

Walter Schweidler | Joachim Klose (eds.)

# The Gift and the Common Good

An Intercultural Perspective



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*Walter Schweidler | Joachim Klose (eds.)*

The Gift and the Common Good

West-östliche Denkwege

Herausgegeben von Walter Schweidler

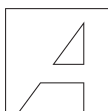
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An Intercultural Perspective

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## Introductory Remarks to *The Gift and the Common Good*

Walter Schweidler and Joachim Klose

What are we living for? What are we working for? What holds us together? In these questions, the “we” is not replaceable by any pure reference to myself, to me, or to an “I”. The definition of the human being as *zoón politikón*, as a social being by nature, is not an expression of archaic or “traditional” forms of life; it explicates an anthropologically and ontologically grounded truth. And the reference to the communal conditions of any fulfillment of human life is not a peculiarity of “communitarian” or even collectivistic ideas of a good society. It belongs to the core of the conception of the state in the tradition of modern Western liberalism. “We”: that is the pronoun which refers to what Hobbes defined as the “people” and Spinoza as the “crowd”, i.e. to the constitutive community that is presupposed in the modern view of political legitimation. It is confirmed in the Jeffersonian claim that “we”, the people, declare that in order to secure our rights governments are instituted among men, as well as in the Kantian definition of republicanism as the principle that the will of the governed is the source of the government’s authority. In this spirit, the people in East Germany went out onto the streets thirty years ago at the beginning of the peaceful revolution and cried: “We are the people!”

Philosophy does not have the power to judge these epochal directions of our political self-understanding from an absolute perspective; it can only do its best to understand them and to draw out of them the rational conclusions which form the substance of social life. However, there is a real, sensitive issue which brings in philosophy in its genuinely powerful role, namely as the investigator of the relation between the said and the unsaid. There is an unspoken complement to the claim that “we, the people” decide the rules which and the persons who govern us; it consists in the codicil: “...and nobody else!” The principle of republicanism and of democracy, in as far as it presupposes the existence of a *public* and of a *dêmos*, is necessarily and naturally a principle of exclusion. This certainly does not mean that it would imply the exclusion of other historically developed communities from freedom and the rule of law. On the contrary: Republicanism, as Kant postulated, is the means to establish freedom between all peoples of the world and to let them participate in a legitimate order of

equal nations. But whether others adopt this principle or not remains their decision. “We”, whoever we may be, do not have the right to impose our way of life on them. But for the same reason we have the duty to give our own answers to these questions: What are we living for? What are we working for? What holds us together?

When we nowadays search for perspectives of political and social philosophy beyond the scope of modern Western liberalism, the reason perhaps is to be found in a certain deficiency of the classic contractual approaches when it comes to these questions and their possible answers. Ernst-Wolfgang Böckenförde has formulated the problem in the shortest and most precise way by referring to a proposition of Adolf Arndt: “[D]emocracy as a system of majority decision requires consensus over those things that cannot be voted on”, defining this as the core of what he called the “relative homogeneity” of a democratic society. “Such homogeneity need not be of an ethnic nature. It rather consists of shared visions in the way of living together”.<sup>1</sup> Relative homogeneity: This is the demarcation not of the solution, but of the problem with which we have to deal when it comes to these questions. Again, philosophy is not primarily the source of this problem’s possible solution. It has to interpret, to analyze and to criticize the most substantial answers to these questions which we can find in the cultures in which we live. But as far as philosophy can come in this respect, it can nevertheless transcend the boundaries between “our” answers to them and those of other cultures and societies. Philosophy, contrary to democracy and republicanism, does not rest on any principle of exclusion; its power is open to everybody who is able and willing to seek the truth. Without putting the classic contractual models of political legitimation in substantial doubt, it can help us to understand the answers of others to the question who they are as sources of knowledge about our own inquiry into what and who we are. This is, expressed in a very general manner, the background of the intercultural and interdisciplinary approach to the problem of relative homogeneity which is presented in this volume; one which is based on the conference, “The Gift and the Common Good” which was held in Meissen and Dresden in March 2019.

