

## Integrity, Legitimacy and Corruption: the economic view

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### *Integrity: A positive economic model*

*Jensen* together with *Erhard* and *Zaffron* (2009) present in an article the topical issue 'integrity' as a positive economic model incorporating the categories moral, ethics and legality. Quotation: „We present a positive model of integrity that, as we distinguish and define integrity, provides powerful access to increased performance for individuals, groups, organizations, and societies.“ (Abstract) To understand the concept of integrity the respective article is cited cursorily in the following.

*Jensen* defines the positive integrity according to the definition of the *Webster's New World Dictionary*:

1. "the quality or state of being complete; unbroken condition; wholeness; entirety;
2. the quality or state of being unimpaired; perfect condition; soundness.“ (p. 39)

An individual is complete and whole if its word is complete and whole. And its word is complete and whole if the individual honors its word. Individuals can honor their word in two ways: Firstly, by keeping their word at the time they promised to do so; secondly, as soon as they recognized that they could not keep their word they had to inform everybody who is concerned about this fact and they had in addition to repair all the damages they have caused by not keeping their word. Behaving in this way an individual honoring its word can keep integrity even in the case that he does not keep its word given.

Integrity is not a matter of *keeping* one's word; integrity is *honoring* one's word. In this new model of integrity, honoring your word is defined as:

1. Keeping your word (and on time).

*And*, whenever you will not be keeping your word:

2. Just as soon as you become aware that you will not be keeping your word (including not keeping your word on time) saying to everyone impacted

- a. that you will not be keeping your word, and
- b. that you will keep that word in the future, and by when, or that you won't be keeping that word at all, and
- c. what you will do to deal with the impact on others of the failure to keep your word (or to keep it on time).

Notice that “honoring your word” includes two conditions, where the second condition comes into play whenever the first condition is not met. Integrity is an “*and*” proposition. In other words, to be a person of integrity all you have to do is “honor your word”, which means you keep your word (1 above), *and* when you will not, then you say you will not and clean up any consequences (2. a, b and c above).

But what is the ,word‘ of an economic subject? The authors define the ,word‘ extensively not least not to impair the value of the concept without necessity.

„In this new model of integrity, we define a person’s word as consisting of each of the following:

Word-1. **What You Said:** Whatever you have said you will do or will not do, and in the case of do, by when you said you would do it.

Word-2. **What You Know:** Whatever you know to do or know not to do, and in the case of do, doing it as you know it is meant to be done and doing it on time, unless you have explicitly said to the contrary.

Word-3. **What Is Expected:** Whatever you are expected to do or not do (even when not explicitly expressed), and in the case of do, doing it on time, unless you have explicitly said to the contrary.

Word-4. **What You Say Is So:** Whenever you have given your word to others as to the existence of some thing or some state of the world, your word includes being willing to be held accountable that the others would find your evidence for what you have asserted also makes what you have asserted valid for themselves.

Word-5. **What You Say You Stand For:** What you stand for, whether expressed in the form of a declaration made to one or more people, or even to yourself, as well as what you hold yourself out to others as standing for (formally declared or not), is a part of your word.

Word-6. **Moral, Ethical And Legal Standards:** The *social moral standards*, the *group ethical standards* and the *governmental legal standards* of right and wrong, good and bad behavior, in the society, groups and state in which one enjoys the benefits of membership are also part of one’s word (what

one is expected to do) unless a) one has explicitly and publicly expressed an intention to not keep one or more of these standards, and b) one is willing to bear the costs of refusing to conform to these standards (the rules of the game one is in).” (p. 52f)

If one gives his word a new relationship or at least a new aspect of an existing relationship is being created. It is decisive that reciprocity of integrity is not a condition for the integrity of a person. A person can give its word to another person and therefore can have a high integrity even if the other person does not have integrity. This does not release the respective person from its obligation to keep respective to honor its word. The sole consequence of an asymmetric integrity is that the value of the relationship suffers by it.

*Jensen* and his co-authors strongly separate integrity on one hand from moral, ethics and legality on the other hand. Integrity is a positive economic category comparable with technology, real capital, human capital, organization's efficiency etc. whose existence can be measured (more or less) and which can cause recognizable impacts on other economic issues (performance). Moral, ethics and legality in contrary are normative categories which also can cause economic impacts but which have to be evaluated normatively (good or bad).

**Moral:** In a given society, in a given era of that society, morality is the generally-accepted standards of what is desirable and undesirable, of right and wrong conduct and what is considered by that society as good or bad behavior of a person, group or entity.

**Ethics:** In a given group, ethics is the agreed upon standards of what is desirable and undesirable; of right and wrong conduct; of what is considered by that group as good and bad behavior of a person, group or entity that is a member of the group, and may include defined bases for disciplining including exclusion.

**Legalität:** The system of laws and regulations of right and wrong behavior that are enforceable by the state (federal, state, or local governmental body in the U.S.) through the exercise of its policing powers and judicial procedures, with the threat and use of penalties, including its monopoly on the right to use physical violence.

Connecting the normative virtues with the positive „virtue“ integrity, it is evident that in Word-6 the respective categories moral, ethics and legality are implicitly part of the ‚word‘ of a person. These categories are the moral compass which for the relevant persons in a relationship – both parties are located in the same society, the same group and the same state – has to be the same so that the word on both sides of the relationship has the same meanings.

