for example, he addresses the question of poverty and explains why and under what circumstances it might be deemed inappropriate.

Margalit describes his own approach as “e.g.” philosophy as opposed to an “i.e.”-philosophy.89 This approach has not been well received all round. For instance, in his review of The Decent Society, Murmann (1999) laments the lack of clarity regarding the relationship between the decent society and the just society as envisioned by Rawls. He attributes this to what he calls the major deficit of the book, namely its hermeneutic method whereby the arguments are based on past experiences rather than “on normative criteria that would justify a universal perspective on decent institutions.”90 This criticism is perhaps a bit too strong, as Margalit does in fact introduce (and applies) normative criteria for justification such as humiliation and especially his account of human dignity as the representation of self-respect (see §3.3 of this thesis), which are tied in with this as we shall see hereunder.

4.1.4 Decency as the absence of humiliation

Having stated that a decent society is one of which the institutions do not humiliate people, the question becomes what precisely constitutes humiliation. Margalit defines humiliation (as was already touched upon in the previous chapter) as follows: “Humiliation is any sort of behaviour or condition that constitutes a sound reason for a person to consider his or her self-respect injured.” (Margalit, 1996, p. 9, emphasis added). To this we can add that injuring someone’s self-respect (i.e. humiliation) entails treating a human being as if he or she was not a member of the human commonwealth.91

89 Taken from Margalit (2002, p. ix); see also Bernstein (2004)
91 See also §3.3
The reason for the inclusion of the ‘sound reason’ condition is that Margalit is using ‘humiliation’ in the normative sense as opposed to the psychological sense. In the latter case one can have a situation wherein a person is feeling humiliated although there is no real grounding (i.e. sound reason) for this. In the former, the normative sense, humiliation includes those cases when a person does not feel humiliated but nevertheless has reason to feel in such a way. This reasoning puts a heavy burden on the concept of sound reason and its underlying conditions.

The key condition underpinning the soundness clause is that humiliation can only be brought about by humans. He adds that they need not have any humiliating intent or need to be aware of the fact that they are humiliating others. However, although awareness is not required, there has to be a humiliator, an agent who is the instigator of the humiliation.92 Attached to this position is the notion that treating someone with respect may be viewed as the standard situation in social interactions, whereas for humiliation this is not the case. Moreover, in accordance with his argument in favor of the prescriptive negative, he argues that treating someone with respect is not linked to specific actions. Humiliation, on the other hand, does require an act/deed (of disrespect); there has to be an active party causing the humiliation.

Treating someone as though he or she was not part of the human commonwealth can thus occur along two lines of action. First, it is achieved in treating a person as an object or by denying the traits of humanity in a person, for instance in treating them like animals. Secondly, it can occur by treating someone as subhuman, that is as not fully human, for instance when treating adults as children. This Margalit argues is also a way of excluding a person as a full (!) member of the human commonwealth.93 Failing to acknowledge that someone is a member of this commonwealth constitutes a violation of that someone’s human dignity, which as was noted previously is in Margalit’s framework closely tied with a person’s self-respect.

92 Margalit uses the example of Richard III who due to his deformity would have had every reason to feel humiliated. Yet, within the framework, this would not constitute humiliation given that its cause can be ascribed to nature. In this particular case it may be of interest to learn that a consensus has emerged that Richard III had in fact no physical deformity at all but that this was attributed to him by subsequent rulers. (see e.g. Jones, 1980; and Markham, 1891)

93 The list of ways in which to treat human beings as not human is of course not exhaustive. Margalit has provided multiple examples in various publications, for instance: “I use “humiliation” in a rather strong sense — in the sense not of lowering one’s social position in one’s own eyes, as well as in those of others, but of lowering one’s position of being human. Treating humans as machines or as “numbers,” treating them as beasts or sub-humans or permanent children, are some of the ways to injure their human dignity.” (Margalit, 2004a, p. 173)
The emphasis on acts or deeds in framing humiliation brings us back to the importance of process versus result. It is not just outcomes that should be our concern but our focus must also include the process by which these are achieved. Humiliation whether it is found in an outcome or in the process to achieving a particular outcome should be avoided as in either way it constitutes a violation of human dignity.

To sum up, Margalit utilizes normative concepts to come to his idea of the decent society. With the introduction of these concepts, including dignity, decency, and humiliation, he offers the tools by which to evaluate societal and institutional arrangements. However, before we can turn to such an assessment, one further element in his work needs to be discussed, namely the issue of rights.

4.1.5 Rights and the Decent Society

The issue of rights as noted above is one of the ascribed differences between Rawls (for whom rights are essential in his theory of justice) and Margalit, who asserts rights are not essential per se in a decent society. This topic is not just a mere philosophical issue. The Decent Work Agenda of the ILO has a clear rights component, indeed the ILO’s international labor standards are written in the language of (and exist in the realm of) rights. This makes it important to obtain a clear picture of the place of rights in the decent society framework before we can apply it to the ILO’s Decent Work Agenda.

When Margalit writes about rights, he focuses on the question of whether the concept of rights is a necessary condition for a decent society. He contends that this is not the case and thinks that it is possible for a society that has no concept of rights to develop the concepts “appropriate for a decent society” (Margalit, 1996, p. 3). This has led to some confusion among commentators for whom the relation between rights and humiliation is obvious, especially when there is talk of a ‘violation’. Margalit rejects this and, citing Wittgenstein, asserts that this is a case of “being held in the grip of a picture”. By this he means that when people talk and think about society and its institutional arrangements nowadays we are by definition talking about rights because this is the way those issues are always approached. In order to clarify his own position he describes an alternative society, not based on rights but on duties. Such a society could have, for instance, a duty not to humiliate. However, in that case, the victims of humiliation are in fact deprived of having a sound reason for feeling humiliated.
To clarify this point, in such a society the elderly have no right to a seat in the bus yet young people have a duty to offer them their seat. If this does not occur, the violation is not against the elderly but against society’s prohibitions.

Margalit acknowledges that it would seem that a system of morality based on duty needs the concept of rights, at the very least in some implicit way, in order for it to work. However, he challenges that it has a mandatory role when it comes to the justification of the duty to forgo the act of humiliation (1996, p. 33).94

Margalit uses the story of Uncle Tom’s Cabin to clarify the importance of the sense of self-respect especially in relation to the notion of rights. The case is of interest in that it is an example of a situation whereby the notion of rights is absent. In addition, it is a case wherein the person of interest has no option to demand their rights. Therefore, it is a possible argument in favor of a close relationship between rights and self-respect that shows how not being able to demand your rights in turn constitutes humiliation. However, another reading of the Uncle Tom story is possible whereby one of the conclusions reached is that we are dealing with “issues that people should be concerned about but not necessarily issues that they actually are concerned about.” (Margalit, 1996, p. 38). In conclusion, Margalit thinks that the concept of rights is not strictly necessary but it would seem that the absence of rights would require considerable demands of society on other fronts.

In the end it seems that too much is being made of Margalit’s position on the necessity of rights but this is attributable to his own writings on the topic. When it comes to the practical interpretation of the framework as provided by himself we find that rights e.g. in the form of entitlements are very much part of the decent society. In the next section, we look at the application of the framework to the topic of employment.

4.2 Application: Employment in the Decent Society

In his book the Decent Society Margalit covers several topics as examples of practical application of his framework, including: snobbery, privacy, bureaucracy, the welfare state, and

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94 Feinberg (1970) presents an argument against this position claiming that that there can be no self-respect without it being closely connected to the notion of rights; rights constitute the self-respect. See also Davis (2009)
punishment. This section reviews his writings about work, i.e. employment. While discussing employment within the context of a decent society, Margalit’s focus is on unemployment. The central question he tries to answer is whether a society can be considered decent if there is unemployment? Put in another way: can a society only be considered a decent one if it has full employment or at worst frictional (or other forms of temporary) unemployment?

In its most basic form, unemployment entails the absence of work that provides an income. From this, one could infer that it is not so much employment but income (in order to prevent poverty) that should be guaranteed by a decent society. However, employment is more than just about generating an income. Margalit concurs with the formulation in the Universal Declaration of Human Rights, in that social and economic rights are indispensable for human dignity (1996, p. 246). Work gives people autonomy and economic citizenship that preserve their human dignity. However, Margalit adds that this claim is time- and culture dependent. In ancient Rome, workers were thought of as undignified because their existence depended on getting paid by other people, but over time the attitude towards work has changed. In discussing the attitudes towards work, Margalit focuses on the dependence relationship that work entails. He identifies four different types of dependence that determine people’s attitude toward work that he dubs the classic, capitalist, socialist, and Calvinist type.

The classic type of dependence refers to the dependence on getting paid. The opposite of this is having no dependence on anyone by way of being completely self-sufficient (i.e. autarchic production). The second type of dependence, the capitalist concept of dependence, can best be understood in its negation: unemployment creates dependence. Therefore, in the capitalist type of dependence, work has a liberating function. However, working in this setting is viewed as second best to having independence by way of owning property. Under the socialist type, work is seen as the source of all economic value. Anyone not working is dependent on the work of others in a parasitical kind of way. Only those who work can be said to be truly independent. The last type of dependence that determines people’s attitude toward work is the Calvinist type. Here, the only acceptable form of dependence is the dependence on God, and idleness is viewed as the neglect of one’s holy tasks. Margalit finds none of these concepts capable of justifying the value of work. He singles out the capitalist notion for having a resonance of a moral significance: the only way people (who do not own any property) can secure their human dignity is by working for pay (1996, p. 251).
Thinking in terms of dependence is however only one side of the story. In order to do justice to the importance of work, Margalit alters his initial query into whether a society must guarantee employment to whoever wants it in order to be considered a decent one. He completely underwrites the idea that everyone has the right to work stating that work is not merely a tool for acquiring an income (which constitutes ‘employment’) but that it is a right in and of itself.\(^\text{95}\) He contrasts employment with what he calls a ‘meaningful occupation’ that is defined as “an occupation that confers meaning on the life of the one engaged in it.” (1996, p. 253). Given this very personal definition—after all it is the one who is engaged in it that determines whether it is meaningful or not—it cannot be up to society to guarantee a meaningful occupation for all. Margalit does, however, add that society (government) is obliged to make a serious attempt at securing its provision or at the very least assist those who seek such an occupation. The justification for this demand is that a meaningful occupation will give those who have it self-worth as well as self-esteem.\(^\text{96}\) Therefore, Margalit concludes that: “A decent society is thus one that provides all its members with the opportunity to find at least one reasonably meaningful occupation.” (Margalit, 1996, p. 254).

This conclusion has led some commentators to believe that Margalit has lost sight of the practical. Amélie Oksenberg-Rorty (1997), for instance, argues that the global movement of labor to the cheapest sources of production and the resulting daily announcements of ‘downsizing’ poses problems for a decent society. She questions whether the priority of decency as described by Margalit, facing the rise of economic divisions, can be strong enough “to offset competition for the satisfaction of basic needs.” (Oksenberg Rorty, 1997, p. 116). The subtitle of her article indicates that she thinks not: “First let’s eat and then talk of right and wrong”.

A first objection against this line of reasoning can be raised by pointing out that Margalit develops his theory with an individual state/society in mind rather than a cosmopolitan idea of a world-state. If the outcomes of the internationalization of the economy are detrimental (i.e.

\(^{95}\) Again he refers to the declaration of human rights. Article 23 (1) of the declaration says: “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.” (United Nations, 1948).

\(^{96}\) “There is no need for a metaphysical justification based on defining the essence of human nature for demanding that a decent society satisfy the difficult but just requirement of guaranteeing all adults an occupation they would consider meaningful — not only one that would grant them self-esteem but one that would give them self-worth” (Margalit, 1996, p. 253).
cause humiliation) they do not constitute an argument against the creation of a decent society (Margalit, 2004a, p. 175).

Secondly, by focusing on outcomes in her critique Oksenberg–Rorty ignores one of Margalit’s key points namely that it is not just about outcomes but that the underlying process is also need of our attention and by doing so she posits the wrong question. Therefore, for instance, one could argue that the real question at stake is not the loss of jobs due to the international relocation of production but rather how a society deals with this loss of employment. A decent society has, according to Margalit, an obligation to assist those who lose their work in guaranteeing income but also in their search for a meaningful occupation.

Although the critique of Oksenberg–Rorty seems to be misguided, it does raise a question regarding the underlying relationship between the ideal type societies that Margalit has identified and where the order of priorities runs from a bridled to a decent and ultimately a just society. The question of interest is whether it is conceivable that a society moves downward instead of upward? Can a society for whatever reason slide back from being a decent society to being a bridled society? It may be theoretically possible but it is hard to imagine this happening without a society then also failing in being a bridled society.

4.2.1 Forced labor and exploitation

In dealing with employment, Margalit also looks into the issue of exploitation and forced labor. In particular, he reviews whether a decent society is one where there is no exploitation and/or forced labor. He starts out by making a distinction between different types of forced labor. First, there is forced labor that entails work performed under coercion. This type requires a person coercing someone else with intention. The second type is defined by Margalit as work performed under compulsion, which differs from coerced labor in that there does not have to be a person exercising the compulsion nor any intention to force someone to do something; i.e. there is no threat involved. For example, we are compelled to work because we have to support ourselves and our family.

97 To this may be added that the relocation of production abroad is more likely to lead to a shift in employment opportunities instead of increased structural unemployment.; see e.g. Biermans and van Leeuwen (2006).

98 A theoretical more likely possibility is the scenario wherein a non-decent society increases the instances of humiliation by its institutions, e.g. by widening the groups it fails to acknowledge as full members of the human commonwealth.
Due to the loss of autonomy of the victim, work under coercion is a clear example of humiliation. Although work under coercion is the prime example of exploitation, Margalit argues that exploiting workers does not by definition mean coercing them to work. Therefore, while there can be no work under coercion in a decent society this does not mean that a decent society is one where there is no exploitation (1996, p. 255).

Margalit subscribes to the idea that for exploitation to be possible in a capitalist society it must be of a hidden nature, otherwise the victims would revolt. Here, he follows Gerald Allan Cohen’s interpretation of Karl Marx’s writings. Cohen discussed this topic at length in his book *Karl Marx’s Theory of History: a Defence*—cited by Margalit—wherein he writes: “If the exploited were to see that they are exploited, they would resent their subjection and threaten social stability. And if the exploiters were to see that they exploit, the composure they need to rule confidently would be disturbed. Being social animals, exploiters want to feel that their social behavior is justifiable.” However, it must be noted that regarding this interpretation of Marx on the hidden nature of exploitation, Cohen adds the following: “Marx never states this explicitly psychological thesis, but it must be attributed to him if we are to make sense of a great deal of his theory of ideology.” (Cohen, 1978, p. 400). Whether this interpretation is correct or not, the idea that exploitation can also be hidden from the exploiter has a clear fit with Margalit’s own assertion that humiliation can occur without the active knowledge or intent on the part of the humiliator.

Margalit sidesteps the question of whether exploitation is unfair and focuses strictly on the question whether exploitation is humiliating. If it is, it would mean that no society where exploitation was present would be a decent society. As for what constitutes exploitation, Margalit states that: “I am of the opinion put forward by Gerald Cohen that there is no exploitation without the assumption that on some level or another the means of production which constitutes the capital owner’s contribution has been stolen. […] [Stolen] in the sense of taking something without the permission of the person who is morally the owner of the property.” (Margalit, 1996, p. 257).

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99 Margalit notes that his discussion on exploitation is based mainly on Gerald Cohen (1978), John Roemer (1982) and Jon Elster (1985)
Using a thought experiment, Margalit tries to determine whether if you feel exploited you also have a sound reason to feel humiliated. He invites the reader to take on the role of a weaver who has his loom taken away by someone who has done the same to many others and who has thereby acquired a great number of looms. Margalit then asks us to imagine that this person after having acquired all these looms has “with great ingenuity <...> organized the production of textiles so that she is able to pay you a salary much higher than the profit you would make from the loom if you were working on it as its owner.” (Margalit, 1996, p. 257). The key question Margalit now asks is whether we, in the role of the weaver, are justified in feeling exploited keeping in mind that we now have more money than we would have had if the loom was still in our possession.

Margalit lists three possible responses to this question. The first possible response is an affirmative; we are justified in feeling exploited. The rationale for this first possible answer is that exploitation is a comparative concept and that an actual situation is compared with a counterfactual one. In this case, we are invited to compare our new (higher) earnings with the earnings we would have had if the loom still had been ours, which in this example would have been lower. However, this comparison is under this rationale not the correct comparison, for the right question to ask is how much we would have earned had we been the ones organizing all the looms in an efficient manner instead of this other person.

The second possible response is based on the idea that we understand exploitation as not receiving a fair recompense in terms of produced value. If we were to accept this idea, then the answer would have to be that we have no right to feel exploited after all the compensation is more than what we would have made out of it. However, even though we do not have the right to feel exploited we are—as Margalit argues—entitled to feel bad as we are now an employee working on a loom that should rightfully be ours.

The third response centers on the acknowledgement that we are the injured party and that the loom was stolen from us. In this case, the only relevant issue is to determine whether the received remuneration is sufficient “to compensate for the damages.” Margalit adds that as part of the compensation it is important that it must be recognized for what it is, namely compensation. In the thought experiment, the compensation is in fact more than what we could have earned, which leads Margalit to conclude that in this case there can be no talk of
exploitation and we should in fact consider ourselves fortunate: “Our case involves ownership and theft hidden from the actors, and acquires historical and “scientific” detective work to discover that the loom actually belongs to you. Meanwhile you realize that the reparation you have received in virtue of the fact that the loom was not in your possession is actually more than what you could have received on your own. In this case, then, you do not have a good reason for feeling exploited. Only bitterness based on envy could lead you to feel exploited. Not only do you have no right to consider yourself deprived, you should even consider yourself lucky.” (1996, p. 258/259). Nevertheless, it is still possible for us to feel exploited because of the loss of autonomy suffered. However, Margalit argues (in accordance with Mill) that the concept of autonomy includes the right to make wrong decisions, or in this case to work for less money than you would receive if you would work for someone else. Margalit expands on this last point on autonomy by applying it to describe the consequences of exploitation for collectives using the example of colonial regimes.

Margalit asks if we were to assume that the way production was organized under colonial rule resulted in a higher output than would have been achieved under strict autonomy, can we then still speak of exploitation? Margalit does not think that this is the case from the outset and that the answer depends partly on whether the colonial regime exploited irreplaceable raw materials—thereby leaving them structurally worse off—in the particular country. However, although the colonial rule may not have been exploitative, it was humiliating. This humiliation as pointed out above may not have been the result of exploitation, but it is still there because of the impairing of the autonomy of the peoples in the colony (Margalit, 1996, p. 261).

Overall, Margalit's conclusion is that exploitation even though it is not just nor fair, it does not necessarily imply a lack of decency. The side effects can potentially be humiliating but the act of exploitation itself does not constitute humiliation as such: “The connection between exploitation and humiliation is causal rather than conceptual. Therefore a society may be decent even though it is exploitative.” (1996, p. 261).
4.2.2 Trade-offs and Compromise

With *the Decent Society*, Margalit offers a framework by which one can judge societal arrangements, but on the question of how to attain a decent society he is less outspoken. Apart from stating that the eradication of physical cruelty takes precedence over the elimination of humiliation, there is little guidance in, for instance, the optimal sequencing of implementing policies aimed at becoming a (less in-)decent society; how are we to judge the various policies vis-à-vis each other? Which if any (temporary) trade-offs are admissible?

Recently, Margalit has worked on the topic of compromise (e.g. Margalit, 2008, 2009), which can be said to be very much in the spirit of Isaiah Berlin. The central idea in his 2009 book entitled *On Compromise and Rotten Compromises* is that in order to achieve peace we should be willing to compromise and that this should be done even if it is at the expense of justice. Although every compromise is to be judged on a case by case basis, there is one type of (political) compromise that should never be accepted: “rotten” compromises. An agreement is deemed rotten if it “establishes or maintains an inhuman political order based on systematic cruelty and humiliation” (2009, p. 54). In order to make the distinction clear, Margalit makes use of various historical examples among them being the making of the US Constitution and its compromise on the permissibility of slavery.

The creation of the Union by way of the US Constitution required many compromises among the delegates of the various states. Margalit focuses on the question of whether the inclusion of slavery constituted a “rotten” compromise. His answer starts out with the observation that slavery already existed before the Constitution. This, for him, is an important fact as the act of establishing slavery is much worse compared to the act of sustaining it. Therefore, the question of interest according to Margalit is whether the Constitution *helped maintain* slavery.

In answering this question, it is important to make a distinction between the beliefs *ex ante* rather than the beliefs *ex post*. When it comes to the latter, Margalit states that the Constitution did not help maintain slavery: “It seems that in the final analysis the establishment of the union did more to undermine slavery than to help maintain it. This verdict is an empirical historical

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100 See also Margalit (2003)
judgement not a normative judgement. But what it is morally relevant however is the question
could one at the time of making the agreement assess in good faith that forming the union was
going to help the cause of abolishing slavery rather than to sustain it.” (Margalit, 2009, p.
57/58, emphasis added).

