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Financial simulation to uphold the system instead of real vision

Work in progress, do not quote!

1. Introduction – From active mankind to passive speculator

In the West, a lot of effort and money is invested in that ordinary people should gain knowledge about financial instruments, what is called "financial literacy" (Remund, 2010) or "financial capability" (Taylor, 2011). "Compared to financial literacy, financial capability is a broader concept that includes financial literacy, financial behaviour and financial self-efficacy" (Xiao & O'Neill 2016, p 712). "Financial capability" is seen as necessary for making financial decisions and choices regarding the *future* welfare. Such knowledge is also seen as "consumer protection" in the USA and the UK (Sherraden et al. 2015). In Sweden, financial supervisory authorities give "financial literacy "courses for all groups in society under the name: "*Protect Your Financial Future*". At the same time, an urbanization wave is under way that makes people learn less and less about how to handle the various problems that may occur in connection with the natural elements. To be able to forge a nail, grow potatoes, cut down a tree. Such practical knowledge and occupations are not protected, encouraged or paid well. Protecting "the consumer", and "the investor" seems to be more important than protecting "man".

In Interpellation 2015/16: 565, politician Daniel Bäckström (C) raises the question of how Sweden should cope with the food supply in the event of war when more than 70 % of the food is imported today. The vulnerability has increased as the emergency stocks have been phased out, in favour for an increasing number of centralized operations, while many farms have closed down. This development, which comes from the rationalization ideology of modernity (Giddens 1990), based on the idea of the superiority of large-scale operations and overall objective competence, has taken place at the expense of small-scale actions and the individual's unique problem-solving ability and competence (Sotto 1990).

In this, our knowledge of the world comes to a lesser extent from our own voluntary actions and increasingly from structures of formalized knowledge transferred from above. Sotto (1990) calls it a “mass-formalized knowledge” of “technology-scientific character” (p.1). The formalized knowledge presents itself as the universal solution and gives itself to modern beings as prescriptive discourses. Through the practical use of these discourses, people are reduced to “instruments” or “objects” through which the regulatory content of formalizing knowledge is exercised and transferred (Sotto 1990). The change concerning the creation and utilization of knowledge means that man has gone from being an active player *in his life* to becoming a spectator and speculator of the formalized knowledge *of life*. It usually happens via the machines.

When the knowledge is in the machines, and man has *this* knowledge, man is deprived of the need to act. Man finds himself reduced to making observations of how the norms work in the machines operating in the world or simulating the world in his place (Sotto 1990). Placed in a situation where man must follow the formalized knowledge that he himself does not produce and does not have to go beyond, he is deprived of knowledge related to his own revelation and his own being (Sotto 1990). The disappearance of the opportunity for man to meet and embrace the world by experiencing himself in real situations when dealing with the elements and society limits his “action” to mere “vision” of pre-established truths and mechanics. Liberated from his own actions and reduced to a tool for conveying the “truth discourses”, man loses a necessary part of himself – actions that make up the human existential predicate – what Sotto calls “ontological knowledge”.

Instead of “ontological knowledge”, man is offered “financial capability”. Instead of having the ability to visualize his future, man gets to speculate about his *financial* future. In this way, man is blinded about the here and now, and instead of dealing with the problems here and now, man is taught to deal with the financial *uncertainty*, according to the preestablished universalized knowledge (Bay & Bäckius 1999). Because without ontological knowledge – man’s existential predicate – man loses his existential certainty and capability to create *imaginary* visions (Bachelard 1964) about the truly *ambiguous* future (Bay & Bäckius 1999).

The reason for the devaluation and abandonment of the “ontological knowledge”, is the discourses of modernity in combination with the technological development, but it is also due to the will to Power and Capital, and the subsequent need to *manage and control people* (Sotto 1990). As Machiavelli said, as time goes by, the powerful are increasingly distanced from the people (Sonnsjö 2009), and this distance creates alienation and fear of the people, which will eventually lead to tyranny (Shell 1983). In other words, the “financial capability” agenda is the *unconscious* will of the Powerful in society to control people, sprung out of a diffuse fear of…. revolution perhaps? Financial capability is, in any case, to direct the gaze to what the power wants it to see, towards empty concepts such as financial “gain”, “fairness” and “confidence”. If the financially capable people are occupied with financial speculation about the financial future, they will have little time and capability to think, feel and deal with the situation here and now, and about where and what they want and can be tomorrow.

2. Insider trading prohibition: Killing the trust meant to be secured

The urge to become more "financially capable" took off during the 1990s, and co-exist with the *prohibition* of the so-called "insider trading". The exiting *insider trading law* is the pumping *heart* of the financial markets and *capitalism*, restricting a little bit of trade, to open up for more trade and new forms of public speculation, thus a *productive* restriction (Foucault 1976). This merits a closer look.

The insider trading law, is the in essence the same everywhere (Frii 1998), and prohibits trade in financial securities on the basis of information that has not yet been made public. Trading securities on the basis of "inside information" about an upcoming corporate event that may substantially alter the price of a security, appears to be extremely unfair. Suspected insider trading is therefore almost always blown up by the thankful media and result in "black" headlines. The purpose of the ban is said to be to make sure that everyone who trades should have access to the *same* information at the same *time*: in other words, *fairness* (Chen, Huang, Kusnade, Wei 2017; Dalko & Wang 2016; Bainbridge 2001; Frii 1998; O'Hara 2001; Werhane 1989). Attempting to "level out the playing field" (McGee 2008), and in this way to assure "fair" trading conditions is considered important for maintaining public *confidence/trust* in the financial markets (Bainbridge 2001; Frii 1998).

It is not only the *occurrence* of insider trading, however, that is controversial, but also the *prohibition* of insider trading has been widely debated, especially by lawyers and economists, because:

> "…all sorts of economic agents profit from informational advantage in a market economy, and such exploitation is not in general viewed as unethical. Why then is exploiting an informational advantage in securities trade unethical?" (Hu and Noe 1997, p. 39).

Economists have pointed out that not only is trading on the basis of "asymmetric information" the *normal* situation in the economy in general, but insider trading may also be *valuable* since it, according to theory, raise the *informational efficiency* (Adams, Perry & Mahoney 2018; Cinar 1999; Marsden & Tung 1999; Hu & Noe 1997; Manne 1966, 1970; McGee 2009; Ronen 2000; Sensenbrenner & Ryznar 2015). An "efficient financial market" is assumed to be a market where security prices at any point in time *fully "reflect" all available information* (Fama 1970), and insider trading means that *new* information researches the market quicker, making the security price incorporate (reflect) the inside information sooner (Adams, Perry & Mahoney 2018; Cinar 1999; Marsden & Tung 1999; Hu & Noe 1997; Manne 1966, 1970; McGee 2009; Ronen 2000; Sensenbrenner & Ryznar 2015).

Lawyers, however, have throughout the years argued that insider trading is simply immoral and unethical *per se*, and should be prohibited regardless of any economic benefits. Manne (1966), who was the first scholar to question the ban on "asymmetric information" wrote that the reaction was "*emotional, almost hostile*" (Manne 1970, p 547). According to Manne, a leading law professor said at the time: "*We did not need any book on insider trading. I know it's wrong, and that's all there is to it*" (Manne 1970, p. 549). Illegal insider trading was even compared with *slavery* (!):

> If slavery is legal and having a few corporate slaves will maximize shareholder wealth, even if overall social utility is greater with slaves than without, the practice is still unethical. And it is unethical precisely because of fairness and/or rights considerations, factors which Ma and Sun seem a bit too ready to dismiss or at least fail to discuss (Snoeybos & Smith 2000, p. 362).