The “common good” is a classical Western conceptual feature reaching far back behind the models of political legitimation which were developed in the seventeenth century. It cannot be understood without its theological, i.e. Christian roots and also their background in antique political phi-

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1 Böckenförde, Ernst-Wolfgang: *Constitutional and Political Theory: Selected Writings*, ed. by Mirjam Künkler and Tine Stein. Oxford 2017, p. 23.

losophy. The concept *bonum commune* gains its meaning precisely in the context of the insight that government is responsible to the entirety of those who are governed by it in a concrete, historically developed community. It goes back to the Aristotelian principle that the state is based on a shared vision of its citizens about the essence of a good, fulfilled human life. The citizens, not any kind of collective authority, have to give the answer to the question of what they have in common. This meaning of the concept *bonum commune*, as a principle of commonality and not collectivity, was incorporated by the Catholic Church at the time of the Second Vatican Council into its definition of the common good as “the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfillment [*perfectio*]”.<sup>2</sup> This means concretely that the state must protect not only private goods, but also public ones; it must protect natural resources, guarantee public security, ameliorate corruption and provide and maintain functioning systems of education, healthcare and social security. It means in particular that the state must also care for the performance and the competitiveness of its own national economy upon which the prosperity of the nation ultimately reposes. In this respect, the *bonum commune* might remain a conceptual starting point for the answer to our questions about our life, our work and our social cohesion which take us beyond the presuppositions of the modern contractual models of political legitimation. But it will also confront us with limits which force us to transcend the background which shapes its historical development. These limits have essentially to do with the problem of the “relative homogeneity” of a historically developed society as an unspoken presupposition of political legitimation.

In the tradition of political thought from which the concept *bonum commune* originates, there exists a topos which is for the orientation toward this problem of crucial significance: *patria*, the political home with which citizens identify themselves. It is highly important to keep in mind the role which this topos played in the historical transition from premodern to modern thinking. “*Patria*, in classical Antiquity so often the aggregate of all the political, religious, ethical, and moral values for which a man might

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2 “*Gaudium et spes*”, in *Catholic Social Thought: Encyclicals and Documents from Pope Leo XIII to Pope Francis*, ed. by David J. O’Brien and Thomas A. Shannon, 3<sup>rd</sup> rev. ed. Maryknoll, NY 2016, chp. 2, § 26. Cf. Schweidler, Walter and Émilie Tardivel (eds): *Gabe und Gemeinwohl: Die Unentgeltlichkeit in Ökonomie, Politik und Theologie*. Jean-Luc Marions *Phänomenologie in der Diskussion* (= Eichstätter philosophische Beiträge vol. 3). Freiburg/Br. 2015.

care to live and die, was an almost obsolete political entity in the earlier Middle Ages”, so Ernst Kantorowicz in his famous *The King's Two Bodies*. It did not mean much more than “the French *pays* or the German *Heimat*”,<sup>3</sup> the home or the circles of life. But it entered a new horizon, i.e. the theological: “There was nevertheless one domain in which the idiom *patria* retained, as it were, its full original meaning and its former emotional values, if only by transference and in a transcendentalized form: in the language of the Church. The Christian [...] had become the citizen of a city in another world. His true *patria* was the Kingdom of Heaven, the celestial city of Jerusalem”.<sup>4</sup> As we learn from Kantorowicz,<sup>5</sup> in the transition from the imperial to the national self-understanding of the state in the High and Late Middle Ages, the term *patria* regained its decisive political meaning as the key to the virtue of *patriotism*. *Patria* in this sense is the authentic object of the *sensus communis* that connects citizens to a *societas perfecta*, i.e. to living together in a common society which is ontologically self-sufficient and which owes its identity and its legitimacy to the will of its members.<sup>6</sup> In the tradition of European political thought, the paradigm of such a society rooted in the common will was the *pólis* and not the *imperium*: Republicanism arose essentially from the overcoming of imperial ideas of political legitimation. But the *pólis* in the Aristotelian sense of course did not exist anymore, neither in the medieval nor in the modern world. So, the schema of transference from the one to the other could not be directly taken from it; in fact, it could not be found in political reality at all. In order to understand the renewed meaning and importance of *patria*, theology became essential.

The crucial step was that the *societas perfecta* became the theological principle of state and Church. What in the Middle Ages would have been ununderstandable because of the essential difference of the nature of these

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3 Kantorowicz, Ernst: *The King's Two Bodies: A Study in Medieval Political Theology*. Princeton, NJ 2016, p. 232 f.

4 Ibid., p. 234.

5 Ibid., p. 235: “Christian doctrine, by transferring the political notion of *polis* to the other world and by expanding it at the same time to a *regnum coelorum*, not only faithfully stored and preserved the political ideas of the ancient world, as so often it did, but also prepared new ideas for the time when the secular world began to recover its former peculiar values”.

