On Exchange and Deception

How the Logic of Exchange Excludes Deception and Fraud, and How We Thereby are Mistaken about its True Ethical Properties[1]

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1. Exchange as trade

Each form of the human interaction may be understood as a process of exchange. The whole variety of our relationships with our fellow man then would be classified as some kind of giving and taking, be it arguments, hostilities, goods, services, dear proofs, cash, or whatever which is given or taken. However, I doubt that such an extensive use of the term makes sense. Rather, it would deprive the term of all selectivity. Exchange then would be not a certain social phenomenon, but all social phenomena would be exchange phenomena. More useful, it seems to me, is to reserve the term to economic exchange or trade, i.e. the exchange of products and services on the one hand, money on the other hand. First of all, exchange is the social practice of buying and selling.

Now, what is exchange all about? This question is answered by exchange theories. A theory of exchange is a body of thought of the characteristics of the social practice called exchange. It is, like any other theory, normative in nature, explicitly or implicitly.[2] Is exchange something "good", is it a social practice we should appreciate, or is it even the highest normative (ethical) principle of social interaction? These questions, per definition, are answered by exchange theories.

Economic theory, as founded by Adam Smith and as to be found in "mainstream" economic textbooks, has always been a theory of exchange. Also, economics, as we know it, can be understood as an endeavour to principally legitimize exchange. The difference between the different brands of economic theory just lies in the less or more clarity and coherence.[3] According to economics, exchange has, above all, the following characteristic: Exchange, by necessity, is mutually beneficial. Both parties, buyer and seller, "mutually gain from exchange, or else it would not take place." (Buchanan/Tullock 1965, p. 270).

2. The "ethical" characteristics of exchange

With this, exchange seems to be ethically justified from the start. This can be made to seem convincing as follows: To prevent an exchange from taking place comes down to withholding benefits from both parties which they otherwise would have obtained. They would be harmed by this, being forced to incur net opportunity costs. Why, thus, should one do this? After all, exchange is to be classified as *voluntary*. "The essence of any contractual arrangement is voluntary participation." (Buchanan/Tullock 1965, pp. 250 f.) Included in voluntariness is the absence of violence, or, in general, positive power. The parties do not physically affect each other. They do not exercise force on each other in order to strike a bargain. Then, we would not speak of exchange, but of robbery, theft, or extortion. After all, both parties, buyer and seller, do not *have to* enter into the contractual relationship. If they do not like the terms of trade, they can refuse their consent - and

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[2] There are two reasons for this. First, without normativity, a theory would not make any sense, it would not have anything meaningful to say. Second, a theory which claims to be "value-free" by necessity gives an apology on the subject-matter, as described by this theory. To claim that a description of a social practice is "value-free" is to say that there is nothing to worry about this practice. "Value-freedom" is a shady attempt at legitimization.

[3] The most sophisticated attempt of such a theory of legitimizing exchange as a general principle of human action and interaction, it seems to me, can be found in the work of James M. Buchanan. For a reconstruction of Buchanan's theory of exchange cf. Thielemann (1996, pp. 101 ff.).

the contract does not take place. Therefore, exchange always reflects an agreement, or unanimity, among the parties involved. Even more, an observed agreement can be regarded as a good sign for the mutuality of advantages. According to Buchanan and Tullock, “the only test for the mutuality of advantage it the measure of agreement reached.” (Cf. Buchanan/Tullock 1965, pp. 250 ff.).

As the market can be understood as an interconnection of many exchange acts, or trades, which all reflect voluntariness, absence of violence and mutuality of gain, we can broaden the range of these thoughts on exchange. We thereby get a marvellous legitimization of the free market: The market and the general interest are actually identical. “Open markets” are the best way to achieve the common good.

Amazingly however, exchange is mutually beneficial – and not just advantageous to one party – without any intent of either side to bring this about. “An agreement-contract becomes possible without any requirement that either of the parties express concern for the well-being of the other person or persons in the nexus.” (Buchanan, 1991, p. 181) We find here some strange division of theory from practice, or subject matter. Only theory wants to know what exchange is all about, whether, or in what respect, it is something good or bad. The parties to the contract however are concerned only with their own interest; they are “mutually unconcerned” (cf. Gauthier 1986, p. 87-104).[4] It is not by coincidence that not only exchange, but also homo economicus plays a prominent role in economic theory. For homo economicus, however, asking philosophical questions, for example on the ethical properties of exchange, is a waste of time.[5]

In this context, the famous passage from “The Wealth Of Nations” is often quoted: “It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages.” (Smith 1784, pp. 26 f.) And yet we do get “our dinner”. This is the point here. The passage usually is read as a *justification* of exchange, and, by this, of its self-interested, or egoistic, orientation.[6]

But before we challenge this justification, let us ask: How does it come that the well-being of all (or at least of both sides) is fulfilled by exchange, although nobody intends this outcome? Why does the one party win, and at the same time also the other party? The simple, and provisional, answer is: Because one does not get a service without a return.[7] The one side, the buyer, has to pay, the other side, the seller, has to offer a product or a service; buyers have to be solvent, sellers have to be “productive”, “efficient”, “competitive”. If the one side does not provide a “good” service, the other side will not consent to the exchange, and the exchange does not take place, because it is not advantageous to *both* parties.

