

# Emergent Orders of Worth: Must we agree on more than a price?

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**Abstract:** Market exchanges are widely believed to rely on an overlap of interest, this paper argues that many market exchanges actually rely on a broader agreement between buyer and seller. The broader agreement includes the moral justification of the exchange and the associated norms of propriety. To arrive at this broader agreement markets rely on systems of non-price coordination. These non-price coordination systems, or orders of worth as we call them, can be thought of as emergent orders just like the price system is an emergent order; they are sources of justification that can be drawn upon to warrant the worth of diverse artifacts and the legitimacy of trading them. We show that Adam Smith's theory of sympathy offers conceptual means for analyzing the emergence of such orders. To make sense of the emergence and functioning on these orders we draw on Smith's organon and link it with contemporary work in economic sociology by Luc Boltanski and Laurent Thévenot. We demonstrate how our theoretical framework can further our understanding of justifying exchanges of contested goods with two illustrative cases: contemporary art and surrogate motherhood.

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## I. INTRODUCTION

It is widely agreed that voluntary economic interactions are based on an overlap of interest. This paper argues that exchanges typically rely not just on an overlap of interest, but on a more extensive agreement. To explain the emergence of the more extensive agreement we examine Adam Smith's work and we look into the broad conceptual frame that the *Theory of Moral Sentiments* (1759/1984) provides for the *Wealth of Nations* (1776/1981). What we find is a theory of self-interested human beings that typically seek moral approval which is gained by adhering to emergent rules of propriety. In Smith's account propriety—or, indeed, the search for mutual agreement—is the fundamental motivation of human actions. Smith further demonstrates how mutual sympathy between two individuals can be extended to a wider scope of social interactions, his notion of the impartial spectator, and the internalization of this construct, is a theo-

ry of how notions of propriety that originate in the intimate order are extended to communities and ultimately society at large.

Smith's theory provides a foundation for more recent work in economic sociology which demonstrates that markets are in part structured by emergent orders of worth (Boltanski and Thévenot 1999; 2006).<sup>1</sup> The common ground is the issue of justification: how can we justify market exchanges? Although a minimal justification would be that the seller is willing to sell at a price at which the buyer is willing to buy, we argue here that most market exchanges rely on more extensive agreement between buyers and sellers. This necessity for more extensive agreement is particularly visible for “contested commodities”—artifacts for which it is not generally agreed that monetary exchange is the appropriate way of exchanging them (Radin 1996)—goods that were previously not traded on markets, or which have more recently been shielded from market exchange. This is not to say

that such agreement does not underlie other “non-contested” exchanges, but since there is widespread acceptance of the underlying agreement on how to estimate the value of non-contested commodities, that agreement is less directly visible.

Our thesis that exchanges typically rely not just on an overlap of interest, but on a more extensive agreement rests on a contention that the orders of worth that embed this agreement and thus shape markets are emergent phenomena, just like market prices. They are kinds of emergent non-price coordination, and complement the price coordination that takes place in markets and is widely regarded as the primary type of emergent coordination. These orders of worth are built on interpersonal agreement about the appropriate way to justify the worth of artifacts that agents deal with in their social interactions, they structure *why* and *how* exchanges take place in the market.

We challenge the notion that prices are the sole emergent coordinating mechanism at work in market exchanges, and we provide a theoretical framework that allows us to analyze disputes that arise over contested commodities. We show an important link between the work of Adam Smith and contemporary economic sociology. This link helps us move beyond many of the ethical disputes on whether everything should be for sale (Sandel 2012) suggesting an empirical way forward that studies the way in which moral justifications and critiques of market exchange emerge.

In what follows, using Smith’s notion of sympathy we develop an account of how interpersonal norms can spread throughout more extensive orders. Using the framework of Boltanski and Thévenot we show what kind of orders help structure market exchanges both in terms of justifying them (*why* should we buy and sell?) and in terms of propriety (*how* should we buy and sell?). Finally, we illustrate the value of this framework by analyzing the emergence of markets for two contested goods, contemporary art and surrogate motherhood.

## 2. MOST MARKET TRANSACTIONS RELY ON MORE THAN ONE SYSTEM OF COORDINATION

The notion of coordination is a concept related to the notion of order. These two notions are inextricably linked since order is the result of a coordination of various elements of a group (Caldwell 2004, p. 309; see also Hayek 1967). Economists of all sorts have stressed the coordinating capac-

ities of the market system. The way that markets coordinate human actions is through prices. High relative prices indicate scarcity and provide incentives to look for substitutes, low relative prices on the other hand point toward a profit opportunity. Hayek marveled at the economy of price coordination pointing out how little the individual participant needs to know to take the right course of action; the agent merely needs to follow a symbol, an aggregated essence of knowledge about a change in the system that is passed from the man on the spot to those who are concerned about that knowledge (Hayek 1945, pp. 526–527).

But is it really true that market prices do all the coordinative work? Is price coordination the only emergent form of coordination or are there some other forms of non-price coordination that shape market outcomes and human exchange more generally?<sup>2</sup> What role does (moral) persuasion play in facilitating exchange? And is it not true that shared notions of what is valuable also emerge on markets? Perhaps prices alone are not always as useful a signal as economists assume and, perhaps, non-price signals are not as useless as we are sometimes led to think.

