

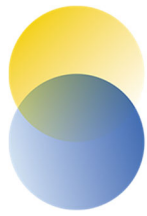


# The Cooperative Economy: Toward a Stakeholder-led Democracy

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## Resumen

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The following proposal summarizes a research project emanating from the applicant's PhD research project, epynomously titled *The Cooperative Economy*. The proposal concerns the realization of a civic and moral economy, in keeping with, e.g., 's call for a *political theory of the firm*, as well as 's call for a *mission-oriented economy*. As will be argued, the realization of a socially and environmentally sustainable economy can be facilitated – if not guaranteed – via innovations in contract theory, governance and with a shift to relationships as the basic unit of analysis. The proposed perspective is entrenched in interdisciplinary dialogue and seeks to take up and contribute to an innovative new paradigm entitled *relational economics*, itself inspired by 's *Resource-dependency theory*. As such, the proposed project seeks to contribute to knowledge building by integrating multiple disciplinary domains to better understand the logics driving intra- and inter-organizational decision-making. The project offers indicators by means of which governments and civic society can assess reform efforts towards building a more socially and ecologically sustainable economy. Moreover, as it argues, many of the building blocks for such efforts already exist in most countries in the world. Knowledge of how to exploit the existing social infraestructre would go to great lengths to save resources and prevent governments from having to “reinvent the wheel.”

**Keywords:** theory of the firm, economy, democracy, cooperation, sustainability



## Introduction

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Two of the great challenges of the present and future are the double-headed threat and challenge of social and ecological sustainability. If there is to be a solution to these challenges, they must be dealt with simultaneously. The domain of political economy, influenced as it is by the legacy of the Scottish Enlightenment, saw in Sir James Steuart the expression of the Statesman as an exemplary moment in the transcendence of social conflict. Quesnay spoke at roughly the same time of an *ordre naturel*. In the person of Adam Smith, the notion of the market as a self-regulating system was advanced. In later generations, Continental scholars like Hegel and Marx began approaching the problem of command and control of the economy from a dialectical position, recognizing the deleterious effect of an unconstrained logic of profit-maximization and the shadowy side of the increasing division of labor that accompanied the rise of the modern industrial mode of production.

This paper proposes several theses. Firstly, it proposes (following the relational view) that firms are dominant actors in today's economy, eliciting a need to shift economic analysis away from collectives of individual actors to intra- and inter-firm networks. Secondly, it argues (following the notion of *process ecology* advanced by R. Ulanowicz) that the focus on growth in the economy is mistaken and that an epistemic framework emphasizing qualitative change – development over growth – is needed in order to secure a future in keeping with the dual goals of achieving ecological and social sustainability. That is, increasingly, it is qualitative and not quantitative shifts that are required to maneuver within the domain of a globalized knowledge-based economy.

Lastly, the paper proposes the thesis that the above-stated goals can best be reached in accordance with a *pluralistic* agenda of economics, one which foregrounds regional and cultural differences and emphasizes the importance of appropriate typologies and taxonomies for achieving multi-level governance. This pluralistic agenda envisions multiple paths to achieving a successful economy, not just "Pareto" optimization of scarce resources under constraints, with the goal of "value neutrality". Generations of economists, including Kenneth Arrow and Amartya Sen, have critiqued this position as vacuous and not necessarily in keeping with the demands of a democratic order.

The paper is organized as follows. We first discuss democracy as a progressive ideal, underlining the connections between democracy and the economic logic of cost-earnings. This discussion brings us across a broad domain of social contract theory and leads us to investigate the question of why people and firms cooperate. We conclude that a view of *shared-value creation* and an emphasis on the connections between principles and practices is mediated largely by legal practice and jurisprudence. Following this discussion, we outline a neo-abolitionist agenda, following D. Ellerman. Following this, we propose a sustainable theory of the firm in order to translate downward notions of social and ecological sustainability. before concluding the paper.