We see here, we have to think simultaneously – we have to keep in mind the advantage of the one party and *at the same time* the advantage of the other. This simultaneous thinking can be simplified, and the mutually advantageous exchange can be illustrated, with the prisoners’ dilemma payoff matrix, used extensively in strategic game theory.

3. The self-elimination of fraud – illustrated by the prisoners’ dilemma payoff matrix

The well-known story behind the prisoners’ dilemma itself (cf. Luce/Raiffa, p. 95) is of no interest here. However, the prisoners’ dilemma matrix is used here to illustrate the general setting of mutually advantageous exchange.[8] Cell (IV) designates the starting point, the status quo, so to speak.[9] Let us imagine a consumer in a supermarket, not having decided yet which shampoo to

4 Cf. also Rawls (1971, pp. 13, 144): Persons in the “original position” are conceived as “mutually disinterested”, that is, as “not taking an interest in one another’s interest.”

5 Unless he or she has a preference for such a question, I should add. The critique of economic thinking is a tricky matter. I have to refer to Thielemann (1996), section 2.3 and 3.1. Here, it is just to say that the introduction of “philosophical” or “moral preferences” does not overcome the division of theory from practice, and that there can be no bindingness for philosophical or moral arguments on these grounds.

6 Cf. for example Homann/Blome-Drees (1992: 22 f.).

7 The term “service” here is used, in the most general sense, for what is offered in exchange, be it products, services in the narrow sense, or money.

8 Cf. also Buchanan (1991, pp. 180 ff., 196 ff.), Homann (1999, pp. 76 ff.).

9 The numbers in the matrix designate ordinal utility priorities, with 4 being the best, 1 being the relatively worst

choose. Or imagine an employer, not having yet decided which employee to hire. Cell (I) designates the ensuing exchange with its property of mutual advantage. Both sides are delivering a good, a service, or money, respectively, to the other side. One party is selling something; the other party is served.

		A	
		delivery	no delivery
B	delivery	I 3/3	II 1/4
	no delivery	III 4/1	IV 2/2

Now, it might seem amazing that the payoffs, which each individual party achieves in cell (I), are not the highest in this setting. They are just the second highest possible. Furthermore, the initial position (IV), where the parties do not gain any advantage with each other, is not the worst of all situations for Person A or B, respectively. What is the reason for that? Now, there is the possibility that one party is delivering a service, or money, and, at the same time, the other party refuses to deliver. A pays, but B does not deliver the service in return (cell III). Or B is delivering the service, but A does not pay (cell II). Then, one side is enjoying the money *and* the service, the other is delivering, or working, *and* is not paid. He or she suffers a double loss, whereas the "defecting" party wins twice. For the one, it is the worst, for the other, it is the best combination in the exchange-setting.

Also, cells (II) or (III), respectively, seem to be unfair by all accounts. After all, they present not only a situation where principally attainable advantages are withheld from one party, but also where he or she delivers a service, or money, without receiving an appropriate return.[10] If we assume with some plausibility that the party that loses twice only delivers *because* he or she assumes to receive an appropriate return, then situation (II) and (III) can be seized as *fraud* in the most general meaning. Therefore, game theory calls acting in the line of cell (II) or (III), respectively, "defection": In situation (II), person A has *deceived* person B. Otherwise, person B hardly would have supplied person A with money or services, respectively.

At the latest now, we are in the middle of the topic – on exchange and deception. However, from this view it must appear as rather strange that in the German language the word exchange (Tauschen) is said to have risen etymologically from the words deception (Täuschen) and hushing up (Vertuschen). (Cf. Grimm/Grimm 1935, pp. 208 ff.)[11] Probably, the "gains-from-trade economist" (Buchanan 1991, p. 120), whose position I have sketched so far, would suspect a translation error in the use of everyday (German) language: Exchanging, or trading, (Tauschen) is not derived from deceiving (Täuschen), but from the opposite, from non-deceiving. It is just that the prefix "non-" has fallen into oblivion in the course of history. Exchange and honesty are two sides of the same coin. This is, or has been, well known among businessmen, and is reflected in the maxim: "Honesty is the best policy." (Cf. Weber 1922a, pp. 383, 723)

Relating to the exchange matrix, this means that the situations (II) and (III) are not *stable*.[12]

payoff for each individual party. The utility rankings for Person A are listed on the right, for Person B on the left side of the slash.

