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Competition and Morality

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Competition and Morality

Karl Homann, München

Title of the German original
“Wettbewerb und Moral” (1990)

I. Statement of the Problem

In the famous study *The Protestant Ethic and the Spirit of Capitalism* (1905) Max Weber writes:

The capitalistic economy of the present day is an immense cosmos into which the individual is born, and which presents itself to him, at least as an individual, as an unalterable order of things in which he must live. It forces the individual, in so far as he is involved in the system of market relationships, to conform to capitalistic rules of action. The manufacturer who in the long run acts counter to these norms, will just as inevitably be eliminated from the economic scene as the worker who cannot or will not adapt himself to them will be thrown into the streets without a job.

Thus the capitalism of to-day, which has come to dominate economic life, educates and selects the economic subjects which it needs through a process of economic survival of the fittest.¹

Grounded in self-interest, the market and competition, the capitalist economic order corrects itself in accordance with its own laws, and by means of the threat of economic ruin it hinders individuals from acting counter to this lawfulness in the long run.

By contrast, morality is about solidarity, love and altruism, and it demands from the individual that he or she subordinates his or her interests to those of others. Morality, to be sure, cannot be reduced to altruism², but in order to set out the problem of my paper³ the subsection of morality in which moral norms require altruistic behaviour and solidarity are to be taken as the starting point.

The problem can be summed up in the following manner: philosophical and theological ethics demand from the individual that in relevant contexts he or she subordinates his or her interests to those of others, whereas economics shows that in the

¹ Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, trans. Talcott Parsons (London: George Allen & Unwin, 1976), pp. 54-55.

² In this respect, I follow Patzig. See Günther Patzig, “Verhaltensforschung und Ethik” in *Neue Deutsche Hefte* 3 (1984), pp. 675-86.

³ My argument focuses on cases of conflict; for this reason I do not discuss, or only in passing, cases in which demands that, to begin with, are asserted as morally binding turn out to be economically advantageous, such as socio-political measures, health and safety policies, and a cooperative management style.

competitive economy that is its preferred model such behaviour leads to elimination from the market process. Adam Smith, the father of national economy, appears to deliver the theoretical justification for this result when he famously remarks: "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."⁴ Götz Briefs transcribes this state of affairs with the concept "limit morality"⁵: in competition it is those with the lowest moral standards who survive in the long term, because in conflict situations compliance with higher moral standards brings with it competitive disadvantages.

To put this in the terms of model theory, in competition an individual can compel everyone else to fall into line with his or her lower moral standards, and as this possibility exists for all individuals, the limit morality will in the long term sink to ever new depths. Legal regulations often constitute the lowest level. If, however, the danger is minimal that infractions of the law are discovered and/or met with sanctions, then the limit morality sinks even below the legally recognised limits: competition imposes this logic on all competitors, leaving them no other option.

This is a depressing conclusion, which for centuries has provoked much resistance and protest. It is here that ultimately all morally motivated reservations to capitalism's basis in the market and competition have their source. Several centuries were needed⁶ to formulate the idea clearly that the pursuit of self-interest under competitive conditions can genuinely be of service to society, i.e. all individuals. Yet this idea has obviously not become common knowledge, since opposition to competition and the market remains vocal even today. The churches, especially, have as yet to make their peace with competition and the market, and public outrage over the loss of solidarity and the dog-eat-dog society has reached a new high precisely in the last two decades. This is entirely understandable insofar as economists are still unable to deny the logic articulated in the quotation from Max Weber.

There has been no want of attempts in the past to deal with the scandal that many perceive in the incompatibility of competition with morality. I want to present, briefly, three typical arguments.

A contradiction can generally be resolved in favour of one or the other side. Although Karl Marx cannot lay claim to the insight into the impossibility under competitive conditions — for him that is as much as to say, under capitalism — of moral, concerted action, he has come to stand, as far as the normative background of his analyses is concerned, for the attempt to conclude from it that competition is inadmissible as the orienting mechanism of a truly humane, cooperative economy. In response, many economists, fixing upon the efficiency of competition and the market, have declared that efficient markets allow moral action only to the extent that it turns out to be profitable. From the perspective of such considerations, Friedrich August

⁴ Adam Smith, *The Wealth of Nations* (Harmondsworth: Penguin, 1974), p. 119.

⁵ Goetz Briefs, "Grenzmoral in der pluralistischen Gesellschaft" in Erwin von Beckerath, Fritz W. Meyer and Alfred Müller-Armack (ed.), *Wirtschaftsfragen der freien Welt* (Frankfurt am Main: Knapp, 1957), pp. 97-108. See also Anton Rauscher, "Grenzmoral im Sozialstaat" in id., (ed.), *Krise des Sozialstaats?* (Cologne: Bachem, 1977), pp. 39-60 and Horst Friedrich Wünsche, "Soziale Marktwirtschaft: Antwort auf das Problem der Grenzmoral" in Gerhard Merk, Herbert Schambeck and Wolfgang Schmitz (ed.), *Die soziale Funktion des Marktes: Beiträge zum ordnungspolitischen Lernprozess; Festschrift für Alfred Klose zum 60. Geburtstag* (Berlin: Duncker and Humblot, 1988), pp. 75-87. — My discussion here is on the paradigmatic level, and on this level such logic holds; that in everyday conditions this logic does not exert the same force (consider the "honourable salesman", the role of "trust", etc.) is not disputed, but nor does it cancel out this logic in the long term.