The assertion that the establishment of the Union did more to undermine slavery is debatable.
The empirical fact that this did not take place and that the effective abolishment of slavery
would take almost a hundred years and required a very bloody civil war, should be enough to
doubt this judgment. On the other hand—and this is probably what Margalit is implying—if
the Union would not have come to pass because the Constitution was not ratified, this would
have led to the creation of several separate countries wherein slavery would be completely
legal. It seems questionable that these countries would have been as likely to abolish slavery in
the same timeframe as the US finally did after the Civil War. However, this is focusing on the
ex post beliefs, whereas for the normative judgment, we need to look at the beliefs held during
the making of the compromise.

With regard to these ex ante beliefs, Margalit notes that there were reasons to assume that
slavery was on the way out by way of changing perspectives (note that the cotton gin had yet
to be invented) and the assumption that the interaction between the slave states and free states
would hasten the recognition of the immorality of slavery. However, merely believing that this
will be the case is, as Margalit argues, not enough to engage in the compromise that they did.
It is not enough to believe ex ante that slavery was on its way out, as there also had to be an
assessment over which period of time the actual abolishment was to take place and the
horizon that Margalit proposes is that of the living generation.

Any changes for the better, Margalit argues, should be seen by the generation that is suffering.
In addition, staying with the Kantian idea that people should not be treated as a means to an
end, this sacrifice for a greater good needs to be done with the consent of the generation itself.
The compromise of the Constitution fails on two accounts with regard to this proposal.
Firstly, the slaves were no party to the negotiations and, therefore, were not asked for their
consent. Secondly, the Constitution included a provision that ensured that the importation of
slaves would not be hindered and was thus authorized for a period of twenty years, i.e. until
1808. This period veers, as Margalit argues, towards the upper boundary of a generation span
and thus a living generation. Based on the latter point, Margalit concludes albeit tentatively
that the example of the Constitution is to be considered as a rotten compromise for although there were signs that slavery was on the way out, this was not expected to happen within the span of one generation, give or take twenty years\textsuperscript{101} (Margalit, 2009, pp. 59-60).

Margalit’s analysis of compromises is primarily focused on the discussion of the extreme types of compromises, namely those wherein there is a risk of a rotten compromise. Nevertheless, there are insights from this discussion that can be helpful in devising and evaluating social and economic policies from a normative perspective, e.g. the moral asymmetry between establishing and maintaining humiliation, the importance of consent and the outlay of a time-path (including the living generation test) wherein the expected beneficial results are expected to occur. These insights fit squarely with the earlier discussed idea that the way in which changes are brought about, the process should be as much part of the deliberation as the intended outcomes. As such, the decent society framework can help in the devising, but also in the appraising, of moral market boundaries in general as well as specific manifestations thereof in the guise of labor standards and the ILO’s Decent Work Agenda, which are the topics of interest of chapters five and six, respectively.

4.3 Chapter Summary

In his book \textit{the Decent Society}, Avishai Margalit presented a moral framework based on the concepts of humiliation (the opposite of respecting human dignity) and decency. The definition of a decent society (a society whose institutions do not humiliate) is phrased in the negative; it tells us what should not be. This approach, the prescriptive negative is in part based on the belief that the eradication of evil takes precedence over the promotion of good but also follows from the idea that it is easier to recognize the wrongs than the good and that it is humiliation (i.e. the wrongs) rather than acts of respect (the good) that brings us to policy making.

\textsuperscript{101} There is another reason why the constitution should be seen as a rotten compromise and one that Margalit does not discuss, namely the inclusion of the rule that three-fifths of the number of slaves would be included when determining the size of the population. This in turn determined the political strength of a state in the newly formed government institutions benefitting slave holding states.
In applying his own work to the topic of employment, Margalit accentuates the importance of work not only as a means to gather income but also a source of self-respect. In a decent society, so argues Margalit, all members should be assisted in providing the opportunity to find at least one meaningful occupation. Margalit argues that neither compulsory work nor exploitation—although they may be unjust—constitute (by definition!) a sound reason for feeling humiliated meaning that either can be found in a decent society.

The work of Margalit provides us with an operationalization of the concepts of decency and dignity which in turn are central to the ILO’s Decent Work Agenda. This discussion of the decent society framework will assist us in the evaluation of this agenda as a market boundary. Before turning our attention to the agenda, the next chapter takes a closer look at one of the key components of the Decent Work Agenda, namely international labor standards.
PART THREE – LABOR STANDARDS AND DECENT WORK
5 International Labor Standards

In the preceding chapters, we looked at how the workings of the market are confined by boundaries (chapter two) and how the notions of human dignity and decency might fit in these boundaries (chapters three and four). In principle, we have the tools needed to make an appraisal of the ILO’s Decent Work Agenda as a moral market boundary. However, before we can commit to that specific task we still need to have a clearer picture of the ILO itself and one of the important elements of this agenda: international labor standards.

International Labor Standards is the name given to the conventions adopted by the International Labour Conference, which in turn is part of the institutional framework of the International Labour Organization. These standards, which are devised to help in securing worker rights and improving the working conditions, serve as market boundaries in their own right. They deal directly with one of the key production factors of economics, namely labor and are inherently normative because that is what standards are by definition. Moreover, their entire history is set against the backdrop of the perceived dangers of the effects of intense (international) competition, i.e. the market forces. Their emergence—as well as the founding of the ILO as originator and guardian of these standards—can be seen as questioning the doux-commerce theory discussed in chapter one.

In the first section of this chapter, we take a closer look at the evolution of labor standards. Their history is not just a story of changing ideas on how labor should be regulated. Any overview of this history should take into account the changes in the labor process itself (for instance, the industrialization of labor) and overall societal and cultural changes. In this, labor standards exemplify how market boundaries can be seen to change over time. The overview presented here focuses on the highlights of the evolution of labor standards, zooming in on the distinct developments regarding the standardization of labor standards and attempts at creating international consensus on the minimal demands regarding working

102 And because the standards concern human action and activities, we can also assert that they are normative in the moral sense of the word.
103 For instance, Michael Mann asserts in his work The Sources of Social Power (1986, 1993) that the use of labor can be described as having gone through three stages of compulsion “from slavery to servdom to “free” labor.”(1986, p. 152); see also Polanyi (1944) and Zelizer (1994).
conditions. This overview is subdivided between the abolition movement and, secondly, the advancement of labor regulation. The former can justifiably be called the first internationally organized attempt to adjust labor related wrongs while the latter presents us with the antecedence of the ILO.

Section 5.2 covers the history and institutional characteristics of the International Labour Organization. This history is closely connected with the process of the internationalization of markets often described as globalization. This process presents labor standards with various issues, most of which arise from what has become known as the theory of the race-to-the-bottom. Apart from its role in shaping international labor standards, this thesis was also a driving force behind the renewed interest in international labor standards in recent times. In its most basic form, the thesis states that heightened international competition as a result of increased trade (nowadays often denoted as globalization) will increase the pressure to cut labor costs and achieve greater flexibility in the production system, which will have a negative impact on the (acquired) levels of labor standards and conditions (see e.g. Lee, 1997 and Moran, 2002). This section will also cover various approaches that have been put forward to address this issue in terms of enforcement. In the third section of this chapter, we turn to the current situation of labor standards whereby the focus lies not only with the acceptance of labor standards but also the effectiveness in securing adherence. The chapter will be wrapped up with a summary.

5.1 The evolution of labor standards: a brief overview

A comprehensive overview of the emergence of labor standards in the history of humankind would fill many pages. The outline presented here is, therefore, out of necessity a mere collection of some of the more visible aspects of this history. For a more in-depth description of the history of labor standards, I refer to the publications of Engerman (2003), who provides a comprehensive overview of the introduction of labor related legislation; Mann (1993) for the social context of this history; and Braithwaite and Drahos (2000) for an account of how labor regulation became globalized. After some brief remarks on the definition and

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justification of labor standards, the remainder of this section will look at the historical evolution of labor standards.

5.1.1 Defining labor standards

In generic terms, labor standards refer to all those rules governing the manifestation of labor whether regarding the size and composition of the labor force or the circumstances under which labor is performed, i.e. working conditions. As such, labor standards are part of labor market institutions, which has a broader scope in that it comprises “<…> rules, practices and policies—whether formal or informal, written or unwritten—all of which affect how the labour market works.” (Berg and Kucera, 2008, p. 11). Whereas the institutions cover the whole spectrum of anything relating to the labor market and its workings, labor standards are the official manifestations thereof.

In any discussion on labor standards, one needs to make a distinction between de jure and de facto labor standards. The former refers to the institutional arrangements regarding the conditions under which the act of work is expected to be performed and the latter to the actual conditions under which labor is performed. Needless to say that there can and often are differences between the two; a country may experience poor labor practices that do not match the labor legislation it has in place. It is also possible for an economy to have far better de facto labor standards than one would expect given the de jure labor standards it has in place. In addition, one should be aware that, although the two often go hand in hand, the nature of the causality remains unclear: it is not a given that introduction of labor standards may lead to improvement in labor outcomes (see e.g. Stern, 2003).

In the historical journey of labor standards provided in the text below, the focus is mainly geared towards de jure labor standards. And within this type, a further division can be made based on the intention underlying the standards, namely between those geared towards outcomes and those concerned with the process or workings of the labor market.

Outcome oriented standards mostly contain a prescription regarding specific results, such as: introducing a limit to the number of working hours or the introduction of a specific minimum wage. These can be contrasted with those standards aimed at influencing the workings of the labor market (or process) that often take on the form of rights that, once implemented, will help workers realize their own desired outcomes. Examples of this type include the right to
form a union or the right to collective bargaining. Both types of standards are important in their own right yet in the debate on international labor standards, much of the focus goes towards those dealing with outcomes e.g. those dealing with the minimum age for workers.

In his historical survey of the emergence of labor standards, Engerman (2003) notes that the justification for standards today is not dissimilar from those used in the past. In general, the arguments for standards can be divided into two categories, the moral and the practical. The latter group (which can also be denoted as the economic or strategic category) contains those arguments that appeal to the benefits of having standards, e.g. in the form of increased efficiency or overall economic growth. The underlying causality may take on different forms, for instance it can be argued that better working conditions will have beneficial results in the form of higher productivity. Another example of the practical category is the argument that prohibiting work at a young age will enable children to have an education resulting in a better educated workforce that in turn is conducive for overall economic growth.\footnote{See also Streeck (1997) who states that is incorrect to view top-down regulation as being always disruptive to the economic process. Companies can also benefit from imposed regulatory constraints, which he calls “Beneficial Constraints X”, and improve economic performance. He considers labor standards to be an example of a beneficial constraint: “Constraining, choice-limiting social obligations, like a high floor of general labour standards, may be economically beneficial because they may protect rational actors from spending time and resources on exploring sub optimal options, and force them to concentrate their efforts on making successful use of potentially more productive alternatives.” (Streeck, 1997, p. 204).}

The moral arguments are usually related to the workers themselves protecting their physical but also spiritual (moral) well-being. And when it comes to moral arguments in favor of labor standards, slavery presents itself as an excellent example. Although the abolition of slavery can be viewed as an early form of the implementation of labor standards (unquestionably the earliest form of international labor standards), there are important differences between abolitionism and labor standards that make the interconnection less straightforward. In the case of slavery, its abolition was not so much due to the abhorrence of the working conditions but rather the condition of slavery itself. It was the idea of human beings as property, as an actual commodity, that was the primal driver (but certainly not the only) for the abolitionist movement. In the next section, we turn to this particular part of the history of labor standards, the abolition of slavery.
5.1.2 The Abolition of Slavery

The rise of the feudal system more or less replaced the old system (e.g. of Roman origin) of slavery in Europe. The Church played a pivotal role during the eleventh century in the abolition of the so-called ‘peasant slavery’, by releasing slaves from their own estates. It also offered its workers on these estates better working conditions that put pressure on the feudal rulers to follow their example. However, the same period saw the emergence of colonial slavery with the start of the first crusades. During the subsequent centuries, this form of slavery developed further, e.g. through the exploitation of African labor in the new world (Braithwaite and Drahos, 2000, p. 223).

The eighteenth and nineteenth century saw a change in the attitude towards slavery that was in part induced by the increase in the utilization of slave labor itself. This change in attitude subsequently resulted in the first large scale social and above all global movement: the abolition movement. There are several identifiable reasons underpinning the emergence of this movement. There was, for instance, strong opposition which originated from the Christian tradition that saw slavery as incompatible with its teachings. Others saw the presence of slavery as an anomaly within their missionary work. The fruits of the enlightenment also contributed to turning the tide against slavery especially through the works of political philosophers, such as Montesquieu. Finally, slavery was increasingly seen as an instrument with little economic value in the new economic framework that accompanied the industrial revolution: the free labor market offered much better returns for the cost of labor introducing a more efficiency driven method of production whereby variable and marginal cost played a more important role. The labor market would also allow for a more efficient allocation of the workforce between the various sectors in the economy.

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106 In 1787, the London Abolition Committee (its full name being the Society for effecting the abolition of the slave trade) was founded. In the years preceding the founding of this organization, there were already many instances of protest against (trans-Atlantic) slavery must notably by the Quaker community in the USA as well as in England. The one thing that set this organization apart is that its founders were from different backgrounds, i.e. nine of the twelve founders were Quakers while the remaining three were Anglicans. The reason to single out the Committee is that it became (through the connections it had with organizations in various nations with similar objectives) the first “non-sectarian transatlantic organization”. The first anti-slavery Convention was organized in 1840 and held in London.
Looking back, the abolition movement has done much pioneering work in the area of activism. Examples of these innovations include petitions, the consumer boycott, and using legal means through the courts. All of these methods were used to further the cause of abolitionism and create more awareness of the injustice associated with slavery.\textsuperscript{107}

To recapitulate, the abolition of slavery has known three different stages: first the banning of slavery in Europe followed by the suppression of the slave trade, and lastly the abolition of the right to own slaves in the colonies. To this can be added that the history of abolition was by no means a straight line with an identifiable progression from one piece of legislation to the next. An example hereof can be found in France, which during the first Republic in 1794 abolished slavery but where it was reinstated under the auspices of Napoleon Bonaparte some eight years later. And even where abolition became permanent it did not always signal the end of all forms of forced labor especially through the so-called ‘master-servant’ laws that would not be repealed. In practice, these laws resulted in a situation whereby laborers were tied to their employer (‘master’) in many different ways, mostly economic in nature. For instance, the laws allowed an employer to charge their employees a type of tax for living on their estate that could be so high that the workers were compelled to forced labor in order to pay off their debts. These laws too were abolished in most of the Western European countries at the end of the nineteenth century.\textsuperscript{108} This, however, does not hold for the world as a whole. Despite centuries of activism and the introduction of legislation, slavery (or in its evolved form of forced labor) is still to be found (see e.g. Bales, 2004) and the ILO considers it still to be one of its core focus areas.

\textsuperscript{107} The opposition against slavery finally found a responsive ear. The Slave Trade Act, which made slave trading an illegal activity throughout the British Empire, was passed by parliament on March 25, 1807. The British government then tried using bilateral negotiations to bring other nations around to abolish the slave trade or at least increase its regulation. During the second half of the nineteenth century, the efforts of the British Government (but also the changes in the political landscape of Europe, especially after 1848) led to the abolition of slavery in the colonies of almost all countries. The last major Western countries that outlawed slavery were the United States of America and the Netherlands (in its colonies) where prohibition was enacted as late as 1863, some 15 years after most other European countries. (Braithwaite and Drahos, 2000, p. 224)

\textsuperscript{108} “After being reconstituted by legislative changes many times until the nineteenth century, the law of master and servant was finally repealed in England 1875 after one of the first coordinated trade union campaigns (..) In 1877 the Dutch parliament made the same move, declaring that the use of penal sanctions in a civil dispute was contrary to the classic liberal legal principle it was eager to follow.” (Braithwaite and Drahos, 2000, p. 227)
We now turn to the surfacing of labor legislation. With abolitionism, it was mostly a single issue movement with a built-in aim of being made redundant as soon as possible. Labor legislation is more a continuous process aimed at shaping the form and conditions under which labor is supposed to take place. It is continuous, as ideas on this topic tend(ed) to change over time. In addition, the emergence of labor legislation was in its earliest forms a predominantly national affair. While abolitionism was virtually an international movement from the start, the international hook for labor legislation came much later in its history.

5.1.3 The emergence of (international) labor related legislation

Most historians put the starting date for labor standards, as they are currently understood, at 1802, which is when the first attempts were made to capture and offset the social costs associated with industrialization (Engerman, 2003, p. 36). It was in 1802 that the English Factory Act was adopted, which regulated the working day (twelve hours) and secondary benefits (e.g. schooling) for apprentices.109

The arguments for (as well as against) labor standards have changed little if at all over the last two centuries. The early forms of labour legislation share a common characteristic in that they were designed and drawn up for those groups that did not have a voice, i.e. children and women. Child labor especially was and still is one of the main issues people tend to think about when labor standards are discussed. The existence of child labor is often presented as a result of economic circumstances or even as a result of changes in those circumstances, i.e. globalization or the transition to a market system. These assumptions are, however, incorrect in that child labor was already present; e.g. child labor was not brought into existence by the industrial revolution. As E.P. Thompson notes in his groundbreaking work *The Making of the English Working Class* (1980), child labor was an intrinsic part of the economy, agricultural and industrial, preceding the industrial revolution. This, of course, does not alter the fact that child labor has been at the forefront with the introduction of labor standards. To this may be added that the story of combating child labor is closely connected with changes in opinions and ideas on the place of children in society and childhood.110

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109 This date is set somewhat arbitrarily as this was not the first act regulating labor conditions. For instance, in 1788 a bill regulated, among others, the minimum age (i.e. eight years old) for chimney sweeps. However, the English Factory Act was broader in scope and was amended in subsequent years expanding the width as well as substance.

110 See also §1.2.5
As far as the relationship between the intentions behind the introduction of legislation and actual outcomes (the removal of children from the workforce), there are some lessons to be learned from the past. Indeed a clear example of the way labor standards emerged and how the implementation of laws sometimes took some time before actually altering day-to-day practices is to be found in the legislative history regarding child labor in the Netherlands.

In the Netherlands, the first official move towards the prohibition of child labor dates back to 1874 when it became illegal for children to work in factories. The Children’s Labor Act was implemented not to abolish but to restrict child labor and to curb the worst forms of child labor in mines, factories, and other workshops. As it turned out, the law was widely ignored, i.e. violated.\textsuperscript{111} It was only with the introduction of compulsory education in 1901 that child labor in all its forms became truly illegal (de Regt, 2004). The Dutch example highlights several of the arguments against the imposition of labor standards that were and still are found across the globe. We see the resistance against primary legislation from employers as well as affected families but also an initial lack of commitment from the government to enforce actual adherence. One key difference with these past stories on the issue of child labor as well as other topics for labor legislation and the way we approach these issues today is that they were primarily treated and dealt with within the realm of the nation state. It was with the rise of cross border trade and the transnational outlook of social movements that addressing labor issues became increasingly more international.

Without doubt, it has been the ILO—ever since its inception in the wake of World War I—that has contributed most to globalizing labor rights over the last century. Although nearly all international conventions on labor conditions originate from the ILO, some pre-date the institution. Before the World War I, two international treaties on the topic of working conditions were signed, one covering the employment of women during the night and one on work with white phosphorous in the manufacturing of matches. Both were adopted in 1906 following two conventions held in Bern (1905) and in Berlin (1906) that were both organized by the International Association of Labour Legislation. This association, founded in Paris in

\textsuperscript{111} In her article on this topic, Ali de Regt notes that “Employers thought they had to have this kind of cheap labor, while parents who needed their children’s wages viewed the law as an attack on their parental rights.”(de Regt, 2004, p. 373).
1900, and considered to be the forerunner of the ILO, was not an organization of governments but consisted of representatives from various national associations that had been campaigning for international action in the field of labor legislation. The first International Labour Office connected with this organization was opened in Basel on May 1, 1901.112

5.2 The International Labour Organization

Between its inception and 1919, the International Labour Office had organized various conferences on the topic of harmonizing labor laws and presided over the adaptation of the two aforementioned international conventions. With all these activities, this voluntary organization had laid the ground works upon which the ILO was to be launched. (Ellis, 1928, pp. 211-213)

5.2.1 Inception and History

The International Labour Organization was founded during the peace talks at Versailles in 1919 in the slipstream of the newly formed League of Nations. Two motives accompanied the establishment of this organization. On the one hand, it was a kind of reward for the workers who had contributed to the War effort. Secondly, it was a conscious attempt to protect capitalism against the threat of communism and bolshevism.

The latter motive, arguably the more dominant one, was thought to work in two ways. First, it was thought that to ‘give’ the workers their own international organization would keep labor movements in check. Second, this new organization would prevent nations from igniting a race-to-the-bottom with regard to labor standards and thereby playing right into the hands of the communists (Braithwaite and Drahos, 2000, p. 232/233). From this alone, it is clear that one of the reasons for founding the International Labour Organization was to be able to take action on an international level towards safeguarding (and where necessary improving) the labor conditions around the world. This idea was thought to be so essential that it was even incorporated in the preamble of its constitution: “Whereas universal and lasting peace can be

112 Although the overview of the emergence of the ILO provided here aims to be concise one further name needs to be included, namely that of Daniel Le Grand (1783–1859); he is considered to be the principal originator of the idea of international labor legislation. He repeatedly appealed to various European governments for joint agreement on labor legislation, which he considered to be a necessary tool in order to eliminate and prohibit “merciless competition” (ILO 1998, p. 3). Also any in-depth study would have to include organizations, such as the International Benevolent Congress of 1856/7 and the international factory and mine labor conference, better known as the Berlin Conference of 1890 that was the first occasion where governments assembled to discuss labor standards. (ILO 1998, p. 4)
established only if it is based upon social justice; and whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled...; Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries;” (International Labour Organisation, 1919, 2008).