10 This appropriateness of giving and taking, which we take for granted here, will be questioned systematically in section 7.

11 The Grimms (1935, p. 208) report of an old German proverb, which says: "wer lust hat zu tauschen, hat lust zu täuschen." ["He who has desire to exchange, has desire to deceive."].

12 Together with James M. Buchanan (1986, p. 96) I regard it as a question of *logics* that there is no "dilemma". Cell (I) will actually be reached - "if the parties are rational" (Buchanan / Tullock 1965, p. 104), i.e. are able and willing to pursue nothing but their own, long term interest. A "dilemma" only takes place in the short run,

"Lies have short wings", as the saying goes. If the one party, the so-called "defector", refuses to deliver (money or services) in return, then he or she systematically has to reckon with the exit-option of the party which actually delivers. The exchange does not take place, and both parties find themselves set back to the initial position (IV). Then however, advantages which would actually be attainable, or "gains from trade" (Buchanan), are lost for both parties. If, thus, both parties are "rational", i.e. are able to realize their own true interest, they not only will take the offer, but actually will also deliver the return.[13] Of course, it still holds that "in any trade or exchange, the individual participant has a self-interested motivation to dissemble, to cheat, to defraud, and to default." (Buchanan 1986, p. 88) "Defection" might be advantageous in the short run, *but not in the long run*.[14] As tempting as "defection" might be, the "defector" misses, and is mistaken about, his or her *true*, long-term interest; he or she is the deceiving *and*, at the same time, the deceived person. Under the prerequisite that the involved parties are able to detect their own, true long-term interest, cell (I), the obviously, or seemingly, fair and fraud-free solution, is actually reached.

Now one could say: This applies only to long-term (durable), or at least to regular exchange relations? But even on spot markets, which are rare, the "discipline of continuous dealing" (Smith 1766, p. 538) is in force. The reputation of those, who one-sidedly refuse to deliver, or who deliver not enough to strike *mutually* beneficial bargains, is quickly, and sustainingly, ruined. No one wants to strike a deal with defectors. Thus, with the exchange principle we seem to have found a peculiarly working social mechanism which exposes the commonly perceived contradiction between ethics and self-interest as a mock conflict.

4. What determines markets‘ outcomes: the principle of power and counter-power

The picture I have drawn so far of exchange is a very rosy one. It is a very surprising image on the one hand, as it suggests that ethics and self-interest amount to the same. On the other hand it seems most plausible. The plausibility refers particularly to the assumption of fairness of situation (I), whereby our acceptance of the justice here results mainly ex negativo: Cell (II) and (III) obviously present deception and fraud *relative to cell (I)*. One, and only one, party *thinks* (for a certain time) that it is situated in cell (I). Actually however, he or she is *deceived* by the "defector" and is *cheated* out of the fruits of his or her performance. Thus, we conclude, cell (I) must mark the point of fairness. And this point, at the same time, represents a situation of *mutual* and, for the time being, ultimate or *true* advantage, i.e. the advantage in the long run.

Surprisingly thus, the true advantage or the long-term interest of any one person, and mutual advantage, or the interest of all, are the same. From this it can be derived that any one person cannot further his or her interest without furthering, or at least meeting, the interest of others. One even could extend this: Only what is in the interest of all can be in my true interest. What is the reason for this amazing coincidence?

Basically, we already have given the response above with the payoff matrix. Now we have to interpret it. If one of the participants in the exchange interrelationship does something that is not advantageous to the other party, then he or she has to be prepared to be punished, so to speak, by the other party choosing the exit-option. The contractual relationship will be cancelled, he or she will be dismissed, as this relationship only *allegedly* is *mutually* advantageous; actually however, it is only favourable to one party. Therefore, the "defector" might find himself *forced* to per-

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or if the participants are not "rational", i.e. unable to calculate in the same way as game theorists and economists do in order to solve the "problem" that principally attainable "gains from trade" (Buchanan) may be passed up. This also means: the "solution" to the "dilemma" often has to be addressed on higher institutional levels of societal interaction. In question here is not this logic of strategic interdependence, but its ethical properties, or the definition of the very "problem".