⁶ Cf. Albert G. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before Its Triumph* (Princeton: Princeton University Press, 1977).

von Hayek understands the concept of a socialist market economy as necessarily a contradiction. He rejects the social dimension in the socialist market economy in favour of the efficiency of the market and competitive economy, declaring that the advantages of this economic order in the long run benefit everyone.⁷ These two kinds of argument maintain the contradiction, simply opting for opposing sides.

By contrast, the third type of argument — according to the declarations of the authors — attempts a “negotiation” on the line that human action has to take into account both economic *and* moral points of view, whereby this problematic “and” is thought in general additively and quantitatively: a little egotism, only as is natural, is thus allowed, but not too much. Horst Claus Recktenwald reconstructs Adam Smith in this way.⁸ A more recent variant argues that the competitive process has to be thought in conformity with a modern theory of competition such that (superior) profits are reaped and that these profits constitute the potential for the fulfilment of moral demands.⁹ The “gaps” in the competitive process thus represent morality’s condition of possibility; in particular, big businesses in the oligopoly always have at their disposal huge profits, and they are therefore called upon to lead by example and put a stop to the lowering of the limit morality.¹⁰ This is an appeal that openly ends up as a moral justification of the limits imposed on competition by oligopolistic big businesses. When the continuance of morality in a competitive order thus becomes dependent on the continuance of restraints placed on competition, then the conceptual problem that I have taken as my starting point, with the reference to Max Weber, is not solved, but rather reconstituted: from the perspective of competition, morality appears as an unplanned, certainly as an illegitimate offspring, whereas, from the point of view of morality, there is a tendency to regard competition as dangerous and to accept it only with mistrust and a bad conscience. Theoretically, morality and competition remain in the end irreconcilable; the practical moral justification of the long-term profits of big businesses is merely a sign of this.

The ostensible antithesis between competition and morality was and is, first of all, a theoretical problem. When a theory of the social order is formulated in such a way that the paradigmatic fundamental notions, here namely morality, altruism, solidarity on the one side and competition on the other, are ultimately incompatible, the theoretical outline has to be rethought. If this is not done, the problems of reality, which indeed cannot be simply denied, are distorted or discussed in the wrong place systematically. The consequence of this deeply contradictory conception is that the action of individuals regularly remains unsatisfactory, leading to satisfactory results at best through chance.

⁷ Cf. Friedrich August von Hayek, *Law, Legislation and Liberty: A New Statement of the Liberal Principles of Justice and Political Economy* (London: Routledge & Kegan Paul, 1973-79), esp. vol. 2, *The Mirage of Social Justice*. For a critique of this work, see Homann, *Rationalität und Demokratie* (Tübingen: Mohr Siebeck, 1988), pp. 134-58.

⁸ Horst Claus Recktenwald, “Würdigung des Werkes” in Adam Smith, *Der Wohlstand der Nationen*, trans. Horst Claus Recktenwald (Munich: Beck, 1978), pp. xv-lxxix; *Adam Smith: Sein Leben und Werk* (Munich: Beck, 1976), pp. 81, 85 and 133; “Ethik, Selbstinteresse und bonum commune: Eine Analyse der klassischen Ordnungstheorie Adam Smiths” in Georges Enderle (ed.), *Ethik und Wirtschaftswissenschaften* (Berlin: Verein für Socialpolitik, 1985), pp. 143-61. When Arthur Rich demands that social ethics bind pragmatism with justice, I find a similarly problematic, because additive, connection. See Rich, *Wirtschaftsethik: Grundlagen in theologischer Perspektive* (Gütersloh: Mohn, 1984), p. 73.

⁹ Peter Koslowski, *Prinzipien der ethischen Ökonomie: Grundlegung der Wirtschaftsethik und der auf die Ökonomie bezogenen Ethik* (Tübingen: Mohr, 1988), pp. 209ff.

¹⁰ *Ibid.*, pp. 222f.

Theoretical exertion on this issue is strongly advisable. In order to make headway with this task, I will first of all render the central question more precise. The fundamental question of ethics reads in Immanuel Kant's formulation: "What should I do?" The theme of the present article is narrower, namely action in economic contexts, and this subsection likewise only insofar as it is (largely) regulated by means of the market and competition. Hence all activities that are not largely regulated by means of the market and competition, such as performance processes within businesses, are not the object of this study. There persists then the question: *How can moral norms and ideas be asserted under market and competitive conditions?*

In order to answer this question, a distinction must be drawn between two levels of argumentation: on the *paradigmatic level* it must be shown that the principles of competition and morality are theoretically compatible, to which end it is expediently assumed that they are realised as ideal types; on the *pragmatic level*, however, the action of individuals in individual cases is considered under the given conditions mostly without reference to ideal types. In the following, second section I turn to the paradigmatic compatibility of competition and morality.¹¹ In the third section the pragmatic points of view then come more starkly into play.

II. The Paradigmatic Compatibility of Competition and Morality

1. The Place of Morality within the System of the Market Economy: the Framing Order

I proceed from the axiom that the economy ought to serve human beings. To Adam Smith we owe the insight that the realisation of the common good does not presuppose that the participants in the market are motivated by the goal of the common good. According to a distinction drawn by Joseph A. Schumpeter,¹² the "social meaning" of competition and the market is the common good, the state of affairs in which all are better off, for Smith the poor in particular,¹³ while the "motive" for action is, in Smith's words, "self-interest".

