Economic Sociology as Comparative Macrosociology: Exemplified by the Moral Economy of Debt

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Abstract

While new economic sociology is often associated with the micro- and meso-levels of sociological analysis, there is also a long tradition in economic sociology that is rather concerned with the macro- and meta-analytical levels. Instead of focusing on economic actors and their relations, or the structure of networks and organisations, economic sociology understood as comparative macrosociology is interested in studying the socio-economic regimes and cultural-cognitive rationalities which characterise societies as a whole and take different shapes at different times and places. In this chapter, this tradition in economic sociology, which considers interactions of economy and society, and their mutual constitution, in the most comprehensive sense, is first briefly introduced and related to the subject matter of political economy and socio-economics. It is then illustrated with the moral-economy approach, which comes close to Polanyi's conception of social embeddedness and is here applied to transformations of the moral economy of debt in the context of modern capitalism. Using bankruptcy law as an indicator of the morality of market society in its development from commercial capitalism to industrial capitalism and consumer capitalism, the chapter exemplifies a historical-comparative approach of studying intersections of markets and morality focusing on debt relations.

1 Introduction: Starting from the concept of embeddedness

One of the core concepts of economic sociology that has been constitutive for the development of the discipline is 'embeddedness'. The picture that this term conveys is that something is enclosed by something else, that a thing is surrounded by a mass or material which covers and conceals it. Whether it is a splinter in the finger or a baby in the womb, the embedded thing has a separate identity but it is also incorporated into a larger entity. Inner and outer thing coexist in an intimate relationship, they react to and interact with each other.

A prominent way this picture is used in economic sociology is to describe the relation of economy and society. The most straightforward notion would be that the economy is embedded in society, which implies that the economy forms part of society as a whole. In more nuanced terms, one could describe the economy as a (more or less) differentiated part of society which itself is seen as a (more or less) integrated whole. The basic idea remains the same: that the economy is enclosed by society at large, which responds to, sustains or contains it – or both.

This picture of embeddedness has at least two implications. On the one hand, it makes a difference whether one describes the relation of economy and society in terms of part and whole or whether one conceives economy and society as two separate but interrelated entities on the same analytical level. Moreover, as a metaphor, embeddedness suggests a substantive relation of embedded and embedding thing, which cannot be easily reversed. If the economy forms a part of society, society cannot, in the same way, form a part of the economy.

All this can be questioned of course, and this has indeed been the case. The embeddedness concept has been interpreted differently in the development of the discipline. Krippner and Alvarez (2007) distinguish between 'interior' and 'exterior' notions of how economy and society are interrelated. An interior relationship means that the two spheres are regarded as nested into each other and may even be conceived as mutually constitutive. An exterior relationship suggests that economic and social factors are as such independent but interact in manifold ways, without questioning where the distinctive rationalities come from.

Moreover, substantivist conceptions of embeddedness (Polanyi 2018: 286) coexist with more constructivist ones, e.g., 'cognitive embeddedness' (Dequech 2003). With regard to the former, it can be claimed that the economy is not only embedded in society but also in nature. This brings the material exchange sustaining human life to the fore: the 'social metabolism' (Krausmann 2017) that forms the backbone of 'social provisioning' (Power 2015). With regard to the latter, there is a long tradition to think of contemporary society as being embedded in the economy, and ultimately in economics. In a 'market society', the logic of the market, as rationalised by the economic discipline, has penetrated many aspects of social life.

Cutting across these distinctions, the embeddedness concept can be spelled out on different analytical levels: the micro-level of actors, the meso-level of relations, the macro-level of regimes, and the meta-level of rationalities (Frerichs 2009; 2011).
On the micro-level, the 'socially embedded individual' (Davis 2015) is not envisioned as a self-centered and independent utility-maximiser but as a relational self that is oriented towards others in making sense from the world. On the meso-level, the focus turns to relations in their own right, be it in the form of simple interpersonal ties or the roles economic actors have in social networks, formal organisations and institutional fields.
On the macro-level, the analysis focuses on complex institutional constellations, which can be referred to as socio-economic regimes and include interactions of states and markets with a third sector. These institutional systems rest on a natural substrate and bear the cultural imprint of society. On the meta-level, the rationalities underlying a given regime or social order come to the fore: the epistemic categories, or constitutive forms of knowledge, that social collectives use to organise their reality, to define problems and develop solutions. In modern societies, this prominently includes scientific worldviews.

Embeddedness on the micro- and meso-levels is emphasised in the new economic sociology of the Granovetterian kind, which aimed to avoid 'undersocialised' as well as 'oversocialised' conceptions of economic action (Granovetter 1985). In doing so, it also questioned the alternative of a self-interested homo economicus and a norm-conforming homo sociologicus. In contrast, embeddedness on the macro- and meta-analytical levels is rather associated with a Polanyian approach (Krippner and Alvarez 2007; Frerichs 2011), which has its roots in old economic sociology, or the sociology of the economy embodied in the works of the sociological classics (Swedberg 1987; cf. Convert and Heilbron 2007). Polanyi's own legacy consists in a critique of market society, which involves the macro-level of regimes as well as the meta-level of rationalities. For him, the proliferation of markets shaped a new socio-economic regime, in which society was run as if it was "an adjunct to the market" (Polanyi 1957: 57). Economics had created a new way of seeing and governing society; economic liberalism became the credo of the time.