13 We find here the meaning of investments, in the most general sense. Investments are costs, but costs which are compensated by future benefits. Investments are necessary costs, necessary to maximize utility. Without bearing costs, no exchange can take place. This is reflected in that the payoffs in cell (I) are second, not first best solutions for each individual parties. But first best payoffs are illusory, they are "nirvana-economics" (Demsetz 1989), and therefore, they present just seemingly first best solutions.

14 We find here the deeper meaning of the term "in the long run", used extensively today – and thereby often related to ethics. "Sound ethics is good business in the long run." More than 98% of managers agree to this statement. An interpretation of these findings can be found in Ulrich/Thielemann (1993).

form in a way, advantageous to both parties.

Here, we begin to draw a completely different picture of exchange. Somehow, *force* and *power* come into play. The mutuality of advantage, which indeed is always achieved, "if the parties are rational" (Buchanan / Tullock 1965, p. 104), that is, if the parties act in the line of their true, long-term self-interest, arises from the fact that the one party may choose the exit-option, *if he or she has the power to do so*, and thus *forces* the other party to perform well, if he or she does not have a better alternative.[15] Thus, it is the *power* of both parties which determines the achievement of cell (I), the situation of *mutual* advantage. This power, which is negative in nature, can be called *market power*. Buyers need to possess *purchasing* power. Otherwise they will not be able to enjoy any services or products at all; otherwise, they cannot participate in the market "game".[16] The same applies to the opposite side of exchange. Only those suppliers will stay in business – and thus have purchasing power as consumers – who are sufficiently "productive", "flexible", who work "efficient", in short, who are competitive. Otherwise, they will find it difficult to earn an income, they will be dismissed, or they go broke.

At the core of the exchange or market principle we find the principle of performance and return. Performance and return are however only special forms of power, i.e. negative power.[17] Negative power is the ability to offer improvements to, or to withdraw benefits from, other people, whereas positive power refers to the ability to affect other people – ultimately in a physical way. Positive power is, by definition, irrelevant to exchange relations, or the market, as such. It is not by coincidence that economic theory calls positive power an "*external* effect", suggesting by this that power is external to market interaction in general. But power, in its negative form, is all what matters in pure exchange.[18]

For buyers, market or bargaining power consists of being able to pay here, or there, that is, spending the money elsewhere. For sellers, market or bargaining power consists of being able to attract buyers' purchasing power. Both sides of the contractual relationship have power, especially *potential* power.[19] Each party could choose the exit-option, or threaten to do so. Therefore, the principle of exchange is a form of the principle of power and counter-power, restrained to negative power by definition. In the market, it is the law of power which applies. Here, those are in right, who are better equipped with purchasing-power on the one hand, who are more productive, more efficient, more flexible, more competitive, on the other.

5. The gradation of the exchange matrix

How can this rather different picture of exchange, just roughly sketched, be combined with the "ethical" properties of cell (I) of the contract matrix? Should "defection" now *not* being regarded

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15 Competition, which is implied here, will be introduced systematically later.

16 Therefore, it is not appropriate to say that the market does serve "the most urgent needs of the consumers" (Mises 1949, p. 297). Instead, only the needs of those individuals are served which are equipped with purchasing power, and they are satisfied in exact proportion to this purchasing power, not to their needs.

17 Power is not to confuse with authority, domination, or rulership ("Herrschaft"), that is, the willingness to feel above other people, or the willingness to obey to an authority. The term, as used here, can be understood as "Herrschaft kraft Interessenkonstellation" ["Domination by constellation of interest"], which Weber distinguished form "Herrschaft kraft Autorität" ["Domination by authority"]. Cf. Weber (1922a, pp. 542 ff.). Weber identified the "purest" type of "domination by constellation of interest" with the "monopolistic dominion in the market" ["monopolistische Herrschaft auf dem Markt"], with the "dominion" here is based on any "somehow protected possession (or marketable skill)" ["irgendwie gesichterten Besitz (oder auch marktgängiger Fertigkeit)"]. Cf. also Weber (1922a, pp. 439 f.).

18 The disregard of the market's internal effects by economic theory is expounded in Thielemann (1996, pp. 280 ff.) and Ulrich (2001, pp. 194, 225 ff.).

19 The universality of power has been a starting point of exchange or contract theory. Cf. Hobbes (1651: 183): "Nature hath made men so equal, in the faculties of body, and mind; as that though there bee found one man sometimes manifestly stronger in body, or of quicker mind then another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim to himselfe any benefit, to which another may not pretend, as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himselfe." The main point here is that the "equality amongst men" is brought about by potential power: Those who, here and now, are week, could acquire the means to pit themselves against the more powerful. Reformulated in the language of economics: They could, whether they want to or have to, invest in their human capital.

as necessarily fraudulent and deceptive, *and thus as principally illegitimate*? Exactly that!