## *Performance-Paradox*

The decisive message of the concept of integrity is that integrity is able to considerably increase the performance of a person, a group of persons, an organization, a firm or a system. *Jensen* describes this heuristically with „Without Integrity Nothing Works“. While doing so the authors set up a so-called ‚Integrity → Workability → Performance‘-cascade.

Taking literally the idea of the ‘complete and whole word’, *Jensen* can show with the example of a wheel what he understands by ‚workability‘. An intact wheel can be used in many ways and is in it very efficient. If the wheel misses some spokes then it is no more complete and whole and the wheel will miss therefore some workability up to its absolute operational inefficiency. Analogous to this example the workability of a relationship between two persons can be seen. The better the workability is the more productive and efficient the relation is resp. the higher the performance is. This argument is much stronger talking about the integrity of objects, groups of persons, organizations and systems.

The Integrity → Workability → Performance-Cascade runs like this:

- Because maximal workability is a necessary (not a sufficient) condition for a maximal performance, and
- because integrity is a necessary and sufficient condition for a maximal workability,
- it follows that integrity is a necessary (not a sufficient) condition for a maximal performance, and
- it follows that if integrity is going to shrink the opportunity for performance shrinks.

If integrity disappears performance disappears. Therefore, integrity is a production factor to which all other production factors which can contribute to a high performance can be added on. This implies that lacking integrity cannot be substituted by other production factors. Integrity creates opportunities for performance. Is integrity lacking then opportunities for performance are lacking. Performance in this case can only be reached with the remaining opportunities. This also implies that integrity is a categorical production factor which creates switches in a production process. This also explains that the authors can report about the IBM-example in which integrity was able to switch the firm performance by up to 500%.

Integrity refers not only to single persons as mentioned above but also to groups of persons and organizations like firms. For groups and organizations, the same conditions according the value ability of integrity are valid. In most cases there are speakers of a group or an organization. These speakers can give their word in the name of the group or the organization. In addition, the behavior – behavior resp. action is the word – of the group and the organization has to be interpreted accordingly. In relation to firms, CEOs or the speaker of the top management are addressed. All those being

responsible can give their word in the name of the firm according to their responsibility. In the relationship of employed managers as agents of public corporations to the firm's shareholder as their principals, integrity is of utmost importance as *Jensen* has shown in a number of scientific articles. At this point, 'Strategic Accountability' comes into play. It says that the 'word' has to show a high signification and relevance as well as a high sustainability. Integrity in trifles but out-of-integrity in the main issues of life, of organizations or of firms does not meet the philosophy of the authors' integrity concept.

Integrity is not only relevant according to persons and groups of persons but also according to objects and systems. The wheel as an object with integrity is evident. This picture can be extended to come to examples which strongly emphasizes the high value of integrity. For example, the promised effectiveness of medicine and the promised lack of dangerous side effects as the implicit word of the responsible firm show the workability of the product and the consequences if the firm does not keep its word. Concerning medicine and drugs it is obvious but what about products in the financial and banking sector? What is the 'word' of a firm and their products? This question is not trivial and implies a high relevance of real life integrity.

The idea that integrity of objects is not a triviality is much more valid concerning the integrity of systems. In this respect the integrity of i.e. financial systems, telecommunication systems or even judicial systems could be questioned. Integrity of systems relates to the components of the system as well as the functional relationship between the components of the system. But above all is the question of the integrity of the system design as well as the integrity of the way the system is used. For example, a system has no integrity if it is not used for the same reasons it was designed for. Out-of-integrity systems have a low workability and therefore a low performance. If economic or social subsystems represent a significant part of a bigger superior economic system then the out-of-integrity of a subsystem, i.e., banking and financial system, can lead to a considerable impairment of the performance of the whole system.

That is: Integrity or out-of-integrity characterize persons, groups of persons, organizations, objects and systems. According to this, persons, groups of persons, organizations, objects and systems own either a high or a low workability and therefore either a high or a low performance. Integrity implies commitments to moral of a society, ethics of a group and legality of a state what excludes the so-called „gaming the system“. Integrity does not require reciprocity but reciprocal integrity enhances the performance of a relationship. In consequence this prohibits the application of the 'golden rule' according to this the out-of-integrity of the counterpart releases one from the duty of keeping resp. honoring one's word. Not at least through connecting integrity with the normative virtues of moral, ethics and legality, integrity becomes an autonomous intrinsic decision of individual persons with integrity. Said this, the question is how the decisions pro or con integrity are made.

## *Veil of invisibility*

*Jensen* and his co-authors are discussing broadly the so-called 'Veil of Invisibility'. The veil of invisibility in style of *Rawls's* 'Veil of Ignorance' explains why the so-called 'Integrity-Performance-Paradox' exists. This paradox says that out-of-integrity in most cases is chosen because people believe that integrity causes costs and decreases performance. In contrary, the theory of integrity claims that just the abstention from integrity takes performance. But according to economic evolution theory it is hard to explain why so many performance-oriented individuals and organizations in the economy do without integrity because of performance reasons but by doing so abstain performance which is a paradox.