This chapter starts from a macrosociological notion of embeddedness, which looks at how the economy is embedded in and conditioned by society as a whole. Moreover, it also considers how this relationship takes shape and can take different forms. As this involves influences in both directions, the idea of the mutual constitution of economy and society is also relevant.

In the following section, this tradition in economic sociology is situated historically and related to the subject matter of political economy on the one hand, and socio-economics on the other. The remainder of this chapter offers an example of how economic sociology can proceed as comparative macrosociology, using the moral-economy approach, which comes close to Polanyi's notion of social embeddedness. This approach is first specified for and then applied to studying transformations of the moral economy of debt in the context of modern capitalist development. What this illustrates is a concrete way of exploring intersections of markets and morality in historical and comparative perspective.

2 Three interrelated fields: Economic sociology, political economy, socio-economics

Drawing on the macro- and meta-levels of social embeddedness, this chapter brings the relation of the economy with society as a whole to the fore. It builds on a tradition in (and beyond) economic sociology which is concerned with the analysis of larger social entities, or complex institutional constellations, whose systemic qualities call for a macro-analytical approach. With regard to intersections of economy and society, one could also speak of socio-economic regimes which, broadly understood, includes structural as well as cultural aspects. These institutional constellations developed specific features in the context of nation-states but are, analytically and empirically speaking, not confined to the latter. Inasmuch as these macro-social entities or systems are studied in historical and cross-sectional comparison, economic sociology blends into comparative macrosociology.

There are strong precedents to this perspective. In the nineteenth century, historical-comparative scholarship took shape across the social sciences, even though it was, perhaps, less concerned with systematic comparison than with the peculiarities of national collectives. This applies to law, economics, and sociology. In the historical school of jurisprudence, law was understood as an expression of the 'spirit of the people' which develops organically, with the legislator only playing a secondary role. Inspired by this approach (Pearson 1999: 548), the historical school of economics came to emphasise the history and culture of so-called national economies, which had to be studied empirically rather than by simply assuming universal economic laws. Institutional economics, as it originally developed, largely shared these convictions (Barber 2008: 239). Along similar lines, classical sociologists tended to approach societies as organic wholes, taking their national or regional idiosyncrasies and their distinctive trajectories of legal and economic development into account (Weber 1978; Durkheim 1984).
However, the historical-comparative perspective in economic sociology not only has precedents in the past but it also resonates with contemporary scholarship outside economic sociology as a branch of sociology, as it is typically conceived today. In the following, the links between economic sociology, political economy and socio-economics will be explored.

2.1 Economic sociology and political economy

Economic sociology can be defined in positive terms as taking a sociological approach to studying economic phenomena (Smelser and Swedberg 2005: 3). Drawing on the variety of perspectives within the sociological discipline, this approach can take many different forms. A common denominator is in using perspectives from sociology rather than drawing on 'the' economic approach, which is at the core of the economic discipline and which can, by and large, be equated with the rational-choice approach (Becker 1993). To be sure, rational-choice theory also plays a role in sociology but next to a plethora of other perspectives. Economic sociology is thus often outlined in negative terms: as different from 'mainstream economics', which it is compared to and contrasted with (e.g., Smelser and Swedberg 2005: 3-6). In fact, this contradistinction could be seen as a premise for economic sociology to develop its own identity, be it as a complement or a substitute of (neoclassical) mainstream economics (Velthuis 1999: 630).

While economic sociology is thus commonly opposed to mainstream economics, it can also be argued that it forms part of and remains intertwined with the broader tradition of political economy (Steiner 2016: 148). This includes classical as well as critical political economy, with Adam Smith and Karl Marx featuring as important reference points, at opposite ends, in the history of ideas. Moving closer to the present, this tradition does not end in so-called new political economy, which refers to an application the rational-choice approach to questions of politics, but it is also reflected in a range of approaches known as comparative political economy, which classify and compare different political-economic regimes and shed light on the institutional variation of capitalist social orders over space and time (cf. Regini 2006). In its ambition and outlook, this research resonates with the study of socio-economic regimes from a sociological point of view. Rather than contrasting economic sociology and political economy, one can thus highlight the links between the two (cf. Beckert and Streeck 2008).

Scholars critical of mainstream economics have come to promote political economy as an alternative way of teaching economics in recent years. Political economy is here defined as the "study of the economy from a social science perspective" (Stilwell 2012: 8). This may take shape as the "social science wing of economics" or even become a separate discipline (Thornton 2017: 61). While neoclassical economic models often seem quite detached from how the economy functions in reality, political-economic analysis would be more pragmatic and oriented towards solving real-world economic problems (Stilwell 2012: 3). Envisioned as a broadly informed social-scientific approach, political economy would not be limited to studying the form and function of states in relation to their economies but also consider the role of society at large in this context. To give an example, in his introductory textbook on political economy, Stilwell (2012: 42) also discusses the "social embeddedness of the economic system", which is illustrated with a range of aspects showing society's imprint on the economy – from the incorporation of nature into human systems of production to the impact of social capital on economic performance, and from the effects of class, gender and ethnicity on economic outcomes to the constitutive role of ideas and ideologies.