We have to graduate the exchange matrix. Cell (I) and cell (IV) are unambiguously determined: Both parties do not exchange anything at all (IV), or they perform just as well as to be able to keep away the opposite side from choosing the exit option. (One party pays the market-price; the other party delivers at a competitively priced quality.) But we have to think about cells (II) and (III) as a wide field of all possibilities in between the alternatives: no performance at all (IV) vs. the "full" performance (I).[20] "Defection" is a field of many forms.

This is a very important point, mostly ignored by economic theory. Only this gradation offers the possibility to reject the notion of a metaphysical coincidence of self-interest and ethics. On the one hand it is clear: To actually deliver as of meeting the requirements of cell (I), i.e. "full" mutual compensation, is not only advantageous in the long run for any one party, but also it is by any means illegitimate not to do so, that is, to one-sidedly deliver nothing at all.[21] On the other hand however, such a strict alternative hardly ever occurs in the real world. Rather, the question is, *how much* must be delivered (payed, worked, performed), in order to get a return. How financially strong a buyer must be in order to satisfy his or her needs in the market? How "productive", "efficient", "flexible" etc. a seller must be in order not to be kicked out of the market? Under the auspices of self-interested behaviour, there is a clear response: Everyone gets as much or as little as he or she *can* get.

Let me illustrate this by an example. Imagine an employer/employee contractual relationship. Now, the employer or the management detects that she can acquire the same performance, so far delivered by the existing employee, at a lower price. There might be possibilities of automatisation or "reengineering", so far overlooked; there might be a more flexible contender on the spot; external suppliers might be better priced, so that there is room for sourcing out the job.[22] The existing contractual relationship between employer and employee, so far being mutually advantageous, or being presumed as mutually advantageous, now proves as being in the true interest of only one party, i.e. the seller, here, the employee. Although the employee is actually working, and thus does not get a return (an income) for nothing, strictly speaking he is "defecting". Only one party carries out the full delivery, the other party, the employee, performs less than what is advantageous for the employer. The one party delivers "too much", the other delivers "not enough". Therefore, under the auspices of self-interest, this situation is not stable. The management will dismiss the employee. Alternatively, it will, and can, demand a "better" performance, higher working hours, more commitment to the corporation, a cut in salary. Whatever the outcome may be, both parties will meet their respective true interest, within or outside the exchange relationship – also the employee, as employment under the same conditions as until now is not feasible anymore. He will recognize that it is in his true, long-term interest to improve his performance, to become more "efficient" and "flexible", in short: to invest in his "human capital".

If we hold on to the above thesis, that justice, or fairness, can and must be defined by true mutual advantage, or self-interest, we have to judge the dismissal, or the raised standards of performance, which the employer *can* advantageously bring about, as completely legitimate. One could even imagine a form of fraud or deception here – on the side of the employee, of course, because it is he, who receives "too much". He might know that there are external suppliers who could, as competitors, do his job more cheaply, and he "deceives" the employer by concealing other options which are more favourable for her. From economic theory, which I report here in order to critically reveal its ethics, such an exchange relationship, where the true *mutual* advantage is missed, *must* rest on deception. Otherwise the question arises, why one party gives more to the other party than he or she actually *has to* give.

[20] James M. Buchanan (1987, p. 18) implicitly refers to cell (I) as follows: "Full or adequate compensation is defined as that set of payments required to secure agreement of all parties to the proposed change." For the "principle of compensation" or the "full-compensation requirement" see also Buchanan (1987, p. 7 ff.).

[21] Even here, though, judging consistently, we would have to exclude any form of pure solidarity, classifying it as principally illegitimate, or even as some form of fraud, deception or exploitation.

[22] Of course, the example could be made the other way round, with the employee being able to choose "better" employment possibilities for his "resources". But a plausible story could just be told in the case of so called "high potentials" who are sought after in the "war of talent". Also, to make an example this way round simply is more relevant, because of the higher flexibility of capital as opposed to labour.

6. The power equilibrium as the tacit point of reference of “deception”, and the right to lie

The intermediate result that can be drawn can be characterized as quite contradictory. On the one hand, the logic of exchange seems to justify courses of acting, which most of us – still – do not approve of ethically, or at least regard as rather scrupulous. Dismissals, or unemployment in general, and also the increasing disparities of income, within nations as well as world-wide, are still regarded as serious societal problems. On the other hand, it seems that each deviation from cell (I) (i.e. each exchange of goods, services or money, which is not in the *true* interest of *both* parties) must be characterised as deceptive and fraudulent, and thus as illegitimate.