Regardless of whether the *information asymmetry* is considered "unfair" and "immoral" or seen as a "natural" part of each market, and in life, most of the insider trading researchers today accept that a ban is needed because of its importance for the "confidence" in the functioning of the financial markets (Blois & Ryan 2013; Mayer 2008; Werhane 1989). The researchers have argued that even if "asymmetric information" according to traditional economic logic cannot objectively be considered "unfair", and even though no single investor can sue anyone for insider trading on the basis of insider trading (Adams et al. 2018; Bainbridge 2001; Löfmarck 1988), it can still be *perceived* as unfair by the public (Chen et al., 2017; Balasubramnian et al. 2016; Bozanic et al. 2012; Agrawal & Cooper 2015; Bainbridge 2001; O'Hara 2001). The fear is that the market, if it is perceived to be unfair, will be less *liquid*. So, to counteract the possible perceptions of injustice and thereby maintaining a liquid securities market, the economists have agreed with the lawyers that insider trading should be regulated (Blois & Ryan 2013; Mayer 2008; Möllering 2001; Werhane 1989). It is, in fact, the confidence in the functioning of the financial markets that is the "heart" of the regulation and the hope that it will lead to "a high level of private ownership on the stock exchange":

> Although the regulation of insider crimes varies between the countries of the world, its core is always the importance of public confidence in the securities market. The protection of outsiders against insiders is an important factor in establishing this confidence. By establishing public confidence, a high level of private ownership on the stock exchange can be achieved. (Frii 1998, p. 1)

Some scholars have, however, continued to be dissatisfied with these kinds of explanations for the ban on insider trading (Bainbridge 1999, 2000; Löfmarck 1988; McGee 2008, 2009; Ronen 2000), and have often associated the ban on "asymmetric information" to games:

> "The problem with this level playing field argument is that it is not possible or desirable to ever have a level playing field in the realm of economics. The level playing field argument is appropriate to apply to sporting events but not to economics /…/ there is nothing unfair about allowing experts who work 60 hours a week to gather financial information as part of their job to profit from that information. What is unfair is to force them to disclose such information to people who have done nothing to earn it." (McGee 2008, p. 210).

To search for and use information in order to compete with others is seen as the natural behaviour in the economy (Hasselström 2003), it is part of our view of *meritocracy* – the moral foundation of the *economy*. So:

> If insider trading is to be made illegal and if inside traders are to be punished, some other justification must be found" (McGee 2008, p. 211).

It is the fact that the insider trading ban is directed at the very *existence* of asymmetric information that causes severe problems and discussions and which leads the thought to the "games sphere", where "total parity among players", unlike in the economy, is an absolute requirement (Baudrillard 1990). The most interesting issue, however, about the suggestion that the Insider trading law perhaps is better understood and explained as a "game rule", is that the games rule, according to Baudrillard (1990), is the exact *opposite* of the Law, with all the consequences this entails, with respect to "fairness" and "morality", including the effect on our *trust* in western capitalism and in the society. The opposite of the *Law,* as it were, is not the *absence* of or *freedom* from Law, or even the *breach* of the Law, because all of those situations are still related to the "realm of Law" (ibid), as in the "other side of the coin". The true opposite and freedom from the Law is instead the *Games Rule*, which is valid only within a very specific and restricted sphere or system.

Sjödin (2006) argued that both economists and lawyers tend to misunderstand the insider ban when they discuss it as a rational (economic) law that should make sense in an *economic context* or a moral law that primarily concern ethics and *fairness*. Drawing on Baudrillard and Foucault, she concluded that the insider trading ban is better understood as a *games rule*, with the aim of protecting, not so much the consumers (outsiders), as the "market makers", the "semi-insiders", the financial system/industry, from having to compete with corporate insiders. Since the insider trading law is meant to protect the financial industry, the "fairness" argument falls. The reason for this is that the market makers, the "semi-insiders", are the actor who set the prices, and who have the role and job of upholding liquidity, and therefore the role of creating and sustaining the financial market. By prohibiting "asymmetric information" in order to uphold the public trust, however, the authorities aim is to stimulate financial trade/speculation among the public, and in doing so, making the financial markets (and the economy) into "games" (Sjödin 2006). Sjödin (2006) argued, furthermore, that "equal trading opportunities" in reality is not even wanted, because if the trading opportunities would be equal, if the true equality existed, as in a lottery, there would be no trade, or much less trade. Because if everybody has exactly the same information at exactly the same time (= equal trading opportunities), and everybody behaves according to "economic man"; like the rational profit-maximizing agents – who then would sell if the information is positive? If everybody acts exactly the same, there would be *nobody* to trade with (Sjödin 2006).

The structure of the rest of the paper is the following:

(3) The problem of "trust" or "confidence" at the heart of the insider trading law
(4) The games rules as the opposite of law.
(5) The origin of the insider trading law.
(6) The financial markets as games
(7) Conclusion

3. Confidence, Trust and *Distrust*

Upholding "confidence" as the "back bone" of the insider trading is a problem. Aghion, Algan, Cahuc, & Shleifer, (2010) showed that in a cross section of countries "*government regulation is strongly negatively correlated with measures of trust*" (p.1015). In fact, whereas *distrust* creates public demand *for* regulation, regulations in turn *discourages* formation of trust. With high levels of regulation people expect high levels of corruption (ibid). The negative correlation is valid for a wide range of measures of trust: trust in others, in corporations and political institutions, as well as regulation in product markets and labour markets (ibid).

Research focus trust

Because the economy is a social construction, it works only as long as we have confidence in its more or less abstract professions, currencies and institutions (Gilbert 2005). In fact, "trust" or "confidence" is the foundation, the glue, and the prerequisite for all collective activities, it is what holds a society together (Luhmann 2015; Kristensson-Uggla 2012). "Trust" or "confidence" have, therefore, been extensively studied in all fields of the social sciences (Chaudhuri & Holbrook 2001; Giddens 1996; Gilbert 2005; Granovetter & Swedberg 1992; Ingham 2007; Kroeger 2017; Lapavitsas 2007; Luhmann 2015; Morgan & Hunt 1994; Möllering 2001). The majority of the "economic" studies, however, are characterised by an "optimistic bias" and focus on the *positive* side of trust (Skinner et al., 2014, p. 2007). They focus on *how to create trust/confidence* in service situations or in the abstract constructions, such as brands and the various financial constructs. Identified problems are whether a form of money or payment method will be widely accepted, and stability, i.e. whether the value of money relative to other goods and services will remain more or less constant (Lapavitsas, 2007; Lascaux, 2012).

The dominating focus in business studies: *how to create trust*, is quite interesting since the *normal* condition is to actually already have trust or to have "confidence" (unless something bad happens) (Giddens 1996; Luhman 2015). Granted, trust is only relevant and in play where there is *ignorance* and/or *uncertainty* (Giddens 1996), where there is something undecided, an openness, and trust is, for this reason, always made on the basis of a "leap of faith" – something more than just "cognitive understanding" (Giddens 1991). But we don't expect the worst unless our experience tells us to do so because trust is generally built on experience, i.e. past events and any consequences of these events (Giddens 1996; Luhmann 1968).

Trust in people involve "facework commitments" in which the face one sees displays signs of honesty in a given field in the presence of all involved parties (Giddens 1996). Our modern time, however, is full of "*disembedding*" mechanisms, Giddens points out two of them: the creation of symbolic means of exchange, which can circulate regardless of who uses them, i.e. money, and the creation of "expert systems", which demands trust of a *different* kind.

The "disembedding" concept signify such situations in which social relationships and systems are lifted out of their local interaction contexts only to be "re-embedded" in unlimited areas of time and space (Giddens, 1990). In these situations, the individual relies on the knowledge of the *faceless* experts, who are perceived to possess the reliable knowledge the individual lacks (Giddens 1996). This trust is in a sense “blind”, but works, just because it is normal to “trust” or have *confidence*, unless something bad happens (Luhman 2000).

Luhmann (2000) makes an interesting distinction between “confidence” and “trust”. The normal case is, according to him, that of passive “confidence”: to dare to get out of bed every morning without even thinking about it. You cannot live without neglecting, more or less, the possibility of sudden disappointment (Luhmann 2000). You are, for example, confident as you are walking down on the pavement that a car will not suddenly leave the street and hit you. The unconscious confidence in abstract systems thus enables the dynamics of modern society because the social actors possess confidence *despite* a lack of knowledge about the system or contact with experts within it (Schlichter & Rose 2013). The alternative is to live in a state of permanent uncertainty (Luhmann 2000), and permanent stress.