## Democracy: Progressive Ideal?

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Multiple<sup>1</sup> definitions of democracy exist and the term appears to conjure up numerous – often contradictory – interpretations of what can or cannot be considered “democratic”. Hence, in *The Cooperative Economy*, I undertook a comprehensive study of the historical and empirical roots of democratic theory, settling on viewing democracy as a progressive ideal, a process of continually widening the domain of the emancipated (those, in Aristotle’s nomenclature, in the realm of freedom). This view accords not only with Catholic social doctrine the type of which proliferated after *Rerum Novum* (1891), but also with liberal, urbane republicanism influenced by Enlightenment thinking<sup>2</sup> – and, at the same time, it also includes Communist and (atheist) socialist thinking of a certain sort<sup>3</sup>. Moreover, much of the *moral economy* tradition outlined in *The Cooperative Economy* makes the case for interpreting democracy in such a manner. According to each of these traditions, it is incumbent upon the social order to ensure the progressive widening of liberty<sup>4</sup> – and thereby, leisure – throughout society. This question, so Castoriadis, goes back to the Greek tradition of *politics* and *philosophy*:

The notions of judgment and choice in a radical sense were created in Greece [...] With *politics* I mean [...] collective agency, oriented towards society’s institutions, *per se*. In Greece, we encounter the first example of a collective that explicitly consults about its laws, and which changes these. In other places, the laws are a heritage of the ancients or a gift of the gods, or of a True God, in any case, they are not considered man-made, i.e., they cannot be considered created, as a result of a collective process of consultation and discussion about right and wrong laws. This circumstance leads to further questions, [...] not only: is *this* law right or wrong?, instead: what makes a law a right or wrong law, i.e., what is justice? [...]

As the political activities in Greece for the first time questioned existing social institutions, thus Greek society is also the first that explicitly questioned the instituted collective worldview, i.e., it is the first society to practice *philosophy*. [Castoriadis, 2011, p. 36, own translation]

While more recent entries like [Graeber and Wengrow, 2021] question whether the Greeks really were the first democratic order, the question of course remains by what criterion we may call an organization, whether polity or firm, “democratic”? This of course begs the questions of the relationship between democracy and economy.

## On the Relationship of Democracy to Economy

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- 1 This section is adapted from a submission to the *International Journal of Cooperative Law*.
  - 2 Giuseppe Mazzini would serve as an example of this sort of thinking.
  - 3 See, e.g., [Lafargue, 1891] or [Morera, 1990] on Gramsci’s conception of democracy.
  - 4 I.e., the realm of freedom.



There has been some study in recent decades of the relationship between democracy and economy. These studies usually take on of three shapes. The first type concerns the necessary conditions for the existence of market transactions. These studies follow in the footsteps of Adam Smith's writings and concern issues like the need for trust for the functioning of the economy. Moreover, they concern cultural values requisite for the functioning of markets, the "externalities" associated with markets (Durkheim on contracts). The second concerns the issue of "democratization" and has been taken up, for instance, by . The third strand involves the study of the mutual development of economies and the political economy of democracy. This third strand is exemplified by .

The first strand of literature's main claims are typified by what Montesquieu called the *deux commerces* theory<sup>5</sup> This first strand also has an obverse, represented, for instance, by , who suggest "Our general conclusion is that there is a close interdependence between democracy and the economy: democracy usually precedes the economy, and a prosperous economy maintains and strengthens democracy and the political institutions on which it stands." This strand has been, in our opinion, sufficiently developed by others over the decades and has recently seen additional corroboration from cognitive psychology. [Hirschman, 1982, p. 1481] referred to the first as "feudal blessings", and the second as "feudal shackles" .