The realisation of the good of all by means of self-interested action does not occur, according to Smith, of itself, automatically, by nature, but rather only through the existence of an appropriate framing order, to which belong, above all but not exclusively, the constitution, laws, property rights, liability, and taxation. Using the apparatus of modern micro-economic theory it can be shown that the outcomes of the market, especially with regard to the distribution of wealth, which morally is indeed of central interest, are systematically dependent on the initial distribution¹⁴, and this itself cannot be brought about anew by market processes. To put it differently: the

¹¹ In Autumn 1987, in the Schmalenbach Society's study-group on "Business Management", I was able to present and discuss the remarks in this section in an earlier version. I owe a debt of gratitude to the participants in the discussion.

¹² Joseph A. Schumpeter, *Capitalism, Socialism and Democracy* (London: George Allen & Unwin, 1976).

¹³ Joseph A. Schumpeter, "Science and ideology" in id., *Essays*, ed. Richard V. Clemence (Cambridge, Mass.: Addison-Wesley Press, 1951).

¹⁴ Erich Preiser, "Erkenntniswert und Grenzen der Grenzproduktivitätstheorie" in *Schweizerische Zeitschrift für Volkswirtschaft und Statistik* 89 (1953), pp. 25-45.

market is a subsystem of society, not a system unto itself.¹⁵ Competitive processes within the market *only function with the systematic presupposition of a normatively mediated social order*: without the preceding establishment of property rights, the processes are “inefficient”.

Viewed paradigmatically, in the competitive process there exists between the way a venture is set up and the market outcomes a quasi-determined continuity. When certain market outcomes — for whatever reason — are regarded as unacceptable, only at the cost of efficiency can one intervene in this process itself and rectify the individual results. It is much better, because more efficient, to leave the process as such untouched and to influence the initial configuration in the desired direction: to intervene in that which systematically precedes competition and the market, hence in the framing order. Paradigmatically, market processes are free from morality¹⁶, and they must be so if competition and the market are to be able to attain the morally desired outcome, a better quality of life for all, in short, the “common good”. Competition is “the means, but not the final goal”, as it is put in the foreword to the first volume of the yearbook *ORDO* (1948).¹⁷

Appearances notwithstanding, in modernity competition and the market possess a moral aspect. If competition and the market are thus ultimately morally grounded, one cannot for likewise moral reasons rob the market through constant interventions of the very attribute that bears its moral aspect, namely efficiency. In other words: what is involved is not a contradiction between economics and morality, but rather a self-contradiction within morality, when the market and competition are annulled through morally motivated interventionism.

In the complexity of modern, large-scale societies the actions of human beings are coordinated and steered by means of general rules. These societies are efficient because only rules produce and guarantee the security, reliability of reciprocal behavioural expectations that first render possible long-term planning and, on its basis, investment in fixed capital and human resources. In the context of behaviour governed by general rules, it is now practically always possible to aim for a “better” outcome through a calculated deviation from the rule: it is in recourse to this state of affairs that the standard justification for interventionism as a whole consists, as well as for morally motivated interventionism. But cumulatively such interventionism leads to the erosion of those rules representing the systematic presupposition for a calculated deviation’s success. In short, if the exceptions to the rule become themselves the rule, that security of reciprocally expected behaviour, which is the precondition of the common good, disappears.

The problem that awakens a lot of resistance to the market and competition lies in the fact that the advantages of the market and competition accrue in a scattered and diffuse way and thus “inconspicuously”, in the form of a general rise in the standard of living, whereas the burdens of competition frequently fall on particular individuals, individual groups, specific branches of industry, etc. who then feel themselves to be unjustly treated in a given concrete situation.¹⁸ But if, in the long run,

¹⁵ Amartya Sen, “The Moral Standing of the Market” in Ellen Frankel Paul, Fred D. Miller, Jr. and Jeffrey Paul (ed.), *Ethics and Economics* (Oxford: Blackwell, 1985), pp. 1-19.

¹⁶ Cf. David Gauthier, *Morals by Agreement* (Oxford: Clarendon Press, 1986), pp. 83-112.

¹⁷ *ORDO* 1 (1948), p. xi.

¹⁸ See especially Carl Christian von Weizsäcker, “Was leistet die Property Rights Theorie für aktuelle wirtschaftspolitische Fragen?” in Manfred Neumann (ed.), *Ansprüche, Eigentums- und Verfügungsrechte* (Berlin: Verein für Socialpolitik, 1984), pp. 123-52. The remarks at the end of this article on the issue of worker participation seem to me to oversimplify matters.

everyone ought to be better off, then inevitably tied up with structural change are the collapse of firms, retrenchments, suspension of operations, and so on. Where the conditions are such that those affected do not tumble into the abyss and the burdens are not always placed on the shoulders of the same groups, these burdens must be also and, specifically, morally expected. It is no different nowadays from the state of affairs in which Adam Smith found himself. He saw before him a choice: aid for the unidentifiable general public through a general development of the economy by means of the market and competition, or aid for identifiable individuals or groups through interventions. The professor for moral philosophy and logic opted in the eighteenth century for the former strategy — for moral reasons, and in this decision he paid due regard to the conditions and opportunities of the modern world, i.e. the considerable effectiveness of a coordination of autonomous subsystems.

In this section I am concerned with the elaboration of a fitting paradigm in which morality and competition are theoretically compatible. For this reason I can — and for reasons of space I must — dispense with concrete examples. Instead, I want to draw the discussion to a close and offer a summary.