As this example shows, comparative political economy, or what is sometimes referred to comparative capitalism (pointing to the variation in capitalist social orders), can also include a cultural dimension (cf. Sum and Jessop 2013). At this interface, economic sociology has much to offer, given its history and expertise in studying the norms and values underpinning socio-economic regimes as well as the emphasis on the cultural-cognitive 'pillar' of institutions (Scott 2013: 55-85) in more recent work (e.g., Çalışkan and Callon 2009).

2.2 Economic sociology and socio-economics

However, political economy is not the only nominal candidate to complement economic sociology on the macro-analytical level. As pertinent for this perspective is a movement called socio-economics, which has its roots in older efforts to establish social economics as the comprehensive study of the economy. Similar to political economy, the term social economics was and is being used in different ways. In the nineteenth century, the label was employed both by liberal economists, who aimed to strengthen the profile of economics as a general social science rather than a policy-oriented science of the state, and by leftist scholars interested in promoting a social economy based on relations of solidarity and cooperation as an alternative to the liberal market economy (Mikl-Horke 2015: 96-97). For Max Weber, social economics was still an amalgam of economic history, economic theory, and economic sociology, before these different dimensions of economic research became separated from each other in the increasing differentiation and specialisation of disciplines (cf. Tribe 2014).

Socio-economics emerged in the late-twentieth century as a response to the division of labour between economists and sociologists (cf. Velthuis 1999; Hellmich 2017), which assigned the subject matter of the (market) economy to the former and left the study of (the rest of) society to the latter, without too much engagement between the two. In this regard, its motivation and trajectory are similar to that of new economic sociology, which is concerned with how economic and social factors concretely interact in markets and beyond. However, whereas new economic sociology took shape as a sub-discipline of sociology, socio-economics rather describes an interdisciplinary field, in which sociological perspectives are complemented by viewpoints from other disciplines, such as political science, history, and psychology. One of the masterminds of this movement, Amitai Etzioni (2006: 633), describes socio-economics as "an interstitial discipline that combines the theorems, findings and insights of economics with those of other social sciences". For him, this includes "the whole complex of disciplines that [examine] the relationships between society and the economy" (Etzioni 2002: 40 [corr.]). Hence, socio-economics is broader than what is today defined as economic sociology and connected with a distinctly sociological approach (Smelser and Swedberg 2005). Yet, historically speaking, the lines between economic sociology and social economics, as the precursor of socio-economics, are difficult to draw (cf. Zafirovski 2014).

Scholars in socio-economics typically distance themselves from the rational-choice approach with its axiomatic assumptions and strive for more realistic accounts of economic action. In this regard, socio-economics shares origins and interests with behavioural economics. While it makes more sense overall, to describe behavioural economics and socio-economics as different movements with distinctive constituencies, their research areas do overlap to some extent. Especially on the micro-level of action theory, there are commonalities between the two in promoting "more realistic images of the human actor" (Hellmich 2017: 14). In contrast, the analysis of institutional frameworks on the meso-level and of entire socio-economic systems on the macro-level distinguishes socio-economics from behavioural economics and takes it closer to institutional economics and political economy (cf. Hellmich 2017: 15-16).

3 A conceptual framework: The moral-economy approach and the law of market society

A macrosociological perspective in economic sociology that combines the idea of embeddedness with that of mutual constitution is not only interested in how the economy is embedded in society but also in how economic developments feed back into the social structure and culture. This perspective can be spelled out in different ways and, in principle, draw on any concepts suitable to describe institutional constellations on a macro-social scale. One possibility, which is illustrated in the following, is to start from the moral-economy approach and to develop this further to include the moral economy of market society.

The moral-economy approach preserves much of the original idea of embeddedness relating the economy to society as a whole while it can also be interpreted in terms of the interaction and interdependency of the two. It is not limited to economic sociology but engages scholars from different fields, including anthropology, history and political economy. The approach has its precursors in the works of classical sociologists, such as Marx and Durkheim, and in what is now referred to as old economic sociology. An important inspiration for the concept is, indeed, Polanyi's (1957: 57; 2001: 36) notion of social or institutional embeddedness. As Hann (2010: 196) argues, "even if he never used the term, Polanyi deserves to be viewed as the most sophisticated theoretician of the moral economy *writ large*". However, the concept as such was only introduced by the historian E.P. Thompson (1971; 1991: 259-351) in his article on "The moral economy of the English crowd in the eighteenth century".