A striking aspect of the preamble is that it clearly indicates that, even at that time, the problem of defection was acknowledged. Countries that are unable or unwilling to adhere to humane labor conditions will form an obstacle for other countries that are willing to comply.

Transnational labor legislation is considered to be politically sensitive today as much as in the early days of the ILO. Indeed its founding was surrounded by opposing views on topics ranging from the substance (i.e. what type of labor laws) to the processes by which the ILO should proceed. One of the issues that were subject to intense debate was the matter of how the new organization would go about enforcing labor standards. The position of the US, voiced by the founder/president of the US Federation of Labor, Samual Gompers, was that “moral suasion and reasoning” should be the preferred method to bring less advanced nations up to speed regarding labor standards. European countries, on the other hand, were more inclined towards to idea of compulsion and enforcing conformity to “an elaborate system of minimum wages, hours of labor, and insurance schemes.” (New York Times, 1919). In the end, an agreement was reached that dictating standards to developing nations might prove to be counterproductive by alienating the support of those countries where standards were in fact the lowest.

The ambition of the ILO was to make the impact of the new international institution structural and lasting: “the international idea is not ‘a kind of watery friendship’ without profit or hope of endurance, but a practical ‘movement for the ordered improvement of the lot of mankind.”’ (Deputy-Director of the Labour Office Butler cited in Sumner, 1921a). And through its work on creating international labor standards, the organization has succeeded in making this lasting impact.
Structure
The organizational structure of the ILO marks its salient feature, namely that of consensus building. The basic principle is that of the tripartite system whereby workers, employers, and governments all have a seat at the conference table. The conference table refers to one of the three bodies that comprise the ILO, namely the International Labour Conference (the other two being the Governing Body and the Office of the ILO). The Conference is held annually and offers a platform to the representatives of the member states to discuss social and labor related issues. The delegation of each member state consists of two representatives of the government as well as one delegate of the employers and workers, respectively. It is at the annual Conference that ILO’s international labor standards are created and adopted. Members are then asked to ratify these standards so that they will become codified by their own national labor laws.

Although the tripartite system guaranteed the inclusion of representatives of unions and, therefore, labor itself, the infighting between the various unions led one commenter to remark: “There are too many Trade Unions and too little Trade Unionism.” (Barnes cited in Sumner, 1921a). This may not be the case nowadays but the impact of striving for complete unison among all the constituents does have its drawbacks. This issue not only arises between the three groups but also between the different member states. When it comes down to formulating international agreements, the smallest common divisor is more often than not the leading indicator. This practice has increased considerably with the accession of developing countries. This practice becomes particularly evident when reviewing the language used in ILO documents. Expressions like “adequate measures” and “appropriate protection” are often used without a clear definition (Braithwaite and Drahos, 2000, p. 234).

5.2.2 Devising Standards
The aim of creating international standards guiding economic processes introduces the question of whether immediate universal application is appropriate. Even if the substance of most standards is deemed universally acceptable, their implementation may be faced with certain hurdles. This is especially so for countries with less than perfect institutional arrangements or lacking the appropriate organizational resources to embed the standards in the local labor market.
In the first section of this chapter, a division was introduced between standards that aim to generate specific outcomes and those that target the workings or process of the labor market. A further distinction can be made that is related to the stringency of implementation of the standards; it is thus not so much targeted at the standards themselves but rather covers the issue of implementation. Here, we can differentiate between standards that are aspirational in character and those aimed at establishing minimums. To clarify this distinction, we can look at the way it emerges in the already discussed Universal Declaration of Human Rights (see 3.2.3). Most of the rights (the civil and political rights) contained therein are considered to be minimums and should be followed. They are devised in order to create a level of individual protection that should be enjoyed by all, a bottom below which no human person should ever be allowed to fall.

This can be contrasted with the economic, social, and cultural rights listed in the UDHR of which it explicitly states that adherence is to be expected ‘in accordance with the organization and resources of each state’ (Article 22). No demand is made for full compliance but countries are expected to ensure the ‘progressive realization’ of these rights (see Biermans, 2005; Donnelly, 2003; Shue, 1996). Compliance is something we should aspire to but immediate adherence is not a prerequisite and is made dependent on the context (mostly the level of economic development) wherein these rights are supposed to come into being. In the case of international labor standards we can find similar distinctions made, in that the temporal aspect of compliance comes into play.

Many of the standards developed by the ILO can rightfully be described as being aimed at creating universal minimums. However, there are also instances where the ILO has incorporated a more dynamic approach to standard setting wherein a certain degree of aspiration is introduced. This, however, is done without recourse to the language found in the UDHR but rather by differentiating between various standards based on timing and thereby stating which minimum standards are thought to be applicable immediately and which (other) standards should follow suit. An example of this approach can be found in the various conventions related to the issue of child labor. These conventions show how the ILO uses absolute minimums (stating what is expected from all member countries without avail) in combination with the formulation of ultimate aims.
In its publication *A future without child labour*, the ILO (2002a) makes a distinction between children who are economically active and child labor. The distinction is in part the result of the ambition to quantify the situation of child labor: “To be counted as economically active, a child must have worked for at least one hour on any day during a seven-day reference period. “Economically active” children is a statistical, rather than a legal, definition. It is not the same as the “child labor” that is referred to with regard to abolition.” (ILO, 2002a, p. 15). Child labor is a collection of the collection “economically active” children and it is child labor and its abolition that is high on the ILO’s agenda (see also Figure 5–1 below).

The aims of the ILO in combating child labor can be viewed as being defined by three binary issues. The first has to do with the question of whether a child is too young for the type of work that is under review (i.e. “under the minimum age specified for that kind of work’’). Secondly, there is the issue of whether or not the work can be described as being ‘hazardous’. Finally, there is a category for work that is deemed to be “Unconditional worst forms of child labour”. Under this heading falls all work that is not subject to any debate or consideration (that may be found in the other classes) and should not be done by children under any circumstance; child pornography or prostitution are clear examples.

Overall this approach shows how the ILO combines the strictness of rules (in the form of standards) with the accommodation to economic, social, and cultural circumstances. Figure 5–1 is a graphic representation of the ILO’s approach to the issue of child labor. Note that the darker the color the more immediate the demands on abolition are; the white areas are deemed to be admissible yet part of the group of “economically active” children.
Enforcement of International Labor Standards

Forging international standards by way of consensus among different groups from different countries is not a simple task and enforcement of the standards once adopted has turned out to be no less difficult. That the issue of enforcement was going to be tough was already clear in the early days of the ILO: “The Treaty lays down an elaborate procedure to be followed against defaulting Members, culminating in the employment of the “economic weapon,” but this, difficult and insecure in itself as it is, appears in so guarded and optional a form that but little utility can be claimed for it.” (Sumner, 1921b, p. 85).

When it comes to enforcement, the primary actors are national governments who do not only function as legislators of the rights encapsulated in the standards but also as enforcers of the associated laws. The current practice regarding enforcement at the ILO follows a specific procedure. When violations of labor standards are detected, the ILO will first talk to the relevant government. Recalcitrant governments are then subjected to a public reprimand and are called upon to mend their ways and carry out the necessary actions. The effect of ‘naming and shaming’ does have its limits. Weisband (2000, p. 652) finds that repeated warnings lose their power or effectiveness. When a reprimand does not result in the desired adjustments, the
ILO will in some cases send in a team to conduct field research, which will be used to assess whether (successful) changes have taken place. Research into this particular approach of enforcing labor standards revealed that it was more effective in more advanced countries as opposed to less developed countries (Braithwaite and Drahos, 2000, p. 238).

From this, one could infer that the key aspect of the ILO’s ability to secure adherence is the desire of its member states to be respectable members of the international community. Once this desire diminishes there is not much the ILO can do. Over the years various approaches have been proposed to secure adherence to international labor standards especially in light of increased international interdependence, a.k.a. globalization. In the next section, we take a closer look at some of these approaches and initiatives in this particular setting.

5.2.3 The Race to the Bottom

In the text above, it was noted that one of the key issues facing international coordination has to do with the impacts of defection of one country to adhere to labor standards. This problem of defection, increasing the competitive advantage of a country via a loosening of labor laws, is (not unlike the introduction of these laws) quite old. Engerman (2003, p. 71, n10) makes mention of the Swiss banker (and later finance minister of Louis the XVI) Jacques Necker who in his 1788 treatise *De l’importance des opinions religieuses* touched upon the idea of gaining a competitive advantage, albeit only temporarily through the abolishment of Sunday as a day for rest: “Were a barbarous ambition to abolish in one state the Sabbath, the abolition would probably procure it a degree of superiority, if it was the only one that adopted such a change; but as soon as others followed their example, the advantage would disappear.” (Necker, 1788, p. 204). This insight was clearly resonated in the preamble of the ILO (§5.2.1) but can also be found in contemporary debates on the consequences of globalization.

The 1990s saw a renewed interest and attention for international labor standards. In his study on labor standards and globalization, Lee (1997) attributes this rise in interest to three developments: an ideological change in favor of a neoliberal approach to public management, the decline in labor standards due to the fall of communism (the threat of a workers revolt having subsided) and globalization. The central idea behind the harmonizing of business regulations is to create a certain degree of fairness and a level playing field. This is particularly the case with policies and issues that have a clear normative dimension, as is the case with labor standards and environmental regulations. Indeed, it could be argued that there is no
compelling reason why international trade would follow a different set of rules than those
guiding the way other economic activities are carried out. Dani Rodrik in his work on
globalization takes his cue from this to conclude that: “Much of the discussion surrounding
the ‘new’ issues in trade policy—that is, labour standards, environment, competition policy,
corruption—can be cast in this light of procedural fairness” (Rodrik, 1997, p. 11; also cited in
Lee, 1997). With ‘procedural fairness’, Rodrik refers to the evaluation of how a particular
outcome is generated, i.e. the underlying process. And this is an important aspect especially
seen in light of Rodrik’s assertion that “most people attach values to processes as well as

This contemporary debate on globalization has brought about a large body of literature on its
emergence, nature, processes, and manifestations. This includes historical overviews and new
additional research in what is now commonly known as the first wave of globalization: the
period between 1870 and 1914 (see e.g. Bordo, Eichengreen, and Irwin, 1999; Held, 1999;
Hirst and Thompson, 1999). Although there are many similarities between this first wave of
globalization and its successor (of which the starting date is still in dispute with some putting it
at end of World War II and others with the fall of the iron curtain) there are likewise many
fundamental differences. One of the main dissimilarities is that today’s form of globalization
has a relatively free movement of capital and goods; it does not allow for the free mobility of
labor. Whereas the first wave of globalization was marked by large movements of workers
across national borders, today workers from the Third World are largely locked out of the
wealthier countries.\footnote{See, for instance, Hirst and Thompson (1999), Plender (2003) and Flanagan’s book \textit{Globalization and Labor Conditions} (2006).} Therefore, without the ability to vote with their feet, the only option
open for this group to enjoy better working conditions and worker rights is to secure
adherence in their own domicile.

The actual manifestation of labor (\textit{de facto}) standards varies between (but also within) countries.
These variations or diversity in standards can be attributed to differences in
social/cultural/political traditions and, of course, to the level of economic development. For
economists, it is the latter that functions as the focal point in the empirical literature.
However, while comparing the situation of labor standards in developing countries with
developed countries, one should keep in mind that these two groups have had different trajectories that can—to some extent—explain the present differences. For instance, colonialism did not help or assist in the globalization of labor law that can be seen in the world today. In fact, most countries in the South, the majority being former colonies, have experienced a certain degree of delay in changing their legal system\footnotemark. “Colonialism did not forge the globalization of labour law that we see in the world today, because colonialism pushed the South back to legal systems that applied in earlier periods of Western history—to pre–feudal laws of a slave system during mercantilism, to pre-capitalist master and servant laws during the industrial revolution and into the twentieth century. Hence, just as labour law in the North was moving from penal to civil law, penal laws were being installed in the South.” (Braithwaite and Drahos, 2000, p. 227). To this, one may add the fact that many entrepreneurs who moved from developed to developing countries discovered that it was easier to adopt local customs than to uphold customs from their original domicile; in most cases this turned out to be the most efficient approach (2000, p. 228). The point here is that there is a historic dimension to labor standards that should not be ignored especially in any attempt to explain differences in the attained levels of labor standards.

In the debate on the effects of globalization, this historical dimension receives little to no attention. Rather, the focus is on the perceived threat for many developed countries for their domestic labor force from the foreign competition based on low labor costs. By not adhering to and enforcing international labor standards and basic workers rights that developing countries have created, so runs the argument, a situation is created wherein there is no level playing field in the global production of goods and services. Harmonization of labor standards it is argued will amend this while also providing workers in the developing world the protection to which they are entitled. Therefore, demands for the enforcement of labor

\footnotetext{114 It is also interesting to note the large differences in the trajectory of the advancement of labor rights in advanced nations. To illustrate this particular point: between 1872 and 1914 a total of eight workers were killed in the United Kingdom during hostilities surrounding the labor movement. For Germany and France, the number of casualties was sixteen and thirty-five, respectively. During the same period, between five- and eight hundred workers were killed in the United States in labor related riots and demonstrations (Mann, 1993, p.635 cited in Braithwaite and Drahos, 2000, p. 229).}
standards are complemented with the call for the possibility of using trade sanctions as a possible means of exercising pressure.115

This position, and especially the part about securing better working conditions for the workers in developing countries has been met with skepticism from the developing world itself. Many of these countries consider their supply of cheap labor as their main competitive advantage in the global economy. Attempts by more developed countries to enforce labor standards via trade agreements are often rejected as being nothing more than protectionist in intent. The claim made by developing countries is thus that the introduction of prohibitive measures in international trade regarding child labor amounts to a situation wherein the children in developing countries “are being used to protect jobs in the developed countries.” (Hasnat, 1995).

This argument is not completely without grounds and touches on the earlier introduced differentiation between the moral and the practical argument in favor of labor standards. There are groups that attach great importance to the moral reasons for introducing labor standards in the realm of trade, having in mind the wellbeing of the workers in the developing world. These groups are complemented by other groups that are predominantly motivated by the practical reasons of securing existing labor conditions in the developed world. In short, the inclusion of labor standards in trade agreements has had and still has diverse groups of supporters and associated motivations.

The economic profession too has offered some support for the critical stance of developing countries at the inclusion of labor standards in trade agreements. This does not imply that there is no economic case to be made for the inclusion of labor standards in these agreements. If we only look at the distribution of the cost for leveling the playing field with regard to labor standards, we find a possible argument in favor. In broad terms, it is to be expected that there will be consequences for producers as well as consumers. The way the costs are distributed

115 Combing the international labor standards and international trade usually takes on the form of pleas for the inclusion of a social clause in the treatises underpinning international trade. Such a clause could stipulate that no goods or services produced in violation of agreed upon standards may rightfully be subjected to import restrictions. Although labor standards have not been included in multilateral trade agreements there is a tendency to include them in bilateral trade agreements. Also note that this instrument of trade sanctions lies outside the ILO’s sphere of influence and the question of its permissibility belongs to the workings of the WTO.
depends largely on the way compliance with the labor standards is secured. In the case of a one-sided introduction of labor standards in a given country (i.e. without harmonizing the labor standards on a global level) the costs will disproportionately be borne by its producers compared to its consumers who would still have the choice between domestically produced goods and imports. While the domestic producers see their cost of production increase the prices of imported goods would remain the same thereby hindering the ability of domestic producers to pass on the full amount of additional costs to the consumers in the form of higher prices.116 On the other hand, if all countries would introduce higher standards simultaneously, the ‘burden’ of increased cost of production could be more evenly distributed between producers and consumers.

However, the dominant train of thought has been that labor standards or any standards for that matter should not be included in trade agreements. At the heart of the argument lies the assumption that increased international trade makes all parties involved better off in the long run. The increased wealth (as a result of trade) will improve labor standards in the exporting developing countries. Hindering trade with e.g. a social clause will make it more difficult for these countries to grow their way out of social injustice.

In addition, an argument can be made that forced harmonization can have unintended consequences harming those groups who were thought to benefit from the harmonization. Child labor is a clear example of this. On the one hand, it can easily be argued that child labor should be strictly prohibited. On the other hand, it has to be acknowledged that a strict enforcement of a ban on child labor might generate outcomes that, from a moral point of view, are far worse than the starting point. A harrowing example hereof is the case of such a ban in Bangladesh, which resulted in some of the children landing in prostitution.117

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116 This in turn could have an effect on the number of workers employed
117 Bhagwati (2002b, p. 77); see also Pierik and Houwerzijl (2006) and ILO–IPEC (2004); Note that the less desirable consequences will result if implementation takes place without supporting measures.
Therefore, rather than forcing compliance with labor standards in a top-down approach, e.g. through the inclusion of a social clause in trade agreements, these arguments make the case that other avenues should be explored that do not interfere with the workings of the market and/or allow for the labor market to adjust itself more gradually. In other words, a market solution, a bottom-up approach to this issue, is deemed preferable.

Richard Freeman, who has written extensively on the topic of labor standards, argues in his 1994 publication “A Hard-Headed Look at Labor Standards” for a market solution to counter dire working conditions and low adherence to labor standards in the form of labeling; products are labeled to indicate that it was produced under acceptable circumstances. The attractiveness of labeling lays in the fact that it side-steps the objections associated with protectionism. Under this approach the issue of attaining better labor conditions and labor standards is viewed as mere consequences of consumer preferences, sometimes referred to as “moral preferences” (e.g. see the discussion of a 1995 paper by Srinivasan in Stern, 2003). Allowing the market to function unhindered will yield changes in economic endowments and shifts towards better labor conditions. Note that here we see an implicit assumption of the doux commerce thesis whereby the market if allowed to operate will yield beneficial results. The logical conclusion of this approach is that the absence of labor standards is the direct result of a lack of (consumer) demand for them.

Although the market solution has received much support (from the realm of policy making as well as from the halls of academia) its effectiveness has been doubted since the early years of the twentieth century. More recently, economic experiments have shown that the market solution may lead to sub optimal solutions. In their 2003 publication Can labor standards improve under globalization?, Elliot and Freeman include a synopsis of economic experiments on actual consumer behavior, which indicates that consumers are willing to punish companies (i.e. not buying goods that they know to have been produced under dire circumstances) but are less inclined to ‘reward’ good behavior: “Information about bad conditions can greatly reduce the price at which firms sell their products, whereas information about good

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118 See e.g. Hasnat (1995), Steger (2002) and The National Security Strategy of the USA (White House, 2006)
120 See the discussion of the effectiveness of the National Consumer League Label by Brooks (1900)
conditions raises revenues only modestly. If consumers responded more to information about
good conditions, activists and firms would have common ground on which to work.” (Elliott
and Freeman, 2003, p. 46). This outcome does not necessarily eliminate the effectiveness of
labeling but does lower expectations.

Core Labor Standards
The initial response of the ILO to the questions posed by globalization came in the form of
the adaptation of what has become known as the ‘core labour standards’. The emergence of
these core labor standards can be seen as a concerted effort to break the stalemate arising
from accusations that a call for greater adherence to labor standards was in fact thinly
disguised protectionism. Adopted in 1998, the “ILO Declaration on Fundamental Principles
and Rights at Work” resulted in the acceptance of a set of labor standards deemed to be so
basic that they should be attainable by any country regardless of the level of economic
development. The declaration binds all member states of the ILO to respect, promote, and
realize the principles contained in these standards. These four “fundamental principles and
rights at work” (embodied in eight different conventions) include: freedom from forced labor,
non-discrimination at the workplace, the effective abolition of child labor and freedom of
association, and the right to organize and bargain collectively. Note that the core labor
standards include outcome orientated standards as well as those concerned with the workings
of the labor market. In addition, the formation of this set of standards exemplifies the
distinction between aspirational standards and minimum standards with all of them belonging
to the latter. However, despite this being the case and despite the consensus on these ‘core
labour standards’, agreement has yet to be forged on how to implement these and other labor
standards in less developed countries (Elliott and Freeman, 2003, pp. 9-13).

The question remains as to why, if the international labor standards are so universal and the
product of consensus among the parties directly involved is enforcement such an issue?
Possible answers like the loss of (perceived) competitive advantage have already been
mentioned. Another possible reason has to do with governments being unwilling to change
the allocation of their budgets.121 Even an appeal on cultural differences might be included in
the range of possible answers. However, the debate on this issue seems to single out the
economic factors, i.e. the idea of a loss of competitiveness and the subsequent implications of

121 See Flanagan (2002)
this hypothesized reduction in competitiveness for the labor market in developing countries. And it is with this argument that any attempt of a top down approach aimed at improving working conditions is labeled (more often than not by economists) as a case of misguided intentions.