*Jensen* explains this paradox with the veil of invisibility which conceals the high costs of out-of-integrity and the high performance of integrity. „We believe that the lack of scientific understanding of the impact of integrity on performance and the absence of research quantifying it is a product of the 'veil of invisibility' that obscures the relationship between integrity and performance. This veil of invisibility results in what we call the Integrity-Performance-Paradox: People and organizations while committed to performance, systematically sacrifice integrity in the name of increasing performance and thereby reduce performance.“ (p. 77f)

There are a number of reasons why the veil of invisibility exists:

1. Integrity is seen as a nice-to-have normative virtue instead of seeing integrity as a positive economic category.
2. There exists a distorted self-deception about being out-of-integrity which leads to the fact that people cannot recognize how large the performance potential of integrity is.
3. Integrity means keeping one's word. Because it is impossible to keep the given word in all situations of life people are not willing to give their word.
4. There exists a general fear of acknowledgement you are not going to keep your word.
5. Integrity is not seen as an efficient production factor.
6. No cost-benefit-analyses is done concerning 'Giving One's Word' with which the high value of integrity could be recognized.
7. A cost-benefit-analyses is done in case of not keeping one's word whether the given word should be honored.

How can the veil of invisibility be raised?

- Integrity as a positive economic category has to get due position in economic theory *Jensen* demands.
- In practical situations about the decision to give and honor one's word there also has to be undertaken a cost-benefit-analyses about the concrete ingredients of the 'word' of the person, the group, the organization, the object and the system to give. Therefore, it is not only the decision about pro or con integrity but

also especially about the efficient features of the production factor integrity, not at least because giving one's word needs investments in the production factor integrity.

- If in a relationship there is no integrity-reciprocity the counterpart with integrity can make the out-of-integrity of the other counterpart transparent. This could put pressure on the out-of-integrity counterpart to reexamine a cost-benefit-analyses about keeping and honoring his word especially if the counterpart with integrity has contract alternatives in the market. The transparency of out-of-integrity of market participants could also be made public by independent research analysts.

Conclusion: Integrity is a highly efficient production factor. This factor is not subject of natural scarcities and instead is at disposal infinitely. It is therefore indispensable that persons, groups of persons, organizations like firms have integrity and that systems are designed and used with integrity. Out-of-integrity is not negligible which is shown by the still existing global financial crises which has destroyed trillions of dollars of financial assets and more than 10 million jobs which means human capital. Consequences of integrity respective out-of-integrity are stringent and clear-cut as the above considerations try to show.

*Legitimacy: A positive Model*

*Brockhaus* defines legitimacy: „Die Rechtfertigung des Staates, seiner Herrschaftsgewalt und seiner Handlungen durch höhere Werte und Grundsätze, im Unterschied zur formellen Gesetzmäßigkeit (Legalität) und zur rein faktischen Machtausübung.“

In *Webster's* 1828 the definition of legitimacy is:

- „Lawfulness of birth; opposed to bastardy.
- Genuineness; opposed to spuriousness. The legitimacy of his conclusions is not to be questioned.“

Both definitions show the range of the notion ‚legitimacy‘ between claim to power, legality, authenticity, seriousness and sincerity resp. uprightness.

An extensive definition is given by *Lamb* (2014). „To access legitimacy, it is critical to understand the following points:

- *Legitimacy is “worthiness of support.”* Legitimacy is a sense that something is right or good or that one has a moral obligation to support it. In some contexts, legitimacy is a worthiness of loyalty or imitation. Illegitimacy is not merely a sense that something is not worthy of support. Rather, illegitimacy is a worthiness of opposition, a sense that one must work to resist, undermine, or fight something. Neutrality is a worthiness of neither support nor opposition. Be-

cause people tend to voluntarily do what they believe is the right thing to do, legitimacy induces voluntary compliance with demands and requests or encourages voluntary participation in collective endeavors. Illegitimacy induces resistance to things that people believe it is morally necessary to oppose. In short, legitimacy induces compliance, encourages participation, and lowers the costs of sustaining a position, institution, or relationship, and so achieves stability, while illegitimacy induces disobedience, encourages opposition, and raises costs, and so threatens stability and sustainability.

- *Legitimacy is broadly applicable.* Potential subjects of a legitimacy assessment can include a government, a position of authority, an organization, membership, a border, a corporation, a division of labor, a state, a statelet, a distribution of economic or political goods, an association, a regime, a mafia, a system, a command, a means of production, or an institution for marriage, education, law, justice, property, and the regulation of violence - anything that somebody can judge to be worthy or unworthy of their support or opposition. The framework presented in this report uses the term conferee to describe whatever is being assessed for its legitimacy and referee to describe the group of people whose perspective about the conferee's legitimacy is being studied (i.e., the referees' judgments confer legitimacy upon the conferee). It can be applied to any kind of conferee.
  