One response to these issues is that prices take over the role that other forms of coordination fulfill in more intimate settings. Hayek believed that more extensive agreement is usually necessary within intimate orders: “Cooperation, like solidarity, presupposes a large measure of agreement on ends as well as on methods employed in their pursuit. It makes sense in a small group whose members share particular habits, knowledge and beliefs about possibilities” (Hayek 1988, p. 19). But he is quick to emphasize that such agreement limits what the group can achieve: “[Cooperation] makes hardly any sense when the problem is to adapt to unknown circumstances; yet it is this adaptation to the unknown on which the coordination of efforts in the extended order rests” (ibid). In fact Hayek develops what could be called the two-world hypothesis in which he argues that the small group and the extended order are based on rival and contradictory norms and rules:

If we were to apply the unmodified, uncurbed, rules of the micro-cosmos to the macro-cosmos (our wider civilization), as our instincts and sentimental yearnings often make us wish to do, we would destroy it. Yet if we were always to apply the rules of the extended order to our more intimate groupings, we would crush them. So we must learn to live in two sorts of world at once (Hayek 1988, p. 18).

We read Adam Smith as making an argument that the two orders are indeed based on different and occasionally conflicting principles, but that the relation between these two orders is gradual rather than oppositional as Hayek seems to suggest. In fact, Adam Smith's notion of mutual sympathy is the concept that connects the intimate order with the extended order.

There are in fact implicit clues in Hayek's work that suggest that coordination of plans depends not only on prices, but also on social norms (Vaughn 1999). As Paul Lewis and Peter Lewin (2015) rightly point out, the knowledge that agents need to coordinate their plans is contained not only in price signals but also in formal and informal social rules. Prices are not unambiguous pieces of information and any information about changes, about social phenomena including information about changes in prices must first be interpreted and understood before people can use it as their knowledge and act upon it. Consequently, "the dissemination of knowledge required for plan coordination is facilitated not only by price signals but also by a set of intersubjectively shared rules and norms" (Lewis and Lewin 2015, p. 3). We wish to expand on this work and propose a theoretical framework built around Adam Smith's theory of moral sentiments to provide some insights into how shared rules of interpretation and norms of categorization emerge as an unintended consequence of the search for moral approval.

## 2.1 Emergent Non-Price Coordination

We contend that apart from the price coordination, there are systems of coordination that function on the basis of signals distinct from prices. These are systems of coordination that rely on approval and disapproval; it is here assumed that these systems of coordination rest on the tendency of agents toward sympathy. Consequently, these non-price systems of coordination often have direct impact on the functioning of the price-system coordination. Apart from market prices, approval and disapproval (the smile and the frown) are therefore other sources of emergent coordination.<sup>3</sup>

Sympathy in the sense we employ it is a technical term meaning coeffective behavior.<sup>4</sup> Smith in his *Theory of Moral Sentiments* (henceforth *TMS*) thought of sympathy as a projection; it is a sentiment that can be both positive and negative. For instance, when our friend wins a lottery our "sympathetic passion" tends to coincide with his happiness. On the other hand, when our family member or our friend suffers a loss, we tend to mourn with her. This is "the sympathetic passion of the spectator" (*TMS*, I, iii, I, § 9).

Sympathy is a concept distinct from compassion, furthermore, sympathy is a sentiment distinct from approbation. Sympathy makes it possible for us to evaluate and esteem actions of other men and of ourselves; this act of evaluation or judgment simply consists in the emotion which arises from a coincidence between the spectator's projection, the sympathetic passion, and the original reaction of the person principally concerned. In this sense, sympathy is a "fundamental principle in human nature" that is propelled by a desire to agree, "to be in accord with our fellow men" (Haakonssen 1981, p. 49). Although we tend to share the joy of winning a lottery with our friends, we would perhaps disapprove of their reaction were it exaggerated or inconsiderate. This is the mechanism behind social approval and disapproval. If we approve of another's reactions as appropriate to their situation, we generally tend to observe that we can imagine ourselves in the person's situation, we can entirely sympathize with them. On the other hand, when we disapprove, perhaps, observing a biased or a corrupt judge, in such a situation we cannot completely bring ourselves to sympathize with the person with question (*TMS*, I, i, 3, § 1). In that sense Smith provides a theory that revolves around the proper response to a situation.

How can any agent know whether his or her actions are proper and permissible? We suggest that the sentiment of approval or disapproval always presupposes "some other being" who judges of the observed actions of agents. In turn, it is only by sympathizing with the "arbiter of his conduct" that an agent can decide whether his actions are proper and permissible. Social interactions—regardless of whether they take place in a market setting—always consist of at three classes of agents: there are always the interacting agents and "some other being" called a spectator (see Figure 1). At the most basic level both the agents and the spectator can be individuals. But the agents and/or the spectator can be groups of people, communities, firms, or organizations. The spectator can be endowed with political power, the spectator can be a jury, etc. Most importantly, as Smith suggested, the spectator can be the conscience of the agent that substitutes for any other "real" spectator.