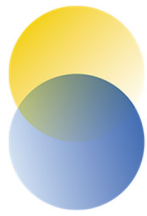
The second strand of literature has been criticized, among others, by Herbert Gintis, who suggests that Acemoglu and Robinson's work "assumes that there is a monolithic elite and a potentially monolithic citizenry. Neither of these is in general correct. For instance, often there will be conflicts among the elites, one side drawing on support from the lower classes to defeat the other. This was the case in Great Britain in the passage to democracy." Secondly, Gintis argues that "it is just false that political democracy is compromise in which the elite gives up hegemonic power and the citizenry gives up the vision of revolution and complete mass hegemony." In his and Samuel Bowles' opinion, "large-scale collective actions have virtually always had the goal of social emancipation, in which the common man and woman are endowed with the blessings of liberty and in which democratic institutions are desired not only because they lead to an alteration in the distribution of wealth, but also because political democracy is desirable in its own right."<sup>6</sup> Thus, according to authors like [Bowles and Gintis, 1996], this second strand of literature is guilty of instrumentalizing democracy as a tool for achieving certain ends, like fairer income distribution.

However, as Sam Bowles and Herbert Gintis in *Democracy and Capitalism*, and Chapter 3 of *The Cooperative Economy*, make clear, democracy has often been implemented and pursued as an end in its own right, as a deontological value. Thus, the third strand looks at democracy as a deontological value worth pursuing in its own right, based on an intrinsic understanding of human sociality and the pursuit of a full personality as something worthwhile in its own right. It seeks to define institutions of collective choice according to this observation and, as such, is

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5 Montesquieu suggested that "wherever the ways of man are gentle, there is commerce; and wherever there is commerce, there the ways of men are gentle". or .

6 Source: personal communication with Herb Gintis.



congruent with both Polanyi's notion of *substantive economy* as well as Brown's notion of *economy as provision*. As such, according to the third strand, "economy" can best be defined in relation to the classical notion of economy, *oikonomia* – as espoused for instance by Aristotle – as the aggregate of mechanisms for providing for the *oikos*, or household. It must also, according to this framing, be understood as a "struggle for rights".

## Redefining the Social Contract

The increasing divorce of citizenship and wage labor that accompanied the Industrial Revolution create a situation where there is a need to define the ability to withdraw from the social contract. Thus, there is a logical error in the assumption of an implicit contract. While, e.g., Grotius and Pufendorf agreed that an explicit agreement had to be made, they assumed such an agreement to have occurred in the past [Baynes, 1989, p. 433]. Hobbes, Locke and Rousseau, on the other hand, saw the social contract largely as a figurative notion (a "regulative ideal", cf. [Ellerman, 2021b, p. 89]). Meanwhile, Kant argued that "The state of peace among people living in proximity to another is not a state of nature (*status naturalis*); instead, that is much more described by a situation of war [...] It [peace] must therefore be created" [Kant, 1983, Vol. VI, p. 203, own translation] Moreover, Kant addressed in his *Zum ewigen Frieden* the role that *transitions* play in shifting from one constitutional order to another.<sup>7</sup>

In this regard, Kant speaks of *permissive law* (*Erlaubnisgesetze* or *leges permissivae*) [Kant, Id., p. 201, footnote], by means of which he merely refers to a *transitional regime*. Kant writes, clearly with an eye on the contemporaneous French revolution, that "Once ruptures or defects arise in a state's constitution, against which no provisions could be made, a duty arises, primarily in the persons of statesmen, to take action towards [...] improving upon this situation, as soon as possible." (Id., p. 233) Thus, Kant argues, "A state may also *govern* itself in a republican manner, even if, according to the existing constitution, it possesses a despotic *ruler*: until the people slowly become competent [...] of the general idea of the authority of the law." (Id.)

For Kant, there is clearly a benefit in a negotiated settlement to a renewal or reform of the social contract: "for the reason that some legal constitution, even if only in a marginal sense being recognized as legitimate, is better than none, the result of the latter [...] would entail a rushed and hasty reform." Thus Kant supports revolutions "which Nature itself calls forth, not resulting in the embellishment of an even greater degree of oppression, but which rest on the call of nature, to establish a legal constitution on the principles of freedom, as the only sustainable kind of constitution, via foundational reform." (Id., p. 234, footnote)<sup>8</sup>

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7 For more on Grotius and Pufendorf's theory of the state and social contract, cf. [Gierke, 1881].