These intentions, so the argument goes, are based on an idea held by many in wealthier nations, namely that sweatshops are the shackles from which the poor must be freed. The intentions are said to be misguided for when it comes down to unskilled laborers in developing countries, a job in a sweatshop beats having no job at all. This argument is then supplemented by the idea that Western boycotts and protests are detrimental to the position of these unskilled laborers; freed from their shackles, the workers will find themselves beholden to Marx’s dual freedom: they are now free to sell their labor on the market, and, in case there is a lack of buyers and with no capital of their own, they are free to starve.

When focusing on these consequences, it would seem that there are fundamental problems with the application of these standards, for application leads to irresolvable (normative) problems. Fung et al. (2001b; 2001) propose a different approach in promoting better labor conditions, which they consider is more suited to address these problems.

### 5.2.4 An alternative view on Enforcement

For Fung, O’Rourke, and Sabel (2001a; 2001b), practical application is the guiding principle throughout their publication “Realizing Labor Standards: How transparency, competition, and sanctions could improve working conditions worldwide.” What the authors propose is a system wherein social and regulatory pressures create a form of competition that will lead to improvements in labor standards (“norms that describe acceptable conditions of work and wages”, 2001a, p.4) and “ratchet” them upwards.

Their approach is based on the idea that rather than constraining the rapidly changing forces and processes of globalization, these forces should be redirected towards the advancement of social ends. Instead of relying on bans, limits, or constraints (a top-down approach), they see important roles for voluntary initiatives, but also for social and peer pressure from private companies themselves. With this, they hook up with the trend in the private sector in dealing
with labor standards whereby various international companies compiled and formulated their own standards, e.g. in the form of codes of conduct.\footnote{The Global Compact initiative of the UN as well as the Global Reporting Initiative might be viewed as related to these developments.}

The ultimate goal is to attain and realize the highest level of standards taking into consideration the local level of economic development. When reviewing working conditions in a factory in Vietnam the comparison should be done with a factory in, for example, Indonesia rather than one in Western Europe or North America. In short, the goal is to secure the most ambitious and highest feasible labor standards for workers possible given the level of economic development of the country where they reside. Minimum standards would emerge by comparing similarly situated facilities in similar economic circumstances. With the emphasis placed on the overall economic development context, the Ratcheting Labor Standards (RLS) approach is in a good position to ward off accusations of protectionist behavior.

The public at large should have access to the data generated from the continuous monitoring of labor conditions. This would lead to the creation of social and financial incentives for companies to monitor their own production facilities and those of their suppliers and check whether conditions are improving. Moreover, the information might in turn be used to determine what the minimum standards in any specific region should be. For companies this would be of extra interest because this would enable them to create some sort of ranking. Fung \textit{et al.} believe that this will create the necessary competition among companies and thus incentive for wooing the approval of their (potential customers) that will in turn create an upward pressure in favor of higher labor standards. Installing periodical competitive comparisons between companies on their labor standards record will then lead to the continuous improvement of actual labor conditions thereby creating a ‘race-to-the-top’.

According to the authors, reputation has become so important that revelations of wrongdoings with regard to labor conditions will not only have a preventative influence but also an improvement effect: “We believe that reputation is so critical today, and improving labor standards so feasible, that a public ranking system like RLS would amplify even relatively few voices into substantial workplace improvements.” (Fung, O’Rourke, and Sabel, 2001a, p. 39).
Critique

In her discussion of the RLS approach, Murray (2001) thinks the authors overlooked the fact that the ILO also incorporates the economic development context. However, as the authors themselves explain, RLS is an attempt to “… fill the gap between the promise and performance of rights agenda, not to substitute for it.” (Fung, O’Rourke, and Sabel, 2001a, p. 88).

Some commentators think Fung et al expect too much of their strategy. Especially their emphasis on the aspect of reputation reaps a lot of criticism. One of the questions raised is what to do with less high-profiled companies. These nameless companies usually do not have a reputation that they have to protect by any means. In practical terms, the question posed to the authors of RLS is what their strategy has to offer to companies manufacturing nondescript items like paperclips (see Broad, 2001; Moberg, 2001).

A similar criticism can be levied against the approach when the informal sector is taken into account. The informal sector, which constitutes a large part of production for exports, is more difficult to reach and thus more difficult to subject to the approach laid out, or as one commentator notes: “When you abolish child labour in this international sector through commonly adopted comprehensive policies like Ratcheting Labor Standards (RLS), without at the same time doing anything about the displaced children, the glow of moral comfort enjoyed by the consumer in rich countries who scrupulously looks for the “no-child-labor-used” label or certification is largely illusory.” (Bardhan, 2001, p. 51). In addition to this, one has to bear in mind that the majority of working children are not active in the export industries (see e.g. Elliot and Freeman (2003) and Bhagwati (2002a)). And this raises the question of how effective this approach can be in those areas of the economy where there is no direct connection with the Western consumer?

And where there is such a connection there is still the issue of moral inequality. Workers in developing countries, having lost out in the lottery of life, cannot claim the same level of protection or labor standards as those that Western consumers enjoy. That is not to say that they will never attain the same level but, as Fung et al. stress, improvements will have to go step by step. With their preoccupation with outcomes, Fung et al. seem to lose sight of the underlying reasons as to why there are labor standards. These standards as well as those human
rights related to labor were called into existence because of a belief that they should be enjoyed by all. And that is what makes their approach somewhat unsatisfactory. The respect a human being deserves by virtue of his humanity should not be determined by Western consumers, which in fact would mean rejecting them as full members of the commonwealth of humankind.

All in all, the approach presented by Fung et al. contains various novel ideas on the enforcement of labor standards that go beyond the realm of official legislative institutions by creating more public attention to the working conditions of laborers in the developing world and through this increased attention improve their lot. In their own way, they are addressing an issue that is a major hindrance in the advancement of labor standards and worker rights around the globe, the unwillingness of governments to actually secure adherence and actively help in speeding up compliance. Far too often we can find representatives stating that there is no budget to assist implementation, with child labor as an already mentioned example. And in some cases, one has to conclude that the statement “we can’t” is in fact shorthand for “we won’t”. We shall return to this issue in the next section where the focus lies with the actual status of worker rights around the globe.

5.3 The gap between promise and realization

Due to the origin of the renewed attention for labor standards, i.e. globalization, it is not surprising that much empirical work on the subject is on the relation between international trade and labor standards. More specifically researchers have tried to test the hypothesis of whether there is any credence to the notion of the race to the bottom, the idea that poor labor practices create a competitive advantage in the global economy thereby eroding achieved labor standards overall.

Many of the earlier studies on the relationship between labor standards and international trade utilized the number of ratifications of labor standards as a key variable. The easy availability of the data on ratifications make the choice understandable although not always wise as ratification does not necessarily equate with adherence. Not all countries that have failed to ratify some or all of the ILO’s conventions are necessarily poor in adherence to labor standards. Secondly, countries that have ratified one or more conventions may do little or nothing to secure actual adherence. Other variables, often employed in empirical research on
labor standards, are outcome related in that they are descriptions of the actual labor market situation in a country. Examples of these are data on unemployment, education participation, and health (including accidents at work) to name but a few.

Among the main findings of the empirical literature we find that there is no evidence for the race to the bottom in that countries with substandard labor conditions do not obtain a competitive advantage in international trade because of it. Low labor standards act as a hurdle in attracting Foreign Direct Investment rather than as an additional pull. Multinational enterprises seem to be treating the workers in developing countries (i.e. with lower labor standards) better in comparison with the way these workers are treated by other (i.e. local/native) companies (Flanagan, 2006). And with respect to the idea that imposing labor standards is detrimental to the economy, studies find that compliance with fundamental rights of workers has a positive effect on long-term income and long-term growth (Bazillier, 2004).

In order to obtain some insight into the current situation of compliance with labor standards, we will now take a closer look at actual labor conditions found among the member states of the ILO.

**Worker Rights**

Obtaining some idea on the actual adherence to labor standards or more broadly defined as worker rights, requires that we need to look at to what extent the enjoyment of these rights are realized. For this analysis we utilize the Cingranelli-Richards (CIRI) Human Rights Dataset (Cingranelli and Richards, 2010a), which includes an assessment of the government respect for worker’s rights as listed in the Universal Declaration of Human Rights. A significant part of what are known as Socio-Economic Human Rights deal with the issue of employment. This connection can be found in the provisions and phrasings such as in the already mentioned article 23(1) “Everyone has the right to work, to free choice of employment, to just and

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123 Please note that not all research has the same findings, see for instance Samy and Dehejia (2009) including their discussion of the findings of various empirical studies on the topic of trade and labor standards (p. 304–306). Also note that some (e.g. Busse, 2002, 2004) have found differences in the effects for different types of labor standards: “Focusing on unskilled-labour-intensive goods and core labour standards, the results show that the effects of low standards depend on the type of standard: Weaker basic union rights are associated with a stronger comparative advantage. Forced and child labour also lead to an increase in the endowment of unskilled labour, and hence improve comparative advantage in unskilled-labour-intensive goods; the opposite occurs with discrimination against females” (Busse, 2002).
favourable conditions of work and to protection against unemployment.” (United Nations, 1948). These rights have a clear overlap with the ILO’s international labor standards and the way in which they are coded in the dataset makes this comparison even greater. The coding system divides countries into three categories based on the level of overall adherence to these rights, namely: a) severely restricted, b) somewhat restricted, and c) fully protected. This dataset also provides the opportunity to take a rudimentary look at the relationship between economic development and the enjoyment of worker rights.

The analysis provided here aims to review (in a very basic manner) the assumption that a higher level of economic development goes with a higher level of adherence. Using the data for 2009, the average GDP per capita (PPP) for each of the three categories is computed. The results for a total of 171 countries are presented in Table 5–1.

### Table 5–1  Average GDP per capita by the level of Worker’s Rights adherence (2009)

<table>
<thead>
<tr>
<th>Worker’s Rights</th>
<th>Mean</th>
<th>Median</th>
<th>Std. Dev.</th>
<th>Freq.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Severely restricted</td>
<td>9,386</td>
<td>4,773</td>
<td>14,212</td>
<td>70</td>
</tr>
<tr>
<td>Somewhat restricted</td>
<td>14,747</td>
<td>9,154</td>
<td>15,383</td>
<td>95</td>
</tr>
<tr>
<td>Fully protected</td>
<td>29,363</td>
<td>34,994</td>
<td>13,841</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>13,065</td>
<td>7,242</td>
<td>15,329</td>
<td>171</td>
</tr>
</tbody>
</table>

Source: Cingranelli and Richards (2010a)/ World Bank (2011)/ author’s calculations (2011)

The results in Table 5–1 suggest that the protection of human rights, in this case worker’s rights, is positively correlated with per capita GDP. However when we look at the distribution within each of the three categories the link becomes less evident. Figure 5–2 shows the development of the mean level of GDP per capita for each of the three possible levels of protection of worker’s rights over the last decade. The lowest GDP per capita found in the category of fully protected worker rights is also included in this figure. This line is consistently below the averages associated with categories indicating poorer worker’s rights records. This

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124 This CIRI indicator looks at various aspects in the UDHR related to work; the description of the data is phrased thus: “Workers should have freedom of association at their workplaces and the right to bargain collectively with their employers. This variable indicates the extent to which workers enjoy these and other internationally recognized rights at work, including a prohibition on the use of any form of forced or compulsory labor; a minimum age for the employment of children; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.” (Cingranelli and Richards, 2010b).
shows that low levels of GDP are not necessarily (i.e. by definition) associated with low levels of adherence to worker rights.

**Figure 5-2  Development of the average GDP per capita (log) by the level of Worker’s Rights adherence (1999-2009)**

Next, we turn to the relation between the ratification of labor standards and the actual status of adherence.

**The realization gap**

Table 5–2 lists the eight labor standards that together constitute the set of core labor standards including the number of countries that have ratified the respective convention. In order to put these numbers into perspective one has to bear in mind that the total membership of the ILO at the end of 2009—and thus the maximum number of ratification—stood at 182.
The first thing that becomes clear from this overview is that there is not one convention that can claim to have true universal backing in the form of universal ratification. The one convention that approaches this level the most is the convention on forced labor, which is also the oldest of this list.

The absence of universal ratification accentuates that the overview of total ratifications provides an incomplete picture. The reason for this lies in the fact that not all countries are alike and, therefore, not all ratifications carry the same weight. If a correction is made for the size of a country, e.g. by using the size of the population (serving as a proxy for the labor force), the gap between the actual ratification and universal ratification becomes clearer. The last two columns depict the number of ratifications as a percentage of the total possible ratifications as-is and when countries are weighted by the size of their population.

The table clearly indicates that an undue focus on the absolute number of ratifications provides us with not only an incomplete but in some instances also a misleading idea of the advancement of the core labor standards in the world today. Only the conventions relating to non-discrimination at the workplace show little change when weighted by population. The biggest difference can be seen concerning conventions that cover the formation and
operations of unions. More than 80% of the potential ratifications are reached when solely looking at the number of ratifications. When the ratifications are weighted with the size of the respective populations it becomes clear that only 50% of (nearly the entire) world population lives in a country where these conventions are ratified.

Flanagan (2006) looked into the relation between the act of ratification and various macroeconomic factors. Among his main findings is that countries tend to ratify only those labor standards in which they are already in compliance. In other words when the ‘economic cost’ of ratification is low, that is none or only few adjustments in the local institutions are necessary, ratification will occur.

In Table 5–3, the number of core labor standards ratified is provided for each level of Worker’s Rights adherence as found in the CIRI Human Rights Dataset. The graph depicted below (Figure 5–3) shows the results when we make a binary distinction between countries based on whether or not a country has ratified the eight ILO conventions (“Ratified all”).

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125 Note that we now have a set of 180 countries due to the fact that no assessment is available for the status of adherence to worker rights in Somalia because of a complete collapse of central political authority in that country.
Table 5–3  No. of countries per no. of core labor standards ratified by the level of Worker’s Rights adherence (2009)

<table>
<thead>
<tr>
<th>No. of CLS conventions ratified*</th>
<th>Severely restricted</th>
<th>Somewhat restricted</th>
<th>Fully protected</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>48</td>
<td>76</td>
<td>6</td>
<td>130</td>
</tr>
<tr>
<td>7</td>
<td>11</td>
<td>10</td>
<td>0</td>
<td>21</td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>5</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>5</td>
<td>8</td>
<td>1</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>4</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>76</td>
<td>97</td>
<td>7</td>
<td>180</td>
</tr>
</tbody>
</table>

Figure 5–3  No. of countries per adherence level and level of ratification of Core Labor Standards (2009)

Source: Cingranelli and Richards (2010a)/ILO (2011)/author’s calculations
* Number of conventions ratified on December 31, 2009

Table 5–3 shows that nearly two thirds of the countries where worker’s rights are severely restricted have ratified all of the eight ILO conventions of the core labor standards. This indicates that there is a serious gap between the intentions (defined as ratification of the ILO conventions) and the actual practice of protecting worker’s rights. Similarly, the fact that only
seven ILO member countries are deemed to have had fully protected worker rights in 2009 is cause for alarm in itself.

In 2005, the then head of Amnesty International, Irene Khan, in the introduction of the institution’s international report chided governments for failing to fulfill the promise of human rights. Their betrayal of this promise showed itself in various ways: “They failed to show principled leadership through inaction, indifference, erosion of standards, impunity and lack of accountability.” (Amnesty International, 2005). Based on the results presented in Table 5–3 and Figure 5–3, one would have to conclude that a similar case can be made for international labor standards and that their role as market boundaries is seriously under threat.

5.4 Chapter Summary

Although the issue of labor standards had been the subject of international attention for some time, the foundation of the International Labour Organization in 1919 put the concept of labor standards squarely on the international agenda. However, it was not until the 1990s that there was a clear return to the debate on these standards not only between the ILO’s constituents but also in the public arena. Countries and multinational companies are thought to create a competitive advantage by putting aside labor and other standards. Likewise, the case was brought forward that some countries are unable to guarantee adherence to labor related rights.

The arguments for labor standards have changed little over the last two hundred years. The same can be said for the arguments opposing the enforcement of labor standards whether on a national or international level. The emergence of the call for labor standards in the form of labor regulation shows a distinctive pattern in that the earliest manifestations were geared towards those groups that were (thought to be) unable to speak up for themselves, namely children and women. It could be argued that the recent wave of interest in and advocacy of labor standards is again following this pattern in that some claim to be speaking on behalf of the poor (voiceless) workers in third world countries. However, nowadays the labor standards are also invoked to ensure that the standards attained by workers in developed countries will not suffer due to the forces of globalization. In short, the arguments for (and against!) labor standards now as in the past have a moral as well as a practical (i.e. economic or cost)
dimension. The presence of either dimension, but arguably especially the moral one, exemplifies how labor standards function as market boundaries. And although there were practical considerations that played a role in their emergence, labor standards were not predominantly initiated on the grounds of efficiency but rather on moral ideas on how the interaction between human beings and the market should take place. Their role as it were is the shifting of the boundaries that confine market activity with the aim of protecting or insulating the individual from indiscriminate market forces.

In this chapter, we have seen how the process of globalization has highlighted the issues surrounding the enforcement of labor standards. The ILO initial response was to set absolute minimums by way of introducing the concept of core labor standards in 1998. A year later, it launched its Decent Work Agenda as its definitive answer to globalization but also as its new rallying cry and mission statement. In the next chapter, we look at this new objective that the ILO has set for itself, namely the promotion of decent work for all. We are going to review the agenda itself, its underlying ideas (e.g. what is meant by decent) and whether it is able to effectively function as a market boundary.
6 Decent Work

In the previous chapters, we covered the theories about the relationship between normative theory and the market. In the second chapter, the idea of market boundaries was introduced. The subsequent chapter took a closer look at human dignity as a foundational value for market boundaries, including for the ILO’s international labor standards that can be seen as a way of introducing normative standards to the market system. Chapter four saw the introduction of the concept of the decency (by way of the works of the philosopher Avishai Margalit) and how this might relate to economic policy in the area of employment. In the previous chapter, the focus was placed on the emergence of labor standards and the associated rationale up until the end of the twentieth century and when the ILO launched its Decent Work Agenda. This agenda is the topic of this chapter, which includes a confrontation with the writings of Margalit on the topic of decency.

In 1999, the International Labour Organization (ILO) proclaimed that it considers productive and freely chosen employment to be at the core of its mandate: “The primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity.” (ILO, 1999).\(^\text{126}\) This new mission statement by the ILO constitutes its own response to the debate on globalization (International Labour Organisation, 1999, 2001, 2008c). The phrase “Decent Work” encapsulates the strategy the organization has chosen for how it wants to operate in a world characterized by economic globalization.

This chapter will look at the concept of decent work. This will be done not only by reviewing what has been written on the topic—the theoretical side. This includes appraising the agenda with the work of Margalit and the criteria he laid down with respect to decency. This chapter will also look into the issue of how the concept of decent work is to be translated into practice with a special focus placed on the attempts to measure decent work through selected indicators. Economic policy making today leans rather heavily on a numerical approach with measurement playing a key role. This role is brought forward by the desire to assess and

\(^{126}\) Note that the section “freedom, equity, security and human dignity” is derived from the 1944 Declaration of Philadelphia that was discussed in §3.2.3
monitor progress (or lack thereof) and to compare or benchmark. The attempts to quantify and codify the presence of decent work offer a chance to review the possibilities but also the possible limitations of the normative in economic policy; limitations that in part arise when opting for a different route than the prescriptive negative or *ex negativo* approach to policy making. In reviewing the attempts at measuring decency in the form of decent work, this chapter will also discuss the ways in which inherently normative concepts such as human dignity and decency are translated to the world of indicators.

The rest of the chapter is organized as follows. The first section will give an overview of the emergence of decent work as a mission statement for the ILO. Apart from covering its definition and content, this section will also include an overview of the implications of shifting the goals of the ILO toward promoting decent work, taking into account the various obstacles that the agenda will have to overcome.

Having reviewed the more theoretical underpinnings of Decent Work, the focus shifts toward the practical. The second section of this chapter will cover the attempt to measure decent work. In order to be able to monitor the developments regarding decent work, several research projects started work on this issue including assessing the possibility of creating an index that might help with the task of monitoring. As will become clear in this part of the chapter, there was widespread opposition against the creation of such a ‘Decent Work Index’ that halted its construction. This has not, however, stopped the project of measurement.

The objections against the construction of a Decent Work Index were to some extent associated with general methodological problems but were also the product of the discomfort brought about by the explicit normative content of the Decent Work Agenda. The third section of the chapter is devoted to this normative dimension of Decent Work. One aspect that will receive special attention is the way the key moral concepts underlying the Decent Work Agenda are made operational, such as ‘decency’ and ‘dignity’. This discussion will show that the way the ILO has invoked these concepts has added to the obfuscation of the normative message underlying the Decent Work Agenda. The chapter will be concluded by a brief discussion of the main findings.
6.1 The emergence of the ILO’s mission statement

The concept of ‘Decent Work’ was launched in 1999 with the publication of the eponymously titled report of the ILO’s Director-General, which opens with the words: “This Report proposes a primary goal for the ILO in this period of global transition—securing decent work for women and men everywhere. It is the most widespread need, shared by people, families and communities in every society, and at all levels of development.” (ILO, 1999).