“Trust”, on the other hand, is, for Luhmann (2000), an active “choice” and presupposes a specific situation of risk: you may or may not buy a used car which turns out to be a “lemon”. Trust requires an *engagement* on your part, active risk taking in order to gain, you can avoid taking the risk, but only if you are also willing to surrender the possible gains. So, if *“you do not consider alternatives (every morning you leave the house without a weapon!), you are in a situation of confidence”* (Luhmann 2000, p. 97). “Trust” is thus defined as the situation where one option is chosen over another in spite of the possibility of being disappointed by the action of others. Today’s liberal economy is constantly forcing people to make *active choices*.

The financial supervisory authorities (FSA) have since the 1990s made considerable efforts in increasing the public’s interest and financial literacy/capability to be able to make *active choices* with respect to financial investments and pensions (Remund 2010; Van Rooij, Lusardi, & Alessie; 2011; Williams 2007). This explains the implementation of the insider trading laws with the aim to uphold the “confidence”. But because “confidence” is something we are unaware of and, when everything is fine, normally take for granted (Luhmann 2000), it may diminish as soon as we made *aware* of the alleged “need” of having it and the need of authorities for creating it. As Mary Douglas (1992) has shown about the “risk culture”, the more information, awareness and scientific knowledge we get about the more or less natural risks, the more afraid we become.

It is like Focault (1975) have argued about the effects of the *confession* of unwanted sexual drives; the confession itself becomes an erotic experience, which creates new “lines of flights” for desire. The talk becomes the liberating moment, which is the opposite of what was intended. In fact, Foucault (1975) suggests that it is the “talk itself” that becomes the new historical form of the desire. In order words, it is through the communicated restrictions the new (sexual forms) are created. This is true also for the happenings in the las subprime crisis, where it was the restrictions in the form of new (capital) rules about required security margins that made the banks repackaged and transform loans into financial securities (Morgaged Backed Securities MBS and Credit Derivative Swaps CDOs) which they sold off via the so called “shadow banks”, or special purpose vehicles (SPV), to lower their level of risk in the balance sheets. It was, as we known, those financial constructs that hid the subprime loans which led to the financial meltdown of 2008.

The opposite effect of words

This suggests that the mere *talk* about upholding and restoring and creating “confidence” may have unintended and even the opposite effect of creating *distrust* (Krisensson-Uggla 2012), not only in the financial markets but also in the supervisory authorities, and even in the society. It has been suggested that Machiavelli’s advice to the Prince in how to control the people, was not really aimed as advice to the Prince as much as it was a way to expose the Prince to the people by putting words on how things really are, rather than what the Prince should do (Ehnmark 1986). Machiavelli did not, in other words, speak to a prince, as he pretends, and what was said to the Prince in terms of strengthening the oppression, can have the opposite effect of weakening the strength, simply be revealing the mechanism or even making the prince’ weapons available to the people (Sonnsjö 2009).

“Confidence” and “trust” must therefore remain the *silent glue* to hold the society together. You only need to talk about “upholding confidence” if there indeed *are* problems. Imagine standing on the Titanic deck on a sunny day and the captain shouts out in the speakers that there is no reason to worry...

Kroeger (2017) highlights this very problem when he calls attention to “*ever-new findings of all-time-low levels of trust in government, business, finance, health systems and regulatory regimes*” as well as underscoring “*the now-problematic nature of trust in expert systems*” (p 488). Skinner et. al. (2014) too, argue for more studies of the “dark side” of trust, i.e. *distrust*, and also for studies of trust as “a process, not simply a psychological state, or a cognitive, calculative orientation toward risk” (Skinner et al., 2014, p. 208).

Giddens (1990), like many others, regards money as a form of postponement that links credit and debt obligations in circumstances in which the immediate exchange of products (i.e. barter) is impossible. In other words, money is a way to “put time in parentheses”, thus uprooting, detaching, or “disembedding” transactions from their specific exchange environments. Maintaining trust in these expert systems (e.g. trust at a distance when it comes to monetary matters) and public awareness of acceptable levels of risk associated with the operation of these systems is central to Giddens’ theories (Unerman and O’Dwyer, 2004). Lapavitsas (2007) discussed too how credit-related trust is today being transformed from a private and subjective into a social and objective relationship as a result of financial institution practices. The credit system is a set of institutional mechanisms that convert trust into a formal, objective, measurable concept and image, rather than remaining individual and personal. The information and communication necessary to sustain trust become increasingly multifaceted and general and thereby increasingly “social” rather than “personal” (Lapavitsas, 2007).

Giddens (1990) argued that we generally trust these systems, because even when an individual is cheating us, we tend to trust the system as a whole. Trust in the abstract systems presupposes, therefore, “faceless commitments” which maintain our trust that the expert’s knowledge actually does work, something which we to a large extent are ignorant of, yet take for granted until something negative happens (p. 40). Trust in expert systems is a confidence in that certain principles, which we are ignorant of, are correct. This trust, however, is a trust that the systems in general are working the way they are supposed to work rather than a trust in their day-to-day operations. Individual corruption may betray our trust, but this event alone does not make us loose trust in the general expert system altogether. How actions are communicated is essential to how we perceive them (Luhmann, 1968), and this is especially important in abstract systems in which the sender cannot see how the message is received.

Luhmann (1968) argued that the trust in systems is anchored in repeated confirmatory experiences of the system, for example, the handling of money. Kroeger (2017) points out, however, that the knowledge about how trust in expert systems *originates* and come to be is unclear and under-researched. Giddens, Kroeger (2017) asserts, described the transition from face-to-face trust to trust in expert systems only as a matter of converting existing interpersonal trust ("because all trust building necessarily takes place between human agents") into trust in institutional systems through "facework" ("saving your face" in "Presentation of Self in everyday Life"), a concept Giddens adopted from Goffman, and which, Kroeger refined to: "Facework translates interpersonal into institutional and system trust through the conduct of representatives who are seen to draw on institutionalised rules and resources" (p. 497). To build trust in institutional systems happens, according to Kroeger (2017) alongside the process of building interpersonal trust, although they may require different arrangements of interactions and interpretations (p. 497), he pose the question of: "*what exactly it is that agents trust when they put their trust in institutional systems* (p. 498)." His answer is: Trust in the future conduct of the members of an institutional system and refers to:

- A combination of the *rules* and resources that govern its working and its continuous reproduction in the form of regular *social practices* with the agency of *individual representatives* who instantiate them actively and creatively in time-space.
    - The 1st dimension concerns ACTIONS, i.e. rules of *legitimation* and the *norms* they are expressed in. Credibility through congruence, honesty, cooperation and reciprocity. Integrity, i.e. correction of the 'moral' failures.
    - The 2nd dimension concerns COMMUNICATION, i.e. Rules of signification and symbolic actions.
    - COHERENCE among the first and second dimension is key, situational coherence (through sign vehicles), structural coherence (expressed in roles) and representational coherence (in the execution of those roles by the individual) i.e. internal coherence, situational coherence, representational coherence.

Also, the *individual* component, however, is vital, the notion of agents as "institutional dopes" (Kroeger 2017, p. 506) forced into "conformist patterns" does not build trust. So, in sum, it is the level of coherent behaviour and communication, in combination with the practice of agency that determines the trustworthiness. The symbolic actions which agents engage in must also be individually credible, and for this, their own individual commitment needs to be *visible* (Kroeger 2017, p. 507). The Financial Supervisory Agencies would, according to this definition attempt to "save their face" and the financial industry's "face" through their staff who followed the institutionalised rules. The experts' knowledge does not only concern calculating existing and future profits and risks; it also shapes our image of the future and therefore also shapes the actual future (Giddens 1990). Language and knowledge is in this way intimately linked to authoritative power relations, which ultimately creates "subjectivity": "obedient bodies" to be used, transformed and developed (Foucault

1991/1975). The expert language produces not only the “insider criminals”, but also “economic subjects”, when we are forced to choose financial investment.

4. Games Rule is the opposite of Law

Games Rules in restricted zones

To establish equality before the *Law*, to be able to pass judgement and assign accountability, people must be individuated, separated and identified. So, whereas the Law is universal and includes limitations and prohibitions related to the so called “real” world, inhabited by real human beings and their inner motives and morals, the games rule belongs to a restricted zone apart from the real world with have no interest in the individual and her motives; in the game we are all just “players” (Baudrillard 1990).