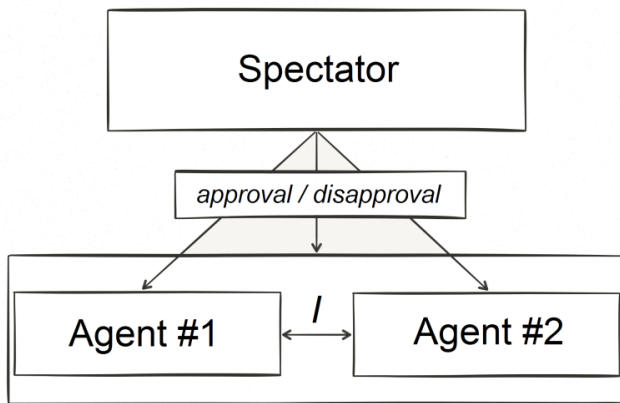


Figure 1: Every social interaction always consists of three kinds of agents, the interacting agents and a spectator who judges the actions and motives of these agents and the interaction (I) between them.

Smith gives us a step-by-step theory of sympathetic evaluations through which the spectator either approves or disapproves of agents' actions and interactions. First, the spectator must put himself into the agent's shoes in order to *distance himself* from his present situation and to "expose himself to the same causal influences as the man originally concerned" (Haakonssen 1981, p. 51). Second, the spectator *reacts* to this imagined situation after having exposed himself to the sentiments that the man originally concerned have felt. Third, the spectator *compares* the original actions of the observed agent with his response to sentiments that were brought up by the imaginary change of situation. Finally, in case of a coincidence of these two sentiments, the spectator feels a kind of pleasure—he *approves*—or, in case of less than a perfect coincidence, a kind of pain—in which case he *disapproves*.

But since sympathy is something mutual between men, it is both given and taken, agents judge and are being judged. The realization that there is something to be observed and judged makes the agent adjust his behavior and imagine how his actions would look in the eyes of other spectators. Consequently, agents try to arrive at a spectator position toward themselves. When we try to create such a spectator position, we must first *distance ourselves* from our present situation, we try to take an impartial perspective with regard to our situation. Second, we try to imagine how such an imagined impartial and fair spectator would *react* to our original situation. Third, we try to see whether this imagined fair spectator could *enter into and sympathize* with our original motives and actions. Finally, if we can thoroughly enter into our original motives and passions, we approve

of them. This evaluation of our own actions is impossible without the exercise of *removing ourselves from our natural station*. We can, however, often achieve this by *imagining* how our actions and interactions appear through the eyes of other people. Such an exercise of self-reflection based in our sympathetic sentiments gives rise to a process of permanent adjustment of our beliefs about what the proper and permissible actions and motives are. We create and permanently adjust our projection of an impartial spectator, which is the model of morally right action. This adjustment is a social process by way of which shared social standards that make social life possible unintentionally emerge.

Through the operation of mutual sympathy, improper actions and interactions are weeded out.<sup>5</sup> It is important to understand, however, that it is not merely the original behavior of agents that makes the spectator approve or disapprove by way of this sympathetic exercise. The factor which ultimately determines the sympathetic evaluation is the *logic of a situation* within which the observed behavior takes place: "Sympathy ... does not arise so much from the view of the passion, as from that of the situation which excites it" (*TMS*, I, i, I, §10). The cause of sympathy is therefore not the original observed act but the situation within which the behavior takes place; moral evaluation is a problem of appropriate behavior in light of a given situation, "[t]o be able to judge is to be able to know the situation" (Haakonssen 1981, p. 47).<sup>6</sup>

In the suitability or unsuitability, in the proportion or disproportion, which the affection seems to bear to the cause or object which excites it, consists the propriety or impropriety, the decency or ungracefulness, of the consequent action. (*TMS*, I, i, 3, § 6)

Evaluating behavior as proper is essentially a two-step process. First, the logic of the situation needs to be identified: what type of situation is it, and what type of behavior is appropriate and suitable in this situation? Or more to the point, what are the (common) goods that we aim for in these type of situations? Second, what is the extent to which the relevant artifact contributes to these common goods? As we will explain in the following section, the first step necessarily involves ambiguity about which situational logic is at play. The second step, consequently, introduces a problem of how to reconcile competing individual valuations within the given situation. The suitability and the propriety of behavior is necessarily context dependent—it changes with time and place—we consider someone's conduct suitable when "we

observe that his conduct has been agreeable to the general rules" (*TMS*, VII, iii, 3, §16).

To give just one example the type of behavior that is appropriate and suitable is different when we are sleeping in a hotel or sleeping in a friend's house. Both for the hotel staff, our friends, and you as guest. Ambiguity about the appropriateness might however arise when it is not quite clear what type of exchange we are engaged in. If we are couch-surfing are paying guests supposed to behave as friends would, or rather as we would in a hotel? Underlying this ambiguity is an ambiguity about the type of common goods we are trying to achieve. Although customary conventions are historically contingent, they are very real in the sense that they provide an ecological rationality.