- *Legitimacy is multidimensional.* The literature on what makes something legitimate is voluminous, but it can be summarized: people are motivated by what is right. Something is more likely to be considered worthy of support the more it is considered predictable, justifiable, equitable, accessible, and respectful. These five dimensions describe the types of indicators that should be sought to measure legitimacy: predictable (a necessary but not sufficient condition that includes transparency and credibility), justifiable (judgments about important values: what is right, good, proper, admirable, etc.), equitable (ideas about fairness, that is, inequalities are justified), accessible (having a say in processes for making decisions affecting one's life, a weak version of consent), and respectful (treatment consistent with human dignity and pride). The more indicators are in agreement across these dimensions, the more likely legitimacy is present. Likewise, the more unpredictable, unjustifiable, inequitable, inaccessible, and disrespectful something is - and the more indicators for these dimensions are in agreement - the more likely it is to attract opposition. Inconsistency of indicators suggests that something other than legitimacy and illegitimacy are at play (fear, deception, etc.).
  
- *Legitimacy is multilevel.* Legitimacy can be conferred at multiple levels of analysis. For the purposes of the framework introduced in this report, each dimension of legitimacy (predictable, justifiable, etc.) should be measured at three levels of analysis: individual, group, and system. Individual beliefs are private

judgments about the conferee, usually measured through surveys, focus groups, or interviews of the referee population. How much confidence or trust do people express in their government, a political party, an industry, or a charity? Group behaviors are public actions by referees that express a judgment about the conferee. Voluntarily participating in elections, paying taxes, and obeying laws are potential indicators that citizens consider their state legitimate. High worker turnover and a need for private security are potential indicators that negative judgments are being made about a company. Public attributes are the observable features of the conferee system under study (a government, organization, regime, etc.). Does the business operate in a way that is consistent with the values of its customers, workers, investors, and other stakeholders? Do government officials treat citizens with respect, according to the citizens' definition of respectful treatment? Do leaders share similar ideological or religious beliefs as constituents? If yes, referees are likely to consider the business, government, or leaders worthy of their support.

- *Legitimacy is bilateral.* Worthiness of support is a two-way street. It is common to talk about the legitimacy of a state according to its citizens: citizens judge whether state institutions are worthy of their support, and if so, they comply with legitimate state demands (obey laws, pay taxes, etc.). It is equally important, however, to talk about the legitimacy of the citizenry according to state officials. For a political system to be stable, not only do the people need to consider their rulers worthy of support, but the rulers need to consider the people worthy of citizenship, worthy of providing services to, and worthy of being governed and not merely controlled. Similarly, if corporations in regulated industries believe regulators have the right to issue rules, and regulators believe those companies have the right to make a product, the system will likely run smoothly. A failure of legitimacy in one direction of that relationship, however, could distort the economy or corrupt the political system. Where legitimacy is not bilateral, frictions in the system will develop that significantly increase the costs of getting things done.
- *Legitimacy is unobservable.* There are, however, ways to measure phenomena that cannot be directly observed. One can theorize about the causes of the phenomenon and how they interrelate, then measure indicators representing those causal factors. The five dimensions of legitimacy discussed above should be used as a guide to finding causal indicators. One can also consider the effect that the unobservable phenomenon has on the world, then measure an indicator for that effect. Since legitimacy is a worthiness of support, an indicator that measures support can be used as an effect (or proxy) indicator of legitimacy. This framework uses both proxy and causal indicators." (*Lamb*, 2014, p. VI – VIII).

With that, a definition of legitimacy is available which reaches in all areas of a society's order and structures from Robinson to the today's global system, the planet.

A quite limited view on legitimacy is seen with *Schmelzle* and his considerations of governance and legitimacy. „Governance bezeichnet, folgt man der breit rezipierten Definition von *Renate Mayntz*, „das Gesamt aller nebeneinander bestehenden Formen der kollektiven Regelung gesellschaftlicher Sachverhalte“ (*Mayntz* 2004: 66). Die Anhänger des Governance-Paradigmas sehen den besonderen Wert des Begriffs darin begründet, dass er keine begriffliche Vorentscheidung darüber impliziert, welche Akteure in welcher Weise gesellschaftliche Funktionen erfüllen. Denkbar sind sowohl „klassische“ Modi des Regierens, die um den Staat und den Steuerungsmodus des sanktionsbewehrten Rechts kreisen, als auch „neue Formen des Regierens“, in denen private und zivilgesellschaftliche Akteure an die Stelle des Staates treten und mittels einer Vielzahl verschiedener Steuerungsmodi Governance-Leistungen erbringen.“ (p. 162). For *Schmelzle* it is about public goods in the sense of the definition of public goods in economic theory. It is about governments' acting, the actions of NGO's, the existence and functionality of sovereign institutions, i.e., the independent judicial system, sovereign tasks carried out by private actors and international rules and institutions which do not own a direct democratic mandate. „Im Folgenden möchte ich zwei Konzeptualisierungen des normativen Legitimitätsbegriffs vorstellen und jeweils für die Legitimitätstheoretische Betrachtung von Governance fruchtbar machen. Dies ist zum einen die von *Fritz Scharpf* entwickelte Unterscheidung zwischen Input- und Output-Legitimität, zum anderen die von *Kalevi Holsti* vorgeschlagene Unterscheidung zwischen horizontaler und vertikaler Legitimität. Ich vertrete die These, dass *Holstis* Unterscheidung *Scharpfs* Konzept um eine zentrale Dimension ergänzt, die gerade im Kontext nichtstaatlichen Regierens von großer Bedeutung ist.“ (p. 167)

Output-legitimacy is determined by the 'benefits' for the 'users' which are produced by the political actions of sovereign institutions, comparable to the idea of the Pareto-Optimality. Input-Legitimacy exists if the political actions reflect the political preferences of the 'users'. Concerning i.e. governmental acting it means that it is based on democratic procedures and that neither the democratic 'voting' nor the 'distribution' of the public goods practices exclusions which are not sanctioned democratically. In the classical hierarchical governmental acting area input-legitimacy as well as output-legitimacy are relevant which corresponds with the definition of vertical legitimacy. With transnational sovereign institutions which exercise quasi-governmental functionality output-legitimacy is relevant. This is also valid for all private organizations, i.e., NGO's, which offer public services.