Competition and the market are attributed their moral quality exclusively because they are “efficient”, i.e. because they alone are in the position to guarantee and/or enhance the opportunities of all individuals for a way of life in line with their own ideas. The moral quality of competition and the market is not here seen to lie in the fact that in buying and selling on the market individuals practise and exert their “freedom”¹⁹; the latter attempt at an explanation of a moral quality to competition and the market is rejected here because it makes the (extent of personal) freedom dependent on purchasing power and productivity. Under the typically modern condition in which society is differentiated into subsystems, the decisions of agents *on the inside of the framing order* have to remain free of moral consideration; the shaping of the economy in the sense of moral ideas has to begin with the shaping of the framing order. *Business ethics in the market economy is, paradigmatically, an ethics of the social order.*²⁰

It is here that the determination and alteration of property rights, the demarcation between market regulation and state or collective action belongs. This is also the field of social policy in the broadest sense — a field that extends from compensation (assistance in critical cases) to long-term social policy (most notably, publicly financed educational programmes to enable everyone to become an active participant in the market). I cannot go into more detail.

2. The Order as Public Capital

If the place of morality within the system of the market economy is the shaping of the framing order, then the question has to be answered what input the individual can have in the way this is shaped. Once this question is raised, it is not possible, paradigmatically, to avoid the following fundamental insight: the individual can, as an individual, neither produce this order nor maintain it. Indeed, he or she has — from the standpoint of model theory, as an individual, but actually in conjunction with a still

¹⁹ The seminal book for this account is Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960).

²⁰ I borrow this concept from Ronald Clapham, “Zur Rolle der Ordnungsethik für das Konzept der Sozialen Marktwirtschaft” in *Jahrbuch für Neue Politische Ökonomie* 8 (1989), pp. 30-41.

small part of the population — the possibility of destroying this order by prompting everyone else, through injury to the order, to secure and/or to seek, in reaction, their own particular advantage, likewise by means of injury to the order. There lies an asymmetry in favour of the worse solution. Götz Briefs sees the danger of a lowering of the limit morality. Geoffrey Brennan and James M. Buchanan, referring to the sixteenth-century mercantilist Thomas Gresham in whose account inferior money supplants good, speak of “a sort of Gresham’s law”.²¹

Why this is the case has to do with the peculiar structure of the problem of the social order: the social order is, in the language of economists, “public capital”. What defines public capital is that, when it exists, it cannot be withheld from anyone. Typical public capital is the justice system, domestic and international security and the environment. When the competitive order brings with it advantages, then it does so for all individuals, even those who do not adhere to it, indeed, it brings the latter even more advantages: such an individual draws from his or her non-compliance a twofold advantage, by (a) enjoying the benefits of the competitive order, e.g. by obtaining pre-products on competitive markets at favourable prices, and by (b) forming a distribution cartel for the purpose of higher prices and profits. Analogously, one might argue for legal infractions, tax evasion, environmental vandalism and morally comparable behaviour. The position of the outsider is, in all these instances, economically advantageous and therefore attractive.

Yet this is now the case for every individual: without exception all strive for the individually advantageous position of the outsider, and it thereby comes about that the creation and/or maintenance of public capital collapses. Mancur Olson, in his ground-breaking work *Logic of Collective Action*²², develops the thesis that public capital in general is created spontaneously, and not via the market. With regard to private property the market — given the appropriate framing order — produces socially desired results through the pursuit of the self-interest of individuals; with regard to public capital, this is not so. Individual rationality, as this state of affairs has been termed, leads to collective rationality in the case of private capital, but to collective irrationality, to collective self-harm in the case of public capital: by means of an individual pursuit of self-interest one achieves, with regard to public capital, the socially worst possible solution.

From the perspective of game theory, in question here is the situation of the “prisoner’s dilemma”.²³ The name derives from the example in which this particular problem structure was first analysed. The context is the American legal system where prosecution witnesses may be granted immunity. Two defendants, who together have committed a criminal offence, are tried separately. Individually each gains the maximum advantage (immunity) if he turns state witness and — by admitting his own culpability — incriminates his accomplice. It follows that the individual will run with this strategy — from an individual calculation of what is to his advantage. Since the same logic holds for the accomplice and he conducts himself in the very same way, they incriminate each other — and themselves in the process, since both admit to having participated in the offence: a state witness is now no longer necessary. They both receive the maximum sentence (at best slightly reduced, in recognition of their “confession”).

²¹ Geoffrey Brennan and James M. Buchanan, *The Reason of Rules: Constitutional Political Economy* (Cambridge: Cambridge University, 1985), p. 60.

²² Mancur Olson, *The Logic of Collective Action* (Cambridge, Mass.: Harvard University Press, 1965).

²³ Cf. Robert Duncan Luce and Howard Raiffa, *Games and Decisions: Introduction and Critical Survey* (New York: Wiley, 1957), p. 94.

It is important to apply to the present context the particular problem structure by which many of the problems in the modern world are characterised. Systematically, two traits are relevant: on the one hand, the result of A.'s action depends not only on his own behaviour, but also fundamentally on B.'s behaviour (behavioural interdependence), and on the other hand, no communication takes place between the two. This is, roughly, the case with respect to the problem of the social order as a whole and, within it, the moral formation of a competitive order: in the anonymity of large-scale societies, communication on the individual level is extremely flattened, and the result on the social level issues from innumerable, interdependent actions of millions of agents.