In this study, Thompson was concerned with popular protests provoked by fluctuating food prices in the advent of capitalism. He argued that the bread riots were not simply "rebellions of the belly" but had to be understood in culturally more meaningful terms: as a defence of "traditional rights or customs" (Thompson 1971: 77-78). Even though Thompson does not explicitly refer to Polanyi in this context, both seem to share the idea of a secular shift from an embedded (moral) economy to a disembedded (market) economy. Thompson (1971: 136) describes the historical situation, which was marked by a deregulation of food prices, as "the breakthrough of the new political economy of the free market [which] was also the breakdown of the old moral economy of provision". However, the old moral economy was still valid in the mind of the people. Their belief in just, or affordable, food prices formed the backdrop for collective action. For Thompson (1971: 112; original emphasis), the bread riots expressed the "deeply-felt conviction that prices *ought*, in times of dearth, to be regulated".

In its original usage, moral economy thus refers to a social order that was in place before the proliferation of the market economy. Moreover, as a concept, it brings popular perceptions and beliefs to the fore. The moral outrage against price hikes was that of "a poor, premarket people contesting the dictates of a much more modern economic order" (Arnold 2001: 86). Extrapolating from the moral economy of provision, the concept of moral economy has been linked with a gift economy based on generalised reciprocity in a system of mutual obligations, which is in contrast with the logic of direct market exchange. However, instead of directly contrasting a (traditional) moral economy with a (modern) market economy, some scholars now speak of a plurality of moral economies (e.g., Murdock 2011), which includes the market economy as one of it subtypes, given that markets also involve some form of moral order – a market morality, so to say.

This links the concept of the moral economy to broader debates on the relation of markets and morality. Hirschman (1982: 1480) famously contrasted "four types of theses or theories", which reflect the development of the respective discourse in the economic and social sciences. These include the 'doux-commerce thesis', according to which expanding commerce may have beneficial effects on a society's morality; the 'self-destruction thesis', according to which the proliferation of markets undermines the moral substrate of society; and the 'feudal-shackles' thesis and 'feudal-blessings' theses, which consider the divergent preconditions of capitalism in the old and in the new world. According to the latter, the strength of the moral economy preceding capitalism may still explain differences in to what extent the logic of the market is contained by social policy in developed market economies today. However, instead of pointing to remnants of an old moral economy one can also focus on the new elements of a moral economy which emerges with, or from, the market society. Such an approach takes the effects of economic liberalism on a society's morality into account.

Drawing on Polanyi (1996), Steiner (2009: 105-106) describes the market society as "a society in which law and morals are […] overwhelmed by the market mentality". Accordingly, the market society has developed its own moral economy. Originally, the idea of a moral economy is opposed to, and critical of, this market mentality. Thompson (1991: 260) specified his "object of analysis" as "the *mentalité*, […] the political culture, the expectations, traditions, and […] superstitions of the working population […] involved in actions in the market". In the historical context of his study, the moral economy is equated with the normative expectations and beliefs of the ordinary people, who defended their livelihood against the dictates of the market. However, there is also a tendency to broaden the moral-economy approach to consider "all economies – not merely pre- or non-capitalist ones" (Sayer 2007: 262). This makes it possible to include the market mentality as one form of moral economy next to others.

Inasmuch as the moral-economy approach is particularly interested in and even sides with the lower strata of society, it reveals a Marxian spirit. Alternatively, the approach has also been given a Durkheimian interpretation in recent scholarship. Instead of focusing on the moral beliefs of the "'underdogs' sections of society", it then considers society as a whole as its subject: a "Durkheimian collectivity", as Hann (2010: 196) puts it. A downside of this broader interpretation of the moral-economy approach (e.g., Fassin 2009) is that the focus is no longer on the economic sphere as a site and subject of moral beliefs. For Fassin and Eideliman (2012: 12; my translation), the moral economy generally depicts "the production, distribution, circulation and utilisation of emotions and values, norms and obligations in the social sphere". In other words, the concept serves as a metaphor for the dynamics of moral ideas in society at large. However, this very broad notion does not necessarily follow from adopting a Durkheim perspective.

An alternative possibility, which stays closer to the subject matter of economic sociology, is to build on Durkheim's (1984) *The Division of Labour*. In this treatise, law is used as an indicator of morality, which cannot be directly observed: "[W]e must therefore substitute for this internal datum, which escapes us, an external one which symbolises it, and then study the former through the latter. That visible symbol is the law." (Durkheim 1984: 24) The underlying idea is that (positive) law represents the collective conscience, that is, the system of norms and values which everybody is supposed to share and which integrates society as a whole. For Durkheim (1974: 203), the law of the lawmaker eventually emerged from the law of the people: "It is in the very fabric of society that law is elaborated and the legislator can only consecrate a work which is accomplished without him." Whether this applies to the law that first imposed the rule of the market, as in the deregulation of food prices, is debatable. But one can assume, with Durkheim, that in the long run (economic) law and (economic) morality would be in sync, as changes will not remain one-sided.