We live in a pluralistic society with multiple notions of the common good to strive for; multiple notions of justice are operative in modern societies. These plural notions of justice are best thought of as competing representations of the impartial spectator. How can people agree on which representation of the impartial spectator is the right one? What if our representations of the impartial spectator collide? Are we bound to disagree and fall into dissonance or conflict?

### 3. COORDINATION AND ORDERS OF WORTH

Recent work in economic sociology provides further insight into what we identified above as the ecological rationality typical of exchange situations, broadly conceived. Boltanski and Thévenot (2006) speak of diverse "worlds" within which distinct justifications are constituted. They argue that in situations of conflict, actions will have to be justified. From an analysis of a wide variety of such disputes they have distilled six distinct worlds in which actions can be justified. They recognize that these justifications of goodness are not mutually exclusive, but frequently reinforce each other. On the other hand, they also emphasize that when two orders of worth are used simultaneously there is always the possibility of friction and conflict. These orders of worth are not "hostile worlds" (Zelizer 2000), instead they represent a plurality of justifications that co-exist and structure social interactions.

Their account shares important similarities with that of Smith. Both theories emphasize the importance of propriety, and the context-dependence of propriety. They also share an emphasis on the plurality and imprecise nature of the good. But where Smith emphasizes elements of estimative justice, *how* should we respond to particular situations, Boltanski and Thévenot add the analysis of the content of that justice. Their orders of worth are *substantive* possible justifications

of particular actions, and modes of criticism to delegitimize the actions of others. Whereas Smith's account focuses on the search for mutual agreement, Boltanski and Thévenot focus on the possibility of dispute. The justifications of actions, they argue cannot be reduced to a single standard or order of worth, as various social sciences, including neoclassical economics, have attempted. These orders of worth reflect the plurality of standards in contemporary societies.

There are six orders of worth that Boltanski and Thévenot identify: the inspired world, the domestic world, the civic world, the world of fame, the industrial world and finally the market world. From these they have derived worlds that internally cohere and justify action and decision-making. The domestic world, for example, is characterized by good manners, conventions and tradition and strongly based on hierarchical relationships between parents and children, kings and subjects. Propriety in this world requires loyalty, service, obedience and civility. And actions are justified in relation to the common good of a shared tradition, or the position in a "natural" hierarchy.

The market world is, on the other hand, free from the prejudices and attachments that characterize the domestic world. It is characterized by competition, rivalry, buying and selling and the creation of value for others. Typical relationships are those between buyer and seller, or employer and employee. And propriety in this world requires one to please the customer, to remain alert to opportunities, to negotiate, and to fulfill one's contractual obligations. While markets tend to be open and geographically unbound, the domestic world is typically attached to certain places and customs. It is thus a frequent criticism that the market makes everything equal, robbing it of the distinctiveness and particularity that is important in the domestic world. Too much dependence on domestic relationships might also look like favoritism in the merit-based world of the market. Or, to use Smith's language, such motives would be a form of impropriety.

To illustrate the idea of multiple co-existing orders of worth, David Stark asks us to think of writing an academic letter of recommendation. These letters typically invoke multiple orders of worth:

In fact, a given letter might include performance criteria from each of the six orders of worth. We would not be surprised, for example, to read that a given candidate is "very creative" (the inspired); that she is incredibly "productive" (the industrial); and that she is a "good citizen" (the civic). Moreover, the same letter could note that her work is "frequently cited" (the or-

der of fame or renown) and that she is fiercely “loyal to her graduate students” (check off another [the domestic]). Has the letter writer neglected the market order? We are not likely to hear about an academic as the author of a “best-selling” book. Look through the letter again and you might find that the candidate “has a strong record of getting grants”. (Stark 2009, p. 12)

Stark’s example does not only suggest that plural orders of worth are operative, but also that academic performance, like many other “goods”, are valued for a variety of qualities not all of which can nor should be priced; our idea of what they are good for is complex and plural. This variety also points to possible tensions between these worlds. In fact outside of the inflated realm of recommendation letters, it seems unlikely that any academic can contribute to all these common goods. We may, for example, think of trade-offs that exist between the goal of being “very creative” and “highly productive”. But the strength of the Boltanski and Thévenot framework is that they demonstrate that most situations are open to these type of conflicts, in the sense that they are never wholly determined or formed by one order of worth. Just like in Smith’s broad virtue ethics framework, the goods to strive for tend to be multiple. As they argue: “Equitable judgment seeks to appease the tensions inherent in the plurality of principles of agreement in this universe, by making accommodations and by taking recourse to mitigating circumstances” (Boltanski and Thévenot 2006, p. 150).

In our illustrative case studies below we show how such accommodations play a vital role in the justification of market exchange of goods, that are thought to be unsuitable for it. Boltanski and Thévenot add one important insight that links their work up with that of Adam Smith. In Smith’s work we find the notion of the impartial spectator which symbolizes the notion of justice. Boltanski and Thévenot similarly emphasize what they call the “reflective moment” in action (Boltanski and Thévenot 2006, pp. 348–349). It is in such reflective moments, which can be individual or social, that the relevant notions of justice are invoked and come into conflict with each other. We should therefore examine disputes, for it is in such situations that a presumed implicit agreement needs to be made explicit. When we look at the cases of contemporary art and surrogate motherhood in a moment we will see that when the legitimacy of the monetary exchange is challenged, competing orders of worth, and hence competing notions of the common good are invoked in the dispute.