Vertical legitimacy always asks for the legitimacy in hierarchical power-relationships. Horizontal legitimacy always asks for the distribution of power within a political association. „Horizontale Legitimität bezieht sich im Gegensatz zur Dimension der vertikalen Legitimität nicht auf die Art und Weise, in der Herrschaft ausgeübt wird, sondern

auf die soziale Basis des politischen Verbands und das Binnenverhältnis des Kollektivs der Beherrschten. ... Das Konzept lässt sich prinzipiell auf jede Gruppe von Individuen anwenden, die entweder durch freiwillige Kooperation oder durch Machtbeziehungen, zu einem politischen Verband vereinigt ist. Sobald dies der Fall ist, stellt sich die Frage nach der Legitimität dieser Beziehung.“ (p. 173) „Beispiele aus dem Bereich Global Governance beziehen sich vor allem auf Sicherheitsfragen (UN-Sicherheitsrat), Umweltschutzmaßnahmen (Kyoto-Protokoll, Biodiversität-Konvention) und ökonomische Interdependenzen (Weltbank, IWF, WTO), also Bereiche, in denen Abhängigkeiten besonders offensichtlich sind (vgl. Zürn et al. 2007:131-136). Gerade die Interdependenzen in der globalen Ökonomie – vor dem Hintergrund der unheilvollen Erfahrung der Weltwirtschaftskrise der 1930er Jahre – haben robuste Governance-Regime entstehen lassen. Was diese Beispiele eint, ist, dass sich institutionalisierte Kooperation in den Bereichen etabliert, in denen *allgemeine* Verwundbarkeit festgestellt wird und folglich jede Partei von einer Regelung profitiert.“ (p. 176)

How do the criteria of legitimacy of *Lamb* fit together with the vertical and horizontal legitimacy of *Schmelzle*? If the vertical claim to power is sanctioned in a proper democratic way, then it is assumed that the owner of the claim to power is the best which could be found doing this job. In this case the assumption is: He will do his job right and good. This is the input-legitimacy in the words of *Lamb*. The output-legitimacy verifies this implicated assumption and recognizes the legitimacy of an organizations resp. institution according to their results. If the results are right and good, then legitimacy exists.

Horizontal legitimacy depends on the structure of the group, the harmony of its objectives, the decision procedures and its transparency and responsibility outwards. „Die horizontale Legitimität bezieht sich auf das Binnenverhältnis des Kollektivs der Beherrschten. Ich habe vorgeschlagen, hier zwischen systemisch-funktional und sozial-normativ integrierten sozialen Verbänden zu unterscheiden. Während systemisch-funktional integrierte Gesellschaften durch Interdependenz-Beziehungen verbunden sind, sind sozial-normativ integrierte Gesellschaften durch geteilte Identitäten, wechselseitige Anerkennung und den Willen zur kollektiven Selbstbestimmung gekennzeichnet.“(p. 182) For the former, NATO may be a practical and *Buchanan's* state a theoretical example. For the latter, the constitution of the Federal Republic of Germans especially after the reunification may be a practical and the political institution ‚sovereignty‘ a theoretical example.

*Niklas Luhmann* (2013) examines whether procedures, especially democratic voting procedures, parliamentary law decision procedures and judicial court procedures, could contain legitimacy on its own. Doing this he criticizes the so-called ‚classical concept of procedure‘. As *Luhmann* points out in this classical concepts of procedures it is about finding the truth. But if procedures ensure finding the truth, so *Luhmann*, questions concerning legitimacy of procedures or about the institutions which

use these procedures become obsolete. „Lässt man dagegen von der Voraussetzung ab, dass Verfahren der Entdeckung von Wahrheit dienen, gewinnt man die Möglichkeit, ihre Funktion für die Legitimierung des Entscheidens unvoreingenommen in neuartiger, soziologischer Weise zu untersuchen.“ (p. 23)