Hence, if the market mentality spreads in a society and comes to shape the collective conscience, the law can no longer be seen as a means of imposition only but it also embodies the new morality. In this Durkheimian sense, the moral economy of market society can be studied through its law, namely the law constituting, enabling, and restricting economic action (cf. Edelman and Stryker 2005). This interpretation of the moral-economy approach can still be critical in its ambition if it also exposes the market society as a "scientific and moral project" (Fourcade and Healy 2007: 299), in which popular understandings of markets do not simply grow organically but are influenced by the rationalisations and justifications of the market economy by scholars and politicians. In Polanyian terms, our conceptions of markets are shaped by economic thinking. The moral economy of market society thus also reflects the "philosophy of economic liberalism" (Polanyi 1957: 259).

4 Empirical illustration: The moral economy of debt and the normalisation of bankruptcy

The moral-economy approach offers a macrosociological perspective on the cultural side of socio-economic regimes, which is suitable for historical as well as cross-sectional comparison. As an empirical subject, moral economies can be compared over time, e.g., before and after historical turning-points, like the advent of capitalism, and in space, e.g., with regard to different socio-economic regimes, like the U.S. and Germany, or China. Cross-national comparison is common in the literature on 'varieties of capitalism' (Hall and Soskice 2001) and the 'worlds of welfare capitalism' (Esping-Andersen 1990). Describing different (ideal or real) types of welfare capitalism comes close to considering the moral economies underlying these regimes, e.g., how differences in the degree of (de)commodification of, broadly speaking, labour income are justified. In other words, to what extent workers and their families are dependent on market income to make a living, and to what extent a lack or loss of income is substituted by support from social insurance, or the state's welfare system, points to moral considerations about deservingness, which form part of a society's moral economy.

In the following, the moral-economy approach will be specified with regard to the distribution of rights, duties and responsibilities in debt relations between creditors and debtors. The perspective chosen is, first of all, a historical one, showing how creditor and debtor protection are balanced differently at different points in time, as part of larger socio-economic regimes and rationalities. What is at issue, then, is the moral economy of debt, which offers justifications for who owes what to whom not only in direct economic exchange but in larger societal networks of debt relations, which include social insurance functions (Frerichs 2016: 722).

Throughout history, debtors have defended their rights and livelihoods in debt riots (Graeber 2011: 8), which can be seen as much as markers of a moral economy under threat as the bread riots of eighteenth-century England (Thompson 1971). Obviously, debt riots are an extraordinary means to redress the balance between creditors and debtors. Studying the moral economy of debt through the lens of conflicts and crises would bring the Marxian element of the approach to the fore. In ordinary times, credit relations and debt default are regulated by law, public as well as private law, which reflects a certain moral consensus about the distribution of rights and responsibilities between creditors and debtors. Analysing the moral economy of debt through the law regulating credit and insolvency is premised on a Durkheimian approach.

This section offers a highly stylized account of the history of debt relations and transformations of the moral economy of debt in the context of capitalist development. Focusing on the normalisation of interest and the normalisation of bankruptcy in the Western legal tradition, it starts with Roman law as a historical backdrop but then focuses on different stages, or turning-points, in which capitalism left its imprint on the moral interpretation of debt relations, inevitable incidences of debt default, and their legal regulation.

4.1 The beginnings of bankruptcy law in pre-capitalist times

If the history of debt can be traced back over five thousand years (Graeber 2011), the history of credit and insolvency regulation spans at least 2500 years. The Twelve Tables, which date back to 450 BC and mark the beginning of Roman law, capped the interest rates imposed on debtors at eight or twelve per cent per year (Gelpi and Julien-Labruyère 2000: 9). The Tables also stipulated what was to be done with insolvent debtors if the debt still remained unpaid after a judgement was given. As summed up by Rajak (2008: 9), after thirty days, "the debtor was given in private bondage to the creditor"; after ninety days, "the creditor was entitled to put the debtor to death (*partis secanto*, cut into pieces!) or to sell him in slavery across the Tiber".

Later laws made some concessions towards debtors, and strengthened the commercial aspects of the relationship. The Licinian laws in 376 BC offered insolvent debtors a three-year moratorium to repay their debt and a remission of the due interest (Gelpi and Julien-Labruyère 2000: 9). In about the same period, institutions emerged that allowed insolvent debtors to "work off the debt" and thus escape slavery and death (Rajak 2008: 9). With the *lex Poetelia* in 326 BC, debt default formally became a criminal offence. At the same time, the law "abolished the right to ill-treat, kill or sell the debtor and his family as slaves", while defaulted debtors could still be held in private arrest or servitude (Gratzer 2008: 20). Moreover, a bankruptcy procedure was introduced which authorised creditors to sell the property of delinquent debtors to recover their losses. In 17 AD, the *lex Julia* gave insolvent debtors the possibility to declare bankruptcy by their own volition. Two thousand years ago, Roman law thus created procedures that "separated the debtor as a person from his property" and gave creditors equal rights in recovering the outstanding debt (Gratzer 2008: 20-21). Telling the debtor's life from their debt was an important step forward. It paved the way for commercial practices, in which financial risk-taking becomes a normal part of business life.