Before we turn to our illustrative cases, let us first summarize what our theoretical framework consists of. Inspired by Adam Smith we argue that human interactions are driven by the desire for agreement. Smith emphasizes the way in which this process of search for agreement unintendedly gives rise to norms of propriety, in terms of exchange relationships, this is the *how* of exchange. The framework of Boltanski and Thévenot touches on many points with that of Smith, but it emphasizes two additional aspects. First, it makes explicit the plurality of notions of justice in modern societies, and the way in which these may lead to compromise and conflict. Second, by emphasizing the justification of actions in reflective moments, it makes clear *why* an exchange might take place, or to what common good it contributes. Taken together their work provides a theoretical framework that allows us to study how new markets are justified and how norms of propriety emerge on such a market. By doing so we demonstrate the importance of more extensive agreement on such norms of propriety and justice on markets, thereby undercutting the strong distinction that is typically drawn between exchanges in the intimate order and the extended order.

#### 4. THE EXCHANGE OF “CONTESTED COMMODITIES”

In this section we examine two kinds of artifacts for which market exchange is contested. For these artifacts it is not generally accepted that market exchange is the appropriate way of dealing with them (Satz 2010; Brennan and Jaworski 2015). Examining the justifications underlying and the practices surrounding the exchange of such artifacts allows us to analyze the agreement that, if reached, is necessary to legitimize market exchange. The analysis of the exchange of such contested commodities allows us to do so because the agreement has only recently been achieved, or because it the agreement is still incomplete.

##### 4.1 Galleries: What is a New Painting Worth?

One type of contested commodities are artistic products, about which it is frequently argued that they are not fit for the market, because that would lead to commercialization of the products, devaluation or inauthentic art. This is also a type of good for which gift exchange is very important: between donors and artists, between artists who exchange their work (and views), as well as in donations to museums by private collectors. This exchange through gifts is often accompanied by a denunciation of market exchange (Abbing 2002, p. 39). As Hans Abbing points out navigating these two

spheres of interaction requires considerable skill on the side of the artist and other players in the art sector. Can gifts ever be transformed into objects of monetary exchange? And what is precisely the status of a sale to a “friend” for less than the market value? When operating in the sphere of monetary transactions it is important that the “sacredness” and love for art is respected. Somehow the gap between these two spheres has to be bridged. In terms of the Boltanski and Thévenot framework, the worlds have to be reconciled.

Olav Velthuis, in his study of the contemporary art market in Amsterdam and New York, similarly distinguishes between a logic of the arts which centers on quality—the connection between man and his work and the importance of inspiration and passion, motivations and justifications that overlap with the inspired world of Boltanski and Thévenot—and an economic logic organized around commensuration and monetary measurement. According to the market logic, goods are produced for profit and value that is independent of the maker or current owner (Velthuis 2005). This economic logic is organized around sellers and buyers, as Boltanski and Thévenot argue about the market order of worth and is aimed at a certain impersonality of the valuation.

To engage in a legitimate or justified exchange buyers and sellers must agree, not just on a price, but also on why monetary exchange is proper in this case. If both the buyer and the seller share a love of art then a monetary exchange is legitimate, but even so the exchanges are heavily structured by norms of propriety as Velthuis’s (2005) study of pricing strategies for contemporary art galleries demonstrates. The gallerist, who typically takes in about 50% of the retail price, has the function of keeping these worlds separate while at the same time connecting them. This somewhat paradoxical situation is reflected in the set-up of the art gallery as Velthuis shows. Galleries usually have a front and a back room, in the front room the artwork is displayed and there is no talk of money, the back room, on the other hand, is where deals are made. In the front room, where the art is, the conversation is about inspiration, meaning and creativity. In the back room the conversation is about what the work might fetch in the market (see also Coslor 2010). This physically separates the two logics, that of the market and that of the inspired world.

In line with what our theoretical framework suggests, gallerists and buyers go to great length to signal and demonstrate that they buy art for the right reasons. Gallerists prefer to sell to those buyers who share the passions of inclinations of the painter, the collectors. There is typically a preference for institutional collectors because they bestow more pres-

tige upon the artist by deeming him worthy of collecting, and are more likely to display the work. While selling to investors occurs, it is generally denounced, by both gallerists themselves and by artists. Prices, typically not posted, might be increased in such exchanges (they are not buying for the right reason). Velthuis demonstrates further that it is inappropriate for the gallery owner to “market” the works in his gallery, instead he acts as a critic and educator (otherwise he is not selling for the right reason). There is no just-below pricing going on, something that once again reeks of a dominance of the market logic, and the biography of an art work is essential in the story about it. Who made it, where was it made, what inspired the work and who owned it before. The rhetoric, an important aspect of norms of propriety and the *how* of the exchange, is firmly rooted in the world of inspiration (Velthuis 2005). Although Velthuis does not interpret his findings along the lines of propriety and denunciation, his study shows how these structure the way in which exchanges take place, and how these exchanges are justified.