Games Rules are arbitrary

Because the Law is part of the (real) world of representations we must be able to understand it, the law must seem reasonable and fair according to some higher order, which makes it an object of deciphering and interpretations. By contrast, applying a rule has nothing to do with interpretation or with (real) justice (Wittgenstein 1992). Because the Rule involves obligations only within the “sphere of the game”, it is neither “ethical” nor “psychological”. The Rule is instead *immanent* to the restricted system, within which it is immutable and which it describes without transcending into other areas/territories/realities (Huizinga 1938/2004; Caillois 1958/2001). So, the game has no other meaning other than an intrinsic meaning, this is why its rules are imperative and absolute, beyond discussion Caillois (2004).

Signs, moreover, do not have the same status in the restricted sphere of games. We don’t have to understand the Games Rule we just accept it: “*It seems to me, I would say, that when I follow the rule, I do not choose. I follow it blindly*” (Wittgenstein 1992/1953, p. 101, my translation). Precisely because rules are arbitrary and ungrounded, they have no referents, and do not require a consensus, nor any collective “will” or “truth”; they exist, that’s all. There is, therefore, no fight with respect to the content of the Rule (Wittgenstein 1992/1953, p. 104). In the game we are released from the reality and its land of Law, from meaning and from morality, and from being an individual. The game Rule is therefore *amoral* (Baudrillard 1990).

Games Rules creates the game

Whereas the law comes *afterwards*, as a response to some already existing problem and unwanted behaviour; the games rule comes first as that which creates the whole games sphere that it dictates (Baudrillard 1990).

Game only ruined by refusal to play

Because the Law establishes a line between “good” and “evil”, it can and must be transgressed, by contrast, it makes no sense to transgress a Games Rule within a cycle’s recurrence, there is no line one can jump, instead, one simply leaves the game (Caillois 1958/2004; Baudrillard 1990). While the Law "floats above" scattered individuals, the game rules exist only when shared by the players (Baudrillard 1990). Cheating players, however, who violates the rules, although they take advantage of the other players' loyalty to the rules, do not destroy the game. This is because they *pretend* to respect Rules and do not debate them. The game is, instead, "ruined by the nihilist who denounces the rules as absurd and conventional and who because he finds the game meaningless, refuses to play" (Caillois 2001, p. 7).

In sum, the logic of the game is according to Baudrillard (1990):

(1) Total parity amongst the players within the space created by the Rule: this is the "level".
(2) Beyond the Rule, the foreclosing of the rest of the world: this is the barrier.

Play is according to Huizinga (2004):

(3) Play is completely voluntary, or else it is not play. (This may be compatible with Baudrillard's observation that the rule exists only when shared by all.)
  - Play is outside the ordinary or real life; what we do when we withdraw from ordinary life (same as Baudrillard's second principle about the foreclosing of the rest of the world).
  - Play is isolated from ordinary life by its limitation in time and place and by its strict boundaries (similar to Baudrillard's second criteria).

Caillois (2001, p. 9-10) includes the monetary game within the sphere of play and adds the following characteristics:

- Uncertainty: the course cannot be determined, nor the result attained beforehand.
- Unproductive: creating neither goods, nor wealth, nor new elements of any kind, except for the exchange of property among the players, ending in a situation identical to that prevailing at the beginning of the game.
- Governed by rules under conventions that suspends ordinary laws, and for the moment establish new legislation, which alone counts. (Compatible with Baudrillard second principle).
- Make-believe: as opposed to real life (Compatible with Baudrillard's second principle).

5. The Insider Trading debate

Facts and figures

The *criminalization* of illegal insider trading (involving courts and prison as opposed to mere monetary sanctions) co-existed with the deregulation, expansion and internationalization of the securities markets during the mid 1980s and accelerated during the whole 1990s. In 1998, 103 countries had stock markets and insider trading laws existed in 87 of them. Enforcement, however, as demonstrated by the amount of *prosecutions*, had taken place in only 38 of them (Bhattacharya & Daouk 2002), and the actual *convictions* were even fewer. Before 1990, the numbers were 34 and 9 (ibid). Few are convicted still (Frijns, Gilbert & Tourani-Rad 2013).

Opaque origins – No mentioning of the term "Insider Trading"

- The obscure origin supports the argument that the insider trading law is a games rule, as opposed to a law.

An important principle in countries governed by the rule of *Law* (as opposed to dictatorship) is that laws should be derived from previous legislation (Torpman 2002). This is because the *Law,* as explained*,* must be understood, and *make sense* and for this to be the case, it must be based on previously legislation grounded in universal reason (Baudrillard 1990). Yet, as soon as examples and arguments are retrieved from the so called "real economy", the ban on "asymmetric information" seem absurd. McGee (2008) discussed the situation when someone has privileged information about an upcoming sale in a *department store*, and who therefore postpone an indented purchase in the wait for the sale. He asks: "*Is there anything unethical about profiting from the use of such information?"* (p. 206). It seems as if the insider trading law is more like the "games rule", which you should just accept blindly, without questions (Baudrillard 1990; Caillois 2004; Wittgenstein 1992).

The main ground for the controversy around the insider trading law is that the relatively new ban on insider trading *cannot be derived from any existent law* or regulation (Bainbridge 2001; Löfmarck 1988; McGee 2008), it is, on the contrary, referred to as a "foreign bird" (Löfmarck 1988). This explains the vivid debated about the insider trading ban, especially in the USA, where the regulations are governed by "common law", grounded on precedents, which seek to support settlement in private market outcomes between individual parties (LaPorta & Schleifer 2007). In Europe, which for most parts is governed by European civil law, however, the insider trading laws have not been questioned as much, if at all, possible because this legal system seeks to replace such market-based outcomes with state-desired allocations (LaPorta & Schleifer 2007), such as the insider trading ban. Under common law, the state prefers to use regulation for creating settlements between private actors, as opposed to European Civil Law which use regulation mainly to restrict the involvement of market actors (ibid).

The origin of the insider trading ban is attributed by most scholars to Roosevelt's "New Deal-package" in 1934, which was a response to the 1930s Stock Market Crash (Bainbridge 2001; Löfmarck 1988; Bhattacharya & Daouk 2002; Hu and Noe 1997). It can, however, also be traced back to state corporate law in the early 1900s. Three approaches where developed with respect to securities trade between 1900-30 (Shefrin & Statman 1993):

(1) A "no-duty (to disclose insider information before trading) rule",
(2) A "special circumstances approach", which permitted insider trading without disclosure only in the absence of special circumstances, and
(3) "the fiduciary-duty rule", which required insiders to disclose material information when buying or selling stocks.

Approach (2) and (3) were applied, at this time, only when insiders engaged in *face-to-face transactions* with *existing* shareholders. In anonymous "the exchange transactions", however, the *no-duty rule* was followed (Shefrin & Statman 1993, p 27). So, in the beginning, insiders had no obligation to disclose information in anonymous exchange situations. This is, in other words, not the origin of the ban of asymmetric information.

Those regulations were instead, according to Bainbridge (1999, 2001), directed towards "excessive speculation" and "*manipulative or deceptive device or contrivance*". Nothing is, in fact, said about "insider trading" in anonymous exchange transactions. Bainbridge (2001, p. 9) claims that "insider trading" was not even one of the Exchange Act's original purpose:

> "Is insider trading a breach of the disclosure obligations created by the Exchange Act? /…/ Careful examination of the relevant legislative history, however, suggests that regulating insider trading was not one of the Exchange Act's original purposes."

The word "insider" is not mentioned in the Exchange Act: "*The second point to be noticed is the absence of the word "insider." Nothing in § 10(b) explicitly proscribes insider trading*" (ibid). Bainbridge argued, like Löfmarck (1998), that the insider trading ban is "*a new land of the law*".

Because the obscure origins, several researchers, especially in the USA, i.e. Bainbridge (1999, 2001), Leland 1992; Manne (1970), McGee (2008, 2009), Ronen (2001) and Shefrin & Statman (1993) have tried to determine what the grounds really are.