Roman law did not remain a matter of the Ancients only but forms the roots for the Western legal tradition. Some elements of the law of market society can still be traced back to Roman times. To understand this legacy, two historical events are crucial. In 533 AD, Eastern Roman emperor Justinian compiled the *Corpus Iuris Civilis*, a collection of laws, legal writings, and jurisprudential wisdom: the state of the art of the time. This compilation can be seen as "the first large legal corpus devoted to credit, in so far as it defines the activity as a whole, from the maximum legal rate to means of recovery, and distinguishes types of loans and types of borrowers" (Gelpi and Julien-Labruyère 2000: 13). Interest rates were limited at different rates for different kinds of borrowers, but not forbidden, as the "fledgling Church" would have preferred (Gelpi and Julien-Labruyère 2000: 12). The ban on usury was yet to come.

The rediscovery of Justinian's code in a library in Pisa in the late-eleventh century brought Roman law to new fruition. The medieval *ius commune* consisted not only of Roman law, but also of canon law – the law of the Church – which had likewise been 'Romanised'. With these intermediate steps, Roman law became one of the preconditions of modern capitalist development: "[T]he elaborate rules of contract law and of credit transactions that were developed in both the new Roman law and the new canon law in the twelfth and thirteenth centuries […] were an essential foundation of the laissez-faire capitalist economy that emerged in the nineteenth century." (Berman 2003: 377) The same goes for Roman bankruptcy law, which was first revived in the northern Italian city-states of the Renaissance. However, despite their modern outlook, bankruptcy procedures were still "heavily criminalised" and punitive in nature (Wood 2007: 15).

The moral conflict that the treatment of defaulted debtors raised can be illustrated with Shakespeare's play, *The Merchant of Venice*, which is set in the sixteenth century. The loan that links the three protagonists – the borrower, the lender, and the guarantor – is secured by a 'pound of flesh', threatening the debtor's life. This becomes a legal issue in the play, which marks changes in the moral economy in adapting to the needs of commercial capitalism.

4.2 The advent of capitalism and the normalisation of interest

The moral economy of debt changed with the advent of capitalism in the seventeenth and eighteenth century and increasingly came to reflect the moral principles of the market society. In Anderson's (2004: 349) terms, the emerging "capitalist ethic of debt challenged both the Christian and the aristocratic ethics", which had governed debt relations before. What the Christian and the aristocratic moral economy of debt ideal-typically consisted in can be inferred from historical studies of the respective transitions: from a religious morality to a more secular morality and from a gift economy to a market economy.

Graeber (2011: 332) condenses the beginnings of capitalism in a "story of how an economy of credit was converted into an economy of interest". In the Middle Ages, certain moral institutions were in place that protected debtors from exploitation and hardship. This includes, first and foremost, the religious ban on usury, or interest-bearing loans. In contrast, the age of capitalism is marked by the legalisation of interest. Whereas interest originally referred to a "penalty for late payment on a loan", it later turned into a key concept of economic theory (Graeber 2011: 332).

Fontaine (2008) reconstructs the debate on usury and interest in Europe between the sixteenth and eighteenth century. At first, any interest on loans was perceived and forbidden as usury. A little later, it was considered "legitimate to make profit with money but not at the expense of the poor", which led to a distinction between legitimate interest and illegitimate usury (Fontaine 2008: 204; my translation). In the end, interest-bearing loans came to be seen as a normal fact of economic life, while questions of usury were left to the individual conscience. As Fontaine (2008: 220; my translation) sums up, the moral framework of the debate had changed "from an ethic inscribed in religion to another [ethic] born from politics and economics". The Church lost its control of credit practices and was left with a symbolic function only, while the State effectively took over in defining what is legitimate and what is not (Fontaine 2008: 221).

Whereas the ban on usury prevented predatory lending and, in this regard, worked in the favour of debtors, the legalisation of interest tilted the balance towards the protection of creditors, who could now sue their debtors without putting any blame on themselves. A result was the criminalisation of debt and the prosecution of insolvent debtors (Graeber 2011: 333-334).

Next to the normalisation of interest, there was an important change in the structure of debt relations. The aristocratic moral economy in pre-industrial Europe was one of mutual obligations between persons of unequal social status in a feudal system. It was based on "the logic of gift rather than commercial exchange" (Anderson 2004: 352). With the transition from a status-based aristocratic society to a contract-based market society, the moral economy of debt transformed as well: "Moving from the aristocrats to the bourgeois, debts moved from one moral sphere to another, they left the network of interdependence and solidarity based on the paternalist power of nobility for a world of relations meant to be anonymous and governed by respect for contracts." (Fontaine 2008: 333; my translation) What this implies is an increasing commodification of debt, with interest as its market price.

4.3 The normalisation of bankruptcy in modern capitalism

In the course of capitalist development, different subjects of bankruptcy came to the fore, whose debt default underwent a reevaluation in moral terms. One relevant distinction is between individual entrepreneurs and incorporated companies; the other is between commercial and non-commercial debtors, or merchants and consumers. This section distinguishes between the normalisation of individual bankruptcy in commercial capitalism, the normalisation of corporate bankruptcy in industrial capitalism, and the normalisation of consumer bankruptcy in consumer capitalism.