But what is the point of reference for the so-called “fraud”? Clearly, it is cell (I), the point of mutual advantage. But what does this mean exactly? Cell (I) represents the point where both parties get what they *can enforce* from the respective opposite side. It designates the *true equilibrium of power*. Related to our example: In her own interest, the employer *is able* to dismiss the employee, or alternatively, to place higher demands on him. *It is the case* that she is able do this. (If there were no cheaper external suppliers, this would not have been the case.) The notions of “fraud” and “deception” here refer to such an objectivity, though this objectivity is generated not by nature, but by power-based actions in the social world. Using an analogy one could ask for example: Is it the case that it rains? Is it the case that you can dismiss me? The fraud consists of this: “Yes, it is the case that firing me (the employee) is profitable for you (the employer), and I do know that. However you do not know it, and I won‘t tell you.”

Let me briefly introduce the fact/value dichotomy (cf. Habermas 1984, pp. 8 ff.). Positive claims, that is, statements about the objective world (“the reality”) are subject to truth (Wahrheit) as the criteria of rationality. We ask: Is it the case that...? Normative claims, notions about what should be done, about what deserves our approval or disapproval, are subject to rightness (Richtigkeit), or legitimacy as the criteria of rationality. We ask: Is it legitimate that...?

The notion of deception and fraud, which always corresponds to an ethical disapproval – deceptions are illegitimate by definition, and ceteris paribus – can be understood to lie in between both criteria of rationality. On the one hand, a deception usually refers to something that is the case, which the deceiving person is hiding or lying about.[23] On the other hand however, the notion, as an ethical disapproval, makes sense only if the “deceived” party *has the legitimate right* to hear the truth.[24]

Here, Kant‘s view on lying is very illustrative. Immanuel Kant‘s principle-oriented ethics, it seems to me, is an unabandonable cornerstone for any modern ethical conception. But Kant confused abstract or formal moral principles with action related norms. Therefore, legends of moral philosophers have scolded Kant‘s ethics for its moral rigourism, and rightfully so. In his writing “On A Supposed Right To Tell Lies From Benevolent Motives” (Kant 1797), Kant went so far as to affirm that to lie to a murderer who is in pursuit of someone who has taken refuge in one’s house, would be ethically wrong. It is interesting to note that Kant put his justification in a contractarian context. “Truthfulness is a duty that must be regarded as the basis of all duties founded on contract... To be truthful (honest) in all declarations is therefore a sacred unconditional command of reason, and not to be limited by any expediency.” This holds true, according to Kant, even if the “expediency” consists of protecting a victim of persecution from being murdered.

It was Benjamin Constant (1767-1830), a French political theorist, who stressed the ethical absurdity – and illegitimacy – of saying the truth to a murderer (one could think about the Gestapo): “It is a duty to tell the truth. The notion of duty is inseparable from the notion of right. A duty is what in one being corresponds to the right of another. Where there are no rights there are no duties. To tell the truth then is a duty, but only towards him who has a right to the truth.” (quoted in Kant, 1797). With this objection to Kant’s rigourism, Constant proves to be the better Kantian. The unconditioned character of morality is not to be found in specific norms, *allegedly*

[23] There are also deceptions which do not refer to the objective world. It is possible to deceive somebody on the ethical properties of a practice.

[24] Here is an example for the two questions: Is it the case that Mr. Smith has stolen Ms. Jones’ bicycle? But even if this is the case, the normative question still arises: Is Ms. Jones the legitimate owner of the bicycle? (Of course, if she is not, we had to avoid the word “stolen” in the first question.)

ethically justified on any occasion – in this respect, even lying is a specific norm –, but in the *principle* of ethical justification as such.

Now coming back to market exchange, murdering is of course of no concern here. But Constant's fundamental, or formal, argument also applies here. The main and more fundamental ethical point in exchange is not the "deception", as such, but whether each party principally has the right to the truth, that is to the "truth" that the existing arrangement is not fully mutually advantageous anymore. Related to our example: the employee, who is threatened by dismissal, might gladly say that the employer could buy his work more cheaply. But if the employer strictly pursues her self-interest, and does what she *can* or *has the power* to do, that is, to choose the exit-option, the outcome of not deceiving would be that the employee will be fired, or has to endure other forms of hardship.[25]

Power is decisive here, and therefore, an equilibrium of power will be reached when the "deception" becomes exposed, be it in the form of cell (I) or (IV). Thus, the point of reference for what is called "deception" is the complete mutual, or at least a one-sided, *reification* of the interacting parties. When we apply the notion of "deception" here, or apply it without further ado, we ethically approve of this point of reference where the right of the powerful is in force. Just to apply the notion of deception here thus comes down to cover-up the actual ethical content of the logic of purely advantageous exchange. In other words, this by itself is a deception – I prefer to say: an ideology.[26]