6 Cf. Aristotle: “Politics”, in *The Complete Works of Aristotle: The Revised Oxford Translation*, ed. by Jonathan Barnes, 2 vols. Princeton, NJ 1995, ii, pp. 1986-2129 (bk 1, chp. 2, 1252b).

communities both,<sup>7</sup> turned into a theological program with Francisco de Vitoria's differentiation between *respublica perfecta* and *respublica spiritualis perfecta* and Cardinal Bellarmine's understanding of the cooperative relation between Church and state.<sup>8</sup> The decisive point of the whole model is that "perfecta" is primarily to be understood not in the sense of "ideal", but rather of "complete". This is exactly the point where, as we mentioned above, the unsaid obverse of the device "we, the people" appears. The claim of the *societas naturalis completa*, the core element of Catholic social teaching until the twentieth century, is that from ontological, not ideological reasons, there can never be any political institution that could relativize the legitimacy and power of the nation state in terrestrial affairs on the one side and the spiritual power of the Church which enables her to represent the whole of Christianity and potentially the whole of mankind on the other side. Church and state in some way become mirrors of the claim which, regardless of the differences of their specific dimensions, unites them in the one universal horizon: that they are the "last word" which history has spoken about the legitimacy of social orders in the world.

This must be kept in mind when we meet the term *perfectio* ("fulfillment") in the above-cited definition of the *bonum commune*. The Church has preserved the category of perfection as a criterion of political legitimacy – perfection not in the sense of an ideal which would have to be imposed on individuals and groups by any collective authority, but, on the contrary, as a natural desire of human beings that has to be respected and supported by the institutions of social and political order. The Church has even preserved its claim to represent at least potentially the whole human family. Pope John Paul II in his great inaugural encyclical *Redemptor hominis* renewed explicitly the political self-understanding of the Church "as the social subject of responsibility for divine truth".<sup>9</sup> And he reformulated the claim to represent the whole of human kind without exception: Christ himself in his way of life "is the basis of all other ways that the Church must walk, because man – every man without any exception whatsoever – has been redeemed by Christ, and because with man – with each man without any exception whatever – Christ is in a way united, even when

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7 Cf. Listl, Joseph: *Kirche und Staat in der neueren katholischen Kirchenrechtswissenschaft*. Berlin 1978, p. 109.

8 Cf. *ibid.*, p. 111 f.

9 John Paul II: *Redemptor hominis* (URL = [http://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_04031979\\_redemptor-hominis.html](http://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_04031979_redemptor-hominis.html)), chap 4, § 19.

man is unaware of it".<sup>10</sup> So, in the formulation of her own political self-understanding the Church still keeps to her universal claim, and she does so explicitly, not as an unsaid "and nobody else..." in the concealed background of any particular "we".

But one thing has been bluntly given up and essentially revised by the same Pope John Paul II: the claim of a *societas perfecta*, i.e. the claim in which the Church accepted the state as its corresponding counterpart. It has, in this respect, returned to the principle of the incomparability of temporal and eternal power. Referring to the redefinition of her relation to the state in the pastoral constitution *Gaudium et spes* of Vatican II, Pope John Paul II declared that the power of the spirit is the only force the Church can refer to in order to keep its respect for secular authorities.<sup>11</sup> The Church has become a *societas independens*, not related to any secular authority but responsible to the principle of human dignity and human rights as sources of political legitimacy under the conditions of the modern state. In our context, we are not confronted with the question what this might mean for the future role of the Church within the concert of global players. We have to turn to the other question: Where must the citizens of the modern state search for the answer to our thematic questions, What are we living for? What are we working for? What holds us together?

At this point, we meet the deepest problem at the core of the self-understanding of democracy and republicanism. The state as it exists in our time is, according to the models of modern Western liberalism, based on the free decision of its citizens; governments are responsible to the will and the consent of the governed. But, according to the self-understanding of political legitimacy as it has been accepted by almost every nation in the twentieth century, the state is also responsible to the principles of human dignity and human rights, i.e. to the whole of mankind. Who, however, has overtaken the role of the Church? Who represents humanity within the nation state? So, the problem of "relative homogeneity" might have to be reformulated as the meta-question: How can we answer the questions about what we are living and working for and what holds us together in a way which at the same time confirms our social and cultural identity and yet can cope with the responsibility we have for the rights and the dignity of every human being? We mentioned the abandoned principle of *societas per-*

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10 Ibid., chp. 3, § 14.

11 The power of the spirit is the "einzige Kraft..., über die die Kirche in voller Achtung vor der Autonomie der zeitlichen Herrschaft verfügt" (sermon of Pope John Paul II of 7.7.1980 at Recife; quoted in *Osservatore Romano* (deutsch), 30 [25.7.1980]).

