THE QUESTION OF WHETHER HUMAN RIGHTS PRINCIPLES AND practices can soften the deleterious effects of capitalism is a long-standing one. Anthropologist Jane Collier (2001) recounts how sociologist Émile Durkheim, growing up in the aftermath of the failed social revolutions of 1848, was concerned with the effects of capitalism on people, which led him to search for a moral discourse that would help mediate the harmful effects of capitalist market relations, where profits were privileged over people. Durkheim’s answer to the foregrounding of individual self-interest was to create a moral discourse for capitalist society that countered the social dissolution prompted by the increased division of labor: he called this social solidarity. And he looked to the legal system to further this moral project; he considered law to be an outward manifestation of morality, and therefore assumed that law could also explicitly enact the moral goal of social solidarity. The legal system that Durkheim imagined looks very much like the human rights documents that were signed into effect with the Universal Declaration of Human Rights (UDHR) in 1948; he hoped for a system that not only promoted freedom from violence, but also enforced freedom through equitable social relations.

Yet, as Collier points out, what Durkheim did not acknowledge was that law on the books and law in action are two different things; law as practiced does not offer a direct line to morality. Skipping forward more than a century to today, despite having created and signed the
UDHR, neoliberal economic policies have increasingly become the global norm, and we are ever more concerned with how to regulate the excesses and injuries of capitalism. The question underlying papers in this section is whether attempts to regulate global corporations by drawing on human rights laws, norms, and practices succeed in easing the harmful effects of capitalism. Gay W. Seidman is concerned with the nefarious effects on labor standards and workers rights; Chris London is most interested in the effects on—and our ability to further—human flourishing.

In her article, Seidman examines whether we can think of ethical consumer-backed monitoring as providing a new approach to the regulation of global corporations, one that has a chance of harnessing the power of globalization, even as globalization has rendered legislative or bureaucratic regulation even more difficult to enforce. How can employers be held accountable when governments either refuse to enforce regulations governing working conditions or lack the resources to do so? One specific answer has been independent monitoring programs. These are nongovernmental organizations that work to independently monitor corporate practices, with the goal of “naming and shaming” corporations if they discover unjust labor practices. Seidman explores three purportedly successful schemes of independent (stateless) monitoring in order to see if they really do succeed in changing corporate practices. She puts each in careful historical and political context, thinking about funding, audience, and access; in so doing, shows how they each fall short.

London’s piece picks up the question of regulation of global capitalism through an examination of another form of regulation: coffee certification, which began as a liberatory movement in the 1980s by coffee-producing peasants in Central America to take control of their conditions of labor and production. The goal was to create cooperatives that also worked to improve the lives and livelihood of their members. This was in exchange for a cost structure that would help underwrite these social investments. Coffee certification was to use market mechanisms to increase transparency, protect the environment, and provide
better incomes for farmers. In others words, as London says, it aligned with the basic conditions for securing human dignity as described in the UDHR. He examines the history and enactment of coffee certification processes globally to show that certification has become centrally focused on price, rather than living conditions and overall flourishing, making remuneration not the means, but the end. Indeed, as he suggests, Fair Trade USA, by focusing on individual farmers rather than the larger ideal of democracy and collective well-being, most clearly illustrates how certification offers nothing but regular competitive capitalism.

Both Seidman and London conclude that market forces alone will never offer strong protection of human beings or the environment—in this sense they agree with Durkheim. But by tracing various regulatory mechanisms that were forged with the best of intentions to supersede market logics, they both also show that regulating corporate practices is an incredibly difficult task. Here they also show the trouble with Durkheim’s logic and with the idea that human rights provide any easy answers. London returns again and again to Marx’s ideas, and I think we can read this invocation of Marx as an invitation to think explicitly about the fit between capitalism and human rights, since Marx, unlike Durkheim, dismissed the ability of rights to further collective well-being or human emancipation. Rather, in his scathing treatment of the “so-called rights of man” in On the Jewish Question, Marx pulls apart these rights one by one. The right to liberty, he states, “is the liberty of man regarded as an isolated monad, withdrawn into himself.” He concludes that “liberty as a right of man is not founded upon the relations between man and man, but rather upon the separation of man from man” (Marx 1978: 42). That is, rights are not about curbing self-interest as Durkheim would have wanted it, but by their very nature, they further the idea of the circumscribed, isolated, and self-interested individual.

Many scholars have since updated and qualified Marx’s remarks, shoring up the idea of not just “the rights of man” but of human rights as inherently part of the capitalist project, rather than its antidote,
illustrating, for instance, that capitalism and human rights install and protect the same type of subject, and that they came into being as part of the same civilizing missions (see, for instance, Slaughter 2006; Brown 2004; Rancière 2004; Žižek 2005). Historian Samuel Moyn (2010) puts this into historical context, arguing that the contemporary human rights movement came into its own in the 1970s only when all other challenges to capitalism had failed. He calls the project for human rights the “last utopia”—not because it offers a positive political program, but precisely because all other utopias that specifically challenged capitalism had failed.

While both Seidman and London offer conclusions that do not entirely write off the ability of regulatory mechanisms to mediate the often devastating effects of capitalism, their own suggestions for better regulatory regimes leave open the question of how far the discourses and practices of human rights can truly go in changing corporate practices, and in promoting a project of justice and equality for all.

REFERENCES