On an abstract level, the underlying reason for restating the purpose and objectives of the ILO was that the emergence of the global economy and the associated market forces had changed the relationship between the three constituents of the ILO: employees, employers, and governments. On a more concrete level, the desire to refocus the activities of the ILO came from two developments. Firstly, it was a response to the growing diversity of ILO activities, such as a more hands on approach toward labor (related) issues that steered the organization beyond its traditional strike zone and objective of merely formulating labor standards.

Secondly, the launch of the DWA can be seen as the ILO’s continued response to the effects of globalization. As discussed in the previous chapter (see §5.2.3), the ILO’s first major response to globalization consisted of the adaptation of the core labor standards in 1998. This constituted a clear effort on the part of the ILO to reassert its leading role on questions relating to labor issues and to assemble some type of moral minimums. The DWA in effect builds on this and aimed to address a growing public concern over issues like employment, wages, working conditions, rights at work, and the elimination of poverty in the light of the globalised economy (Egger, 2002, p. 165).

6.1.1 What constitutes Decent Work?

As of 1999, the main purpose of the ILO is formulated as promoting opportunities for all persons to obtain decent and productive work in conditions of freedom, equity, security, and human dignity (ILO, 1999). This being the primary goal of the organization, the concept of Decent Work is viewed as the converging focus of the ILO’s four strategic objectives:

127 “Economic outcomes are now influenced more by market forces than by mediation through social actors, legal norms or State intervention. International capital markets have moved out of alignment with national labour markets, creating asymmetrical risks and benefits for capital and labour.” (ILO, 1999)
employment, promotion of rights at work, social protection, and social dialogue. This section will review and discuss these four objectives, but first the focus will be on the definition of Decent Work.

With the Decent Work Agenda (DWA), the ILO aims to move outside its more traditional role of standard setting and also move beyond determining mere (moral) minimums as it did with the introduction of the core labor standards. However, with this aim the organization is entering new territory and it will have to justify its presence in these new areas. And with this, the need for clarification of what it aims to do—in this case the need for a definition of decent work—presents itself. However, offering this clarification is not without its pitfalls. The various attempts to capture decent work in positive terms, describing what it is, has resulted in a plethora of definitions each with their own list of characteristics. The fact that decent work is used (even within the ILO) in multiple ways adds to the confusion not only outside but also inside the organization: “Although the notion of decent work, proposed by the Director General of the ILO in his first Report to the International Labour Conference, may be seen as an objective or purpose devoid of technical content, it can also be considered as an integrating concept bringing together and co-ordinating diverse aims, values and policies, or as a ‘dynamic concept, whose content evolves with the social and economic progress of a given country’.” (ILO/Cinterfor, 2001, p. 13).

It may seem odd that the essential component in the new mission statement, i.e. decent work, would be introduced without a clear and comprehensive definition but that is not to say that no definition is given, on the contrary. In its various communications, various definitions have been provided by (representatives of) the ILO. Although the differences between these definitions may be slight, the absence of a uniform definition is notable. Therefore, for instance, in the launching document, the report by the secretary-general on decent work, it is noted that: “Decent work is the converging focus of all its four strategic objectives: the promotion of rights at work; employment; social protection; and social dialogue.” (ILO, 1999). This definition would indicate that the realization of decent work hinges on pursuing and

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128 In that sense the problems facing decent work are akin to those surrounding the concept of human dignity as discussed in chapter 3. In §6.3, we will return to this issue with special attention for the way this problem is tackled by Avishai Margalit and his negative approach.
realizing these four objectives. However, the question then becomes how one is to know if the realization is complete if it is unknown as to what it should look like; unless the relationship itself is taken as the definition. From this we would infer that Decent Work is not unlike a state of affairs or situation (comparable to “it is raining” or in this case “fulfillment of the four objectives”). However, in the same document the following is also included: “Decent work means productive work in which rights are protected, which generates an adequate income, with adequate social protection.” (ILO, 1999). Note the inclusion of an adequate income that, on the face of it, entails a move beyond the four objectives. The absence of dialogue might be a consequence of the fact that Decent Work is used to denote a conceptual entity as well as the overall agenda. In his 1999 address to the WTO Conference in Seattle, the ILO’s Secretary–General stated that: “Decent work means work which is carried out in conditions of freedom, equity, security and human dignity.” (Somavia, 1999). Again there is a considerable overlap with the other two but once more new concepts are introduced albeit concepts which are no strangers to the ILO heritage.129

One would almost come to the conclusion that the ILO itself is somewhat uncomfortable with the concept or at the very least unsure as to what should fall under its heading—if not everything. It is not the intention to be dismissive of the concept but it may be considered a telling fact that the report of the expert meeting on the measurement of decent work does not include a definition of what is supposed to be measured (see ILO, 2008a).

In the case of measurement, it could be argued that the definition can be assembled from the selection of the indicators proposed by the meeting.130 However, the introduction of the Human Development Index by the UNDP in 1990, which may be considered to be a similar or comparable enterprise, did go to great lengths in capturing and defining the central concept to their undertaking.131 It started out by stating that “Human development is a process of enlarging people's choices.”, expanding on the definition by adding: “The term human development here denotes both the process of widening people's choices and the level of their achieved wellbeing. It also helps to distinguish clearly between two sides of human development. One is the formation of human capabilities, such as improved health or

129 See §3.2.3 of this thesis
130 See also §6.2 of this thesis
131 At the basis of the whole undertaking of measuring human development lies the work of Amartya Sen and his capabilities approach, see e.g. Sen (1985, 1999)
knowledge. The other is the use that people make of their acquired capabilities, for work or leisure.” (UNDP, 1990, pp. 10-11).

The comparison with the work done by the UNDP is not without merit as Decent Work has become part (as of January 2008) of the UN Millennium Development Goals (MDG) under the heading of “Target 1.B: Achieve full and productive employment and decent work for all, including women and young people.” The phrasing of the target clearly refers to the overall new mission statement of the ILO. It also conveys its aspiration to realize decent work across the globe, i.e. the universality of the ambition. This not only means that it is applicable to all countries but also that the target group encompasses all workers and not just those active in formal employment relationships but also day-laborers and the like. Considering the importance of the MDGs in policymaking in national as well as international (economic/political) relations, the inclusion of decent work makes it all the more pressing to obtain a clear picture of what decent work precisely entails.

In the absence of an officially sanctioned definition, an alternative route is needed in order to increase our understanding of decent work and thereby move towards a definition. For this alternative route, we shall turn to the initial statement that reads that decent work is the converging focus of the four strategic objectives of the ILO. The remainder of this section will deal with each of these four objectives, namely: employment, promotion of rights at work, social protection, and social dialogue.

6.1.2 Employment

Decent Work is by definition about work. It can be paid or unpaid work or come in the form of employment (which implies a more or less formal relationship) or in more informal circumstances. Work is thus a broad concept incorporating even those forms not subject to formal agreements. Two issues arise from the discussion of work in relation to the DWA. First, there is the issue of the importance of work in the everyday lives of workers; an

132 The Millennium Development Goals (eight in total) are targets set by the international community to be reached by 2015 and are all tied to development issues and the needs of the world's poorest people. The target presented here is one of 9 targets listed under the first MDG, which is the eradication of extreme poverty and hunger. The decent work indicators are focused primarily on work as a source of income.
importance that goes beyond aspects like wages and remuneration. The second issue relates to the priority of job creation vis-à-vis the other components of the DWA.

In chapter four (§4.2), the non-monetary significance of work by way of the writings of Avishai Margalit was already discussed. Any attempt that aims to capture the full significance of work will have to go beyond the basic notion of seeing work as an activity people perform in order to secure an income that helps in the provision of basic necessities. However, it cannot be denied that in modern life wages or other types of remuneration are the primary means of sustaining life. And because of this important role it is easy to see how any discussion of the significance of work stops with accentuating this aspect and neglecting the other non-monetary issues. However, such a narrow view does not do justice to the full importance of work.

The importance of work is multifaceted in that, for instance, it also enables people to overcome societal obstacles. Theodore Moran notes in his work on sweatshops that surveys among female factory workers in Latin America and Asia indicate that their employment offers them a measure of autonomy, status, and self-respect that is otherwise hard for them to obtain (Moran, 2002, p. 15). And with this we enter the social (also known as the normative) dimension of work where we find the non-monetary characteristics of employment like the social aspects of work and its importance as an affirmation of one’s own identity for oneself as well as for others (ILO, 2001, p. 5/6). This importance—often overlooked—has real implications, so that, for instance, the unhappiness caused by involuntary unemployment is not to be equated with the unhappiness over the loss of income; there are both ‘material’ as well as ‘non-material’ aspects at play. External work has been shown to be a source of various feelings and processes such as achievement, stimulation, as well as a source for socializing that go beyond wages or as Dan Gasper writes in his contribution to a study on the concept and measurement of human well-being: “The satisfactions from work are only slightly reflected in economic accounting. That applies the perspective of a capitalist to a nation, with work assumed to be a cost rather than a benefit.” (Gasper, 2007, p. 28).

133 The ILO has stated in numerous instances and various occasions that it is concerned with all the dimensions of work, see e.g. ILO (2001, p. 7) as well as Somavia and Cardinal Martino (2005).

134 See also van Staveren’s article on ethics in economics (2007) for a discussion on intrinsic motivation as opposed to mere external motivation such as wages.
All in all, we can say that when the ILO states that employment is a strategic objective it is not only referring to work as being a source of income but also takes into account the social and normative dimension of work.

The second issue regarding employment with respect to the Decent Work framework has to do with job creation. The concept of Decent Work presupposes the existence of work. A job can be decent or indeed lack ‘decency’ but there has to be a job in the first place before it can labeled as such. In his 2001 report (*On the Decent Work Deficit*), the ILO’s Director General acknowledges this hierarchical relationship even adding that there is “no overstating the priority of job creation” (ILO, 2001, p. 8).135

Philippe Egger136 (2002) in his article ‘Towards a Policy Framework for Decent Work’ notes that the concept of Decent Work gave a new impetus to the debate on the question whether job creation has precedence over the type of work. In other words, when (if at all) should attention be given to the qualitative dimension of the jobs created?

One (very dominant) position on this issue is aptly captured by the Nobel laureate Paul Krugman (1997) who formulated his views on the topic in a popular article titled “In Praise of Cheap Labor” with the observation that “Bad jobs at bad wages are better than no jobs at all.” The ILO, however, has never subscribed to the view that a job is a job arguing that some jobs will always be bad jobs. Child labor, forced labor, and low-productivity informal sector jobs all fall under this label. Other jobs will tend to evolve and improve over time due to economic and social developments, including labor standards and changes in perceptions on what is acceptable and reasonable (Egger, 2002, p. 164).

Notwithstanding the sensitivity to the quality side of work, the acknowledgment that job creation takes precedence implies an almost explicit widening of the ILO’s scope of activities. For if job creation is paramount to the DWA, the way in which jobs are created becomes (has

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135 See also Gary Fields’ publication on the relation between decent work and development policies: “It is a truism, but nevertheless true, that for a person to have a decent job, he or she must have a job.” (Fields, 2003, p. 241). Similar assessments are found in other publication on decent work (especially in those covering the measurement issues), e.g. in Anker *et al.* (2003): “… decent work is not possible without work itself”.

136 At the time Egger was working at the ILO’s Policy Integration Department and has since moved on to become the deputy director of the Office of the Director-General.
to become) part of its focus, in short the ILO has taken it upon itself to be a guardian of economic policy insofar that it should be conducive to the DWA.

Expanding the opportunities for people to find work implies that (macro-) economic policies are part of the focus of the ILO and as for the policies needed for the creation of jobs the Director General indicates that: “getting people into productive activities is the way to create the wealth that enables us to achieve social policy goals. Sound and sustainable investment and growth, access to the benefits of the global economy, supportive public policies and an enabling environment for entrepreneurship and enterprise are what drive employment creation. They are the economic motors of the Decent Work Agenda.” (ILO, 2001, p. 8). The formulation of ‘ideal economic circumstances for employment creation to occur’ seems rather vague but, considering that the question of which public policies are supportive for economic growth is a discourse in itself, this might very well be intentional.

In subsequent publications, it also seems that the official line has been toned down. For instance, Egger argues that the real issue at stake is which conditions are needed to move from bad jobs to better ones without endangering existing employment or jeopardizing achieved improvements. From this it can be derived that the aim should be the implementation of macroeconomic policies that promote growth and employment and that these policies should be complemented with social policies (derived via social dialogue) that enhance the protection of workers as well as productivity (Egger, 2002, p. 165).

Despite this softening of the position, the ILO still sees the realization of full employment as a key target for economic policies to address. The Director-General of the ILO, Juan Somavia, acknowledges that it is necessary to strive for full employment or, to be specific, “full productive employment” (emphasis added), but left to its own devices this formulation is not enough to express the value dimensions of work. Hence, the addition of ‘decent’ to indicate or reflect the value component of work (Somavia, 2004, p. 6).

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137 Full employment can be defined (in line with (Keynes, 1964)) as the level of employment whereby there is no ‘involuntary unemployment’. Note that this definition allows for the possibility of voluntary unemployment as well as frictional unemployment.
Striving for full employment is one thing, but making it mandatory is a different matter altogether. Therefore, for some, guaranteeing full employment may be akin to guaranteeing perpetual economic growth and this is beyond anyone’s control. At this junction, the work of Margalit, especially his demands regarding the process rather than outcomes, offers guidance (for, among others, the ILO) when formulating viable demands for (economic) policy, in that those institutions that are capable to guide the economic development should make a sincere effort to ensure its realization. In addition, these efforts should address the social or normative side of work by (at the very least) assisting those who seek a meaningful occupation (see §4.2) in finding such an occupation.

The tension between economic growth and the various objectives that constitute the DWA becomes even more apparent in the discussion on the objective of social protection.

6.1.3 Social protection

The dimension of Decent Work related to social protection is often equated with the formal protection for people of old age, invalids, those suffering from an illness (and thus health care) as well as safety at work. Social protection is (more often than not) synonymous with the provision of income for the retired and invalids, but may also refer to issues such as maternity leave. Most aspects of social protection require not only an effective governance structure but also (public) funds to provide such a financial safety net; it should not come as a surprise that only 20% of workers worldwide seem to have truly adequate social protection (ILO, 2001, p. 9). With the Decent Work Agenda, the ILO aims to address this issue. Again, it stresses that there is no one-size-fits all solution. It even asserts that it is possible to have an excess in protection, which it states would be detrimental to the other dimensions of the agenda, presumably for the creation of employment as well as to a sense of personal responsibility. Minimal forms of protection are, however, deemed essential: “basic security for all in different development contexts is fundamental for both social justice and economic dynamism and is essential if people are to function to the best of their capabilities.” (ILO, 2001, p. 10).

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138 “No one believes that perfect security is possible, and excessive protection may be deadening to initiative and responsibility <…>” (ILO, 2001, p. 10). This assertion raises questions regarding what the ILO means when it talks about the autonomy of workers; apparently people can stand only so much assistance.
Any advocacy for spreading social protection across the globe will find itself part of the discussion on the affordability of such measures. It will likewise be part of a debate on the consequences of such measures on the economy at large: “It is true that this Agenda is sometimes questioned, both in high and in low-income countries. Labour ministers who advocate decent work objectives may find their policy proposals dismissed as “unrealistic”, a “luxury” or worse, “high risk”, because they are perceived as threatening the competitiveness of firms and the national economy.” (ILO, 2001, p. 17). The Director-General’s, somewhat optimistic answer is that decent work may pay for itself through improvements in productivity. A view shared by others in (and outside) the ILO.139

Whether or not these views stem from wishful thinking, the stance of employers on this issue indicates that they do not take this win-win scenario at face value. A report prepared by the International Organisation of Employers (2002), dealing with the question of how to put Decent Work into practice, accentuates the primal characteristic of employment creation.140 Other aspects of decent work are regarded as having a cost increasing impact.

However, such an analysis overlooks the fact that many measures that could be taken to promote the objectives of the agenda are within reach for even the poorest nations. For instance, according to Verité (an independent non-profit organization monitoring international labor rights abuses in offshore production sites), health and safety issues are the most common violations but are also relatively easy and inexpensive to address. In their opinion, such violations are often the result of a lack of awareness among management rather than by design or (malicious) intent (White, 2001).

The questioning of the affordability is not so much targeted against the content of the DWA but rather serves as a means to accentuate a particular sequence of the realization of the Decent Work objectives. The underlying argument works along the lines that social protection should not come at the expense of economic growth and hence of job creation. However, by accentuating growth and job creation there is the risk of a single minded approach to decent

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139 For instance: “Measures aiming to improve occupational safety and health [...] can help considerably in raising the productivity of workers, and hence their value, motivation and self-esteem.” (Egger, 2002, p. 169).

140 The IOE is an international umbrella organization for national employer organizations from countries from all over the world in order to “promote and defend the interests of employers in international fora, particularly in the International Labour Organization (ILO)” (IOE website, August, 2011).
work. An example hereof can be found in the assertion by the Indian Ministry of Labor and Employment that “employment generation should be the focus of all ILO programmes and activities. The basic requirement of Decent Work should be to first ensure work to any potential worker and then all other elements of the decent work concept will automatically follow.”\textsuperscript{141} (Cited in Penfold, 2008, p. 581).

It is fair to say that the ILO is struggling with this issue and it acknowledges that there are possible tensions at play. However, in his 2001 annual report, the ILO’s Secretary General asserts that work creation without due attention to decent work does not bode well and that the view of ‘work first and decent work later’ should be treated with the utmost caution as “[u]nfortunately, far too often “later” never comes.” (ILO, 2001, p. 28).

Although this issue has yet to be resolved, especially in the sphere of application, the idea of an ‘optimal’ sequence was again addressed in the 2008 ILO Declaration on Social Justice for a Fair Globalization and phrased as follows: “The four strategic objectives are inseparable, interrelated and mutually supportive. The failure to promote any one of them would harm progress towards the others.” (ILO, 2008c, p. 11). Nevertheless, it is job creation that receives the brunt of the attention and again it argues in terms of outcomes rather than accentuate the underlying process. By treading lightly in this area, the ILO has failed to make a coherent mark or draw a line in the sand that could be used as a point of reference when compromises on the sequencing of realizing the four objectives are made.

**6.1.4 Worker Rights**

The previous chapter provided an outline of (the emergence) of international labor standards; these standards are the rights referred to in this dimension of the agenda. Of the four objectives of the Decent Work Agenda, this one differs from the other three in that progress can be achieved more rapidly via legislative action and the development of relevant policies. However, as was shown in the previous chapter (see §5.3), there is a gap between the promise and the practice when it comes to labor standards. Ratification of labor standards and actual labor practices are at times distant relatives at best.

\textsuperscript{141} Note the assumption of how this will take place is very much akin to the doux-commerce thesis as discussed in chapter one.
Another difference between worker rights and the other three objectives of the DWA is that realization is more easily evaluated. In the case of employment creation policies, evaluation is a predominantly ex-post exercise as these policies tend to need time to have effect. In the case of social protection, there is the problem of moving goal posts—when can we say that we have attained the level of social protection demanded by the DWA? In the case of worker rights, the entitlement is clear and one can assess whether or not they are adhered to.\textsuperscript{142}

However, under the Decent Work Agenda, when it comes to worker rights it is not just a matter of ticking the box. For instance, Peccoud in his work on the philosophical and spiritual perspectives of decent work argues in the case of the core labor standards that, although they are thought to be valid in every country regardless of the level of economic development, they are best seen as \textit{enabling} rights. This means that although these rights and principles are truly universal, similar to human rights, the actual outcomes may vary depending on a list of other factors specific for each country. In addition, the normative aspects and targets of the Decent Work Agenda are much broader than the basis for the (core) labor standards. The overall agenda, so argues Peccoud, implies that the promotion and observance of these labor standards (or worker rights) are accompanied with a demand to create the conditions necessary for the realization of other standards that are essential for decent conditions of work and life (Peccoud, 2004, p. viii). In other words, Peccoud accentuates that the rights do not stand by themselves and should be seen with the whole of the agenda.\textsuperscript{143} And that the DWA is more than just a rights-based framework becomes especially clear in the fourth objective of social dialogue.

\textbf{6.1.5 Social Dialogue}

Compared with the three other components of decent work, social dialogue has its own unique place. Dialogue is deeply embedded in the institutional structure and character of the ILO, whose workings are based on consensus building among the three constituents of each and every member state: the government, its employers, and its employees. Employment creation, worker rights, and social protection are all topics that are covered by a number of institutions and organizations apart from the ILO, e.g. the World Bank and the UDHR. Social

\begin{footnotesize}
\begin{enumerate}
\item[142] See also Sen (2000, p. 122/123)
\item[143] In §6.3 we revisit this point by Peccoud
\end{enumerate}
\end{footnotesize}
dialogue, on the other hand, is the one wherein the ILO in the internationally sphere has a definite lead.

A precondition for effective social dialogue, the guarantee of freedom of association, and the facilitation of collective bargaining are both included in the set of core labor standards. These standards are (as is the whole notion of social dialogue) geared towards the process in the labor market rather than targeting specific outcomes. As such it is social dialogue that introduces the element of process in the DWA.