Traditional securities regulation which is derived from the Anglo-Saxon "common law", demands an *identifiable* victim, that is, an individual (person or firm) who have been deceived and who have also have *suffered damage* (Adams, Perry & Mahony 2018; Bainbridge 2001; Löfmarck 1988), and moreover, that an intention to deceive – a *motive* – is established. Because the New Deal crimes requisite includes the establishment of an *intent* to deceive *somebody specific* (Bainbridge 2001; Manne 1966), the legal scholars want to *identify* the *individual victim*. Insider trading could, according to Löfmarck (1988), have been handled by several already *existing* criminal provisions such as "fraud", or "breach of trust towards principal" as well as various principles for "protection of confidential company secrets", but noted that if this would be the case, there would be no need for a special insider regulation. Bainbridge (1999) too noted that insider trading should be viewed as a problem between *the* *insider* and the *company*, as a violation against the protection of company "property rights" (to the information). But McGee (2008, p. 2012) illustrate how futile it would be taking this approach with the following example:

> "Financial analysts generally obtain information about a company by analyzing public information and interviewing company officials, who are often too eager to provide whatever information is requested. In such cases, it can hardly be said that the financial analyst misappropriated information belonging to the company, and there should be no prohibition on using the information for profit. Such property is owned by whoever has taken the time and effort to gather it, and the company therefore has relinquished whatever claim it once had."

The focus on "individuals" and "real" relationships, reflects the "*centuries-old tradition of viewing problems in the context of a case or lawsuit, the arena for settling disputes between two live, human being*" (Manne 1966, p. 2-3, 1970). Thus, their "*acceptance or rejection of a practice will reflect their notion of fairness of the transaction simply from the point of view of the two individuals involved*" (Manne 1966, p. 2-3). Those crime requisites are difficult, even next to impossible, to pinpoint in the case of illegal insider trading, yet, nobody believed at the time that "confidence" grounded in a "perceived unfairness", could be the real ground for the ban. Otherwise a proponent of the prohibition, Bainbridge (2001) wrote:

> …vague and poorly articulated notions of fairness surely provide an insufficient justification for the prohibition /…/ It is purely fortuitous that an insider was on the other side of the transaction. The gain corresponding to the shareholder's loss is reaped not just by insider traders, but by all contemporary purchases whether they had access to the undisclosed information or not (Bainbridge 2001, p. 71-72).

Bainbridge account for a Business Week poll which found that 52 % of the respondents wanted insider trading to be prohibited, while at the same time, a Harris poll found that 55 % of the respondents would use the insider information if they got hold of some. And of those who said they would not use the insider information, 34 % admitted that it was because they would be afraid that the insider tip would be wrong. From these answers, Bainbridge draws the conclusion that the investors have no illusions about the integrity of the market. And because he cannot find a credible story for investor injury, he fails to see how investors' confidence could possibly be undermined.

Shefrin & Statman (1993), furthermore, explain that "the relevant sections of the 1934 act focus on *penalties* and *sanctions*, rather than on *demarcating* the border between acceptable and unacceptable behaviour" (p. 27). It has been notoriously hard to determine the boundaries of this crime (Bainbridge 1999, 2001; Shefrin & Statman 1993) because insider trading *per se* is *legal* – as long as it is not based on *unpublished information*, something which must be proven. It is problematic to demarcate the "illegal" from the "legal", since it is only under certain circumstances insider trade is prohibited. McGee (2008) remark that the question of what "insider trading" is has not yet been defined by the US Congress,"…*perhaps because Congress could not clearly define what insider trading is"*, with the "*effect of an* *increase in litigation*", since the "*courts are left to form their own definition of the ''crime.''*" (p. 214).

In Sweden, it began with a governmental investigation (SOU) in the 1970s into the question of *how to liven up the Swedish financial markets* (Jonsson 2002). The instructions, however, was not to investigate *insider trading*, it was the investigators themselves who remarked that they had come across the possibility that it may exist, and that the mere *possibility* of insider trading was enough for implementing a sanction (SOU 1984: 2, p. 12):

> "There are indications that insider speculation has occurred. Because this procedure has not yet been covered by social sanctions, evidence that insider speculation actually has taken place is missing. However, the investigation has found that already the suspicion of the occurrence of insider speculation in such a serious way disturbs the confidence in the securities market that a social sanction should exist already for this reason".

Several researchers, especially lawyers (Brudney 1997; Löfmarck 1988), but also some economists, have studied court records and cases for the purpose of understanding the motive for the insider ban and the nature of the crime (Bainbridge 2001; Brudney 1997; Manne 1966, 1970; (Shefrin, H. & Statman, M. 1993). There is also much research on the effect of the insider regulation on "market efficiency", as well as legal research on the insider law's effectiveness in judging and curbing crime, all with mixed results. But few have studied the insider trading ban from a social constructivist perspective with a focus on the "reality" law is intended to create, that is, the "productive" side of the insider ban. Because the ban against insider trading was created at the time when governments wanted to liven up the financial markets and started to internationalise the capital markets, it seems, also in this respect, to be more similar to a *Games Rule*, which is what creates the game, as opposed to *life* that exists also without human laws and constructs.

6. Securities markets are games

The financial markets have many times been likened to games in popular literature, but there is not, within the research fields within business administration many scholarly studies and serious empirical analyses of the financial markets through the "gaming lenses". McGoun (1997) used Baudrillard´s concept "Hyperreality" in his analysis of the securities prices and markets through time, and argued that the securities market is better understood as a "hyperreal game" separated from the so called "real economy". Just as Baudrillard's concept of the "hyperreal" identifies a phenomenon that has liberated itself from- and become "*more*" than the original, McGoun's analysis shows how the securities prices, with the speculation, released themselves from the corporate fundamentals[1], and became "more" than the originals, i.e. overvalued in relation to the corporate fundamentals, they were meant to merely represent.

[1] McGoun has in later work shown that there has never been a real connection between original and its representation (security), which is in line also with the work of Baudrillard.

McGoun (1997) argued, moreover, that the link to the overall economic and moral purpose of the financial markets (at the macro level as a means of stabilizing commodity market prices and at the micro level as means of moderate long-term savings and risk minimization) can be questioned as financial investment in speculation seems to have become a "game for the sake of the game". This is because financial trading/speculation has become the very source of the economy's instability; an instability which the financial market was meant to an insurance against. It is the trade itself that has become the end goal (McGoun 1997). Since the means (financial trading) has thus become the end goal (speculation), we have been given "speculation for the sake of speculation", or, in other words, games not for the society's (public) sake, but for "game for the sake of making money". Financial trading has hereby "cut loose" from

(1) its material activities, the real economy: the original cause and
(2) its "moral function" of maintaining the righteous values (prudent risk minimization),
(3) to become "pure speculation", or "hyperreal" speculation (McGoun 1997). The speculation has, so to speak, begun to "live a life of its own".

McGoun links this transformation to Baudrillard's image of how reality and different kinds of values and values are transformed by what and how they are symbolized (symbols) and what and how they signal (sign): (Baudrillard, 1981, p. 113 cited in McGoun, 1997, p. 106 - 107).

''This would be the successive phases of the image:
—it is the reflection of a basic reality
—it masks and perverts a basic reality
—it masks the absence of a basic reality
—it bears no relation to any reality whatever: it is its own pure simulacrum. "

Bay (1998) too showed that it is impossible to separate the "financial derivatives market" from a "game", as (1) it is the derivative trade as such that creates "the game", i.e. the very same risks it is, at the same time, said to hedge against, and also because (2) the derivative trade is trade that delivers "no-thing". Bay (1998) terms this "gamenemics": activities de(p)rived of any content. This Economy AND Game, what Bay calls "gamenemy" is sheer *form* without real content: "no longer serving any (useful) purpose, the separation of economic means from economic ends" (p. 13). Bay (1998) and McGoun (1997) makes no clear distinction between the "Games sphere" and the "Economy's sphere", or between the so called "Real Economy" and the "Financial Economy".

In this study, however, the distinction between "Economy" and "Games" is upheld. Drawing on Aristotle and Marx, the distinction is more precisely this: (1) means separated from end, and (2) form (activity) without real content (delivery) of raw materials, goods or services. The distinction is Aristotelian and drawn between activities that have a *natural limit* as opposed to the activities that are *limitless*. Thus, the world "economy" signifies, in this study, activities that involve physical *materia,* where service, goods or raw materials are circulated and delivered, whereas speculation in money, trade without any real content or delivery, is defined as “games”. The distinction is apparent in Marx’s interpretation of Aristotle’s conception of the *natural* or *unnatural* or “proper” and “improper” economy, where exchange has been identified to have ‘a double use’ (Bay 1998, p. 150). (Bay’s account of Aristotle’s view is well worth reading and is presented in whole in the appendix.)