4.3.1 Commercial capitalism: normalisation of individual bankruptcy

Focusing on bankruptcy law in the Western legal tradition, continental Europe is 'closer to Rome' than the Anglo-Saxon countries. However, it was the Anglo-American common law countries (England and the U.S.), and not the Romano-Germanic civil law countries (such as Italy, France, and Germany), which spearheaded the commercial paradigm that furthered a normalisation of debt and insolvency along with capitalist business practices. An important step in this regard was the introduction of a debt discharge, which defaulted debtors could benefit from under certain conditions. This came to be known as the 'fresh start', a term that clearly has normative connotations.

Between the sixteenth and eighteenth century, English bankruptcy law largely consisted in "an involuntary proceeding available only against traders" (Tabb 1995: 12). The focus was on creditors recovering their losses from debt default. The English bankruptcy act of 1705 included a discharge for debtors 'cooperating' in the bankruptcy proceeding, and was amended, a year later, to add creditor consent as a condition for the debt discharge (Tabb 1995: 10-11). Moreover, a distinction between honest and dishonest commercial debtors was introduced, "offering absolution to honest bankrupts while retaining criminal punishment for dishonest ones" (Mann 2002: 46). American bankruptcy law first crystallised in the (temporary) federal bankruptcy act of 1800, which was modeled on its English counterpart of 1706. However, as it was less concerned with fraudulent bankrupts and more realistic regarding the vagaries of business life, it turned out to be more debtor-friendly overall (Mann 2002: 186). Still, the debt discharge was available to commercial debtors only.

Mann describes the changing moral economy of debt in revolutionary America focusing on the developments and debates leading to the first federal bankruptcy act, which is depicted as "the high-water mark of debtor relief in the eighteenth century" (Mann 2002: 2). His aim is to demonstrate how a religiously inspired morality gave way to a more secular account of bankruptcy. For the religious side of the debate, the reference point is Puritan ideology which, at this stage, had already moved beyond its original position that "credit should be a means of charity rather than a commodity" (Mann 2002: 36), which still reflected the condemnation of usury. Instead, a more creditor-friendly position had been adopted, which presupposed the “inherent justness of creditors” and made debt default appear as a “moral failure” on part of the debtors (Mann 2002: 3).

In the course of the eighteenth century, this presumption of Puritan morality came to be challenged by the idea, or insight, that insolvency might sometimes be the inevitable result of economic risk-taking. This “redefinition of insolvency from sin to risk, from moral failure to economic failure” is the pivot of Mann’s (2002: 5) reconstruction of transformations in the moral economy of debt, which paved the way for the fresh-start policy. The economic morality behind the new bankruptcy legislation, to be consolidated in the American bankruptcy act of 1898, could be captured by the slogan: ‘out of prison – back to the market’. The argument that “imprisoning insolvent debtors deprived the public of their skills, their labor, and their enterprise” indeed played a role in contemporary discourse (Mann 2002: 58). In this regard, the rationale behind the normalisation of commercial bankruptcy could be seen in economic activation – and not mercy or redemption (Hallinan 1986: 57).

4.3.2 Industrial capitalism: normalisation of corporate bankruptcy

Not only was Anglo-American bankruptcy legislation first to include a debt discharge, it was also a forerunner in allowing for voluntary bankruptcy proceedings and in including non-commercial debtors. In the mid-nineteenth century, bankruptcy legislation in England and the U.S. thus assumed its modern form. By that time, industrial capitalism was flourishing and another subject of bankruptcy came to the fore: incorporated companies.

While bankruptcy law long concerned individual debtors only, a core distinction today is between personal bankruptcy for individuals, or natural persons, and corporate bankruptcy for corporations, or juridical persons. Personal bankruptcy includes small enterprises that are “owned by individuals or partners who are legally responsible for their business debts” (White 2011: 141). In other words, they are fully liable, including their private wealth. In contrast, corporate bankruptcy typically refers to larger enterprises, which benefit from the ‘veil of incorporation’, or limited liability. Thus, the shareholders of a company – its owners at arm’s length – are liable only to the extent of their original investment. The limitation of liability works as an incentive to incur greater economic risk, which can be seen as one of the preconditions for capital-intensive industrial development (Djelic and Bothello 2013: 603).

While the invention, or legal fiction, of juridical persons dates back to Roman times, it was only in the nineteenth century that corporations became a dominant form of business organisation: “The impact on bankruptcy law, hitherto applying to merchants and partnerships, was revolutionary.” (Wood 2007: 18) While the ‘veil of incorporation’ protects the personal lives and wealth of the shareholders, the company as such is ‘liquidated’ in the case of insolvency and its property is distributed among the creditors. The principle of limited liability likewise goes back to Roman law but developed its characteristic dynamic only in connection with capitalist enterprise. In mid-nineteenth century Britain, a series of laws was enacted, which facilitated the creation of a registered company, provided shareholders of registered companies with limited liability, and regulated the insolvency of incorporated companies (Rajak 2008: 7-8). The “limited liability revolution” took place against the resistance of “naysayers offering powerful arguments based on political and ethical rather than economic preoccupations” (Djelic and Bothello 2013: 602-603).