*fecta* and the lost historical role of the Church not to propagate any return to it, but on the contrary to point out the problem which we face given the fact that the place which the Church claimed to have taken as the state's counterpart is empty now. Republicanism is confronted with a profound vacuum concerning the question how to represent the whole of mankind in a political order based on the will of a particular and unavoidably exclusive community. Again, when we recall the importance of the theological, i.e. Christian background of this situation we do not propagate a reinventing of it; but we want to raise the deep question about the importance of religion – or of its substitutes – when it comes to the reformulation of the principle of the common good and its unspoken presuppositions

Philosophy loves wisdom; it is not itself wisdom. We can listen to wise words, but we have to take them as the expression of the problems we face, not their solution. The second winner of the Cold War next to Karol Wojtyła, Ronald Reagan, spoke a wise word when he said that the dreams of humans may be different, but everyone wants his dream to come true.<sup>12</sup> But of course this piece of wisdom had and has a particular cultural and historical background: the “American dream”, which still exists and still is powerful, and “American exceptionalism”,<sup>13</sup> the idea of God's own country which is a kind of reincarnation of the “shining city on a hill”. There is a long tradition behind this claim, leading from the German emperor Barbarossa's characterization of his state as the *sacrum imperium* and the transition of the title *Terra Sancta* from the Holy Land to the Kingdom of France<sup>14</sup> to what Hans Joas has called the “sacralization of the person” as the logic of modern political self-legitimation.<sup>15</sup> In the step from the medieval to the modern self-understanding, “the state began to claim for its own administrative apparatus and public institutions a sempiternity or perpetuity which hitherto had been attributed only to the Church and [...] the Roman empire [...]”.<sup>16</sup> The temptation of self-sacralization of political power is not restricted to premodern or antimodern ideologies; it has to do with the vacuum in the background of our modern ideas of democracy and republicanism. Again we are led back to the problem of “relative homogeneity”; the need for shared visions in the way of our living together.

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12 See Reagan, Ronald: *Ein amerikanisches Leben*. Berlin 1990, p. 23.

13 Cf. Lipset, Seymour Martin: *American Exceptionalism: A Double-Edged Sword*. New York, NY and London 1996.

14 Cf. Kantorowicz: *The King's Two Bodies*, p. 237.

15 Joas, Hans: *Die Sakralität der Person: Eine neue Genealogie der Menschenrechte*. Frankfurt 2011.

16 Kantorowicz: *The King's Two Bodies*, p. 192.

The “American Dream” may be strong enough to fill the vacuum; but is it really independent of religion, of sacralization, of political theology? And is there a “European Dream”? A “Chinese Dream”? Was Tucholsky right when he said that while the “German nightmare is to stand in front of a counter, the German dream is to sit behind it”? But what else than a “dream” can be the element of shared visions in the way of our living together? Or do we really work together only in order to solve practical problems? That there is a missing link which binds people together one can find in the process of German reunification after the fall of the Berlin Wall. One reason for the disappointment of Eastern Germans and the rise of present populism is rooted in their feeling that they do not belong to the people of the Federal Republic and do not have the same chances of development as the people of Western Germany. Don’t we all have the fear that we shall awake one morning and realize that we do not belong to our people or our family anymore, just as Franz Kafka in his novella *The Metamorphosis* describes? What keeps the people together? Politicians in Saxony were relieved when during the flood of the Elbe river in 2002 all people, young and old, rich and poor, male and female, filled sandbags together in order to dam the river and prevent further damage. The politicians did not expect a common sense of the people anymore. The only sense Germans could agree on after the unification was an expanding consumerism and hidden materialism. This resulted in a continuous comparison and competition with each other and strengthened the fear of the future, resentment and envy. How do people in post-religious societies such as in Eastern Germany – where only twenty-five percent still confess a religion – and China, both of whom are affected by the scientific atheism of Marxism-Leninism, handle this question?

In our approach, we will not immediately deal with these concrete questions. We deliberately take a very distanced starting point. But it is a starting point which was taken by some of the most original and innovative approaches to cultural anthropology in the twentieth century. The cultures and societies they investigated were as different from ours as can be. But the issue which directed their investigation was as close to our questions as is possible. There is a blind spot in the backdrop of archaic social exchange and structures; a principle which makes all human communication possible and yet remains absent from it as long as it can exist. The concept of the “gift” has become the powerful signification of this constellation which was found so far away but appears so close when we try to take a distant view on ourselves and our ways of social life. The intercultural and interdisciplinary approach which we undertake in this volume is to be understood as opening perspectives to a possible new beginning of the philo-

sophical, political and economic recapitulation of the old mystery of political theology.