“Natural” and thus “proper” economic activities are according to Aristotle the exchange of Commodities for Commodities, or exchange of Money for Commodities, something which has a “natural limit”, in Marx formula:

C – C
C – M – C.

Money is here only a means for facilitating barter, *means* to an end. The “unnatural” and “improper” activities are according to Aristotle “exchange for the sake of Money”, an activity with no natural limits, in Marx formula:

M – C – M
M – M

The distinction made in this study between economic activities with a natural limit, and the limitless gaming activities, where money (the means) has become the end goal, and money is “copulating with money” Bay (1998), is similar to the distinction made by the classical economics, Smith, Richardo, Mill and the other, who in their time very much disliked the “middle men”, the market makers, who, according to them, produced nothing valuable (de Monthoux 1989). The classical economists, from the French physiocrats and Adam Smith to Keynes, problematised the need for intermediaries, and concluded that although these actors can have a useful function in providing the marketplace, they mostly represented a luxurious and unnecessary consumption, and that their fees for holding the marketplace drained the necessary companies and their production of resources (de Monthoux, 1989). The classical economists, did not want to make everything into economic matter (ibid), they wanted balance, and time for art and love (ibid). Bay (1998, p. 93) explains: “Even though many of us may have forgotten about it, it was not very long ago since the self-referential copulating of money (the means or instrument par excellence), that is, charging interest, was considered to be a purgatory sin, and, consequently, severely punished.” Bay (1998, p. 152 – 153) explains further:

> “As already mentioned, the two types of trade, the economic and the chrematistic, are easily con-fused since they make use of the same means and/or property to conduct their businesses: money (in its widest sense). Therefore, to resolve this confusion, and to dispel the last shred of doubt concerning the meaning of his message, and to consolidate his categorical incision once and for all—marking thereby a boundary that should never have been transgressed by economics—Aristotle announces what he considers to be the most extreme case of chrematistic bastardry: ‘Very much disliked [miseitai, lit. hated] also is the practice of charging interest [obolostatike]; and the dislike is fully justified, for the gain

> arises out of currency [nomismatos] itself [autou], not as a product [ktesis] of that for which currency was provided. Currency was intended to be a means of exchange [metaboles], whereas interest represents an increase in the currency itself [de tokos auto poiei pleon]. Hence its name, for each animal produces its like [homoia ta tiktomena], and interest is currency born of currency [de tokos ginetai nomisma ek nomismatos]. And so of all types of business [khrematismon] this is the most contrary to nature [malista para phusin].'"

To draw a sharp distinction is an attempt to determine a balance between economic matter and other important values and activities in life, such as art and love...

to be continued...

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Appendix I

Bay, T. (1998).
AND ... AND ... AND
Reiterating Financial Derivation,
p. 146 - 155.

Can be downloaded at: http://www.diva-portal.org/smash/get/diva2:401309/FULLTEXT01.pdf

In order to make this folded, simulative kind of reasoning more reasonable, so to speak, and hence be able to continue and further develop the analysis of the (concept of) economy, I believe it to be necessary to investigate closer Aristotelian economics. A crucial distinction which governs Aristotle's economics is the opposition between phusis (nature), the world as objectively given, and nomos (law, convention, institution), the world as constituted by man—a thought figure which is powerfully present in Greek thinking right from its beginnings. It is with this model in mind that Aristotle distinguishes between oikonomike, a supposedly natural economics and khrematistike, a supposedly unnatural chrematistics, between a good and a bad mode of producing and acquiring goods. While the former is limited to procuring the things and articles which are necessary to exist, whether through hunting or farming, truck or barter (i.e. some sort of allage, exchange), or natural trade (metabletike), the latter is limitless, and its end is as clear as it is simple: to make profit on mercatorial exchange (kapelike). 'One form then of property-getting [ktetikes] is, in accordance with nature [phusin], a part of householdmanagement [oikonomikes], in that either the goods [khrematon] must be there to start with, or this technique of property getting [i.e. oikonomike] must see that they are provided; goods, that is, which may be stored up, as being necessary for providing a livelihood, or useful [khresimon] to house-hold [oikias] or state [poleos] as associations [koinonian]. And it looks as if wealth [ploutos] in the true sense [alethinos] consists of property such as this. For the amount of property [kteseos] of this kind which would give self-sufficiency [autarkeia] for a good life is not limitless [apeiros].... there is a limit, as in the other skills [tekhnais]; for none of them have any tools [organon] which are unlimited in size or number [apeiron oudemias esti tekhnes], and wealth [ploutos] is a collection of tools [organon plethos] for use in the administration of a household [oikonomikon] or state. ' The Greek word khrematon, translated above as goods—and referred to as property in the next sentence, and later as a means or organon—can also mean money, stamped coins as well as money in the more primitive sense, that is, realvalue assets such as gold or silver. Therefore, the khrematon which Aristotle obviously considers to be so important to his economy, that is to say, 'wealth in the true sense', may just as well consist of money. After all, wealth is, as Aristotle points out, a collection of tools, and money indeed 'is the purest form of the tool'497. This would mean that to Aristotle a good and wealthy life consists in the proper use of economic means to procure a sufficient amount of those necessities which are needed in order to satisfy the true wants (in relation to phusis) of the oikonomia.

'But there is another kind of property-getting [ktetikes] to which the term "acquisition of goods" [khrematistiken] is generally and justly applied; and it is due to this that there is thought to be no limit [peras] to wealth [plouton] or property [kteseos]. Because it closely resembles that form of acquisition of goods which we have just been discussing [i.e. allage, exchange, e.g. truck or barter, and metabletike, natural trade which Aristotle considers to be a necessary and accepted feature of oikonomikon, the administration of the household], many suppose that the two are one and the same. But they are not the same, though admittedly they are not very different; one is natural, the other is not. This second kind [i.e. kapelike] develops from the exercise of a certain kind of skill [tekhnes] won [ginetai] by some experience [empeirias]. Let us begin our discussion thus: Every piece of property [ktematos] has a double use [khresis]; both uses are uses of the thing itself, but they are not similar uses; for one is the proper use of the article in question, the other is not. For example a shoe may be used [pragmatos] either to put on your foot or to offer in exchange [metabletike]. Both are uses [khreseis] of the shoe; for even he that gives a shoe to someone who requires a shoe, and receives in exchange [trophes] coins [nomismatos] or food, is making use [khretai] of the shoe as a shoe, but not the use [khresin] proper to it, for a shoe is not expressly made for purposes of exchange [allages]. The same is the case with other pieces of property [khrematon]: the technique of exchange [metabletike] can be applied to all of them, and has its origin in a state of affairs often to be found in nature [phusin], namely, men having too much of this and not enough of that. It was essential that the exchange [allagen] should be carried on far enough to satisfy the needs of the parties.... Such a technique of exchange [i.e. metabletike] is not contrary to nature [phusin] and is not a form of money making [khrematistikes, i.e. in its unnatural sense]; for it keeps to its original purpose: to reestablish nature's own equilibrium of self-sufficiency [autarkeias].... So clearly trade [kapelike] is not a natural[phusei] way of getting goods [khrematistikes]'498, because it carries exchange too far beyond the limits set by nature, it creates an unnatural state of disequilibrium, an instability in what is already given by phusis.