Although an important part of the DWA, some developments can be identified that are detrimental for effective social dialogue. These include the recent emergence of individual action over collective as well as the shift towards new forms of work, characterized by more flexibility and more temporary labor contracts. Another serious issue facing effective social dialogue is the fact that a large section of the global workforce is active in the informal sector. And, in the formal setting, a very serious obstacle for social dialogue is the very poor ratification record of the two labor standards mentioned in the text above. As was shown in chapter five (see §5.3), after weighing the data on ratification with the size of the population we see that half of the world population lives in countries where these standards are not ratified.

6.1.6 Approaching Decent Work in terms of Deficits

The exploration of the DWA so far has shown that there are some issues confronting the concept, mostly dealing with the underlying relationship between the objectives e.g. the affordability and perceived consequences of social protection or the place of job creation vis-à-vis the other objectives. In his second report on Decent Work entitled Reducing the Decent Work Deficit: A Global Challenge, the Secretary General (ILO, 2001) introduced a different way of approaching the concept itself, namely in terms of deficits.

144 See ILO (1999)
145 See for instance the trend whereby individual labor agreements are supplanting industry wide collective bargaining agreements.
146 “Informal employment comprises one half to three-quarters of non-agricultural employment in developing countries” specifically, 48 percent of non-agricultural employment in North Africa; 51 percent in Latin America; 65 percent in Asia; and 72 percent in sub-Saharan Africa.” ILO (2002b) See also Trebilcock (2005) and Kantor, Rani, and Unni (2006).
As opposed to defining Decent Work in positive terms (namely that it is productive work in which the rights of workers are protected, generates adequate income, with adequate social protection, and accompanied with social dialogue), it can also be approached by focusing on the lack of Decent Work in terms of deficits. The Decent Work deficit is thus articulated in the want of sufficient employment opportunities, inadequate social protection, the denial of rights at work, and shortcomings in social dialogue. For instance, the lack of employment opportunities is reflected by people being unemployed, underemployed, and a lack of job creation through sound and sustainable investment and growth (ILO, 2001).

On the face of it, this approach is more coherent, especially given the difficulties encountered by framing the DWA in positive terms. In chapter four we discussed The Decent Society wherein Avishai Margalit argues that a society is decent when its institutions do not humiliate. And one of the arguments he presents in favor of the ex negativo approach is that consensus is more likely to be found on what constitutes humiliation i.e. the absence of respect for human dignity compared to respecting human dignity. Similarly, the argument can be made that consensus is more easily found on what does not constitute decent work compared with the question of what does constitute decent work. When deficits are understood in this manner, we have a bottom-up approach whereby the modi operandi are geared towards obtaining more distance between the actual (working) conditions and the absolute rock bottom, i.e. the complete absence of decent work. However, the idea of deficits can also be seen as a bottom-down approach whereby the focus is on minimizing the distance between the actual conditions and some form of optimal conditions. It is unclear as to which approach the ILO had in mind when discussing the notion of deficits. And this helps in explaining why the concept of decent work deficits has failed to take off.

That the new deficit approach was not shared by all can be deduced from the reaction of the earlier mentioned employers organization, the IOE. According to the IOE, the notion of a decent work deficit implies that there exists an optimal level of ‘decency’ against which all jobs can be measured (or appraised). However, according to the IOE, Decent Work is a relative concept: there are no universally accepted standards, or indeed any objective standards of Decent Work (IOE, 2002, p. 6). As pointed out in the text above, this (the top down

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147 See §4.1.4
approach) is just one way of looking at the deficits and not necessarily the more coherent one. In addition, it can also be argued that this in fact does not constitute an *ex negativo* approach (see also §6.3) in contrast to understanding deficits as the space between the actual manifestations and some predetermined minimum. When understood in terms of a bottom-up approach, deficits might in fact yield very concrete insights in the provision of decent work. For instance, a complete absence of social protection constitutes, and even the IOE would have to agree on this, a clear decent work deficit. However, even when this issue of how to approach a deficit would be resolved, we are still confronted with the question of sequencing: which deficit should be tackled first? The opposition against the idea of DW deficits and the fact that the questions identified earlier (e.g. the absence of a shared definition) remain have no doubt contributed to the fact that *decent work deficits* is not the dominant form in which decent work is currently discussed in terms of policy making. This also becomes clear when discussing the project of measuring Decent Work (the topic of the next section), which will also offer another opportunity to assess how the various aspects of the agenda are thought to be operationalized. Note that although measurement requires standardization (i.e. the introduction of standards) it does not require the upfront identification of a specific optimum but there has to be some point of reference. In the discussion of the measurement project, we too find an approach based on deficits in terms of ‘lack of’ accompanied by opposition against conceptualizing decent work (i.e. the bottom up approach of deficits) in this manner.

### 6.2 Measuring Decent Work

The ILO has stated on numerous occasions that the usefulness of the concept of decent work as a policy framework depends in part on measurability, for only then can its advancement be effectively monitored: “In order to effectively promote the goal of decent work for all, the Office must be able to measure and monitor progress and deficits, and to respond to the demands of constituents and the general public for information about these issues.” (ILO, 2001, p. 66) and “For the concept of decent work to become a useful policy framework, the ILO must be able to measure it and to monitor change over time.” (Egger, 2002, p. 172).

Egger argues that the challenge for the ILO lies in designing and promoting a set of policies that in turn promote core labor standards, employment, and social protection. These policies should be formulated for a global as well as national setting. Consistent with this view is his
assessment that there is a need for a set of internationally comparable indicators and another set, more detailed to be used in a national context (Egger, 2002, p. 172).

In 2003, the International Labour Review published a special edition on measuring Decent Work. All four approaches included in this special contained their own list of statistical indicators. Although these lists vary, the problems regarding identifying and selecting the indicators are broadly shared e.g. the limited availability of desired data and quality issues (especially in developing countries). Another aspect shared by the contributions is their discussion on the question of how to best present the gathered data. This discussion focused mostly on the question of whether or not there should be a Decent Work Index by which countries could be ranked based on their achievements in realizing Decent Work thereby emulating the UNDP Human Development Index.148

Just like the concept itself, the idea of measuring Decent Work has also encountered opposition over the years. The IOE, for instance, states in its contribution on Decent Work (2002) that it opposes the idea that it can be measured in any practicable way and in addition notes that measurements might lead to misleading judgments. And, as was noted earlier, the IOE states that in the absence of universally accepted standards, measurement will always be subjective. Over the years, this stance has not altered significantly.149

Objections against measuring Decent Work based on a standardized approach were also voiced by other constituents of the ILO. During a workshop on research methodologies for Decent Work it was noted that: “Some experts believe that a comprehensive measuring

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148 An index is a construct that ideally enables a quick assessment of the status of a particular topic. One of the most widely known examples of an index is the already mentioned Human Development Index. This index can also function as an example of how an index is created. The index consists of three inputs, namely data on life expectancy, education, and GDP per capita. The observations are subsequently confronted by a benchmark, which is the target minimal value and maximal value for each variable. For instance, in the case of life expectancy, the minimal and maximum values are 25 and 85 years.

149 A similar position was put forward during the Tripartite Meeting of Experts on the Measurement of Decent Work: “The experts nominated by the Employers’ group raised concerns as to how far this objective could be achieved through the development of a global template. They objected to the construction of a globally applied, ILO-driven methodology or template for measuring and monitoring countries' status on and progress towards decent work, and to compulsory reporting on decent work indicators. It was argued that the word ‘template’ was problematic if it implied something that could be copied exactly and thus be applied to any country without taking into account country-specific circumstances. Support was expressed for a menu of relevant statistical information and indicators that could enable countries, with or without assistance from the ILO, to assess their own situation with respect to decent work. Experts drew attention to the role of statistics and that they were about measuring and providing references, rather than imposing an obligation on policy-makers. Consequently, a suggestion was made to use the word ‘plan’ instead of ‘measure’ and ‘toolkit’ instead of ‘template’. <...> Others argued that decent work was essentially a national matter, and that it was up to national constituents to define the concept according to their specific context. Thus, there could be no common global set of indicators to monitor progress towards decent work.” (International Labour Organisation, 2008a, p. 3).
standard should be worked out and a supervisory mechanism should be implemented. Other experts believe that a unified measuring standard is not feasible and that enforcement is not appropriate. <…> The great differences between the South and North, poor and rich nations, developed and developing countries make it difficult to implement a unified standard.” (International Institute for Labour Studies, 2002, p. 10).

Ultimately the opposition against the idea of ranking countries based on the presence of decency (i.e. a Decent Work Index) gathered momentum during the 17th International Conference of Labour Statisticians. In the report of the Working Group on Decent Work Indicators of this conference, the representative of the Director-General emphasized that it was not a goal to create a single-valued decent work index by which countries could be ranked. The working group shared this stance: “The Working Group overwhelmingly opposed the aggregation of the indicators into a composite index of decent work for the purpose of ranking countries.” (ILO, 2004, p. 7). And with this the fate of a Decent Work index seems to have been sealed.

The already mentioned Declaration on Social Justice for a Fair Globalization of the ILO includes the recommendation to the ILO Members that they may consider: “the establishment of appropriate indicators or statistics, if necessary with the assistance of the ILO, to monitor and evaluate the progress made” (2008c, p. 14). This reaffirmed the ILO’s commitment to making decent work, in some form or another, measurable. In the declaration, this appeal is preceded by one wherein the ILO summons the member states to devise and adopt a national or regional strategy for decent work. This would indicate that the international harmonization of measurement is not at the forefront, but is nevertheless still on the agenda.

After the 2008 Tripartite Meeting of Experts on the Measurement of Decent Work, the governing body of the ILO decided to give the green light to study the possibility of measuring decent work. The study included compiling detailed definitions of indicators and the preparation of Decent Work country profiles for a selected number of member states. The follow-up conference of labor statisticians to the one described above (i.e. the 18th conference) gave its approval for the approach and this program is now set to be rolled out and to be applied to a larger number of countries.
In the remainder of this section, we take a closer look at the ideas underlying the topic of measuring Decent Work. Although the aforementioned special edition of the *International Labour Review* contains various approaches, the discussion below is centered on the one by Anker, Chernyshev, Egger, Mehran, and Ritter that has served as the basis for the approach currently pursued by the ILO.150

### 6.2.1 Selecting statistical indicators to measure decent work

With their publication “Measuring Decent Work with Statistical Indicators” Anker *et al.* (2003) aim to translate the general concept of decent work into easily understandable characteristics of work. Secondly, they try to identify statistical indicators with which those characteristics can be measured. They work from the premise that these indicators should be presently available as well have a certain degree of consistency, accuracy, and cross-country comparability.

The main focus of Anker *et al.* (2003) is on the selection of indicators that can be used for cross-country comparisons. They do, however, offer some remarks on national measurements that they present as being centered on two related questions: 1) How many decent jobs and workplaces are there in a country? And, 2) What percentage of a country’s workers and workplaces have decent jobs? To answer these questions they feel it would be necessary to determine the ‘decency’ of each job and workplace that requires information on all aspects of decent work for each individual or establishment or a sample of them. However, arguably as a first step it would be essential to define what a “decent job” or a “decent workplace” entails. It is at this point that the authors make a claim, which they do not really support by arguments in their text, namely that: “Since it is possible to set criteria of “decency”, the […] questions above can be answered with appropriate micro-level data.” (Anker et al, 2003, p. 150).

Although they offer no arguments, they do cite the work that the European Union has done on the issue of job quality as the foundation for this claim. In this particular study, jobs are

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150 The contributions included in the special but not discussed here include a macro-approach to the measurement of decent work in “Decent Work: Concept and Indicators” by Ghai (2003) as well as “A family of decent work indexes” by Bonnet, Figueiredo and Standing (2003) that introduces a distinction between the macro, meso, and micro levels as well as between the variables relating to inputs, process, and outcomes. Both of these contributions offer a methodology for constructing a Decent Work Index. A third approach by Bescond, Châtaignier and Mehran (2003) also offers a method for an index but is based on the work of Anker *et al.* (2003), which is discussed in the text.
classified (based on three dimensions of job quality151) into three categories: 1) dead-end jobs, 2) low pay/low productivity jobs, and 3) reasonable/ good jobs. Based on the connection between the claim that it is possible to formulate the criteria of “decency” and in this report by the European Union it seems that Anker et al. assume that ‘decency’ has a range or scale that can be unearthed by means of surveys.

Regardless of whether this is the case, the presence of a range/scale (instead of a binary approach) does present some very fundamental questions as to how we are to understand decent work. For instance, can one truly say that something is a little bit ‘decent’? Or that A is twice as ‘decent’ than B? A scaled approach does not sit well with a binary approach where, in essence, there are two options, namely work is or isn’t decent. Analogously, a job or workplace can progress towards being a decent one but that means (by definition) that it is not a decent one at present. This issue remains unsettled, in turn contributing to enduring confusion.

Turning to the issue of international comparisons, Anker et al. (2003) argue that what they see as the definition of decent work—“opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity”—includes six different dimensions. Two of these dimensions deal with the availability and acceptability of work. The first dimension, ‘Opportunities for work’ again stresses the primacy of the need for employment. The second one (‘Work in conditions of freedom’) accentuates that work should be freely chosen; this excludes practices like slave labor, bounded labor, and the worst forms of child labor. The remaining four dimensions are concerned with the extent to which this work is “decent”, namely: ‘Productive work’ (work should be productive for only this ensures that workers can have acceptable livelihoods while it also should ensure sustainable/durable development as well as the competitiveness of enterprises and countries); and ‘Security at work’ (the level of protection—financial or health related—that workers enjoy). The last two dimensions are ‘Equity in work’ and ‘Dignity at work’. These two stand apart from the other dimensions that can easily be categorized within the four overall objective of the DWA as discussed in the previous section.

151 These three dimensions are: job security, access to training, and career development, and hourly wages. The study they refer to is European Commission (2001): Employment in Europe 2001: Recent trends and prospects, Luxembourg, Office for Official Publications of the European Communities.
The authors describe the dimension ‘Equity in work’ in terms of non-discrimination but also in terms of the work-life balance: “... workers’ need to enjoy fair and equitable treatment and opportunity in work. It encompasses absence of discrimination at work and in access to work, and the possibility of balancing work with family life.” (Anker et al, 2003, p. 152).

The dimension ‘Dignity at work’ is described as requiring that: “... workers be treated with respect at work, and that they be able to voice their concerns and participate in decision-making about their own working conditions. An essential aspect of this is workers’ freedom to represent their interests collectively.” (Anker et al, 2003, p. 152). From this reading, one could infer that dignity is conceptualized in terms of equity (or gender based equality) and a degree of autonomy. This is confirmed by reviewing the indicator groups with which these two dimensions are linked, which constitutes the next step in the approach to measure decent work, associating the six dimensions with specific groups of indicators.

The Indicators for measuring Decent Work

Before presenting their basic set of indicators, Anker et al. provide some additional considerations regarding their project. Apart from specifying the basic demands relating to the availability and quality, the authors indicate that the nature of the concept of decent work has some implications for the indicators to be used. Firstly, there is a need for universal indicators, meaning they are to be relevant for all under all circumstances in every country. However, they also argue that there are aspects to decent work that are relative; meaning that every society has its own norms of decency and that this should be borne out by the indicators.152

Secondly, the authors contend that decent work is particularly concerned with the most vulnerable and poorest. This implies that decent work indicators should not focus on averages as such but on distributions and measuring the situation of the least well off.153 Lastly, they also state that the indicators should present the actual conditions, be suitable for monitoring over time (in order to measure progress), and reflect the comprehensive nature of decent work.

152 “For example, the level of pay and working conditions considered to be decent differs across countries (even though the principle that as many people as possible should have decent pay and working conditions is universally accepted)” Anker et al. (2003, p. 152).

153 Here, the authors clearly opt for a Rawlsian approach.
Using these self-imposed criteria and preconditions, Anker et al. (2003) identify thirty statistical indicators relating to decent work that they categorized in ten different measurement categories, whereby some indicators are used in more than one category. An additional group of indicators is added that summarizes the key aspects of the economic and social context. Table 6–1, presented below, provides an overview of these indicator groups, and depicts the relationships between these and the six dimensions.154

Table 6–1 Dimensions of Decent Work and the Associated Indicator Groups

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Indicator Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opportunities for work</td>
<td>Employment opportunities</td>
</tr>
<tr>
<td>Work in conditions of freedom</td>
<td>Unacceptable work</td>
</tr>
<tr>
<td>Productive work</td>
<td>Adequate earnings and productive work</td>
</tr>
<tr>
<td>Security at work</td>
<td>Stability and security of work, Safe work environment, Social protection</td>
</tr>
<tr>
<td>Equity in work</td>
<td>Social dialogue and workplace relations, Fair treatment in employment</td>
</tr>
<tr>
<td>Dignity at work</td>
<td>Balancing work and family life, Decent Hours</td>
</tr>
</tbody>
</table>

Source: Based on Anker et al. (2003)

In reviewing the groups and indicators (see annex), two issues spring to mind. Firstly, it is very outcome orientated whereby the way in which these outcomes have come to pass (i.e. the underlying process) plays a negligible role—if at all. Secondly, the desire of allowing some indicators to be adjusted to local circumstances creates a problem of its own. An example hereof can be found in the description provided for the group heading ‘Unacceptable work’, which states that: “Decent work must be work that is acceptable to society. It is therefore necessary to know the incidence of types of work that are universally condemned.” (Anker et al, 2003, p. 159, emphasis added).

154 See the annex to this chapter for the extended version of this approach, as drawn up during the 2008 Tripartite Meeting of Experts on the Measurement of Decent Work; Note that the exact wording for various indicator groups differs slightly, e.g. “Balancing work and family life” has become “Combining work, family and personal life” but the substance remains the same.
The necessity of having knowledge on the prevalence of this type of work (i.e. work that is universally condemned) is necessary in order to exclude it from employment opportunities indicators and to monitor the progress of its elimination. The potential problem can be deduced from the wording used in this instance, which illustrates the considerable weight given to a society in deciding when we can speak of decent work. This inclusion is no doubt an attempt to address fears of the decent work agenda becoming a single one-size-fits-all standard. However, this assertion (in conjunction with the contention that there should also be measurement of decent work on a national level apart from this approach aimed at cross-country comparisons) leaves the door open for a situation to occur wherein work is labeled as decent in one society, whereas this is not the case in another. The authors seem to be bypassing this by focusing in the section ‘Unacceptable work’ on those types of work that are universally condemned. Nevertheless, it would seem that we now have two forms of Decent Work, one applicable on a global level and one for local use, with no guidance as to how to approach either and how they relate to each other. This is a potential problem for the methodology (e.g. through conflicting recommendations or appraisals) yet it remains unacknowledged and unaddressed.

**Equity and Dignity at Work**

The special nature of the dimensions on equity and dignity at work warrants a closer inspection. In Table 6–1, we see that these two dimensions are taken together when assigned to the measurement groups. When combined, they are linked with three groups (of indicators), namely: Balancing work and family life, Fair treatment in employment and Social dialogue and workplace relations.\(^{155}\)

‘Balancing work and family life’ is the name of the group of indicators that assess to what extent a country can be said to have work/employment that is family–friendly.\(^{156}\) The underlying idea is that family responsibilities shall not be a reason for dismissal or a reason for not hiring someone who is willing to engage in employment but also has these responsibilities at home. Due to the lack of a widely available date, only two indicators are proposed,

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\(^{155}\) A fourth group—Decent Hours—although not explicitly nor specifically associated with the two dimensions does enter into the assessment of these dimensions by way of the overlap with the group targeting ‘balancing work and family life’.

\(^{156}\) Anker *et al.* (2003) identify three categories of family-friendly employment policies: 1) protection of employment when a worker needs to be absent due to family circumstances, 2) financial benefits in the event of major family contingencies and 3) day-to-day accommodation of a worker’s need to integrate work and family life, such as flexible hours and adequate childcare (p. 161).
‘excessive hours of work’ and the employment rate for women with children under compulsory school age. The authors acknowledge that this last indicator has serious shortcomings; a high ratio does not necessarily imply a better work-life balance meaning that there is a greater need for interpretation when working with the data.

The measurement group ‘Fair treatment in employment’ covers the issues of equality of opportunity in employment and occupation as well as equal pay for work of equal value. In addition to these demands of equality, it also deals with harassment or exposure to violence at the workplace. It is also said to cover the requirement that workers have some degree of autonomy and there will be a fair handling of grievances and conflict. Just as is the case with the group ‘Balancing work and family life’, the focus here is also on the unequal treatment of men and women.

The third measurement group that is linked with the dimensions of equity and dignity at work is ‘Social dialogue and workplace relations’. The aim of the indicators in this group is to represent the extent to which workers can express themselves on work-related matters and participate in determining their working conditions. The definition of social dialogue is very broad covering any “type of negotiation, consultation or exchange of information between representatives of governments, employers and workers on issues of common interest relating directly to work and related economic social policies.” (2003, p. 166) The authors make a distinction between having a right to join organizations (that may assist in the social dialogue as formulated above) and the extent to which this right is exercised. The selected indicators reflect this distinction. On the one hand, the union density rate is included but also the extent of collective wage bargaining and the number of strikes and lockouts.