Gallery owners, in their role as market intermediaries are constantly negotiating the tension between these two logics and justifications. Velthuis for examples cites one of the gallery owners who describes the process of telling his artists which artworks sold well:

Of course I will tell an artist what people think of an exhibition and which work they appreciate in particular, but you have to do it very carefully. Otherwise you intrude on artistic integrity. So you have to use very artistic sentences in order to get away with that. I will never proceed to say that they should make more of certain works (Velthuis 2005, p. 91)

The social setting of the galleries in this respect is important. The art world is well-organized and there is extensive monitoring and social sanctioning of behavior that is improper (Becker 1984). As such the recursive process of constructing a representation of the impartial spectator is very present in this particular setting. Gallerists can diverge too much from emerging norms of propriety, but by doing so they place themselves in a different market segment. “Respectable” galleries do not sell spin-off work or any type of merchandise which would once again bring out the conflict between the inspired and the market world. The deviants, however, consciously appeal to a logic of reaching out to the public and making art available to everyone. They are more responsive to the wishes of the consumer (paintings that match the interior and the couch). In other words they

negotiate the tension differently, but as a consequence they are not able to charge the same prices because justifications of high value using the inspired or artistic justifications typically lead to higher prices (Velthuis 2008, p. 48).

Velthuis's study, from which we extensively borrow here, lets us demonstrate a key insight: the justification of monetary exchange relies on the shared appreciation of art. We have shown that that the *why* of the exchange (the love of art), and the way in which the deal contributes to the prestige in the world of inspiration are two crucial elements for the functioning of the contemporary art market. These two factors give rise to a host of norms of propriety that structure the behavior and in turn enable the market exchange. These emergent norms legitimize a type of exchange that otherwise would be considered to degrade the product involved. Whether monetary exchange can be justified nonetheless, depends on whether agreement can be found on the common goal to contribute to, which will impact on how such monetary exchanges will take place. Sometimes such agreement has not been found or is actively disputed. Sometimes, as our next illustrative case shows, justifications come to be constructed for goods previously not traded on the market.

#### 4.2 Selling Babies vs. Renting Out Reproductive Capacities

Although motherhood used to be an uncontested category, the introduction of in vitro fertilization and the subsequent combination of this new technology with diverse contractual arrangements introduced a fundamental confusion in terms of what can and what cannot and should not be legitimately done.

Surrogacy agreements involve typically “a man and a woman who are a couple (the “intended parents”) and another woman (the “carrying mother”) who agrees to carry a pregnancy for them” (Shalev 1998, p. 83). In some jurisdictions, and depending on our conception of “mother”, the surrogacy contract may be subject to criminal punishment. In such cases the contract most likely involves a transaction of selling the child and as such is most likely going to be illegal. If, on the other hand, we consider the legal mother to be the commissioning mother, then the contract essentially involves a temporary provision of reproductive capacities; the “intended parents” merely rent the womb of the “carrying mother”. Whether it would be the one or another was in the case of surrogacy to be determined by a process of “representational redescription” (Denzau and North 1994) through which our categories of thought are constantly shaped and molded. Entrepreneurs, by means of legitimating new combinations, played a crucial role in this process.

In the United States surrogacy has been justified by means of stressing the “constitutional right of privacy which protects personal decisions with respect to marriage and reproduction” (Keane 1980, p. 147). This is a justification that emphasizes the “civic” worth of surrogacy—it empowers the contractual parties by way of expanding their freedom to choose with regard to procreation. A right for a mother to ask a price for the service she considers fit has been justified by way of diverse reasons. First, “[u]nless surrogate mothers can be offered meaningful compensation for their services, very few children will be brought legally into the world in this manner” (Keane 1980, p. 153), consequently, “a prohibition on compensation for surrogate motherhood is equivalent to a prohibition of the practice” (Keane 1980, p. 164). On a more general level, “it is difficult to specify precisely why the ‘commercialization’ of a surrogate motherhood arrangement is inconsistent with public policy ... ‘commercialization’ is the usual way in which many individual needs are satisfied” (Keane 1980, p. 156).

It is evident that justifications in the United States relied on a combination of the civic world and the market world. In other countries these two worlds tend to be more in conflict with one another, but in the United States the civic world typically empowers the individual, which makes it easier to combine civic with market justifications. The entrepreneurs and the surrogate mothers would also stress that they are in fact giving a “gift of life”, thus at the same time attempting to reinforce the common good of the domestic world, to which this artifact used to belong. The surrogate mothers as well as the facilitators of this exchange would sometimes emphasize that although made possible by way of financial compensation that makes up for the lost opportunities and incurred pain on the surrogate's side, this compensation is in no way expressing the worth of the unique “gift of life”. Justifying surrogacy along the civic, market and domestic lines gradually transformed the climate of opinion. Whereas in 1983 only about 39% of the US population approved of surrogacy, in 1992, it was about 55% of population that came to approve (Kuchař 2016).