What this results in is the normalisation of corporate insolvency. Arguably, the institutional separation of personal and corporate insolvency is also semantically important, as it supports a moral distinction between two types of actors: between individual debtors, who could still be pictured as potential deviants in need of sanctions (Ramsay 1997: 270-274), and corporate debtors, whose business activities were to be encouraged and protected. Sure enough, corporations hardly correspond to the image of weak, dependent and fallible debtors (Wood 2007: 18-19). However, the debt discharge for individual debtors likewise came to be seen through the lens of limited liability. In economic terms, this means reallocating risks from debtors to creditors, which are often in a better position to manage their risks (Jackson 1984: 1400).

4.3.3 Consumer capitalism: normalisation of consumer bankruptcy

Such economic justifications also play a role in the normalisation of consumer bankruptcy, which developed along with the spread of consumerism in the twentieth century. In England and the U.S., the question whether bankruptcy procedures should be available to non-merchants had been answered in the positive from the mid-nineteenth century onwards. However, before the recent spread of "consumer credit capitalism" (Ramsay 2007: 248), consumer bankruptcy gained popularity only in the U.S., while it remained of little practical relevance in England (Niemi-Kiesiläinen 1999: 479; incl. n. 18). On the European continent, bankruptcy procedures including a debt discharge for consumers were only introduced in the late-twentieth century, after the over-indebtedness of consumers had become a pressing problem there as well.

In the U.S., the 'fresh start' policy was further pushed forward in the Bankruptcy Act of 1978 (whereas the 2005 Reform Act was tellingly concerned with 'bankruptcy abuse prevention and consumer protection'). In practice, this means that consumers who declare bankruptcy can, after a relatively short waiting period, start anew: with all their commercial debt – that is, debt incurred in the market – being cancelled. If the idea of the fresh start is a quick return to the credit market, this is far from what the European model of debt adjustment had been all about: "[T]he idea of economic rehabilitation was not tied to the goal of a quick economic recovery and re-entry to the credit market. Participation in the credit market was not deemed necessary, and was perhaps not even desirable." (Niemi-Kiesiläinen 1999: 482)

Economic theories justifying the fresh-start policy included from the outset utilitarian considerations regarding the positive externalities of a debt discharge and the efficient allocation of risk between creditors and debtors (Tabb 1990). Humanitarian reasons played a role as well, but the incentive functions of the debt discharge were clearly seen. That way, commercial debtors would be encouraged to resume economic activities and also incur entrepreneurial risks again. The same applies to consumers, whose participation in the open credit economy was increasingly regarded as both normal and necessary. In consumer credit capitalism, consumer debtors fulfil an important function for the economy as a whole. In this regard, the debt discharge supports their (re)activation: "The discharge of a consumer debtor frees the debtor from the shackles of existing debt and places him on the economic treadmill once again – to earn, consume and borrow." (Flint 1991: 515-516)

From a social-policy perspective, the over-indebtedness of consumers has become a problem on both sides of the Atlantic. In consumer bankruptcy, the costs of this calamity "are borne by the credit system (i.e., all consumers of credit) rather than the state welfare system" (Ramsay 1997: 275). This aspect deserves emphasis given that continental-European countries leaned more towards the social-welfare paradigm in the past. However, in recent decades, some of them "have moved gingerly towards a modified 'fresh start' policy" (Ramsay 1997: 269).

5 Conclusion: Moral economies in historical-comparative perspective

Our moral ideas about debt relations are framed and shaped by the logic of the market. In this sense, the market society produces its own moral economy, which is conceptualised in the economic discipline, institutionalised in the law, and popularised in public discourse.
In this chapter, the moral-economy approach has been tailored to the law of market society and targeted at the distribution of rights and responsibilities in debt relations. The changing moral economy of debt has been reconstructed along the development of bankruptcy law in the Western legal tradition. It has been shown that the different phases of capitalism bring different subjects of bankruptcy to the fore: in commercial capitalism, these were merchants; industrial capitalism witnessed the rise of corporations; and in consumer capitalism, the new emphasis is on consumers. The common denominator of these developments is a shift in the moral framing of bankruptcy, which furthers the economic norm of risk-taking.

In the broader context of this volume, the moral-economy approach serves as an example of how economic sociology can emphasise the macro- and meta-levels of embeddedness in the relation of economy and society, and proceed as comparative macrosociology. While the empirical illustration chosen in this chapter emphasised the historical perspective, it has also become clear that the study of moral economies lends itself to a comparative perspective, which may then address questions of convergence and divergence as well. In this regard, there are parallels with the 'varieties of capitalism' literature and the study of socio-economic regimes more generally, which form a shared subject of economic sociology with comparative political economy and socio-economics.

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