The assigning of indicators in this fashion conveys how dignity is made operational in this approach to measuring decent work. Firstly, it is geared towards a) the prohibition of (gender) discrimination and b) autonomy is expressed in terms of having a voice at work and being able to have a (family) life outside work. Secondly, it omits creating connections between indicators and dignity whereby a clear link does exist e.g. not having a job is here not directly linked with the notion of dignity let alone the nature of the work (e.g. through addressing what constitutes
a meaningful occupation). Subsequent work on this topic (based on this approach) has not changed this lack of clarity of how the concept of dignity should be viewed with regard to measurement.

6.2.2 Recent Developments

As was indicated in the introduction of this chapter, despite the various objections to the measurement project, there has been progress to the extent that the ILO is close to naming a definitive list of indicators that will be used to monitor the advancement of Decent Work. In November 2008, the ILO organized as mentioned before an expert meeting on the topic of the measurement of decent work. (A report by the chairperson on this meeting is available, see ILO 2008a). It also produced a discussion paper on this topic as support for the meeting (see ILO, 2008b). In the end, the committee agreed on a set of indicators to measure decent work. The complete list of these indicators can be found in the annex of this chapter. During the meeting, it was again noted that the creation of a Decent Work Index (“an aggregate composite index that ranks countries”) was not deemed to be the way forward as it would have “little value for policy analysis and would require restrictive assumptions” (ILO, 2008a, p. 2).

Using the framework of Anker et al., the input of the participating experts was mostly in the form of additional indicators as well as some alterations (e.g. although the indicator groups are the same if not in name, there is no mention of the underlying dimensions identified by Anker et al.). Both the minutes and the discussion paper reiterate the stance that indicators cannot stand alone without the provision of any interpretation: “For example, it would be misleading to assume that an employment-to-population ratio of 100% was desirable. Conversely, a fall in the ratio need not signal deterioration. Experts thus pointed out that it would be useful if the Office produced an interpretation guidance that highlighted potential problems of the indicators. Also, one needed to look at all indicators together, and take into account information supplied under the legal framework.” (ILO, 2008a, p. 12).

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157 A similar observation can made with regard to the concept of decency that in the approach is thought to be expressed—without further clarification—through four of the six identified dimensions of decent work.

The current selection for the measurement of Decent Work amounts to 73 separate indicators. In addition, there are 11 indicators selected for further development and future inclusion. In order to put this number in perspective: the 2010 Human Development Report of the UNDP includes an overview of 39 indicators while the HDI consists of 3 variables, namely life expectancy, GDP per capita and school (primary and secondary) enrollment rates (UNDP, 2010). A direct consequence of this considerable expansion of the earlier work by Anker et al. is that it will become more difficult to indicate whether there is progress in the provision of decent work.

What does become clear from a reading of the documents related to this meeting is that the concept of (human) dignity does not (and most likely will not) play a central role in the measurement of decent work. This is regrettable, for when a final selection of indicators is drawn up it will be these issues (reflected by the indicators) that will most probably be put at the forefront of any policymaking related to decent work. Therefore, the absence of any attempt to incorporate the concept of human dignity other than its inclusion in the phrasing of the ILO’s primary objective must be seen as a missed opportunity and it runs the risk of reducing it to ‘feel good’ language. In summation, the undertaking of measuring Decent Work has resulted in shelving the idea of constructing an index and favoring a holistic approach whereby the definition of Decent Work (but also of the pivotal concepts of dignity and decency) has become (more) blurred.

Another issue that is highlighted by the developments in the measurement project relates to the social or normative side of work. Although work is considered to be more than just an activity for which some type of remuneration is received, this aspect of work is not included in the large array of (proposed) indicators; it is not even acknowledged e.g. by stating that ‘it is an important part of the agenda but not quantifiable in any practical way.’ To this may be added that in the field of happiness studies, it is common to make international comparisons based on survey data. This begs the question of why the ILO should not campaign for the

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159 The discussion paper contains two references to dignity—in both cases citing the new primary objective of the ILO as described at the beginning of this chapter—while the minutes do not contain any reference at all.

160 See also Schweiger (2008) who makes a similar observation with regard to the potential impact of the selected measurement categories on issue of combating poverty.

inclusion of a question in the national Labour Force Surveys (already an important source for most of the indicators in the project) targeting this aspect of work.\footnote{For instance, by including the question: “On a scale of one to ten, how happy are you with your current job?”}

A final observation regarding the measurement project concerns the effective blocking of the construction of a formal Decent Work Index. The suggestion that such an index is not practically feasible is easily refuted by looking at the proposals made by Bonnet \textit{et al.} (2003), Ghai (2003), and Bescond \textit{et al.} (2003). And because the methodology of the latter is based on indicators all included in the revised Office proposal (see annex) it will be possible to create their index privately once the data becomes available. Therefore, the real question has to be why it was not possible for such an index to be formally incorporated in the measurement project? It seems likely that not all constituents were equally enthusiastic about the idea of ranking countries based on decency. Whereas a low score on the analogous Human Development Index is to be expected for developing countries and there is no shame in being poor, calling out a country as not effectively promoting the cause of decent work or reducing decent work deficits may be a bridge too far. After all, having a low score on a decent work index would be possible for developing and developed nations alike. The HDI is an index with compassion at its heart and low scoring countries deserve our pity, whereas conversely a low score on a Decent Work Index draws out shame and indignation. In any case, not allowing a formal index to come into being shows a lack of (political) commitment to not only the measurement project but to the DWA as a whole.

Whether this lack of commitment will adversely influence the entire agenda remains to be seen, yet the signs are not favorable. The final selection of the proposed indicators was guided by the assertion that the measurement of decent work should not be prescriptive in nature but should play a supportive role in policy-making (See footnote 149 of this thesis). However, if the Decent Work Agenda is not prescriptive in nature, then what is it and why should anyone—apart from the ILO—care that it exists? The fact that the DWA has a clear normative dimension to it (with concepts such as dignity and decency) makes it clear that there is a prescriptive side to the agenda; the uneasy relationship between the DWA and the market is also testament to this as discussed in the next section.
6.3 Evaluating the Normative side of Decent Work

In the preceding pages, the focus was on the unearthing of the meaning of decent work in general terms. In this section, we look specifically at how the two underlying normative concepts of decency and dignity are deployed in the agenda.

For the philosopher Margalit, the underlying moral reasoning for a decent society to aim for meaningful occupation for its members derives from the rule not to humiliate. This rule is in turn based on the respect for human dignity as the external representation of self-respect. This link between work and human dignity (as discussed in §3.2.3 and §4.2) is also found within the workings of the ILO. The new focus of the organization centered on decent work is, in that respect, no different: “And everywhere, and for everybody, decent work is about securing human dignity.” (ILO, 2001, p. 7).

Servais (2004) in his article “Globalization and Decent Work Policy: Reflections upon a New Legal Approach” suggests that among of the important changes brought about by the decent work framework is the acknowledgement that human relationships cannot be reduced to some “utilitarian ideology” and that it can be seen as a clear admission that there are moral dimensions embodied in the world of work. It is undeniably true that the Decent Work Agenda has provided a new impulse for the normative debate on labor standards and the workings of the ILO. A clear example hereof can be found in the publication *Philosophical and spiritual perspectives on Decent Work* edited by Peccoud (2004) published by the World Council of Churches and the International Labour Office.

In this publication, the ILO’s Director-General Somavia (2004) asserts that Decent Work is based on three values. The first and arguably most important is that labor is not a commodity. Secondly, the notion of decency or specifically of decent work is not set in stone; it is to be defined by people themselves. Somavia argues that the “notion of decency” is strongly connected with the perception in every individual society and that only on that level can it be decided as to what constitutes an advance in the right direction with regard to decent work. He does, however, stress that the decency component of work is and should not only be about income but also about the quality associated with it. Lastly, he records that the DWA is
based on the primacy of labor over capital: the “ILO affirms its conviction that work, personal dignity, family stability and peace are more important than capital”163 (Somavia, 2004, p. 7).

Work, so it is argued, is intrinsically linked to the person executing it and thereby to that person’s sense of identity as well as it being a source for “personal dignity”. This introduces a clear normative duty and responsibility for the ILO that the Director General formulates as follows: “The ILO’s normative function carries with it the responsibility to promote the personal capabilities and to expand the opportunities for people to find productive work and earn a decent livelihood.” (ILO, 1999). This, of course, raises the question of how this should be done, e.g. what the underlying economic policies should look like.

Some would argue that this target constitutes an argument for government intervention, while others may argue that the best way to support the decent work agenda is a **laissez faire** approach and thus by letting market forces run their course. The somewhat unsurprising answer of the ILO by way of Somavia is that both have a role to play. What is surprising is the way in which he phrases just how the market can fulfill this role. Somavia argues that: “The market is indeed important but it is an instrument, a means of obtaining objects, of improving the dignity and quality of life of people.” (Somavia, 2004, p. 7) This statement is striking in that it conveys an indication of what Somavia means by the concept of dignity.

Dignity is here portrayed as ‘enhance-able’; it can be enhanced. This is an approach described by Klein Goldewijk (2002) as seeing dignity in terms of having as opposed to in terms of being (as discussed in §3.2.3). This approach differs with other conceptions of dignity where dignity always intrinsically exists and the focus is on the extent to which it is respected or violated. The question then becomes whether in the case of violations, this binary situation might be widened as to include a scale for the seriousness of these violations.

It may seem that the difference noted here (between dignity in terms of having or in terms of being) is more philosophical than anything else. However, this would be missing the implicit implications for economics and economic policy that differ between the two. When dignity is seen as a category of having, a leading guide for policy can be checking whether a new policy increases dignity. In the second case, it must be reviewed as to whether the policy is admissible.

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163 See also §3.2.1
based on the simple question of whether it constitutes a violation of human dignity. In the latter case, this may be expanded by a moral duty to ensure respect for human dignity. Although there are differences present, there is one important rule that both approaches to human dignity have in common, namely the duty to avoid any harm, i.e. not to increase a violation of human dignity.

At the start of this chapter, it was noted that the Decent Work Agenda suffers from a lack of definition. This as we have seen has not stopped it from taking its place in the language of the normative discourse on international (economic) relations (e.g. its inclusion in the MDG) and perhaps it is true as some have argued that it is the normative content that makes it a success despite the absence of the definition: “it appears that on the one hand we have here a notion whose content had not been altogether defined—and had therefore to be ‘fleshed out’—and on the other that such concept, though ill defined, had an indisputable ethical content or significance: promoting decent work presupposes the adoption of a clear-cut attitude in favour of the dignity of man.” (ILO/Cinterfor, 2001, p. 13).

As for what precisely is meant by the reference to decency, it would seem that the way it is used is most closely connected to the literal meaning namely that of ‘appropriateness’. This also fits with Somavia’s view that the concept is not set in stone. However, this begs the question of appropriate to what and to whom? Here, Peccoud offers the following account: “The notion of decency refers to that sense of community, of which is needed for a good and decent life within the community. This sense of decency is transmitted through and expressed in values that have their roots in culture and religions” (Peccoud, 2004, p. 15). This account fits with most, if not all, of the ILO’s invocations of the term. Although it includes some indications on what should be taken into consideration when it comes to policy-making, it does not offer a clear comprehensive guideline apart from the idea that Decent Work must be about more than just about rights. Another thing that emerges from this account is that its focus is tilted towards outcomes rather than the underlying process.

Decency in the way Margalit uses this concept rests ultimately on the respect human beings deserve because of their shared humanity. This operationalization of decency, however, is based on the negation of this respect, phrased in terms of humiliation. An argument can be made that decency in the decent work agenda is similarly based on the respect a human being
deserves, which in turn is based on the notion of human dignity (see §3.2.3). However, the way decency is operationalized here is not based on the absence of this respect (the attempt to introduce decent work deficits notwithstanding) but rather on the realizations (or manifestations) of various objectives. This means that we can have irresolvable conflicting meanings of decency depending on the weight assigned to the various objectives. This problem could have been avoided had the ILO used the writings of Margalit on the topic of decency. It would have offered them a better compass by which to steer policies in order to realize its objectives. This would also have helped in providing more substance for the normative concepts upon which the agenda, and indeed to some extent the entire workings, of the ILO is built. As it stands the meaning of decent remains unclear, which allows one and all to advocate their own (and at times opposing) points of view with a minimum of risk of being called out for neglecting the overall objectives of the agenda.

In the aforementioned report on Decent Work, the International Organisation of Employers (2002, p. 1) emphasizes that decent work is a relative concept. In particular, they stress that Decent Work does not entail universal standards that are applicable to all workers and all jobs throughout the world. And when it comes to working conditions, this position is also found in the ILO’s own writings. Overall, the operationalization of Decent Work is made conditional (at least in part) on a country having an adequate level of wealth and economic development. The national context and the economic as well as the social realities have become the borders that define the room for realizing Decent Work. And so we arrive at the situation wherein instead of Decent Work functioning as a market boundary, it is presented as the other way round: the market serves as a boundary for the (possibility) of Decent Work.

In summation, the main problems with the Decent Work Agenda as a moral market boundary are as follows. Firstly, there is no clear conception of either decency or dignity in the agenda. This means that, ultimately, these concepts cannot carry the weight of the normative message that the ILO aimed to proclaim. Secondly, by phrasing the objectives of the agenda in open

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164 This position has also been voiced by others but more as part of a wider objection in that they think the language of the Decent Work agenda is too relativistic and vague. See e.g. Vosko (2002, pp. 25-27)
165 “There is obviously no suggestion that all countries can realistically aim for the same absolute conditions.” (International Labour Organisation, 2001); note that the RLS approach as discussed in §5.2.4 addresses this issue directly.
166 This does not go for the entire DWA as parts of it are market boundaries in that they confine and influence the workings of the market including the outcomes that the market yields (see chapter two). The worker rights are a clear example hereof.
ended positive terms (e.g. increase social protection taken into consideration the level of economic development), there is no opportunity to truly claim advancements in Decent Work other than recording change on a specific (almost individual) level. Had the ILO started out by phrasing the objectives *ex negativo* it would have introduced the necessary focus. Lastly, the DWA is positioned within the logic and workings of the market, meaning that its execution is made dependent on market outcomes. This becomes clear when it comes to assigning priorities among the different objectives of the agenda (e.g. job creation over social protection). This relationship between the market and the DWA makes it harder to see the latter as guiding the workings of the former. For, with this, the market determines *what* is possible in terms of realizing the underlying objectives of the DWA, *when* this will happen, and *how* this will happen.

Traditionally, it is for ethics to tell us what the good life is, including what the substance is of notions as justice or equity. Economics, in this line, could be viewed as the assistant in helping to achieve the good life. However, as Margalit has pointed out it is not only a question of whether justice *is* done but also *how* it is realized. This implies that economics should no longer be seen or treated as the science that must overcome the shortest distance between two points—i.e. from the present to the ideal state. How this trajectory is covered is also part and parcel of the moral deliberations of how the good life should be envisioned. In the end, it would seem that a large portion of the debate on Decent Work is devoted to the issue of job creation and less so on the way it is to be achieved. The ILO has set out a comprehensive agenda with a strong explicit normative content. Whether it is able to retain this component in the application remains to be seen.

It is clear that the ILO with the Decent Work Agenda is not seeking to introduce a completely new economic organization or system but rather that it wants to make changes from within while being “equally sensitive to the needs of individuals and their families as to the realities of economies and societies” (ILO, 2001, p. 15). However, this raises the question of whether, in this case, the ILO has the wrong idea of its own role and purpose or even its own work in changing reality for the improvement of humankind.
6.4 Summary Chapter

The Decent Work Agenda (launched in 1999) is the converging of the various focus areas of the ILO, namely: employment, worker rights, social protection, and social dialogue. The framing and proposing of the Decent Work Agenda could be characterized as the ILO’s attempt at laying down the gauntlet when it comes to the normative dimension of work; setting the agenda with clear normative ambitions while combining it with an economic agenda wherein the creation of jobs plays a key role.

However, over the years the Decent Work agenda has become a project wherein there is an attempt to merge normative thought (by invoking clear normative concepts like dignity and decency) with a ‘pragmatic’ outlook about the world. This may be the result of the way the ILO workings, and given the way it operates it may be said that what has been accomplished is laudable. Indeed, it is highly doubtful that the Universal Declaration of Human Rights could be agreed upon in this day and age, especially with all the economic and diplomatic issues at stake, yet this is comparable to what the ILO is trying to do. Whether it will be able to fulfill its ambitions remains to be seen. The concept of Decent Work, presented with bravura and rigor, has been toned down. The attempts at measuring Decent Work are exemplary in this respect; breaking up the concept into separate aspects runs the risk of losing the whole. In that sense, it is an example for the way the ILO itself struggles between positive and negative norms, between promoting the good and minimizing and even prohibiting the bad. And by not following the path outlined by Margalit for a decent society, the Decent Work Agenda is almost sure to be a disappointment.

It is with good reason that we call the labor standards that originate from the ILO international labor standards. The universal application lies at the heart of the objectives that the ILO aims to achieve. Yet in the case of decent work, it seems that in order to preserve the usage of ‘decency’ it wants to be accommodating to local practices and standards as exemplified by it advocating national decent work in conjunction with international decent work. With this move it has widened its scope but at the price of potentially loosing focus and coherence.
### Annex

**Table 6–2 Revised Office proposal for the measurement of decent work based on the guidance received at the TME on the Measurement of Decent Work**

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<th>Employment opportunities</th>
<th>Main decent work indicators</th>
<th>Additional decent work indicators</th>
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<th>Information on rights at work and the legal framework for decent work</th>
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<td>Employment-to-population ratio, 15–64 years (S)</td>
<td>– Labor force participation rate, 15–64 years</td>
<td>– Government commitment to full employment</td>
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(S) indicates that an indicator should be reported separately for men and women in addition to the total. (L) the subject is covered by information on rights at work and the legal framework for decent work.
Conclusion

Although it is common enough to talk about market phenomena in terms akin to natural laws it is a comparison that does not hold. Gravity is not a moral issue as there is nothing that anyone can do about it but the view that markets lie outside the control of man is simply incorrect. It is for human beings to determine where and how markets are to operate (if at all) by way of market boundaries. The fact that the market will not generate morally beneficial outcomes all by itself means that a better understanding of the market and its boundaries is needed.

In this thesis international labor standards and more specifically the International Labour Organisation’s Decent Work Agenda (DWA) were used as a way of discussing the relationship between markets and morality. Labor standards, having evolved over many years, are instituted to protect human beings from the workings of the market and as such these standards are one strategy to bring about norms in the market place. The relevance of the DWA (which builds on international labor standards) to the discussion of the normative side of markets is derived from the fact that it is based on two explicitly normative concepts, namely human dignity and decency. The concept of human dignity has its own history as a foundational value for market boundaries and fulfils this role in various other institutions (e.g. the Universal Declaration of Human Rights) apart from this agenda. The concept of decency is—in comparison—a more recent introduction to this field. Both seem antagonistic to the workings of the market and both - albeit the one more directly than the other - relate to the normative significance of the individual.

Using Avishai Margalit’s *The Decent Society* we found that the concept of decency can be used as a foundational value for understanding the market and its boundaries. An important aspect of Margalit’s writings is that he has operationalized decency *ex negativo*. This means that the advancement of decency—here tied in with the respect for human dignity—comes in the form of eradicating its negation, humiliation, i.e. the exclusion from the human commonwealth. I dubbed this methodology the prescriptive negative. One key advantage of this methodology is that it adds clarity to the objectives; it is overall far easier to determine what we *don’t want* than it is to settle on what it is we *do want*. Also violations of what it is that
we want to protect—in this case human dignity—are easier to detect and identify than respect. Lastly, it is usually injustice (i.e. violations) that causes us to act rather than justice. And with regard to change, Margalit also directs our attention to an important normative insight, namely that it is not only the outcome that should be the focus of moral deliberation but also the process by which this outcome is to be achieved.

Overall we found that normative concepts like decency and human dignity can fulfill a meaningful role in guiding market forces by offering a point of reference and anchor by which economic policy can be guided and appraised. Furthermore we found that this role becomes more effective if there is a coherent definition of decent works in terms of the prescriptive negative. Although all constituents of the ILO subscribed to the idea of decent work, there has not emerged a broadly shared definition other than decent work as the convergence of the ILO’s four focus areas: employment, social protection, worker rights and social dialogue. The absence of a coherent broadly shared definition can justifiably be called one of the major hurdles for the ILO’s DWA.

This lack of definition has led various parties to introduce their own and at times conflicting definitions. A key difference between these definitions can be found in the conceptualization of the word “decent”. Some see in this predicate an implied relativism based on the assumption that what is considered to be decent in one society may not be described as such in another. This view can be contrasted with one in which “decent” is deemed to refer to a universal standard.

Not having a clear conception of decency means that the DWA is not able to fully articulate its objectives in a coherent and interconnected way. Likewise, the invocation of the concept of human dignity by the ILO is not accompanied by an account of what is meant by this from which one could infer what (if any) the implications are for the market or economic policies.