What at least can be claimed is that the reflections which are collected in this volume open up a new way of questioning the perspectives which the anthropological category of the gift can have for the political problem of “relative homogeneity” against the background of what in the Western tradition still is characterized as the common good. These perspectives are highly diverse. As can be seen, the gift has become a philosophical, a theological, a political and even an economical category of high importance. This final category has a somewhat impressive and special meaning for us, the editors, for it reminds us that our whole work, documented in this volume, is based on what economists call civil enterprises. We can only thank the Hermann und Marianne Straniak Stiftung and the Konrad-Adenauer-Stiftung for making possible not only this volume and the conference which is documented and continued in it; but also we owe these institutions the inspiration and the enabling of a good part of our professional work over many years.

*Walter Schweidler and Joachim Klose*



**I.**  
**The Economy of Gift**



# The Economic Ethics of Gratuitousness and the Common Good

*Jörg Althammer*

Commenting on the principle of gratuitousness and the common good from an economist's point of view is anything but easy. The reason for this is twofold. Firstly, the ideological basis of economic theory is deeply rooted in political liberalism. Economists derive their valuation of social states from the individual's assessment of these affairs. From an epistemological point of view, economists are individualists, at least on a methodological, if not on the normative level. Thus, economists take different views on the goodness of social situations and differing ideas of what is worthwhile and constitutes a good life as equally valid and permissible. They do not seek a universal, generally-binding idea of the good and the worthy, but try to reconcile competing views on these issues in a way that is beneficial for all members of society. It is for this reason that economists always had considerable difficulties with any notion of the common good that takes it as an aprioristic objective which is largely unrelated to the individual valuation of social affairs.

Secondly, economists envisage market participants as self-centered actors. This does not mean that economic analysis conceptualizes human behavior as entirely selfish and egoistic. As I will show below, it is straightforward to integrate other-regarding preferences and altruistic behavior into a rational choice paradigm without any loss of generality or theoretical accuracy. However, for economic interactions to be successful and sustainable, a certain degree of reciprocity is necessary. This is especially true for one-shot transactions on anonymous markets, but applies also to repeated interactions which allow the formation of mutual trust and empathy.

Thus, analyzing the normative concepts of the common good and the principle of gratuitousness from an economic point of view is challenging, but not impossible. To do that, I am going to proceed in three steps. In a first step, I want to discuss various notions of the common good and check their consistency with the principles of economic reasoning. In a second step, I want to show that cooperative game theory – which is all too often neglected by economists – offers the analytical concepts to clarify the precise meaning of fairness in cooperation, which forms the basis for a better

understanding of the common good. The third part is about the economics of the gift and the principle of gratuitousness. I want to show that these principles do apply to donations and one-sided transfers, but to market interactions as well. However, these social virtues are embedded in the structural conditions under which market transactions take place, which holds true for the common good as well.

### *The Common Good in Economic Analysis*

#### *Four different understandings of the Common Good*

In order to address the idea of the common good from an economic perspective, it is first of all necessary to differentiate various understandings of this concept. The comprehensive literature on this issue offers at least four different notions. The first and most popular view that runs through ancient and medieval thought conceptualizes the common good as an objective and aprioristic ideal and presupposes a predetermined idea of what is beneficial for society as a whole (*bonum commune a priori*). This essentialist understanding of the common good at least transcends individual preferences, if it is not completely independent of the individual valuation of social states. It is based on the notion of collective actors and thus a largely homogeneous community. This understanding of the common good obviously violates core assumptions of economic theory such as the axioms of rational choice and methodological individualism and is therefore incompatible with the economic approach from an epistemological point of view. Furthermore, this understanding of the common good is prone to ideological abuse.

A second understanding of the common good conceptualizes the *bonum commune* as a dynamic political process that derives the common good from individual preferences. The common good signifies a social situation that realizes individual interests in a social context. The *bonum commune* is considered to be achieved once conflicting interests are being reconciled and social coordination problems have been solved (*bonum commune a posteriori*). The common good thus describes a social situation which is the outcome of a successful bargain between rational agents pursuing individual interests.

In a third understanding, the common good represents the entirety of social structures and institutions that are necessary for the development and full flourishing of the personhood of all members of society. This structural understanding of the common good overcomes the distinction

between an aprioristic and a mere procedural notion of the concept. It includes an aprioristic understanding of the social structures and resources people need to lead a meaningful life. But is open to diverse life plans and differing notions of the good.