It is illuminating to compare the process of justification of surrogacy in United States with the same process that took place in Israel and see how the interplay of different orders of worth differs in terms of what are the proper and permissible ways of carrying out surrogacy agreements. As Elly Teman (2003, p. 79) puts it, “the same technology can be oppositely ‘naturalized’ according to different agendas.” Teman adds that “the Jewish-Israeli experience of surrogacy may be read as a product of the Israeli cultural context,” where the



“state interest in a ‘naturalized,’ ‘gene-based’ notion of Jewish identity” plays a crucial role (Teman 2003, p. 92). In Israel “the centrality of the values of family and childbearing goes unchallenged” and the state fertility policies are extremely generous. Consequently, “[t]he incidence of infertility treatment ... measured by the number of clinics per capita ... is the highest in the world, four times larger than in the United States” (Shalev 1998, p. 75).

As Teman notes, highlighting the distinctive characteristics of the “civic” justifications of surrogacy in Israel, “the biblical directive of Jewish tradition to ‘be fruitful and multiply’ and the emotional needs of a people in a permanent state of war” result in the fact that the “cultural reproductive imperative is so strong that Israeli legislation actively encourages Israeli women to pursue technologically assisted reproduction” (Teman 2003, p. 80). Israeli women “enter into symbolic relations with the state specifically through their roles as wives and mothers” and when they decide to enter into a surrogacy agreement, they often tend to “use medical metaphors to create the ‘artificial body’ ... creating a distinction between the ‘medically managed’ body of surrogacy and the individual, ‘natural body’ that they inhabit regularly” (Teman 2003, pp. 84–85).

Finally, when entering into a surrogacy agreement “the amount of payment [a carrying mother can be paid] is subject to the approval of the statutory approval committee and is not a matter of freedom of contract as in personal services and labor contracts ... if the carrying mother receives payment beyond the approved sum she is liable to criminal prosecution for an offence carrying a maximum penalty of one year imprisonment” (Shalev 1998, p. 93). In the case of Israeli surrogacy, the “industrial” and “civic” orders of worth thus link up at the expense of the domestic justification. Surrogacy is regarded as a way to carry out a civic duty and to contribute to a common good of the people of Israel. As Teman points out, in the case of Israeli surrogacy there is also a prominent role of justification based on the “fame” order of worth: “[U]nmarried women in Israel use motherhood as a channel of status enhancement, because the stigma against single women in Israel is far greater than that against single mothers” (Teman 2003, p. 92). When surrogacy comes into play, Israeli women tend to consider it as “a status-enhancing experience personally and dismissing the threat of their further marginalization” (Teman 2003, p. 93) had they remained childless. Unlike in the United States, “[c]riticism of the technology inside Israel is almost non-existent” (Shalev 1998, pp. 75–76) and its justification is built around a heavily subsidized state-managed “industry”

that gives Israeli women incentives to enhance their “civic” status by way of serving their country.<sup>7</sup>

Norms of propriety and even the justifications for surrogate motherhood differ between Israel and the United States. But both cases clearly show that agreement has to be constructed, and is far more extensive than an overlap of interest. The different orders of worth are not necessarily hostile worlds, but reconciling plural notions of worth requires work. The agreement, moreover, is not isolated, but occurs within a broader legal and social context, that has to approve of the exchange.

The case-studies of art and reproduction demonstrate that more than a narrow overlap of interest is involved in the market exchange of these goods. For markets to function non-price coordination is necessary to allow individuals to agree on the propriety of the exchange, and on the appropriate way to understand and value the artifact. We specifically expect to find these “contested commodities” at the border between the intimate and the extended order. In such cases the agreement in smaller social groups has to be extended to the broader and more open market context. The resulting agreements, if reached, on the justification of the *why* and *how* of market exchange allow agents to pursue their self-interest, they constrain and enable what is proper and permissible at any given time and place. The construction of these justifications is the work of market-makers or entrepreneurs. Looking into the effects of entrepreneurship in the non-price processes of coordination is the next logical step of inquiry.

## 5. CONCLUSION

Not all emergent systems of coordination are price systems, there are alternative systems of non-price coordination that emerge from human interactions. This article has examined in particular how the desire for mutual sympathy and the resulting norms of propriety structure markets showing that market exchanges rely on an agreement than is more extensive than just an agreement on a price. To examine the nature of this more extensive agreement we have developed a theoretical framework based on Adam Smith’s notion of sympathy, and Boltanski and Thévenot’s concept of orders of worth. The emergent systems of non-price coordination we have examined here are built on an interpersonal agreement about the appropriate way to justify the worth of artifacts that agents deal with in their social interactions. From that justification, associated norms of propriety emerge, that structure market exchanges. This is particularly visible for

the so-called contested goods, of which two are examined here.

Our view contrasts sharply with neoclassical and broader economic notions of market exchanges which emphasize that only agreement on price between an individual buyer and seller is necessary for the exchange to take place. We have argued to the contrary, that exchange of a wide variety of artifacts relies on more than agreement on price, it relies on agreement about the underlying worth (and hence the meaning) of certain artifacts, and the legitimacy of exchanging them on the market.