8 A contemporary example of such a negotiated settlement can be found in Chile, where a process to reform a dictatorship-era constitution takes place within the formal framework provided by that same constitution.



Both the Indigenous Critique spelled out by [Graeber and Wengrow, 2021] and the framework of relational economics place an emphasis on rethinking social contract theory, as well as well as *functions* like leadership. Kant's notion of a transitional order can also help us frame the context of a transition dynamically, from the legal logic of formal social institutions. Viewing such institutions as negotiated or contested terrain emphasizes the contingent nature of what Machiavelli called *legge* and *ordini*<sup>9</sup>. We see examples of such a *dynamic transition* in cases like the current (February, 2022) constitutional plebiscite in Chile, a country which has recently begun referring to itself as a "plurinational state".

One of the problems with much of social science, and especially economics, with regards to collective choice, is its instrumental view of democracy. For many social scientists, democratic decision-making is simply a means of realizing private preferences. Or, as [Bowles and Gintis, 1986, p. 17] put it, "democratic institutions are held to be merely instrumental to the exercise of choice: democracy facilitates the satisfaction of perceived needs." This reasoning, it has been repeatedly shown, is mistaken and must be replaced with a strong and positive exposition of democracy as a progressive ideal, extending notions like "the Great Community" (Dewey) to terrains like the firm, as these take on an increasingly dominant role in everyday life.

## Firms as Dominant Actors

What is the relevance of social contract theory and notions of "perpetual peace" for the issue of a cooperative economy? In fact, many authors speak of a "post-Westphalian order" where national sovereignty is no longer the common denominator in the international order<sup>10</sup>. In its place, networks of firms have taken an increasingly dominant position. In fact, the firm, not the nation-state, is the dominant actor in today's world. As [Wieland, 2018, p. 17] comments, over 70% of global trade today takes place in intra-firm transfer pricing, meaning markets are no longer the appropriate domain for engaging in economic theory. Their place has been taken by increasingly self-confident, aggressive and powerful networks of firms, which have become "the dominant institutions of the modern world" [Berle and Means, 1932, p. 313]. Thus, when governments seek policies to regulate markets, they are often mistaken in their focus. More focus of government policy must be placed in rendering firms more accountable to the communities they serve, and in which they are embedded, and to the stakeholders without

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9 Cf. [Benner, 2009].

10 Cf. [Rothkopf, 2012] or [Schneider and Mannan, 2020].



whom they cannot exist. This applies in particular to firms' workers and users, who are in most cases, *de facto*, powerless [Hirschman, 1970].

[Ferreras, 2017] has suggested that the contemporary labor market, dominated by service work, has shifted the domain of labor from the private to the public<sup>11</sup>. Thus, the fact of cooperation, which has itself acted to shape and redraw the distinction lines according to which the economy is delineated, has increasingly forced a public logic upon the "hidden veil of production", as Marx referred to it as. As we move further away from the classical master-slave dynamic, social institutions, including firm governance and management, must catch up to the new facts on the ground.

Studying the rise of democracy in Athens shows that the role of citizenship was essential. If we view democracy as a progressive ideal, we must abandon the precept, followed by some within both economics and in the history of social thought, of the "partition[ing] of social space arbitrarily exempt[ing] such basic social spheres as the economy... from scrutiny of democratic institutions" [Bowles and Gintis, 1986, p. 17]. Thus, viewing the Athenian model as a template should provoke us to consider *membership* in organizations as a natural extension of the democratic experiment. Thus, I argue that the first step towards a sustainable theory of the firm involves relationalizing productive relations in the firm in the form of a dynamic "civic moral partnership" (Aristotle), a "revolution" which Kant states above can occur "even under a despotic constitution".