Finally, many economists relate the Common Good to the economic concept of the Commons. Commons, which comprise Common Goods and Common Pool Resources, are goods and services that are “non-exclusive”. Non-exclusiveness means that due to technological or economic constraints, it is impossible to exclude any individual from consuming these resources, irrespective of his or her individual contribution to the production of this good or service. This ultimately poses the well-known free-rider problem. We would thus expect an undersupply of Common Goods and exhaustive consumption of Common Pool Resources. Environmental issues are the most commonly used examples. Thus, in the understanding of many economists, the Common Good is realized whenever Common Goods are being produced and Common Pool Resources are being consumed in a socially efficient manner.

In what follows, I will no further pursue the idea of a *bonum commune a priori* both for methodological and conceptual reasons. I will concentrate on the second and the third notion of the common good, with the problem of commons being a subfield of the *bonum commune a posteriori*. I try to show that economics, which is the science of rational social interactions, may indeed serve toward a better understanding of the structures and institutions a society needs in order to attain a situation that is morally beneficial for society as a whole.

### *The economics of cooperation and consent*

According to a popular understanding, market competition stands in stark contrast to pro-social activities, solidarity or justice. The common notion takes the market at least as a “morally free zone”,<sup>1</sup> if not intrinsically anti-social. The expansion of the market sphere is also made responsible for crowding out pro-social activities based on intrinsic values.<sup>2</sup> The theoretical equivalent to this skeptical perception of the market is non-cooperative

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1 See Gauthier, David: *Morals by Agreement*. Oxford 1986.

2 Bowles, Samuel: *The Moral Economy: Why Good Incentives are no Substitute for Good Citizens*. New Haven, CN and London 2016 gives an extensive overview of the theory and the empirical evidence.

game theory.<sup>3</sup> It is easy to verify that without legal rules or generally accepted social norms, selfish actors are unable to overcome coordination failures in nonrecurring interactions. This is usually demonstrated by the prisoner's dilemma, which for the sake of clarity I will illustrate using the example of a public goods game.<sup>4</sup> In this setting, every player  $i = 1, \dots, n$  has to decide to make a contribution  $g_i$  out of his or her initial endowment  $w$  to a public good, with  $0 \leq g_i \leq w$ . Let  $a$  be the marginal private per capita return of the public good, then  $i$ 's payoff  $\pi_i$  is given by

$$\pi_i(g_1, \dots, g_n) = w - g_i + a \sum_{j=1}^n g_j \quad a < 1 < na \quad (1)$$

The condition  $na > 1$  ensures the common good characteristic of  $g$  whereas  $a < 1$  makes non-contribution the dominant strategy. A simple numerical example makes this explicit. Let  $n = 2$ ,  $w = 4$  and  $a = 0.8$ , then the payoffs to player 1 and 2 are given by the following payoff matrix:

	cooperate	defect
cooperate	6.4 6.4	3.2 7.2
defect	7.2 3.2	4 4

As figure 1 shows, the social optimum is realized if both players invest their full endowment to the production of the common good, i.e.  $g_{1,2} = w$  and  $\pi_{1,2} = (6.4, 6.4)$ . However, as each actor tries to realize his or her first-best outcome (i.e.  $\pi_i = 7.2, i = 1, 2$ ), the dominant strategy for each player

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3 A word of caution is in order here, as terminology in game theory differs from everyday language and the common perception of the words “cooperative” and “non-cooperative”. In game theory, being (non-) cooperative does not refer to an actor's specific attitude or value system. A cooperative bargaining situation is simply one where the actors are able to make mutually binding contracts, whereas in non-cooperative situations this is not the case. In both cases, actors are assumed to act purely self-regarding.

4 On public goods games, see Fehr, Ernst and Gächter, Simon: “Cooperation and Punishment in Public Goods Experiments”, *American Economic Review*, 90. 4 (2000), 980-994. The specific formulation of this model is taken from Kosfeld, Michael, Okada, Akira, and Riedl, Arno: “Institution Formation in Public Goods Games”, *American Economic Review*, 99. 4 (2009), 1335-1355 (p. 1337).

is to restrain from cooperation. This holds society trapped in the Pareto-inferior equilibrium of defective strategies ( $\pi_i = 4, i = 1, 2$ ).