In addition *Luhmann* criticizes how the term ‚legitimacy‘ is understood commonly. „Man versteht heute darunter die rein faktisch verbreitete Überzeugung von der Gültigkeit des Rechts, von der Verbindlichkeit bestimmter Normen oder Entscheidungen oder von dem Wert der Prinzipien, an denen sie sich rechtfertigen. Aber damit ist nicht viel mehr gewonnen als eine Frage: Wie ist es möglich, wenn nur wenige entscheiden, die faktische Überzeugung von der Richtigkeit oder der verbindlichen Kraft dieses Entscheidens zu verbreiten?“ (p. 27) He comes to the conclusion: „Die Legitimation durch Verfahren und durch Gleichheit der Chance, befriedigende Entscheidungen zu erhalten, tritt an die Stelle älterer naturrechtlicher Begründungen oder tauschförmiger Methoden der Konsensbildung. Verfahren finden eine Art genereller Anerkennung, die unabhängig ist vom Befriedigungswert der einzelnen Entscheidung, und diese Anerkennung zieht die Hinnahme und Beachtung verbindlicher Entscheidungen nach sich.“ (p. 30f) According to *Luhmann* it is important to differentiate between the premises of a decision and the concrete results of a decision. This corresponds to the differentiation between rules of a game and games within rules which is part of the constitutional economics. According to *Luhmann*, it is sufficient to agree to and accept the rules of the constitution resp. the premises of the decision. This acceptance can, according to *Luhmann*, only arise in a social process of learning. Core of this social process of learning must be the ‚procedure‘ as a social system.

„So viel lässt sich für Verfahren schlechthin ausmachen. Als Angelpunkt für das Verständnis von Struktur, Funktionen und Antrieben und für das begreifen ihres inneren Zusammenhanges dient uns die Vorstellung einer begrenzten, systemeigenen Komplexität des Verfahrens. Mit ihr können wir die klassische Bestimmung des Verfahrens durch Wahrheit als Zweck ersetzen. ... Die Eigenkomplexität, die ein Verfahrenssystem benötigt, hängt wesentlich von der Komplexität der Entscheidungsaufgabe ab. Diese wiederum ist davon abhängig, wieweit im Entscheidungsprozess Entscheidungsprämissen vorausgesetzt oder erst geschaffen werden müssen. Entsprechend gibt es Entscheidungssituationen und –verfahren mit bestimmter und mit unbestimmter Komplexität.“ (p. 52) This ‚procedure‘ of cooperative truth-finding as social system in the presence of divergent points of view and conflicts is what legitimacy is all about.

Connecting *Lamb* with *Luhmann*, ‚procedures‘ with a high legitimacy according to *Luhmann* are characterized by the fact that, according to *Lamb*’s referees, the subjective probability that the results of the respective ‚procedure‘ are right and good is high. But as well as with *Jensen*’s integrity, moral of the respective society, ethics of the respective group and of course legality of the respective state have to be preserved.

*Lamb* constitutes legitimacy between conferee and referee. Finally, the referee constitutes that the conferee has done his job right and good. *Schmelzle* divides legitimacy in vertical respective horizontal direction, depending on the power relationship between conferee and referee. Thereby a multitude of social, political and economic structures in a society are subject to legitimacy. This confirms that legitimacy is an elementary building-stone of a social, political and economic order. *Luhmann* places the process character of order in the foreground and sees legitimacy as the 'procedure' according to which conferees and referees decide and act.

By this the idea of process comes into the spontaneous order of *Hayek*. In the spontaneous dynamic order legitimacy and integrity as a precondition for legitimacy have to be in force. In order that the spontaneous dynamic order owns stability in cases of missing integrity and legitimacy, according to *Pies*, institutions as integrity-substitutes and institutionalized legitimacy procedures are indispensable.

#### *Institutions as Integrity-Substitutes and Legitimacy-Procedures*

As long as Robinson lived alone, integrity and legitimacy was not a big issue in organizing and coping with his daily routines. Integrity to himself by giving himself the 'word' to do specific things and to really do these specific things or, if not, to double its efforts next time (not keeping but honoring its word) was surely a self-motivation for Robinson which increased his work-efficiency, the less so since he very fast recognized that he did not land in the fool's paradise. Even the question for his legitimacy could play a role. When he must have recognized that, for example, he was a bad hunter but an excellent fisherman he could not himself conferee a legitimacy for hunting but a high legitimacy for fishing.

The appearance of Freytag changed the situation not only gradually but indeed fundamentally. Both had to have integrity as well as legitimacy in relation to the other respectively. Only in this way the team „Robinson/Freytag“ was able to manage their live efficiently. Each had to have legitimacy to do what he could do right and good which means better than the other. Integrity each had to show against the other in the way to give one's word, to keep one's word or to honor one's word.

If Robinson and Freytag owned integrity and legitimacy than their small spontaneous order could work quite well and did not need any institutions. In reversal conclusion, institutions are only necessary if integrity and legitimacy are missing. From our point of view, institutions are above all integrity-substitutes and legitimacy-procedures and, according to *Pies*, are efficient stabilization factors in a spontaneous order.

Complex societies, as *Hayek* saw our societies, cannot afford without institutions as integrity-substitutes and legitimacy-procedures to work right, good or even basically.

### *Corruption as ‚worst case‘ of missing integrity*

*James* (2001) in „When is a Bribe a Bribe? Teaching a Workable Definition of Bribery“ give a general definition of corruption based on the principal-agent-approach which can be used for many different forms of corruption: „...I offer a definition of bribery that is intuitive, flexible, and effective. This definition is based on an understanding of principal-agent relationships in that bribes are payments to agents to induce them to act against the interests of their principal.“ (p. 201)

*Schummer* (2000) discusses allocation rules which per se lock out corruption. „We consider allocation rules that choose both an outcome and transfers, based on the agents' reported valuations of the outcomes. Under a given allocation rule, a bribing situation exists when agent *j* could pay agent *i* to misreport his valuations, resulting in a net gain to both agents. A rule is *bribe-proof* if such opportunities never arise.“ By that he addresses the main point that corruption is always a overvaluation through manipulation. This overvaluation can appear in manipulated information or in a deliberate allocative miss-decision.