One way to achieve such a revolution is to move to exploit the beneficial outcome of *general cooperation* in the form of *relational rents*. As Figure [1] shows, not only employees, investors and suppliers, but also consumers, joint-ventures, NGOs, Original Equipment Manufacturers (OEMs) and the general community are stakeholders in a given firm's *running concern* and all provide stakeholder resources. Shifting

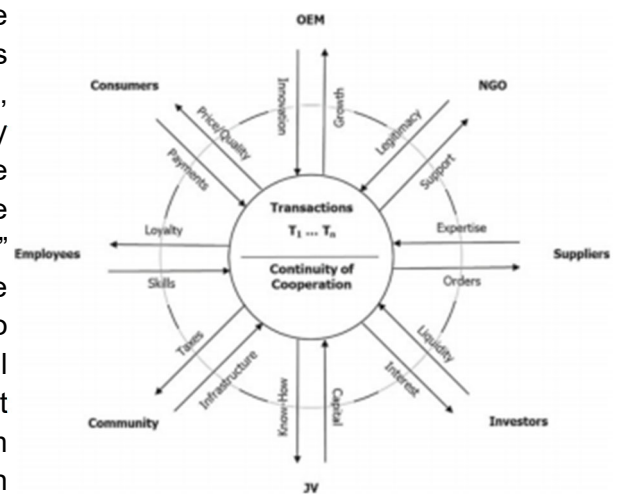


Figure 1: A graphic representing the firm as a circle of cooperating stakeholders, from [Wieland, 2018, p. 71].

11 In this, Ferreras follows a long line of social scientists, including Marx, Weber and Schumpeter, who focused on the *social* dimension implied by the factory system.





the stakeholder dialogue in firms to social or shared value-creation can thus manifest the shift to viewing firms as “social institutions”. [Berle and Means, 1932, p. 692] This can be achieved by realizing a social contract between firm and society, by viewing the firm as a “principal of all stakeholders” [Wieland, 2018, p. 76] and by viewing management and leadership as agents, but not agents serving the interests of investors only, but rather as governance relations

“identifying resources” and prioritizing these resources with respect to the ongoing concern’s transactions (with all of its stakeholders).

## From *Why* Cooperation? to *How*?

The discussions of *ergodicity economics* has revealed many of the contradictions inherent in modern economic theory, particularly in its notion of *expected utility*, which is based on an ontological contradiction and an epistemological paradox, entailing a failure to recognize the path-dependent nature of preference development and the fact that individuals simply do not discount the future in the way that neoclassical economists assume<sup>12</sup>.

One of the interesting results to come from this discussion, as outlined above, is the provision of an answer to the question of *why cooperation*? To remind the reader: all things equal, individuals who share things can reduce the volatility of their endowment over time. Thereby, over time, *ceteris paribus*, individuals who share, also share risks and

so have a higher growth in income than those who shoulder risks alone. [Peters and Adamou, 2015] This point can be seen in Figure [2]. One of the interesting observations the authors make is that, as can be seen in the figure, the non-cooperative outcome dominates in the earliest stages.

This is a very elegant and non-ethical justification for cooperation that is independent of any notions of *inclusive fitness*, and can serve as an explanation as to *why* notions like altruism and tools like language evolved<sup>13</sup>. It also emphasizes the point that “cooperation is hard to initiate, but easy to sustain”. [Nowak et al., 2010] Since the non-cooperative solution dominates early, generating cooperative macrocultures appears the primary challenge. Nevertheless,

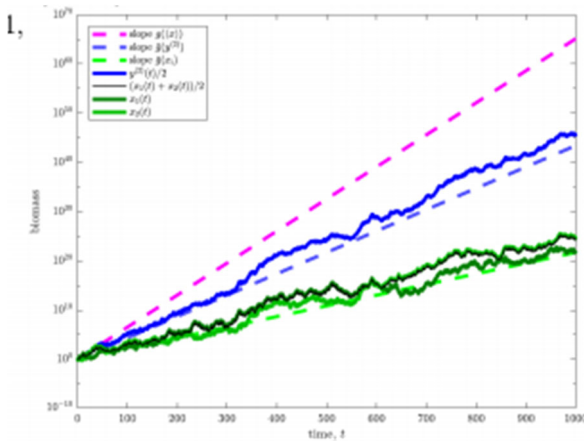
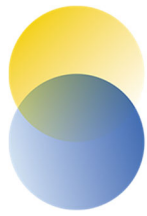


Figure 2: A graph depicting typically variable endowments (measured here in biomass) over time, showing that cooperation (blue line) leads to higher outcomes than non-cooperation (in blue, average in black). Interestingly, the “cooperation effect” is cumulative, and so does not spell out immediate advantage; from [Peters and Adamou, 2015, p. 10].