The existence of a social morality, of a framing order that includes moral intentions depends systematically not so much on individuals as on all individuals. This order is public capital that can be created only collectively, mostly via political processes such as state institutions for developing informed opinion. Through collective action the situation of the prisoner's dilemma is overcome; a sanctioning authority is regularly a part of this framework.²⁴ On the other hand, *competition within* this framing order "*isolates*" the participants in the market to one side of the market (supply or demand); they are virtually confronted with the prisoner's dilemma, and an anti-trust commission is set up to prevent communication among competitors. *The framing order and competition within the framing order obey contrary regulatory mechanisms.* This differing regulation on differing levels has not only made the capitalist market economy so efficient, it has also caused enormous — and not least of all, moral — problems of orientation for individual agents (or businesses).²⁵

If the place of morality in the modern economy's competitive system is the framing order and if the latter is public capital for whose establishment, maintenance and development the collaboration of (almost) everyone is required, then it follows that the individual or the individual business can contribute (almost) nothing to the realisation of the social morality. The individual's contribution to the public capital of "morality" is so slight that he or she, in the long run alone acting morally, would simply be eliminated from the economic process in conformity with the logic expounded by Max Weber. Under competitive conditions the moral behaviour of individuals leads to the continued erosion of the social morality because the agents with higher moral standards go bankrupt and it is always those with the lower standards who survive.²⁶ A morally responsible economy presupposes a corresponding framing order, which is the result of collective processes for developing informed opinion rather than the efforts of individuals. Within the tradition of Catholic social doctrine, this has been expressed in the following way: what is at issue in the solution of social problems is

²⁴ Concerning the interpretation of morality as public capital, see especially Chapter 7, "Law as Public Capital" in James M. Buchanan, *The Limits of Liberty: Between Anarchy and Leviathan* (Chicago: University of Chicago Press, 1975), pp. 107-129. See also Homann, "Die Rolle ökonomischer Überlegungen in der Grundlegung der Ethik" in Helmut Hesse (ed.), *Wirtschaftswissenschaft und Ethik* (Berlin: Verein für Socialpolitik, 1988), pp. 215-40.

²⁵ Douglass C. North, *Structure and Change in Economic History* (New York: Norton, 1981). North outlines an economic history that takes into account this problem of the process of modernisation.

²⁶ I stress again that I am arguing on the paradigmatic level, and there this insight has to be emphasised as fundamental. One often comes across the argument that in reality it is not so bad because the morally acting agents can lay claim to greater economic competence. This, however, makes morality again dependent on contingent circumstances that, to be sure, can but do not have to exist. It is nowhere guaranteed that the moral agents will in the long run and always have the greater competence as managers and entrepreneurs in relation to their less moral competitors. One ought not to dilute the paradigmatic insight that comes to expression in the logic of Max Weber through recourse to contingent cases.

more a “reform of the existing state of affairs” than a “reform of the basic way of thinking”. Here the autonomy, for instance, of the discipline of “Christian social science” with regard to moral theology has its systematic basis. To put it differently: under the complex conditions of modern, anonymous, large-scale societies, when it is a question of the direction of the economy in the sense of moral ideas, social ethics becomes dominant in relation to individualistic ethics. The individual (business) cannot be apportioned the responsibility for problems that systematically are of a collective nature, as is the case with the social order as a whole and the economy’s framing order. If alongside Adam Smith we want to adhere to competition in the markets for moral reasons, we must together, collectively shape the framing order.

These considerations can also be clarified through recourse to an altered assessment of the approach of Thomas Hobbes. For the sake of the efficiency, i.e. the improvement of everyone’s prospects, competition and the market are established as autonomous subsystems in the capitalist market economy. The consequence is that the division of labour becomes deeper, the circuits of production longer, and the economic exchange processes more complex and anonymous. Dependencies thereby develop; they become likewise more anonymous and everywhere open up for individuals (and groups) manifold possibilities for adopting the role of the outsider. These are the problems that Hobbes has in view in his discussion of the problem of the social order. His well-known statements concerning “homo homini lupus” and “bellum omnium contra omnes” are not to be understood as pronouncements with regard to what “Man” in the core of his essence “is”. They are rather statements with regard to a particular problem structure that in modernity ever more frequently comes to the fore; a structure that we today designate with the terms “public capital” and “prisoner’s dilemma situations”. Interpreted in this light, Hobbes does not have a pessimistic conception of humanity. On the contrary, he is optimistic: his statements can be meaningfully understood only in the context of the problem of the social order, which is classic public capital, and in them he represents the very optimistic view that human beings are in the position to realise the extraordinary advantages that the capitalist market economy offers in terms of efficiency because human beings together, collectively are in the position to erect a social order that allows the new problems thereby arising to be solved.

3. Moral Conclusions for the Individual

In the wake of these remarks let us return to our central question concerning what the individual should do in relation to those economic contexts (largely) governed through competition and the market. On the paradigmatic level, only the two following demands for action on the individual’s part can, in my view, be derived:

- The individual must not take advantage of his or her ability to undermine the competitive order through adoption of the attractive position of the outsider (cartels, subsidies, etc.).
- At risk of economic ruin, he or she as an individual is not able to realise the framing order, but one can demand from the individual that he or she publicly comes out in favour of the order and then also respects it, under the single condition “that a man be willing, when others are so too”²⁷, and one

²⁷ Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1991), p. 92 [64]. This is the famous formulation from the fourteenth chapter of *Leviathan* that occurs in the

can demand from the individual that he or she takes action politically (through parties, associations, unions, etc.²⁸) for the shaping of this order.²⁹

It thus becomes clear that already on the paradigmatic level individual morality plays a systematically supporting role. Individualistic ethics is accordingly indispensable, even if the maxims and norms for individuals on this level appear very different from much of what is propagated nowadays under the banner of “business ethics”. It is crucial that individuals comply with the competitive order and collaborate in establishing it. Deviations from the order in particular market transactions cumulatively undermine the order and for this reason they are paradigmatically unjustifiable. Interventionism is not only inefficient; it is also immoral.