We have used the examples of art galleries and surrogate mothers to illustrate how coordination about the justification of value occurs and how different orders of worth reinforce or destabilize one another. But our argument reaches further. The example of these goods for which market exchange is contested makes visible, as conflicts often do, what underlies market exchange more generally. We do not seek to argue that market exchange cannot be impersonal, instead we wish to highlight that market exchange relies on the implicit agreement about the nature of the good and the appropriate way to value it, even if individual valuations might differ within these constraints. In other words the understanding of the meaning of surrogate motherhood and art is shared by market participants, even though their willingness to pay might differ.

The value of a good is justified because it possesses certain qualities, which are related to certain notions of goodness or orders of worth. This non-price coordination relies on justifications that legitimize the worth of a good in relation to such a notion of goodness. Some reflection makes us realize that we engage in these type of justifications all the time. When we call something expensive or cheap we do so in relation to some order of worth. Such justifications are not isolated from the context in which goods are exchanged. So the proper conduct of the seller and the buyer is different in an art-gallery than in the grocery-store. And such proper conduct is different when we compare surrogate motherhood agreements in the United States and Israel.

We believe there are several reasons why the question of emergent non-price coordination deserves attention. First, our research contributes to the work that looks into how markets come to exist and how they are retained. Although economists have a good general understanding about how markets work once they have emerged, the question where markets come from, and how they emerge or can be constructed is far less explored. Second, we provide a perspective valuable for historians of thought. Our thesis identifies

links between the theory of justice that Adam Smith considered inseparable from his economic theory and today's economic sociology that develops such a theory of justice more or less independently of our economic theory. Third, we believe to have identified understudied aspects of entrepreneurship that have to do with the construction of justifications for the legitimacy of monetary exchange.

In cases of contested artifacts, entrepreneurs often change our institutions, including our categories of thought. This type of entrepreneurship, in contrast with those types of entrepreneurship more closely related to price, has received little attention, precisely because economists have turned a blind eye to the agreement that underlies market exchange. We believe that further work looking into the understudied entrepreneurial functions of non-market coordination will give us a much needed understanding about the process of how the agreement on the appropriate order(s) of worth is negotiated in a world of elusive technological change and development. Understanding the entrepreneurial activity that shapes our mental models and molds the existing orders of worth is indispensable for understanding the feasibility of certain institutional changes.<sup>8</sup>

## NOTES

- 1 Their work is part of a larger body of research, known in France as the economics of convention (Dupuy et al. 1989; Thévenot et al. 2005).
- 2 Ronald Coase (1934) offers a major contribution toward our understanding of how the line between markets and hierarchies is drawn but we would like to look beyond the markets-hierarchies dichotomy. We agree that parallel to markets there are hierarchical structures (firms or governments) as proposed by Coase and his neoinstitutionalist followers but we further argue that besides hierarchies there are also emergent nonhierarchical orders that interact with markets.
- 3 As Hayek (1982, p. 167) points out, "perhaps all that is innate is the fear of the frown and other signs of disapproval of our fellows."
- 4 The notion of "empathy" would perhaps in our common understanding of the term be closer to the meaning of the term "sympathy" employed among the Scottish Enlightenment scholars.
- 5 To go along with the garden metaphor, it should be made clear that unless the social norms are watered and

maintained, otherwise inappropriate behavior may soon grow again.

- 6 Explaining the concept of situational logic, Karl Popper (1976, p. 104) contends that “individuals act, in or for or through institutions. *The general situational logic of these actions will be the theory of the quasi-actions of institutions.*” Popper considered the problem of general situational logic and the theory of institutions to be the fundamental tasks of social science: “a theory of intended or unintended institutional consequences of purposive action ... could also lead to a theory of the creation and development of institutions” (ibid.), “[t]he task of describing this social environment ... is the fundamental task of social science,” this is a task of “explaining unintended and often undesired consequences of human action” (Popper 1976, pp. 101–102). On Popper’s concept of situational logic, see also Noretta Koertge (1979).
- 7 Carmel Shalev points out that being consistent with the *halakhic* (orthodox) doctrine of Jewish law, The Surrogate Mother Agreements Law (in force since 1996) “does not herald any revolution or even innovation in our attitude to reproduction, motherhood and women. On the contrary—it merely perpetuates values of a dominant patriarchal culture that does not treat women well. The Law glorifies motherhood and at the same time humiliates it” (Shalev 1998, p. 100).
- 8 This manuscript originally circulated under the title of “Economics of Convention: Sympathy and Social Norms” and was written for the 2015 *Cosmos + Taxis* conference at the Rochester Institute of Technology. For the invitation to present our work and for the support we are grateful to David Andersson and Lauren Hall. Furthermore we thank the participants at the 2015 APEE conference in Cancún, the Vizier seminar at Erasmus University Rotterdam and at the 2015 SDAE conference in New Orleans. Finally, we acknowledge the insights of two referees. Any remaining errors are our responsibility.

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