12 Cf., e.g., [Peters, 2019] or also [Elster, 2001]’s observation that people generally discount “quasi-hyperbolically”).

13 Cf. [Bowles and Gintis, 2013].



adding an ethical dimension, in the form of *co-determination*<sup>14</sup> or *norm-based rationality*<sup>15</sup> can provide an epistemic basis to notions like Castoriadis' 'democratic imaginary'<sup>16</sup>, according to which societies develop an ideational infrastructure<sup>17</sup> and sustain cooperation via appropriate syntactical tools that appear to benefit from what we may call a *relational rent*. We introduce this concept below.

## Introducing the Relational Rent

A rent "represents a form of free income not based on an additional performance." an additional performance." [Wieland, 2018, p. 122] According to [Ricardo, 1891, p. 71], "rent is always the difference between the produce obtained by the employment of two equal quantities of capital and labour." It thus "costs no additional capital" (Wieland supra, Id.) Thus, the real contribution of capital to the wealth of nations lies in its ability to convert the social process of production cooperatively. Thus, Marx concludes in his *Grundrisse* that cooperation is among "the highest forms of economy" [Marx, 1974, p. 21]. Therefore, while capital is the necessary condition, it is the social process of organizing production cooperatively that is sufficient, in the form of the "Arbeits- und Verwertungsprozesses des Kapitals" .

This social process is influenced by the particular *regime* in which it is situated. Thus, within a socialized and politicized regime where the firm has become the dominant actor in the world, stakeholder management and governance take on new dimensions, distinct from the personal relations which, e.g., Schumpeter described. In such an environment, "it is not only the individual entrepreneur who creates innovation. Companies now provide economic creativity in a collective and systematic manner. To survive in the long term, the company has become a collective entrepreneur." [De Woot, 2017, p. 14] Alternatively:

If it is no longer the individual capitalist who (for the reasons explained by Marx) acquires the rent, but rather the organisation itself (the de-personalised organisation, an entity in its own right), it also means that every stakeholder who joins this organisation is not only entitled to a share of the organisation's earnings in the form of his/her factor income, but also to a share of the cooperation rent generated by and through an organisation. This is precisely why resource owners choose to join a given organisation: the return on investment as a combination of factor income and *cooperation rent*. [Wieland, 2018, p. 125, own emphasis]

Wieland argues, following Barnard, that "[i]t is the organisation as a functionally differentiated form that makes economic cooperation and the resultant rent possible" (Id.). In particular, the

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14 Cf. Amitai Etzioni's work on the subject.

15 Cf. [Aumann, 2019].

16 Cf. [Castoriadis, 2005].

17 [Wilson et al., 2012] speaks of "pre-adaptations", which are not necessarily genetic in nature, they can involve behavioral patterns, such as the fact that otherwise individualistic bees behave in cooperative ways in a given context.



firm as a nexus of relationships extends beyond the legal form of the firm itself, rendering an approach couched in Pareto optimality “at best a partial solution” (p. 126) and a transaction-specific event. Thus, the *relational* view this paper advocates for posits a firm as a “firm-specific network” with both private and public stakeholders. (Id.) Within this context, the “cooperative rent” should be seen as what the classical political economist James Steuart referred to as a “positive profit” [Marx, 1910, Chapter 1], particularly one derived from differentiation. It is thus a rent based on a continuing relationship<sup>18</sup>.