The finding that interactions in the absence of (legal or moral) rules lead to undesirable social outcomes is anything but new. That there is a “reason of rules”<sup>5</sup> goes undisputed in social philosophy and economic ethics alike. Even hard-boned libertarians accept the need for a minimalist state that establishes property rights and safeguards “life, liberty, and estate”, to quote Locke’s famous dictum. Rather, the political-economic discussion revolves around the question whether more extensive regulations of coexistence are drawn up by the members of society via a process of social evolution, or whether a regulatory authority is required to fulfill this task. To me, it is therefore more than dubious that the prisoner’s dilemma adequately describes the “basic structure of all interactions”.<sup>6</sup> In my opinion, quite the opposite is true. Humankind is a cooperative species; people do and always have cooperated in order to achieve goals that they are unable to bring about on their own. The history of mankind is full of evidence showing that human beings are able to solve coordination problems, and that they synchronize their interactions to accomplish common goals. In Persia, about 1.400 B.C. the Qanat Chanel system was established. One millennium later, the Great Dam of Ma’rib collected the monsoon rain for irrigation. In the twentieth century, Kingfishers in Maine established rules of withdrawal that ensured a sustainable fishery management in their bay. In her works, Elinor Ostrom collected numerous examples for the private provision of local common goods and the efficient management of common pool resources.<sup>7</sup>

The main question that social philosophy has to address is thus not *whether* people interact cooperatively, but *under what conditions* these interactions take place and whether the likely outcome of collusive behavior fulfills fundamental moral requirements. To answer this question, however, demands a closer inspection of the nature of cooperation and the main determinants of cooperative outcomes. For this, we have to leave non-cooperative game theory and turn our attention to the economics of cooperative games.

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5 See Brennan, Geoffrey, and Buchanan, James M.: *The Reason of Rules: Constitutional Political Economy*. Cambridge 1986.

6 Homann, Karl and Suchanek, Andreas: *Ökonomik: Eine Einführung*. Tübingen 2005, p. 371; translation by the author.

7 Cf. Ostrom, Elinor, Gardner, Roy, and Walker, James: *Rules, Games & Common Pool Resources*. Ann Arbor, MI 2006.

*The Economic Ethics of Cooperation*

All forms of cooperation have one thing in common: Cooperation generates a social surplus, i.e. the cooperative yield exceeds the joint amount invested by each actor individually. More technically speaking, cooperative outcomes are super-additive. Besides this commonality, it is important to distinguish between two types of cooperation which can be traced back to different motivations for cooperative interaction. If all participants of a cooperation share the same goals and interests or benefit equally from a specific cooperation, we may speak of *synergetic cooperation*. The water resource or fishery management systems mentioned above may serve as examples. If the conditions for synergetic cooperation hold, we can expect cooperative behavior to emerge in the course of social evolution. A more complex issue of cooperative behavior arises in situations that American sociologist William Sumner called *antagonistic cooperation*.<sup>8</sup> In this case, actors have an incentive to interact cooperatively in order to increase joint welfare, while at the same time they try to acquire the entire surplus of this collaboration for themselves.

It is this understanding that signifies market competition as an essentially cooperative activity, contrary to widespread public opinion. All goods and services that we buy and use every day are the outcome of a multitude of cooperative economic interactions of buyers and sellers. Milton Friedman's famous parable of the production of a pencil<sup>9</sup> shows that even the simplest objects are the result of widely dispersed economic activities coordinated by market forces. If that applies to everyday items, then all the more to complex and sophisticated commodities. Every car and every personal computer is the result of innumerable interactions of countless economic agents. There is, however, a profound and indissoluble ambivalence inherent in every market cooperation. Each agent has an incentive to join collaborative activities that generate higher yields than under autarky.

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8 See Sumner, William: *Folkways: A Study of the Sociological Importance of Usages, Manners, Customs, Mores, and Morals*. Boston, MA 1906. In his original work, Sumner conceptualizes antagonistic cooperation in a strictly social-Darwinist manner that he supposes to be rarely happening. German philosopher Hartmut Kliemt by contrast understands the underlying dialectic between cooperation and conflict as the basic force of human socialization, a view that I follow here. See Kliemt, Hartmut: *Antagonistische Kooperation: Elementare spieltheoretische Modelle spontaner Ordnungsentstehung*. Freiburg 1986.

9 The parable Friedman chooses in his PBS broadcast series "Free to Choose" is based on Leonard E. Read's essay "I, Pencil", published in 1958.

However, given the fact that the market produces private goods, any self-regarding actor tries to appropriate the maximum amount of the jointly produced economic surplus. Thus, cooperation in the production sphere is associated with competition in the consumption sphere. This raises the question whether – and if so, under what conditions – antagonistic cooperation can be beneficial to the common good.