Does that not, one might worriedly ask, discharge the individual from any moral claim, thereby in effect whitewashing consumers and businesses in particular? They can then always refer to competition, which, at least in cases of conflict, renders moral conduct impossible or conduct in the sense of moral ideas. In order to counter such considerations, I will now resume the discussion of the role of individual morality, or the ethics of the individual, under the conditions of real market and competitive economies. These reflections belong on the pragmatic level. It should be borne very much in mind that the remarks on the paradigmatic level are not cancelled as a result, because otherwise the constitutive conditions of the modern age would be revoked.

III. Options and Duties of Individual Morality in Competitive Processes

That which on the paradigmatic level can be demanded from the individual (business) has on the whole been formulated in the preceding section and shall no longer be taken as theme here. In the following I raise solely the question whether inside the competitive process anything at all and, if so, what can and must be additionally demanded morally of the individual (business) on the presupposition that the competitive order sustains morality. I will show in a list of typical situations that pragmatically many options for moral conduct always remain for the individual that can in part even be morally demanded. Finally, I will determine the systematic status of these activities and thereby differentiate myself from other conceptions in business ethics that argue with reference to similar cases.

As a general thesis I put forward the following: within — real or potential — competitive processes individual morality comes into question, alternatively and temporarily, precisely at that point where *competition and the market do not function*. It

second “natural law”. Although unaware of its formulation in game theory, Hobbes has precisely grasped the problem of how to overcome the prisoner’s dilemma. Cf. Norbert Hoerster, *Utilitaristische Ethik und Verallgemeinerung* (Freiburg: Alber, 1977), pp. 128ff and Gregory S. Kavka, “Hobbes’s War of All against All” in *Ethics* 93 (1982/83), pp 291-310.

²⁸ I cannot enter here on the differences and nuances of this demand among its various addressees (citizens, employees and employers, politicians in the broadest sense).

²⁹ I present this suggestion in the following text: Homann, “Vertragstheorie und Property-Rights-Ansatz – Stand der Diskussion und Möglichkeiten der Weiterentwicklung” in Bernd Biervert and Martin Held (ed.), *Ethische Grundlagen der ökonomischen Theorie: Eigentum, Verträge, Institutionen* (Frankfurt am Main: Campus, 1989), esp. pp. 58ff.

may be that there is not yet an appropriate framing order, that within a given framing order competitive processes do not or do not yet function, that the system of sanctions is inadequate, and so on.

I now turn to a naturally provisional and incomplete list of typical cases of this kind.

1. In the legal and institutional arrangements of the framing order there are regularly “gaps”, cases and problems that are not put in order. It may be that it has simply been forgotten to sort these cases out. It may be, and this is the more important case, that on the basis of social and technological developments new gaps emerge that up to now one did not even detect and thus was unable to put in order.³⁰ And it may be, a likewise significant case, that the legal and institutional regulations of the real development in society and technology always lag behind by several years or decades. In all these cases the individual and/or individual business is called upon to assert moral points of view within the frame of what is possible.

2. Yet another classical case can be discerned in the inadequacy of the system of sanctions belonging necessarily to legal or institutional controls. Here it may turn out that the cost of discovering misconduct and the cost of punishment are too high.³¹ From each individual (business) the readiness to inner control in the sense of moral requirements is demanded here. However, one ought not to demand too much from the individual (business)! The individual cannot, as an individual, permanently offset the breakdown of universal rules. When the rewards for misconduct are too high, the prospects for profit too great, then one cannot demand from the individual (business) that the moral regulations be permanently upheld, since he/she/it runs the danger, according to the logic of Max Weber, of being expelled from the market.

Examined from another angle, it also appears that morality, in the sense of an internal sanctioning mechanism, saves transaction costs. Transaction costs are the costs of initiating a contract, closing a deal and implementing it as well as of supervising the adherence to the contract conditions (information, negotiations, legal advice, supervision and warranty costs). Within the framework of business ethics it has often been pointed out that moral conduct is an indispensable “lubricant” for economic transactions. The facts of the matter should not be denied here, but, regarded from this angle, what is at stake is a different problem from that with which we are concerned when we ask whether and how far under competitive conditions moral norms can be asserted.

3. A third typical case, which partly overlaps with the first two, is when the appropriate framing order does not or does not yet exist or does not apply to competitors (from other countries). This is typically the case for many developing countries; within the European context one may think of how individual countries support particular industries with subsidies so that businesses from other countries without corresponding subsidies will be placed at a competitive disadvantage. As I see it, two moral demands can be made here. On the one hand, moral demands on the individual and/or individual business again come into effect, to a certain extent they are reinstated (as in cases 1 and 2), naturally within the limits of what is possible – here too one cannot demand economic ruin from the individual business. On the other hand, it will be demanded of businesses that alongside the competition with other businesses (from other countries) they simultaneously make applications to the relevant

³⁰ The most up-to-date example for this is gene technology.

³¹ See Chapter 8, “The Punishment Dilemma” in Buchanan, *The Limits of Liberty*, pp. 130-146.

government in the region and attempt to work towards the establishment, maintenance and enhancement of an appropriate framing order to which the competitors also have to adhere. In my view, one cannot demand that a business offer to set up a production plant in Brazil with environmentally friendly facilities and, as a result, uncompetitive prices. But one can very well demand that it offer a factory without the additional facilities and at the same time lodge a claim with the government that this particular or any future invitation for tenders demand the installation of appropriate protective measures from all tenders.