What is the essence of this quite different deception or ideology? It consists of justifying the logic of pure exchange by calling all deviations from this logic "deception" or "fraud"[27]. But pure exchange is a logic of interaction which diametrically stands in contrast to ethical reason. Pure exchange, where *only* efficiency, solvency, productive abilities, in short: market performance matters; where the one perceives the other just in his or her functional properties (as a constraint or as an opportunity) downright contradicts the Categorical Imperative: "Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end." (Kant 1786, p. 91)[28]

7. An alternative view: incomplete exchange and market restriction

Of course, it is not easy to determine whether any specific, real-life exchange relationship violates the Categorical Imperative. This is not a clear-cut problem. Rather than being (mis-) understood as an "applicable" norm, this imperative, which we cannot deny without presupposing it in the very process of denying, or arguing,[29] is related to the *perspective*, or the *point of view*, we, for example as economists, issue as regulative or binding, explicitly or implicitly. And here, at the level of principles or points of view, we fall into the trap of disregarding or even violating the Categorical Imperative by equating absence of deception, and thus legitimacy, with pure exchange – the purer, the ethically better, so to speak.

Now, what is the practical alternative to pure exchange? The answer is more or less implied by the question. It is *incomplete* exchange; it is exchange which leaves room for considerations other than only the "best" possible performance of the people we are dealing with – in the market or elsewhere. Incomplete exchange leaves room for outer-market considerations and values within the market.

Incomplete exchange is by no means something remote. There are theoretico-logical grounds for this. If everyday trades would be complete, that is, if all possibilities or "opportunities" for a

25 I do not claim that dismissals are principally wrong. But also, they are not principally right. Any ethically sound judgement depends on the *principle* which is to be regarded as binding.

26 I use the term "ideology" in the German meaning, that is in a derogatory sense. It is not just the content of the thinking characteristic of an individual or group. Rather, the term refers to a body of thought which is fundamentally flawed, that is, a normative frame of reference which claims ethically legitimacy for its views, but cannot redeem this claim, as it misses the moral point of view from the start, or systematically obscures specific conflicts of value. At least, this is claimed by the use of the term "ideology".

27 We could also put in here the notions of "discrimination" or even "exploitation". Missing cell (I) and nevertheless maintaining a contractual relationship, that is: a relationship of the type of cell (II) or (III), "discriminates" against external contenders. With reference to our employer/employee example one could formulate that the employee is "exploiting" the employer, as he lets her pay "too much".

28 This contradiction is elaborated in more detail in Thielemann (2000).

29 Cf. Apel (1972, pp. 276 ff).

"better" performance of our trading partners would be exhausted, there would be no room for further economization. In a way, we are always located in cell (II) or (III), and (IV), of course. We are always "deceiving" or being "deceived" on our, or our trading partners, true interest, i.e. our enforcable advantage. But those, who prefer the ethics of cell (I), do not have to worry. There usually are enough "lie-detectors" around. Those people, called *entrepreneurs* – for example managers, hired by pension funds, freshly graduated MBA's, consultants – comb through the world for "inefficiencies", excess capacities, opportunities for reducing cost, sourcing out, and so on. By this, they "discover" exchange relations of the type of cell (II) and (III), in order to "destroy" them. The market, or competition, as a process, not only is a "discovery procedure" (cf. Hayek 1979, pp. 65 ff.), but also a process of "creative destruction" (Schumpeter 1942, Ch. 7).[30]

Competition has been presupposed in and all through our reflections on exchange so far. Choosing the exit option, or threatening to do so, usually is combined by choosing another entry option. Thus, there are two persons who put pressure on the "defector": the present exchange partner and the competitor, offering "better" opportunities. Competition is already implied in the exchange-matrix. It is competition which defines whether the two parties of an exchange are situated in cell (II) or (III), respectively, or in cell (I). When new competitors arise, offering somehow "better" opportunities for trade, or when one party of an existing exchange discovers those opportunities, then it is also "discovered" that the existing trade arrangement is of the sort of cell (II) or (III). We could also formulate: Another status quo than the one presumed –, i.e. the existing set of constraints, from which advantages can only be measured – is claimed to exist.[31]

Now, competition has an interesting feature. It is competition – which is always *potential* competition, the *threat* to be subject to the exit-option –, which renders the market into an anonymous *system* in the Habermasian sense (cf. Habermas 1987, pp. 148-152; Thielemann 1996, pp. 20-34, 288-311; Thielemann 2000). In times of "globalization", the market increasingly is the world market. We are not only linked to an immense number of market participants via trade, but also via competition. The number of potential competitors, threatening the position of other market participants, is practically infinite, especially under conditions of "open markets".