With regard to the prescriptive negative, mention must be made of the attempt to discuss decent work in terms of deficits. The introduction of decent work deficits by the ILO’s Secretary General was a promising route but was ultimately not pursued further; it didn’t become the dominant way in which the DWA is discussed in or outside the ILO. A possible explanation for this development is that when normative concepts like decency and human
dignity are used in relation to the market they come with the implied associated moral obligations to act. This may very well have been too politically sensitive for the constituents of the ILO to adopt.

In order to clarify this point it is helpful to look at the project of making decent work measureable. Right from the launch of the agenda, the Director General of the ILO indicated that the success of the agenda would depend on the ability to measure decent work. Periodic measurement enables comparison between countries and allows monitoring of possible progress within countries over time. It thereby also helps in identifying issues that under the guise of the DWA would need to be addressed and once identified produce a demand to take action: to measure is to know and to know is to be morally obliged to act.

Apart from this implicit built-in demand for action there are other reasons which may have dampened the enthusiasm for the measurement project. Firstly, any attempt at measurement will introduce some form of standardization regarding the topic at hand and ultimately may lead to a conceptualization if not an outright definition: we measure therefore we define. As there was no consensus on what decent work entails to begin with, the attempt at measuring decent work was stranded by its inability to define what was supposed to be measured.

Secondly, objections were raised against the possibility of measuring decent work against an unattainable ideal. Any attempt at creating an optimal reference point or an ideal state with regard to decency became wrought with virtually unresolvable discussions. To speak of deficits in this manner, i.e. the distance between the actual and the optimal level of decency, is not likely to be very productive. If on the other hand we were to focus on the negation of decency, applying the *ex negativo* approach and use the absence of decency as a point of reference it would be possible to speak in terms of deficits in a meaningful way. Deficits would then refer to the difference between the bottom or floor below which no one should be allowed to fall and the actual conditions under which we currently live. This approach would shift the focus from promoting the good towards minimizing the bad.

While the measurement project is still ongoing, the ambitions of the ILO have been reduced over the years. The abandonment of efforts at creating a Decent Work Index which would emulate the Human Development Index (HDI) by ranking countries based on their ability to secure decent work is testament to this. The approach to measuring decent work currently
being pursued has led to an increase in scope (with an associated multitude of indicators) to such an extent that no coherent statement about the advancement of the DWA as a whole is now possible.

The measurement project also sheds light on one other issue that may have hindered the DWA from becoming an effective moral market boundary, namely the implications from the evaluations of measurement. To explicate this point we only need to compare decent work with the already mentioned HDI. The absence of human development is more likely to lead to increased sympathy rather than anything else. The HDI is in that respect a measuring rod based on the notions of pity and compassion. In contrast, absence of decency will always lead to indignation. By making explicit the failure to secure decency, the measurement of decent work will create a measuring rod for shame, and in all likelihood this has had a detrimental effect on the political support for the measurement project making it much harder for the DWA to become an effective moral market boundary.

**Lessons Learned & Recommendations**

Markets allow for moral deliberation albeit within the boundaries that confine market activity. It is possible to have a framework by which we can evaluate and steer market outcomes based on normative concepts such as decency and human dignity that address the normative significance of the individual. But as the discussion of the DWA has shown there are various hurdles and issues which limit how it serves as an effective moral market boundary.

The DWA is a global call for work in conditions and in an institutional setting that affirm human dignity. At the same time, the ILO emphasizes that the DWA is not a one-size-fits-all framework and that its application should be in accordance with local customs and circumstances. On the one hand the ILO wants to occupy the moral high ground in order to be a beacon in the world of work vis-à-vis the market, continue what it has done for nearly a century: drawing the line in the sand by introducing moral minimums in the form of the (core) labor standards. On the other hand the ILO does not want to be restricted by values but maintain its focus on the things that actually work free from ideology. These two positions do not sit well together as becomes clear when looking at the trade-offs between the various objectives of the DWA. Here we find all too often that compromises are made based on assumptions regarding the workings of the market, resulting in favoring employment creation at the expense of the other objectives; the “work” rather than the “decent”.
If the ILO would have embraced the approach of Margalit, it could have had a framework by which it would have been able to avert these self-created hurdles. This framework not only offers clear ideas regarding the nature and meaning of decency and human dignity but also by proceeding \textit{ex negativo} avoids falling in the trap of the descriptive/attributes approach. Margalit’s work could also have pointed the ILO towards the idea that our moral concern should not just be about the outcomes but also \textit{how} these outcomes are achieved.

After more than ten years it seems that the momentum to implement a coherent framework based on the notion of decency has gone. But times may well change. The current global financial and economic crisis shows once again that morality and economics are closely intertwined in practice. The current crisis could offer the ILO a new opportunity to launch a revised version of its DWA that does away with its present shortcomings. In the meantime it is to be hoped that the measurement project will continue and that out of the multitude of indicators a Decent Work Index based on deficits will be constructed which will help in keeping the DWA on the public and political agendas.

Markets are subject to our moral convictions. Labor standards are clear examples of how these convictions and ideas are translated into the realm of markets and economic policy. The idea that the forces of globalization render this obsolete ignores the fact that globalization itself, as a process and project, is shaped by moral values that require consent and approval. Acknowledgement of the relationship between morality and markets is needed as well as engagement in critical debates on the basis of the morality involved.

Human dignity plays an important role in the shaping of markets and can’t be brushed aside as a mere subjective preference as Neoclassical economics might have it. Human dignity expresses the normative significance of the individual. It expresses the importance of each individual human being not because of who they are but because of their shared humanity. To invoke human dignity means to acknowledge market boundaries: there are areas in our communities where we do not allow the market to work. Economists need to be aware of these boundaries and their foundational values in order to be fully able to study the workings of the market. But it also guides how we allow markets to work.
Decency and human dignity bring focus to the debate over what it is we want to accomplish with the market while providing a foundation to discuss and appraise the relationship between morality and markets. If we take decency to mean that we don’t exclude another human being from the human commonwealth and that we value their humanity, we are presented with lines of demarcation that signify the absolute minimum to which our societal and thus economic arrangements should comply.
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Summary

Markets do not bring about morally beneficial results by and of themselves. The moral evaluation of market outcomes depends to a large extent on the way markets are allowed to operate, i.e. by the boundaries that determine where and how the market is to function.

Labor standards and the ILO’s Decent Work Agenda, which was launched in 1999 and is based on the normative concepts of human dignity and decency, can be seen as fulfilling this boundary function.

This dissertation discusses the relationship between markets and morality by way of this Decent Work Agenda, focusing not only on the content of that agenda but also on the interaction between markets and the two foundational normative concepts. With regard to decency, the writings of the philosopher Avishai Margalit on the Decent Society are used in the appraisal of the ILO’s Decent Work framework.

This evaluation shows that the agenda will not be able to function effectively as a moral market boundary. This is predominantly the result of the method that was deployed (e.g. framing decency in positive terms rather than progressing *ex negativo*) as well as general opposition against the idea of decency as an evaluative concept.
Nederlandse Samenvatting

Markten leiden niet automatisch tot moreel bevorderlijke uitkomsten. Het vellen van een moreel oordeel over marktuittkomsten is in belangrijke mate afhankelijk van de wijze waarop markten zijn ingericht, d.w.z. door de grenzen die bepalen waar en hoe de markt mag werken. Arbeidsnormen en de door de Internationale Arbeidsorganisatie (IAO) in 1999 gelanceerde Decent Work Agenda (welke is gebaseerd op de normatieve concepten van de menselijke waardigheid en fatsoen/ decency) kunnen worden gezien als vormen van dergelijke marktgrenzen.

Dit proefschrift bespreekt aan de hand van deze agenda de relatie tussen markt en moraal waarbij de focus niet alleen ligt bij de inhoud van de agenda maar ook op de wisselwerking tussen de markt en de twee genoemde normatieve concepten. Met betrekking tot fatsoen (decency) wordt het werk van de filosoof Avishai Margalit en diens De Fatsoenlijke Samenleving gebruikt voor het evalueren van de Decent Work Agenda. Dit onderzoek laat zien dat de agenda niet in staat zal zijn om als een effectieve morele marktgrens te functioneren. Dit is voornamelijk het resultaat van de gehanteerde methode (zoals het conceptualiseren van fatsoen in ‘positieve’ termen in plaats van vanuit een ex negativo aanpak) als ook het gevolg van een algemene weerstand tegen het idee van fatsoen als een evaluatief concept.

Hoofdstuk 1 bevat een overzicht van de dominante theorieën over de wisselwerking tussen markt en samenleving. Eén van deze theorieën, bekend als de doux-commerce theorie is gebaseerd op het idee dat de markt een heilzame invloed heeft op de maatschappij: handel leidt tot meer beschaving. Hoewel een overzicht van de gebeurtenissen van de twintigste eeuw genoeg aanleiding geeft om bij deze theorie de nodige vraagtekens te zetten is zij nooit echt verdwenen en steekt de theorie periodiek de kop op in zowel de academische als beleidsmatige omgeving. De analyse in dit hoofdstuk laat echter zien dat de claim dat de markt vanzelf moreel bevorderlijke uitkomsten genereert niet houdbaar is. Ook wordt duidelijk dat er behoefte is aan raamwerk waarmee een normatieve evaluatie van de markt kan worden uitgevoerd.
In hoofdstuk 2 ligt de focus bij een dergelijk raamwerk waarmee de markt in normatief opzicht tegen het licht kan worden gehouden. Uitgangspunt van dit raamwerk van Daniel Finn met als naam ‘de morele ecologie van de markt’, is dat om een normatieve evaluatie van uitkomsten te kunnen uitvoeren men moet kijken naar de omstandigheden waaronder deze tot stand zijn gekomen. De vraag “Is de markt rechtvaardig?” is niet de juiste vraag. Veeleer moet men kijken naar de vraag “Onder welke omstandigheden en voorwaarden zijn marktuitkomsten rechtvaardig?” Voor het beantwoorden van deze vraag dienen vier aspecten te worden meegenomen: de grenzen die aan de markt zijn opgelegd (ook wel het ‘karakter’ van de markt), de mate waarin er in basisbehoeften (essentiële goederen en diensten) is voorzien, de moraliteit van de marktparticipanten en de aanwezigheid van een functionerend maatschappelijk middenveld. Voor elk van deze aspecten geldt dat de aard en (optimale) reikwijdte een debat op zich is. In dit proefschrift ligt echter de focus op de eerste van de vier, te weten de marktgrenzen. Dit onderdeel biedt ons een manier om de morele inperking en sturing van de markt te bespreken. En dat opent de weg om een specifiek voorbeeld van marktgrenzen, te weten de internationale arbeidsnormen van IAO te bespreken en analyseren. Hierbij speelt ook de normatieve onderbouwing van marktgrenzen een essentiële rol.

Hoofdstuk 3 draait om het concept menselijke waardigheid en dan met name als basis voor marktgrenzen. De directe aanleiding om dit normatieve concept te behandelen ligt in het feit dat het één van de normatieve fundamenten is van de internationale arbeidsnormen en de Decent Work Agenda van de IAO. Er zijn echter ook andere voorbeelden van marktgrenzen aan te wijzen waarbij menselijke waardigheid een sleutelpositie inneemt, zoals in het geval van de Universele Verklaring van de Rechten van de Mens (UVRM). Het gebruik van het concept menselijke waardigheid is niet zonder problemen zoals blijkt uit de analyse. Het belangrijkste obstakel wordt gevormd door de vraag waar de menselijke waardigheid precies op is gestoeld? Verschillende pogingen om het begrip te duiden door te wijzen op specifiek menselijke eigenschappen (zoals rationaliteit) komen in moeilijkheden, o.a. wanneer er mensen zijn die deze eigenschappen niet hebben. Ook zijn er voorbeelden, zo laat de discussie zien, waarbij de onderbouwing van het concept menselijke waardigheid achterwege wordt gelaten wat weer resulteert in verschillende en soms tegenstrijdige interpretaties, zoals in het internationaal recht. Veelal zijn deze verschillen terug te voeren op de vraag of menselijke waardigheid moet worden gezien in termen van hebben of in termen van zijn. Het antwoord op deze vraag heeft belangrijke implicaties wanneer het concept wordt geoperationaliseerd; moeten we beschermen wat er al is of juist werken aan realisatie?
De wijze waarop de filosoof Avishai Margalit dit concept benadert (gebaseerd op het idee dat ieder mens de mensheid in de ander kan herkennen) wordt in het laatste deel van dit hoofdstuk behandeld. Centraal bij zijn benadering van menselijke waardigheid is het idee dat we ons in eerste aanleg moeten richten op de schendingen van menselijke waardigheid, i.e. door mensen te behandelen alsof zij geen lid van het menselijke gemenebest zouden zijn. Deze aanpak leidt ertoe dat we niet langer kijken naar de vraag wat de basis is van menselijke waardigheid maar dat we ons richten op schendingen van de menselijke waardigheid.

Deze aanpak is tevens terug te vinden in het boek *De Fatsoenlijke Samenleving* waarin Margalit een normatief kader presenteert voor de inrichting van een samenleving en overheid. **Hoofdstuk 4** bevat een uitgebreide behandeling van dit kader waarbij extra aandacht is geschonken aan de implicaties hiervan voor het onderwerp werkgelegenheid. Margalit’s denken is gebaseerd op de concepten van vernedering (het schenden van menselijke waardigheid) en fatsoen. De definitie van een fatsoenlijke samenleving is geformuleerd *ex negativo*, het schrijft voor wat er niet moet zijn: een fatsoenlijke samenleving is een samenleving waarvan de instellingen niet vernederen. Deze aanpak is ondermeer ingegeven door de aannamer dat het wegnemen van het kwaad voorrang heeft boven het bevorderen van het goede maar ook door het idee dat we onrecht makkelijker kunnen herkennen dan rechtvaardigheid.

Bij het toepassen van het kader op het onderwerp van werkgelegenheid wordt geaccentueerd dat arbeid of werk niet alleen een middel is om aan inkomsten te komen maar ook een bron is van zelfrespect. Dit verschuift de aandacht van een ‘baan’ naar een ‘bezigheid’. In een fatsoenlijke samenleving, zo betoogt Margalit, moeten alle leden worden bijgestaan bij het vinden van ten minste één betekenisvolle bezigheid. Hij voegt hier aan toe dat het niet zo is dat opgelegd werk, hoewel mogelijkerwijs onrechtvaardig, per definitie aanleiding is voor vernedering. Het werk van Margalit geeft ons een voorbeeld van de operationalisering van de begrippen fatsoen en menselijke waardigheid en de implicaties die zij hebben voor economisch (overheids-)beleid en marktgrenzen.
De IAO heeft een lange geschiedenis wanneer het gaat om het beïnvloeden van marktuitkomsten. Men kan zelfs stellen dat dit aan de basis ligt van deze organisatie (opgericht in 1919) hetgeen onder meer blijkt uit de preambule van de statuten waarin melding wordt gemaakt van de nadelige gevolgen van ongecontroleerde concurrentie tussen landen voor sociale rechtvaardigheid. De arbeidsnormen die de IAO voortbrengt hebben als doel het versterken en beschermen van de positie van werknemers vis-à-vis de werking van de markt. Anders gezegd: de arbeidsnormen vormen een grens aan de werking van de markt.

**Hoofdstuk 5** geeft een beknopte geschiedenis van arbeidsnormen weer. Deze geschiedenis laat zien dat de argumenten voor en tegen de invoering van dergelijke normen (en dus marktgrenzen) weinig is veranderd in de afgelopen tweehonderd jaar. De voor- en tegenargumenten zijn ruwweg in te delen in een groep waarbij de morele dimensie de boventoon voert en een groep waarbij praktische (i.e. economische) overwegingen leidend zijn. Over het geheel genomen kan worden gesteld dat de belangrijkste redenen voor het introduceren van arbeidsnormen terug te vinden zijn in normatieve ideeën over hoe de interactie tussen mens (als werknemer) en markt moet plaatsvinden. De rol van arbeidsnormen ligt dan ook in het aanbrengen, dan wel verschuiven van de grenzen die marktactiviteit inperken met het oog op de bescherming van het individu tegen gevolgen van de markt. Uit het opgenomen overzicht van de huidige stand van zaken met betrekking tot naleving van de mondiale arbeidsrechten moet worden geconcludeerd dat er op dit vlak nog veel werk verzet moet worden.

In **Hoofdstuk 6** draait het om de in 1999 gelanceerde *Decent Work Agenda*. De IAO ziet deze agenda als de convergentie van haar activiteiten en aandachtsgebieden, te weten: werkgelegenheid, de rechten van werknemers, sociale bescherming en sociale dialoog. Met het opstellen en uitvaardigen van deze agenda tracht de IAO de normatieve dimensie van werk te demarqueren. De agenda bevat namelijk niet alleen een economische agenda waarin het scheppen van werkgelegenheid een belangrijke rol speelt maar ook evident normatieve ambities.

In de loop der jaren is de agenda voor *decent work* uitgegroeid tot een project waarbij getracht is om de normatieve gedachte (met een beroep op duidelijke normatieve begrippen als menselijke waardigheid en fatsoen) samen te voegen met een "pragmatische" visie over de wereld. Het is aannemelijk dat deze combinatie een direct gevolg is van het tripartiete systeem
zoals dit binnen de IAO is terug te vinden. Gegeven dat er met dit tripartiete systeem wordt gewerkt, moet worden gesteld dat wat er door de jaren op dit vlak is bereikt bewonderenswaardig is. Het is zeer de vraag of de UVRM vandaag de dag tot stand zou zijn gekomen, zeker gezien de economische en diplomatieke belangen die hiermee gemoeid zijn. De ambities van de IAO zijn van een vergelijkbare orde maar of zij in staat zal zijn om deze ambities ook te realiseren valt nog te bezien.

Het is geen goed teken dat het concept van decent work in de afgelopen jaren is afgezwakt. Dat dit is gebeurd is o.a. goed terug te zien in de pogingen om de status en voortgang van decent work te meten. Het voorstel om naar het evenbeeld van de Human Development Index een Decent Work Index te maken is uiteindelijk gestrand op oppositie die gedeeltelijk voortkwam uit methodologische bezwaren (waarbij het ontbreken van een coherente en breed gedragen definitie een belangrijke rol speelde) maar ook vanuit meer politiek gerelateerde tegenwerpingen zoals de bezwaren tegen fatsoen als een evaluatief concept. Dit laatste punt is tevens een goed voorbeeld van de wijze waarop de IAO worstelt met de invulling van decent work. Wijst fatsoen naar het goede dat gestimuleerd moet worden of juist naar een moreel minimum, ofwel een ondernemers? De IAO is er zelf (nog) niet uitgekomen wat de mogelijke effectiviteit van de Decent Work Agenda als een morele marktgrens aanzienlijk beperkt. Het hanteren van een ex negativo aanpak bij het uitwerken van de agenda had hier uitkomst kunnen bieden.

Het is niet ongebruikelijk dat de markt en de gevolgen die het voorbrengt worden voorgesteld als iets dat ons overkomt en waar wij als mensen geen invloed op hebben. Dit is echter een verkeerde voorstelling van zaken. Moraliteit, het zij in de vorm van arbeidsnormen of in de vorm van mensenrechten, geeft niet alleen aan hoe we zouden willen dat de wereld er uitziet maar is ook van instrumenteel belang in de vorming van de realiteit.
Maarten Biermans (1974) was born in the Dutch city of Nijmegen. Having moved to the city of Amersfoort at the age of four, he completed his secondary education at the Eemland College Zuid in 1993. In that year he started reading Economics at the University of Amsterdam. The following year he also took up reading Philosophy. During his studies he was an active (board) member of various student bodies including the student theatrical society. Towards the end of his studies he also did several internships. In 1999 he spent a couple of months as an analyst at the corporate finance division of the investment bank J. Henry Schroder & Co in London. This was followed in 2000 by a research internship for the NGO Plan International, which brought him to Bangalore (India) where he—and a fellow researcher—conducted a survey into the social and economic consequences of HIV/AIDS in the region. Apart from a short stint as a business analyst at the internet company Lost Boys he worked for two years as an assistant of the Managing Director of the Dutch branch of Citibank. Having obtained his MSc in Economics (2001) and his MA in Philosophy (2002) he started work at SEO Economic Research, an independent applied research institute with strong ties with the Economic faculty of the University of Amsterdam. There he participated in various economic and econometric contract research assignments for companies, sector associations, government bodies, and international organizations. His work was predominantly focused on the topics of labor markets, education and market organization. In the summer of 2006, two years after he started work on his dissertation, he was a visiting scholar at the Stanford Graduate Business School of Stanford University. In 2007 he started work at Spring Associates, a strategy consulting firm based in Amsterdam with a special focus on sustainability. He was worked—first as an associate and currently as a manager—on numerous projects (related to strategy, portfolio analyses, due diligence and new business development) for various blue chip companies, other public and private organizations as well as private investors on topics ranging from renewable energy, logistics, food and media. In his spare time he serves as a treasurer of a small theatre company ('De Kale'), a member of the Holland Festival Young Circle and volunteers in the board of a local play ground. He has a great fondness for antiquarian books, the performing arts and has—since 1990—attended nearly fifteen concerts by Bob Dylan. Maarten is married to Quirine Eijkman (PhD) and together with their three children (Theresa, Julius and Oscar), they live in Amsterdam.