4. New moral ideas and the further development of moral ideas mostly are not born collectively, but in the heads of individuals. The latter can and should then attempt to bring about in others a “shift in consciousness” as well. This development may then lead via the phase of a “social movement” to positive influence on the public. With respect to many issues we have become witnesses to such developments (environment, the Third World, marginalised groups, etc.). The next step might be that an enterprise, in order to test the economic feasibility of new organisational forms – in order to take a further example – undertakes appropriate experiments, in certain circumstances even with tax money. It is entirely conceivable that, once teething problems have been overcome, new, more cooperative and solidary intradepartmental organisational forms will prove in competition to be extraordinarily productive. Such experiments ought to be supported, and within certain limits – according to the well-known tariff argument – one can foster such experiments through (temporary) protection.

5. In one branch of recent economics, the economics of transaction costs, another case plays a not insignificant role. When investments in fixed capital or human resources are tied up with a single transaction partner and these investments – desired mutually as well as from the point of view of the entire economy because they lower costs – pay off only in the long term (e.g. highly specialised machinery, human resources specific to a particular firm), then at the moment of investment one partner is placed for years on end in dependence on the other: the returns from this investment cannot be realised on the market with another partner. In this case one speaks of transaction-specific investments. Now in the course of time conditions could change in a way that was unforeseeable. Accordingly, the case cannot be settled in the contracts *ex ante*. Here Oliver E. Williamson brings the category of “justice” cautiously into play.³² This has nothing to do with the old “fair price” and is obviously a “normative” aid for the case that, at least for one partner on account of long-term obligations, competition, which presupposes alternatives, cannot take place.

6. In the recent literature on the problem of the genesis of moral norms a further typical case has provoked an extraordinarily widespread and lively discussion.³³ Up to now I have implicitly argued that a collective agreement is explicitly, formally agreed upon, put in writing and into effect, with checks on the observance of an appropriate regulatory and sanctioning system. This is by no means necessary in all

³² Cf. Oliver E. Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting* (New York: Free Press, 1985), pp. 204ff. In addition, he refers to another, likewise “soft” category, whose elaboration and consideration within the framework of economics constitutes for him a desideratum, namely the category “dignity” – see pp. 268, 271f., 405.

³³ Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984). Cf. Homann, “Entstehung, Befolgung und Wandel moralischer Normen: Neuere Erklärungsansätze” in Franz Urban Pappi (ed.), *Wirtschaftsethik: Gesellschaftswissenschaftliche Perspektiven* (Kiel: Kiel University Press, 1989), pp. 47-64., and Viktor Vanberg and James M. Buchanan, “Rational Choice and Moral Order” in *Analyse & Kritik* 10 (1982), pp. 138-60. The last two texts contain bibliographies.

cases. Norms can also come about to a degree spontaneously, of themselves, through self-supporting social processes. In this context the tit-for-tat strategy plays an important role.

I believe that, in situations where the cost would not be too high, the individual (business) can be expected to perform a morally motivated act, despite the competitive backdrop, in order to see if rivals respond in kind or if they exploit this testing of the waters. If the other businesses support the moral behaviour of the one firm through comparable conduct of their own, one can demand from this firm in the next round that it venture further steps in this direction. This is the tit-for-tat strategy which comprises the following: one agent begins with a friendly act, in our case a moral act, and so behaves in all further actions as his or her partner responded to this first act. If the partner defects, if he or she takes advantage of this first gesture, then the agent reverts to the old competitive strategy. If the partner responds with behaviour in agreement with moral intentions, then the first responds in kind. In repeated actions – putting it in terms of game theory: in iterative prisoner's dilemma situations – through a process of implicit coordination the point may be reached in this way that moral norms are established and respected without formal agreement. Research has shown that it is of decisive importance that when a partner exploits this open flank, it has to be answered immediately and directly with sanctions. Otherwise there is the risk that the process whereby moral standards sink ever lower will set in. The tit-for-tat strategy thus comprises a quite specific mixture of friendliness, cooperation, and sanction, penalisation. – In the literature it is contested how far the tit-for-tat strategy is sustainable; but it is not to be ruled out that here under certain conditions something can come about such as morally motivated practices of a branch, of a profession, etc. (ethics of particular professions, practices on the stock exchange, for instance). I take the position that I can then demand from the individual (business) such attempts at cooperation with the goal of establishing appropriate moral rules when these attempts do not cost the business too much.

7. Of especial interest in the context of contemporary debate in business ethics is the following case: can a business, for example, retrench its workforce if it knows very well that for years to come these employees in a particular district or in a particular industry will have no chance whatsoever of again finding employment? In this case economic requirements and moral demands obviously stand in direct contradiction, and the business, i.e. the managers of the business, face the task of making a decision, and they must answer for it morally before their consciences.

The systematic core of this case is that an action has to be carried out before the framing order can be changed. The framing order has thus to be rated theoretically as “given”, which in business ethics is allowed only in this specific case. To put it somewhat pithily, it is a matter of the “father confessor perspective”. The individual has to answer for his or her actions, and it is of no help in concrete situations if he or she is referred to the transformation of the framing order, which at best comes about only much later, but which is often not even possible.