Hence Aristotle uses the concept of khrematistike in two senses, as (1) the art of securing necessities, 'the art of supply', comprising, in turn, two forms of exchange, allage and metabletike, that is, the exchange of goods for goods or for money; and (2) the art of money making, exchange based on kapelike, the pursue of monetary gain. The first mode of acquisition, of exchange, covers any kind of natural transactions, all the dealings which are considered vital to the survival of the economy, ranging from hunting and farming, via truck and barter, to natural trade (metabletike). Marx describes these Aristotelian exchange transactions structurally as, on the one hand, an economic transaction where one commodity is exchanged for another: Commodity — Commodity, that is, truck or barter (allage); and, on the other, a sale-and-a-purchase: Commodity — Money — Commodity (metabletike), that is, an economic transaction using money as a medium of exchange or circulation, as a means to facilitate the actual exchange of two commodities, the factual transaction of a good between a buyer and a seller. While in the first case the exchange is accomplished through a single metamorphosis where one commodity is transformed into an other, in the second it is 'accomplished through two metamorphoses of opposite yet mutually complementary character—the conversion of the commodity into money [C — M, sale], and the re-conversion of the money into a commodity [M — C, purchase].'500 Through the intervention of money the simple swapping of commodities is turned into a process of selling in order to buy. In both cases, however, the purpose of the exchange is the same, to transmute some-thing which has a non-use value into something else which has a use value; or to acquire a use object which has a higher use value than the use object one is using as a means of exchange/circulation (whether commodity or money). In short, the final goal of both exchange transactions is the satisfaction of needs, or, if one prefers, consumption.

However, as Aristotle so ingeniously illustrates by his example of the shoes (above), every piece of property ‘has a double use’ (proper and improper): as a thing with intrinsic worth or use value, and as a use value to someone else, that is to say, as an exchange value. Exchange value, consequently, is what concerns the second mode of exchange, commercial trade: Money — Commodity — Money' (kapelike), ‘the transformation of money into commodities [M — C, purchase], and the re-conversion of commodities onto money [C — M, sale]: buying in order to sell [dearer].’ In this form of circulation (which Marx calls the circulation of money as capital), obviously, only more economic tools are generated, not property, goods, or commodities. Its driving force and final end is thus not, as in the prior (simple) form of circulation (metabletike), use value and the satisfaction of needs, but exchange value and an endless desire to increase the quantity of money/exchange value. Hence in the first form of trade (metabletike) money—being solely a means of exchange, a means to an end or reference which lies outside the movement of the exchange itself—has served its purpose when its final aim is reached, when one commodity is exchanged for a qualitatively different commodity, a new use value. In the second form of trade (kapelike), however, ‘the circulation of money as capital is an end in itself, for the valorization [Ververtung, i.e. a quantitative increase or advance] of value takes place only within this constantly renewed movement.’502 In this unceasing movement of money, the augmentation of exchange value, use value is completely extinguished. Stated another way, when wealth is thought to be accumulated through monetary means only, that is, when the circulation of money is considered to be the one and only true source of riches, then khrematistike becomes the art of moneymaking alone: it becomes chrematistics. (It may be interesting to notice that Aristotle pondered over the double character of economic property—that every economic thing is an objectof-use-and-exchange, that a good possesses use value and exchange value at one and the same time—and the social consequences of the activity of buying and selling, for more than two millennia before Marx wrote his Capital; an observation which might tell us something about the generality of this economic enigma, and the extent to which buying and selling has and indeed does effect the way we organise not only the economic world, but the social world as well.)

Although both exchange (allage) in the form of truck or barter, and trade in the form of metabletike are a perfectly natural part of the oikonomia, and thus are not forms of moneymaking, it was out of these activities that moneymaking arose. ‘Once a currency [nomismatos] was provided, development was rapid and what started as a necessary exchange [allages] became trade [kapelikon], the other mode of acquiring goods [khrematistikes]. At first it was probably quite a simple affair, but then it became more systematic [tekhnikoteron] as men become more experienced at discovering where and how the greatest profit [kerdos] might be made [poiesei] out of the exchanges [metaballomenon]. That is why the technique of acquiring goods [khrematistike] is held to be concerned primarily with coin [nomisma], and to have the function [ergon] of enabling one to see [theoresai] where a great deal [plethos] of money [khrematon] may be procured [poietike] (the technique does after all produce wealth [ploutou] in the form of money [khrematon]); and wealth [plouton] is often regarded as being a large quantity [plethos] of coin [nomismatos] because coin [nomismatos] is what the techniques of acquiring goods [khrematistiken] and of trading [kapeliken] are concerned with.’

As I am sure you have noticed, unless one is really attentive to Aristotle’s semantic transpositions, and well acquainted with (or as in my case, very interested in) the Greek language, the risk of getting caught in this chrematistic vertigo is immense, and may, consequently, cause a great deal of both conceptual and practical bewilderment. In the fragment just cited, for example, Aristotle uses the word khrematistike in both its senses, as the art of supply and moneymaking; and it is not altogether clear in each case to which of the alternatives he is referring. Furthermore, khrematon, which earlier (see above) connoted goods and property, now connotes money. The English translations are of course quite accurate, but if one does not know which Greek word has been translated, it is easy to get bewildered; since if only one possible translation is presented during, for instance, a critical passage in the text, the textual play is entirely forfeited, and, unfortunately, so is comprehension. Thus, when (the concept) khrematistike operates in the text, it means potentially both the art of supply AND moneymaking; and, likewise, khrematon may signify simultaneously money and what money can buy and sell. This con-fused reasoning, this bastard way of reasoning, of course, has practical implications as well. When wealth (the set of tools applied in the organisation of the economy) is misunderstood and hence (mis)used for the sole purpose of monetary gain or profit (kerdos), then this results in a diversion of the means of economic action from, as Aristotle apparently sees it, its natural and final objective, namely to produce use values, to satisfy natural human needs. By con-fusing these economic means with what they are supposed to achieve, by constantly turning use values into exchange values, this mode of exchange, commercial trade, fosters the illusion that means and ends are actually one and the same thing, that money and wealth are, so to speak, two sides of the same coin.

'Hence men seek to define a different sense of wealth [plouton] and of the acquisition of goods [khrematistiken], and are right to do so, for there is a difference: on the one hand wealth [plouton] and the acquisition of goods [khrematistiken] in accordance with nature [phusin], and belonging to household-management [oikonomike]; on the other hand the kind that is associated with trade [kapelike], which is not productive [poietike] of goods [khrematon] in the full sense [ou panton] but only through their exchange [dia khrematon metaboles]. And it is thought to be concerned with coinage [nomisma], because coinage [nomisma] both limits [peras] the exchange [allages] and is the unit of measurement [stoikheion] by which it is performed; and there is indeed no limit [apeiros] to the amount of riches [ploutos] to be got from this mode of acquiring goods [khrematistikes].' (The word stoikheion used here by Aristotle to define what he takes to be the essence, the most significant element of commercial exchange, is the same word Lucrete, Democrite and Epicure used to characterise an atom, the primary body, the indivisible element, the minutest component constituting the objects of the material world.) 'The kind [of khrematistikes] which is household-management [oikonomikes], on the other hand, does have a limit [peras], since it is not the function [ergon] of household-management [oikonomikes] to acquire goods [i.e. through khrematistike, which is only a means to an end, not an end in itself]. So, while it seems that there must be a limit [peras] to every form of wealth [plouton], in practice we find that the opposite occurs: all those engaged in acquiring goods [khrematizomenoi] go on increasing [auxousin] their coin [nomisma] without limit [peras], because the two modes of acquisition of goods [khrematistikes] are so similar. For they overlap [epallattei] in that both are concerned with the same thing, property [kteseos]; but in their use [khresis] of it they are dissimilar [ekateras]: in one case the end [telos] is sheer increase [auxesis], in the other something different [heteron]. [To designate the "thing", that which the two kinds of chrematistics have in common but use for different ends, the translator has chosen the word kteseos(property); in the original text, however, Aristotle first uses the word khresis (use), only then does he speak of the use of a property (kteseos khresis), emphasising thereby not only the double character of the property, as both means and end, use value and exchange value, but that we are dealing with a practice rather than a thing, with relations rather than objects.] Some people therefore imagine [dokei] that increase is the function [ergon] of household-management [oikonomikes], and never cease [diatelousin] to believe [oiomenoi] that their store of coined money [nomismatos ousian] ought to be either hoarded [sozein], or increased [auxein] without limit [apeiron].... their whole activity centres on business [khrematismon], and the second mode of acquiring goods [khrematistikes] owes its existence to this.... [T]hese people turn all skills [poiousi] into skills of acquiring goods [khrematistikas], as though that were the end [telos] and everything had to serve that end [telos].... [This] is contrary to nature [phusin].'