The economic theory of value, which I have presumed so far without expounding it, then has an easy game – I allude to phrases like "full compensation", delivering "not enough" or "too much", and "true" or "long-term interest", of course. Economic theory of value tries to clarify, how our true interests are defined.[32] For this, it uses the distinction between "preferences" and "constraints", with preferences being privately determined (this is the meaning of "methodological individualism"). Now, true interests, or actual advantages (as opposed to apparent advantages), are determined by preferences *and* constraints. I want to give a simple example. Think about a bank robber, pointing his gun at the cashier. Of course, the cashier does not like to hand out the money. But if the gun is loaded, it is in the *true* interest of the cashier to do so.[33]

Clearly, this is an example in the field of positive, not just negative power. But the same logic also applies to market exchange. The difference, however, is not just that, per definition, only negative power is involved here,[34] but also that the ever-changing constraints from which advan-

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[30] It should be clear from what I said so far, that, in using Hayek's notion of "competition as a discovery procedure", I do not support his metaphysical theory of (ethical) cognition.

[31] Without such an "preagreement base for the measure of cooperative surplus" (Buchanan 1991, p. 207), or of "gains from trade", the parties of an exchange would not know, relative to what power-constellation the trade improves their position.

[32] I do not question economic theory in offering such a definition – quite the opposite. But I question the normative status of true, i.e. enforceable, interests.

[33] The resulting true, i.e. enforceable, interest is often called a "preference". For example, it is concluded that low labour standards in a poor country, or "diversity" of standards, do not reflect compulsion (due to buyers choosing the exit-option should the standards be "too high"), but differences in cultural preferences. "If the demands to raise labor standards in the less developed countries reflect transborder moral concerns – that we are obligated to secure for Mexicans the standards which we consider to be their right – then their probity and acceptability would require scrutiny of the moral soundness of these standards. Then a skeptic could well argue that several of the proposed standards are culture-specific and may actually harm, rather than help, the poor in the developing countries." (Bhagwati 1996, 1 f.) The poor would be harmed indeed – because, and in so far as, buyers, i.e. consumers and investors, choose the exit-option, that is, exert economic power on them. But only a cynic would conclude form this that these standards, as miserable as they might be, are a manifestation of culture-specific aspirations.

[34] Buchanan however has shown that also social interaction, which is based on positive power, can be modelled as trades. Buchanan even uses slavery as an example to demonstrate that, "given the presence of the ... master" (Buchanan 1991, p. 204), or more in general: given the existing set of constraints, there are prospects for mutually advantageous trades. For a more detailed discussion cf. Thielemann (1996, pp. 234 ff. and

tages, or true interests, can only be measured, is brought about by competition as an *anonymous* process, for which Adam Smith coined the notion of an “invisible hand”. From the point of view of any single market participant, conditions of market success and failure change the same way as weather changes occur. Would those changes be visible in their causation, and attributable to responsible individuals, they probably would not be accepted as they usually are. But the market, as a process, functions without any instance one could appeal to.[35] Therefore, the individual participant regards the market as the “obvious and simple system of natural liberty” (Smith, 1784, p. 687). The constant, and increasing, compulsion into entrepreneurship – that is into regarding humankind, whether in our own person or in the person of any other, always at the same time as a means to improving market performance, euphemistically called “constant learning” – is not regarded as compulsive, but as an expression of our free will.

This may be, at least partly, an appropriate characterization. But we should not deceive ourself, or let us be deceived by others, about the compulsive features of the so called “free market”. The question, already posed by Weber, still remains: Do we want to, or are we compelled to live a life of constant striving, a life as a lifelong investment, an increasingly entrepreneurial life?[36] This is a question not just of the ordo-political framework of the market (“Rahmenbedingungen”). Rather, it is the question whether to give free rein to the market’s logic – to the constant movement from the cells (II) and (III) to cell (I), so to speak –, or to restrict and to slow down the market’s pace. On normative grounds, this question is not answered by the invisible hand. Rather, we ourselves, or humankind, have to answer it – and to raise it at all. Economic theory could contribute a lot to answering this question, but only if it stops to metaphysically attribute some wisdom to the “invisible hand” of the market, or, which comes down to the same, to identify the good and the legitimate with pure exchange or, as it is euphemistically coined by game theory, of “cooperation”.

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[35] Therefore, Max Weber (1922b, p. 1186) called the market a “masterless slavery”.

[36] Cf. Weber (1920, p. 181). “The Puritan wanted to work in a calling; we are forced to do so.” Cf. also Weber (1922a: 439 f.).

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