What is decisive for our reflections is that here it is a matter of a question systematically different from the one we had discussed up to now. Here the issue is *how the individual can answer morally for his or her decisions*, whereas previously it was a question of *how the economy can be subordinated to moral checks and accountability*. Two ways of looking at the problem are at stake that on systematic grounds are to be rigorously differentiated from one another. It frequently happens in the recent literature that the first question is treated as dominant. The major role of individual ethics and individual morality with reference to this first question is asserted and

the claim is implicitly made or the impression awakened to be able to solve at the same time, in proceeding from this problem, the other problem as well in accordance with the moral accountability of the economy. Yet here a confusion of levels is at issue with significant theoretical and practical consequences. If the problem of the moral accountability of the economy is supposed to be solved from the “father confessor perspective”, then the economic framing order remains completely inviolate: that is, in the strict sense of the word, conservative. A business ethics that is set up in such a way pushes past the central problem of business ethics in modernity, namely the shaping of the framing order in the sense of moral ideas. Actions are then regularly recommended that can only be described as substitute acts: humanitarian, charitable acts by an individual (business) are recommended that “cost” far less than a transformation of the framing order. Donations to charity or artistic patronage on the part of oligopolistic big businesses cost the latter much less than the entry on the market of new, innovative businesses, and the Federal Republic of Germany’s remittance of financial aid to underdeveloped countries is much cheaper than the opening of borders to imports from these countries. But there is more to it: keeping Rheinhausen on its feet through subsidies attracts an extraordinary amount of media attention, and other branches of the economy, invoking justice, then demand the same treatment. This leads cumulatively to exceptional losses in efficiency, i.e. to the restriction of the life prospects, in principle, of all citizens.

All this occurs to the benefit of organised groups who awaken the impression among the public that they are disadvantaged.³⁴ The fundamental moral demands are, in this context, the maintenance of an efficient framing order and the ban on interventions on behalf of organised groups. The Good Samaritan is a model for a small group, for face-to-face relations, but not for the organisation of a national economy, let alone the global economy.³⁵ To behave like the Good Samaritan in anonymous large-scale societies is to weaken the recipients’ incentives to act on their own. Through morally grounded food aid to developing countries, the (politicians of the) industrialised nations have made poorhouses out of granaries! The limits of individual moral conduct in large-scale societies thereby become clear.

I will here cease the enumeration of typical cases in which moral behaviour on the part of the individual (business) can be demanded also within competitive processes. Cases 1-6 plainly show that individual action in the sense of moral ideas occurs only supplementarily and provisionally and has its goal, its telos in a corresponding adaptation or remodelling of the framing order. Individual morality is headed toward gradual obsolescence in favour of collective responsibility in the framing order – anything else would revoke the constitutive conditions of modernity and return us to the pre-modern age. Paradigmatically, the “fair price” is, if it is distinguished from the competitive price and not simply terminologically equated with it, an antiquated concept, because it is based on the individual act and not the direction of the economic sub-system.

It is correct that in dynamically understood competitive processes (superior) profits always accrue that render individual moral behaviour possible without driving the business at once to ruin. But here too the economist must insist that the *economic sense* of (superior) profits in the market economy consists therein that (a) other potential competitors are stimulated to enter the market and thus the profit margin

³⁴ Cf. Weizsäcker, op. cit.

³⁵ Cf. James M. Buchanan, “The Samaritan’s Dilemma” in id., *Freedom in Constitutional Contract: Perspectives of a Political Economist* (College Station: Texas A&M University Press, 1977), pp. 169-85.

narrows, and (b) the competitor in front, circumstances permitting, should place the profits at the disposal of risky developments and innovations rather than charity.

Case 7 is to be assessed differently. Here moral conduct is demanded of the individual because he or she is accountable for his or her actions. The question of how an individual is morally responsible for his or her decision in the face of diverse economic and moral demands is a legitimate question that every individual has to settle with his or her conscience. But this view – described above as the “father confessor perspective” – cannot serve to answer the other question of how and/or under what conditions a (domestic or global) economy that is coordinated by means of competition and the market can be held morally accountable. Modes of conduct that in face-to-face relationships are morally imperative and correct can be irresponsible in anonymous, large-scale groups (Good Samaritanism). In anonymous relations within large, complex societies there appear inverse effects when small-group behaviour is transposed to larger groups. The morality in a large group can accordingly not be understood as the untroubled expansion of small-group morality³⁶: to assert this insight could compose the most important contribution of economics to the general contemporary discussion of ethics, since the philosophical and theological ethics of the West was and still is today oriented by the paradigm of the small group. No path leads from the moral conduct of individuals within competitive processes to the shaping of the economy in the sense of moral norms and ideas. As the framing order is set up in the “father confessor perspective” as practically and theoretically “given” and thus does not stand at any given individual’s disposal, the decisive question of a business ethics that fundamentally accepts the differentiation into social sub-systems as the condition of possibility for greater freedom for all does not even come into view.

IV. Concluding Remark

In this essay I have adopted the thesis of traditional liberalism according to which market processes ought to be kept free of morally motivated interventions. The difference between my position and many strands in traditional liberalism consists in the fact that this is not the whole story. Moral norms and ideas also have a central role to play in an economy that is based on competition and the market. However, the systematic place of morality in such an economy is not market transactions, but the framing order whose shaping in the sense of moral norms and ideas must therefore stand at the centre of a modern business ethics. Whenever we fall short of this insight, we revoke the constitutive conditions of the modern world, which in the modern theory of society, following Max Weber, are characterised by the differentiation into social sub-systems. Business ethics has to adapt itself to these altered conditions. Otherwise it remains pre-modern, regardless of what other label one gives it.

³⁶ See Arnold Gehlen, *Moral und Hypermoral: Eine pluralistische Ethik* (Frankfurt am Main: Athenäum, 1969).

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