Aristotle has carefully and purposefully been sharpening his double-edged chrematistic sword, time and again he has rehearsed his economic strategy, preparing himself for incising a final classification. Guiding his thought and hand is, like always, the distinction between phusis and nomos, or (which amounts to the same thing) between phusis which produces and presents itself, and tekhnê which 'either imitates nature, or completes what nature cannot bring to full finish'. 'The acquisition of goods [khrematistike] is then, as we have said, of two kinds; one, which is necessary [anagkaias] and approved of [epainoumenes, lit. praiseworthy], is to do with household-management [oikonomikes]; the other, which is to do with trade [kapelikes] and depends on exchange [metabletikes], is justly regarded with disapproval [psegomenes], since it arises not from nature [phusin] but from men's gaining from each other [allelon].' Hence, on the one (good) side of the crevice necessary chrematistics, natural exchange delimited by the needs of the economy, trade aiming for a just (dike) distribution of goods, a corrective or regulative dispensation of property derived (directly or indirectly) from nature; and on the other (bad) side, unnecessary chrematistics, unnatural exchange limited only by money, which by definition has no limits (since it is both the medium and the end of the transaction, at one and the same time, it consequently lacks an end outside itself which could limit its monetary movements), the trading of goods for the (in Aristotle's mind, deviant) purpose of unlimited monetary gain (kerdos). Stated another way, while oikonomike delimits chrematistic deviations, khrematistike de-limits economic derivatives, deviates economic delimitations. Retrospecting for a moment the statement cited in the beginning of this chapter, 'Economics is the study of the use of scarce resources to satisfy unlimited humanwants.'508 (the fundamental presupposition of modern economics) it becomes pretty clear how Aristotle would view the object of this study, the economy. He would no doubt approve of and accept the assumption about the use of scarce resources, it being so closely related to his conception of wealth as a limited set of economic tools; but the second assumption, however, contaminated as it is by the desiring un- of un-limited, makes modern economy, in Aristotle's eyes, not economic but chrematistic.

As already mentioned, the two types of trade, the economic and the chrematistic, are easily con-fused since they make use of the same means and/or property to conduct their businesses: money (in its widest sense). Therefore, to resolve this confusion, and to dispel the last shred of doubt concerning the meaning of his message, and to consolidate his categorical incision once and for all—marking thereby a boundary that should never have been transgressed by economics—Aristotle announces what he considers to be the most extreme case of chrematistic bastardry: 'Very much disliked [miseitai, lit. hated] also is the practice of charging interest [obolostatike]; and the dislike is fully justified, for the gain arises out of currency [nomismatos] itself [autou], not as a product [ktesis] of that for which currency was provided. Currency was intended to be a means of exchange [metaboles], whereas interest represents an increase in the currency itself [de tokos auto poiei pleon]. Hence its name, for each animal produces its like [homoia ta tiktomena], and interest is currency born of currency [de tokos ginetai nomisma ek nomismatos]. And so of all types of business [khrematismon] this is the most contrary to nature
[malista para phusin].

This passage, I would say, displays the critical point, the crisis of Aristotelian economics, the limit at which his economics de-limits itself; that is to say, the decisive act in which it opens itself to deconstruction, offers itself to a catachrestic understanding (that is, an interstanding or (non)meaning for which there is (yet) no sign, and which consequently is attainable only through the constitution, or, rather, the invention of a new/the "misuse" of an old word or concept).

At stake in this (ethical/moral) struggle between good production, natural generation on the one side and bad production, monetary generation on the other, obviously, is the "true nature" of economic exchange: economic exchange itself and its tokos, its products or offspring. 'As product, the tokos is the child, the human or animal brood, as well as the fruits of the seeds sown in the field, and the interest on a capital investment: it is a return or revenue.'510 For Aristotle, economic exchange can only be a transaction with nature, an exchange of natural things or necessities, and the use of money, consequently, can be justified only if it is employed as a measure of value and means of exchange—indeed money's 'fundamental function, which defines it and accounts for its existence, is to serve as a medium of exchange'511—that is to say, as a tool facilitating the exchange between the oeconomy and nature. This is why money must serve an extrinsic purpose, must have an end or telos posited outside its own monetary movements which it can satisfy; and why exchange must be the exchange of some-thing (useful). Hence in natural trade (metabletike) money acts as a kind of midwife delivering (distributing) the legitimate offspring among the parties (the seller and the purchaser) involved in each transaction, deriving a commodity from one place into another. Money is a (secondary) means to a (primary) end, its existence derives from the fundamental need to exchange necessities— whose value is measured by money. Commercial trade (kapelike) is still, in a sense, engaged in transactions with nature, the buying-and-selling of goods and commodities, but for the wrong reason (profit); the exchange itself is the productive generator, diverting goods from their intended use, from their own use values. Money deviates from its originary course, digresses from its primary end, supplements it—adds itself to it and takes its place—with another tool, another derivative, an increased sum of money. When it comes to charging interest (Money — Money') 'money which begets money'512, however, the detour through property is superfluous, of no use, unnecessary; that is to say, the relation to nature, to any sort of good or commodity, is completely annulled. There is thus no exchange with nature at all, which means that money no longer serves any purpose or aims at any-thing, but 'enters into a private relationship with itself, as it were.'513 Nontransactional exchange: unmediating means which produce more means, inter-esting deviants which procure deviants; a self-referring or onanistic operation involving neither nature, ends nor origins.

In natural trade goods use money to produce legitimate tokos, qualitatively differing goods—since, obviously, there is little or no sense in selling and buying two identical commodities, at least as far as their use values are concerned. In commercial trade, money uses commodities to procure illegitimate tokos, derivatives of derivatives, copies of itself, copies which differ only in quantity, not in quality. In trade all things are exchangeable for money and money for all things; an apple turns into a banana, money turns into more money; the former, distributive form of trade is productive of goods in the full sense and therefore good, the latter only generates more means and, consequently, is not productive in the full sense and therefore bad for the economy. In the practice of charging interest money copulates with money to engender inbred tokos, monetary bastards, derivative deviants. Nothing is exchanged, nature is subjected to the whims of money, becomes its nature. Although it is the nature of some animals to produce their likenesses, it is not the nature of money to do so, whether through mercatorial trade or in the form of interest. Therefore, neither the tokos resulting from kapelike nor from monetary copulation receive the economy's blessing, but are branded as chrematistic bastards: illegitimate derivatives and incestuous deviants respectively.

These chrematistic practices are of course utterly unacceptable to Aristotle, especially the latter, since for him allage, exchange in the primordial, necessary sense of the term, is constitutive not only of every form of econnomy, but of any kind of human association as such.514 This fact is further underlined by Nietzsche who writes: 'Buying and selling [understood here, perhaps, in its most general sense, as an act of exchange].... are older even than the beginnings of any kind of social forms of organization and alliances'515. 'Exchange, Aristotle said, sprang from the needs of the extended family the members of which originally used things in common which they owned in common. When their numbers increased and they were compelled to settle apart, they found themselves short of some of the things they formerly used in common and had therefore to acquire the needed things from amongst each other. This amounted to a mutual sharing. Briefly, reciprocity in sharing was accomplished through acts of barter. Hence exchange.'516 This proportionate exchange of necessities, goods for goods, commodities for commodities (whether through natural trade or barter) between the members of the constantly growing household economies, was thus considered by Aristotle as a reciprocal process of sharing, an act of distribution. The problem, as Aristotle saw it, was how to make the traded commodities commensurable, equal, how to find a unit of measurement, a value that could make one kind of good (e.g. corn) comparable to another (e.g. wine), and which furthermore could be shared by all in the economy. 'Now this unit is in truth [aletheia] demand [khreia], which holds all things together [sunekhei] (for if men did not need one another's goods at all, or did not need them equally, there would be either no exchange or not the same exchange); but money has become by convention a sort of representative of demand ['upallagma tes khreias to nomisma gegone kata suntheken', which I would rather translate as: money is by convention the substitute/exchangeable representation of need/want]; and this is why it has the name "money" (nomisma) because it exists not by nature [phusei] but by law (nomos) and it is in our power to change [metabalein] it and make it useless[poiesai akhreston].'