To analyze this question in more detail I will make use of the Generalized Nash Bargaining Model. Let  $u_i(x\theta_i)$  denote the  $i$ -th actor's valuation of the end-of-state allocation after bargaining has taken place.  $\theta_i$  is his or her utility level if no cooperative agreement is reached. This is the initial situation or  $i$ 's "threat point". Thus,  $u_i(x) - \theta_i$  represents the actor's bargaining surplus or his or her gain from trade. Finally,  $\gamma_i$  represents the bargaining power of each actor.

It can be shown that rational bargaining requires the maximization of

$$N = (u_1(x) - \theta_1)^{\gamma_1} (u_2(x) - \theta_2)^{\gamma_2} \quad (2)$$

which yields the following equilibrium condition:

$$\frac{u_1(x) - \theta_1}{u_2(x) - \theta_2} = \frac{\partial u_1 / \partial x \gamma_1}{\partial u_2 / \partial x \gamma_2} \quad (3)$$

where  $\partial u_i / \partial x$  denotes actor  $i$ 's marginal utility, which depends on his or her individual valuation of the consumption of  $x$ . Equation (3) shows that agonistic cooperation is characterized by three parameters:

- a) The individual valuation of allocation  $x$ , represented by the marginal utility  $\partial u_i / \partial x$ . For  $\gamma_1 = \gamma_2$ , gains from trade are distributed according to the ratio of the marginal valuation of  $x$ .
- b) Bargaining power  $\gamma_i$ . If both actors have identical preferences (i.e.  $\partial u_1 / \partial x = \partial u_2 / \partial x$ ) and bargaining starts from the origin (i.e.  $\theta_i = 0, \forall i$ ), the end-of-state distribution is entirely determined by the actor's relative bargaining power.
- c) The initial bargaining situation  $\theta_i$ . The higher c.p. the threat-point – i.e. the less a negotiating partner is dependent on the successful conclusion of a contract – the greater the actor's welfare.

Taking this all together, the bargaining outcome is not only a result of differing preferences, but mirrors also the social and institutional conditions under which bargaining takes place. This result is well known to the contractarian school, but constitutional economics fails to draw the obvious

conclusion from it. Market interactions are not legitimized simply by the fact that they are being pursued by free individuals on a voluntary basis. Pareto efficiency is thus an insufficient concept to capture the full meaning of the common good in economics. The moral content of cooperative interactions depends on the legitimacy of the structural parameters of the bargaining process itself. This rather blatant insight paves the way to interconnect moral theory with the economics of bargaining to a self-contained theory of economic ethics. First of all, the negotiation process must start from an initial allocation which is considered as fair. Whenever starting conditions differ, the bargaining outcome is affected by the unequal access conditions. Generating a “level playing field” is thus a necessary condition for any bargaining outcome to meet any meaningful notion of the common good. This can be achieved by equating resources, opportunities or capabilities. Thus, resource-based theories of distributive justice find their equivalent in the bargaining approach to the common good. Second, bargaining power has to be roughly equal between the parties involved. This requirement has been taken for granted by political theorists ever since the contractarian approach entered political philosophy. Thomas Hobbes, the original thinker of social contract theory, postulated the equality of men as a natural fact, as “[...] 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 himself”.<sup>10</sup> In modern economics, symmetry of power is postulated by the axiom of perfect competition.

Please note that the axiom of superadditivity – i.e. the fact that every actor receives a positive surplus out of the bargain – is a necessary but not sufficient condition for fair cooperation under the common good premise. Under the structural-institutionalist notion of the common good, cooperation fulfills the requirements of the common good only if the structural parameters under which the bargaining takes place are roughly symmetric. This provided, the cause for disparities in end-state allocations are differences in the actor’s preferences. Therefore, the structural-institutionalist understanding of the common good clearly exceeds the normative content of the well-known Pareto-principle.<sup>11</sup> Under Pareto, every mutual beneficial relationship is legitimized, irrespective of the distribution of the surplus or the final allocation of resources. Therefore, if we take the Pareto

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10 Hobbes, Thomas: *Leviathan*. New York, NY 2001, p. 74.

11 The Pareto Principle is simply the welfarist analogon to the nonworseness claim in moral philosophy. On the normative scope of the nonworseness claim see Bailey, Adam: “The Nonworseness Claim and the Moral Permissibility of Better-than-Permissible Acts”, *Philosophia*, 39. 2 (2011), 237-250.