Whereas *James* and *Schummer* each give a general applicable definition of corruption which covers both „private – private“ and „private – public“ corruption, other authors concentrate especially on „private – public“ corruption.

*Khan* (2001) formulates in his political economics of corruption a general definition which places the manipulation of property rights in the foreground. „Corruption is typically the exchanged of a bribe for something in return, which is usually some allocation of economic rights.“ (p. 5) Basically this can only be done in connection with public agents.

*Svensson* (2005) defines and compares corruption with lobbying. „A common definition of public corruption is the misuse of public office for private gain.“ (S. 20) „Bribing also has parallels to lobbying in the form of campaign contributions or influence buying through other means, but again, they are not perfect substitutes. ... One difference between bribery and lobbying in this case is that a change in the trade regime through lobbying affects all firms in the sector, as well as future entrants. However, the return to bribing is typically firm specific, although potential externalities may arise both for other firms and consumers. A second difference is that a change in the trade regime through lobbying tends to be more permanent, because there is some cost to re-enacting the original law, while a bureaucrat cannot credibly commit not to ask for bribes in the future. A third difference is that decisions about government rule making involve officials weighing the benefits of income from lobbying against the cost to the government of a rule change, while decisions about bribes are made by individual public officials who consider their private costs and benefits. Finally, unlike bribing, where firms weight the private benefit and cost of the action, lobbying involves joint actions with associated collective action problems.“ (p. 21) This shows that the sepa-

ration between corruption and lobbying by definition can be misleading in specific cases.

*Rose-Ackerman/Truex* (2012) quotes a standard-definition for „private – public“-corruption which is widely used in the literature. „Corruption is generally defined as the abuse of public power for private gains.“ (p. 3) Within this definition „the corruption calculus“ is decisive. „Corruption is a crime of opportunity. It occurs at the intersection between the public and private sectors (or even entirely within a sector) wherever the opportunity for illicit private economic gain exists. Identifying an act as “corrupt” implies a background standard of acceptable behavior. Thus, its prevalence depends upon the way the law and the society define the proper scope for public and private action.“ (p. 9)

In the summary she characterizes corruption. “To summarize, corruption, like any other crime, occurs when the illicit benefits of malfeasance outweigh the expected costs. However, a distinctive feature of corruption is its two-sided nature. Like any licit market transaction, both the bribe payer and the recipient must experience net gains relative to the feasible alternatives. The benefits of corruption to officials include the bribe payment itself as well as the social benefits that come with dealing out illicit favors. Corruption may also allow a bureaucrat or politician to expand his political power. On the cost side of the equation, corrupt officials consider the prospect of formal punishment, as well as the internal moral “psychic” costs of engaging in wrongdoing. If discovered, corrupt officials may also face social opprobrium and the loss of office. On the other side of the transaction are the illicit benefits earned through bribery to be balanced against expected punishments and psychic costs. If officials extort pay-offs by requiring citizens and businesses to pay to get benefits to which they are legally entitled (or to avoid costs), those who pay feel aggrieved, but they are still better off than doing without the benefit (or having a cost imposed on them). .. Another distinctive feature of corruption is its tendency to feed on itself. The more corrupt players there are in the system, the more it pays to be corrupt because the likelihood of both formal and informal punishment is reduced. Bureaucrats who would be honest in Sweden could turn corrupt in Cambodia with no change in their underlying psychology. Conversely, clean governance begets clean governance, as would-be corrupt officials become clean when corrupt networks dry up and self-dealing becomes dangerous and uncouth. The net result of these vicious and virtuous cycles is that countries and sectors can fall into either a high-corruption or a low-corruption equilibrium. And once trapped in a high-corruption equilibrium, a particularly large shock may be needed to shift a country on the path towards good governance.” (p. 14)

*Dimant* (2013) quotes: „Corruption is a crime of calculation, not passion“. „ ... corruption from the public interest point of view puts emphasis on deviant behavior impeding the public interest, caused by administrative or political bodies. Specifically, this definition highlights the intrinsic motivation of public officials to provide favors to par-

ticular groups in exchange for private rewards. With this being a shared characteristic of corrupt behavior and as such providing a commonly agreed definition, it certainly lacks lucidity, as it is impossible to identify public interest based on a country's heterogenic population objectively.“(p. 5)

„Turning to the legal norms approach, corruption is defined as a behavior that violates specific rules governing the way public duties should be performed, including illegal exchanges of political favors for private rewards. It remains debatable who exactly defines the normative character of 'specific rules' that improve the welfare provision for the population.“(p. 5)

*Dimant* quotes in addition: „From a similar point of view, highlight three elements of a proper definition of corruption. The first element goes back to widely cited separation between public and private spheres: Behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains. The second element acknowledges corruption as an act of which one party provides (mostly monetary) stimulations in exchange for a political good provided by an official. Completing the core definition of corruption, evaluation on a norm-basis is introduced as the third element. The implication of this element is the necessity to understand corrupt behavior as a deviation from accepted and prevailed norms.“(p. 5)