We can speak here more generally of a *relational rent*, referring to a jointly produced profit (i.e., a profit that could not have been generated in isolation). Transcultural skills, for instance, contribute to such a rent (by generating new conditions for exploiting resources)<sup>19</sup>. From this perspective, the inter-firm *network* is the basic unit of analysis. Within such a context, relational rents are generated from one or more of the four factors: 1) relation-specific assets (these impact the duration and volume of transactions); 2) knowledge-sharing routines (consist of institutions and routines); 3) complementarity of resources (these serve as mechanisms for identifying the above assets); and 4) effective governance (in particular, self-enforcing forms based on *informal* contracts).

[Lavie, 2006] (cited in [Wieland, 2018, p. 130]) has developed four specific types of relational rent: 1) *internal rents* refer to the type of rent Ricardo spoke of above; 2) *appropriated relational rents* are the mutual benefits to all from combining resources (this is the *why* that [Peters and Adamou, 2015] address); 3) *inbound spillover rents*, internal rents derived from the sharing of external resources (e.g., the use of open source software); and 4) *outbound spillover*, which is an externally-appropriated rent derived from the focal firm’s internal resources. As Lavie emphasizes, *all four rents are produced simultaneously*, meaning that conflicts necessarily arise as to the just distribution of such rents.

## Shared-Value Creation versus Creating Shared Value

In order to deal with these conflicts, the relational economics domain advocates a framework of *Creating Shared Value* onal economics domain advocates [Kramer and Porter, 2011]. This framework “approach[es] the societal problems triggered by globalisation, which are addressed, for example, in movements for Corporate Social Responsibility (CSR) and Sustainable Development Goals (SDGs), as opportunities for growth with win-win options for firms and societies”. As [Porter et al., 2012, p. 1] state,

More and more, companies are creating shared value by developing profitable business strategies that deliver tangible social benefits. This thinking is creating major new opportunities for profitable and competitive advantage at the same time as it benefits society by unleashing the power of business to help solve fundamental global problems.

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18 [Malcomson, 2013, p. 1057]. cited in [Wieland, 2018, p. 127].

19 For more on this, see [Biggiero, 2022, pp. 97ff.] and [Wieland, 2018, Chapter 8].



The framework, in a nutshell, criticizes the fact that in the standard exchange paradigm of *Shared Value Creation (SVC)*<sup>20</sup>, most stakeholders are only included *ex post*, which limits the scope of SVC's impact. CSV attempts to fix this delinquency by adopting a *multi-stakeholder* perspective *ex ante* and allows for non-market approaches for shared value. Moreover, whereas SVC "demands risk neutrality, transparency" and other strong assumptions, these "can be systematically ignored for the purposes of modern and global economies. Why? Because cultural diversity, differing risk preferences, contracts that cannot be formally enforced and resource revenues that cannot be separated (or only at a prohibitive cost) are the immutable preconditions for global cooperation and economic networks." (Id.)

Thus, a *relational* approach is required, which focuses on 1) the willingness, 2) ability and 3) opportunities to cooperate. These three domains involve both psycho-social processes of cultural learning, feature institutional components, multi-level resources, as well as values like reciprocity and organizational standards. As opposed to Williamson's *Transaction Cost* approach, firms in the SVC approach are not merely focused on minimizing transaction costs, but also on generating shared value. (Id., p. 146)

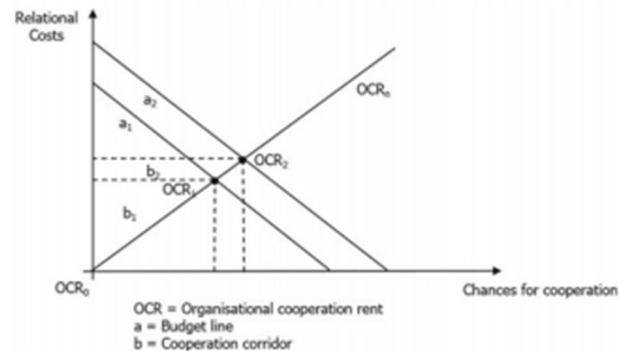


Figure 3: A graph representing the trade-off between cooperative costs and benefits, from [Wieland, 2018, p. 149].