*Dimant* mentions the definition from Transparency International: “the abuse of entrusted power for private gains”. (p. 6) He compares: He “claims that fraud, money laundering, drug trades, and black market operations do not belong to the term corruption in the first place, because they do not involve public power's use and abuse. Still, officials often have to be involved (e.g. via bribery) in order to carry out these activities and thus business can rarely be performed without the corruption of public officials. For that reason, these acts are considered as part of a wider definition of corruption.“(p. 6)

Another subdivision of corruption in the literature runs according to *Dimant*: “... provides a more accurately subdivided classification of corruption, offering a hybrid-like definition. He differentiates between “bureaucratic (or “petty”) or political (or: “grand”) [...], cost-reducing (to the briber) or benefit enhancing, briber- or bribe-initiated, coercive or collusive, centralized or decentralized, predictable or arbitrary [corruption and corrupt behavior], involving cash payments or not.“(p. 6)

With this corruption as a fact of behavior of participants in economy, politics and society is described. Now the question has to be asked how corruption and integrity correspond.

## *Corruption and Jensen's Integrity*

In his integrity theory, *Jensen* discussed the connection between the positive category 'integrity' and the normative categories 'moral' and 'ethics'. Doing this he assumes that moral of a society and ethics of a group are implied in the word which is given. But corruption, according to the above definitions, is breaching the ethics of the group of all subjects acting in a specific common order resp. is breaching the ethics of groups of specific professions. The conclusion must be that by breaching the ethics of a group integrity is no more possible because the given word can no more be kept resp. honored and therefore integrity cannot be kept because of corruption. In the idea of *Jensen's* integrity, corruption and integrity are two different aspects in the spontaneous order which exclude each other.

*Vanberg* (2008, p. 12) shows that the ethics of the spontaneous market order requires that the market participants, which per se draw benefit out of the market system by using the market system, show the absolute readiness to co-operate in the joint efforts of maintaining the rules of the order. In this respect corruption is forbidden according to the ethics of the group of users of the spontaneous order. If there was corruption the rules of the spontaneous order would have been broken. The problem is: Corruption can occur and indeed does in many cases in connection with a high legitimacy and a high allocative functionality of market participants. Like integrity and legitimacy corruption is invisible but the respective damages of corruption interfere deeply with the fundamental functionality of the spontaneous order. It is obvious to interpret the *Jensen's* ethics of the group as the ethics of the group of all users of the spontaneous order, according to this, corruption is a breach of the rules of the order to the damage of all users of the spontaneous order. Therefore, the ethics of the spontaneous order does not allow corruption because corruption destroys the spontaneous order.

A contract-theoretical view shows another aspect of ethics, integrity and corruption. This view implies two ideas which are common in the theoretical literature:

- I. It is usual in the economic contract theory to differentiate between explicit and implicit contracts.
- II. It is usual in the economic theory of economic orders to differentiate between the games for rules and the games with given rules.

According to this, when market participants go to a market they sign an implicit contract with all other market participants in which all participants of the implicit contract agree to keep the accepted rules of the market order. This would be the 'constitutional integrity' on the meta-game level in contrast to the 'contractual integrity' on the game level. This picture is consistent with the ethically motivated semantic innovation of 'order responsibility' of *Beckmann/Pies* (2006) which argues that it is smart and ethical to keep the rules of the meta game because it is advantageous. In this view corruption is a breach of the word given within the implicit contracts of the meta

game. The corrupt market participants do not keep resp. honor their word which they have given in the implicit contract.

This contract-theoretic picture has tremendous consequences. It shows why corruption in contrast to integrity can hardly be dealt with neither theoretically nor politically. Despite the fact that integrity owns the veil of invisibility out-of-integrity can be seen and watched. Out-of-integrity is not invisible. This is shown in the following graph.

	Integrity	Legitimacy	Corruption
visible	Out-of-Integrity	Illegitimacy	-
invisible	„Veil of Invisibility“	Legitimacy cannot be seen	corruption no corruption

Through its visibility out-of-integrity can be cured by integrity-substitutes or by honoring one's word. The reason is that integrity mostly plays its role in explicit bilateral contracts. The person which is damaged by through out-of-integrity is one of the contract partners. This person can see the damages and can ascribe it to the out-of-integrity contract partner. Corruption is out-of-integrity in implicit contracts with all market participants. The damages of corruption cannot be ascribed to someone because it cannot be seen and measured. While integrity is invisible but out-of-integrity is visible, corruption and no corruption both are invisible. This makes corruption in contrast to integrity much more difficult to deal with in economic theory and especially in economic policy.

Another aspect makes it difficult to theoretically and politically evaluate corruption. Corruption only happens when high legitimacy and high competences exist. In the principal-agent-client approach only agents with high competences and legitimacy are in danger to be part of corruption. This is true for „bureaucratic“-corruption as well as „grand“-corruption. Therefore a potential „bribe“ appears to have legality which only results from a specific legitimacy. Is this the reason why whistle blowing is a dangerous business?

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