Therefore, the decision structure in a SVC approach includes a trade-off between *relational costs* and the *relational rent*. Relational costs consist of 1) *transaction costs* (these are very similar to those perceived by the neoclassical framework); but also 2) *adaptation costs*, which include so-called "bargaining costs" regarding matters like communication, diversity, etc.<sup>21</sup> and which can also be bundled (sub-additivity); and 3) *cooperation costs* which are "those incurred in order to undertake a collaborative activity with a partner, separate from those incurred in reducing the threat of opportunism from that same partner" [White and Siu-Yun Lui, 2005, p. 914], (meaning they can be 0 even when transaction costs = 0).<sup>22</sup>

According to this view, cooperation occurs if the value of the cooperative rent less the relational costs is greater than 0, or, if

$$CR_t - RC_t > 0,$$

20 For an overview and comparison of each perspective, cf. [Wieland, 2018, p. 133ff.].

21 [Wernerfelt, 2016], cited in [Wieland, 2018, p. 147].

22 Examples of such costs include *team-building costs*, *leadership costs*; *stakeholder management costs* and *transcultural management costs*. Cf. [Wieland, 2018, p. 150-4].



where  $CR_t$  is the cooperative rent and  $RC_t$  the relational costs, merely represents the above relation mathematically. Figure [3] represents the trade-off visually. The point is that such a relational viewpoint does not act to constrain exchange transactions, instead it actually facilitates and increases the domain where these are possible. As organizational science is “not yet a fully developed field” [Wieland, 2018, p. 155], the strengthening of a relational point of view can only aid in a process of maturation.

## The Importance of Law in Realizing Cooperation

Whitehead suggested the image of the “firm as society”, featuring a “common element” that additionally “arises in each member of the nexus”. Thus, according to the above view, a firm is a unity of form, relation and reproduction. Not objects (whether masters or servants), but *relations* should take primacy in description and analysis. Thus, the appropriate image for a “fundamental transformation” should be a “going concern” and not a machine. Now that we have established the vitality of such a perspective, the question is whether the existing framework of neoclassical economics is able to incorporate it or whether attempting to integrate such a view into a neoclassical economics framework resembles more “the complicated reasoning made by Ptolemaic astronomers to account for inexplicable orbits.” If the latter does obtain, then it wouldn’t make sense “[f]or a Copernican astronomer, [to learn] the calculations required by the old paradigm [... instead] It [would be] necessary to simply change the paradigm.” (Id.)

As Kant emphasizes, the master-servant relation is ultimately a *legal*, not merely a contractual relation. Thus, we now turn to the legal domain, parsing how the dominant neoclassical model is unable (and, in fact, *unwilling*) to account for these vital *polycontextual* relations.

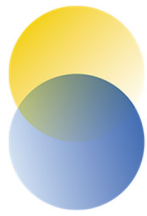
## A Neo-Abolitionist Agenda

As Whitehead’s process-based perspective of the firm views each individual as a manifestation of the firm’s “common element”, an inherent question of the distribution of rights and responsibilities is begged. Following a growing tradition I have elsewhere referred to as “neo-Abolitionist”<sup>23</sup>, I argue that the contours of the contemporary knowledge economy require an inclusive, accountable and equitable distribution of the rights and responsibilities within a firm between its (internal and external) stakeholders.

One perspective, by all means not the only one, for determining an equitable distribution of rights and responsibilities flows from what in the cooperative movement is referred to as *patronage*, meaning the extent to which stakeholders transact with the focal firm [Fici et al., 2013, p. 40f.]. Following such a view, for instance, workers in a firm may have increased rights but also increased responsibilities over and against, say, investors or external suppliers. Nevertheless, the general focus on equity, inclusion and accountability appear of central

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23 Cf. *The New Abolitionists*, forthcoming in *Labor and Society*.



importance in crafting a modern economy, in keeping with the stipulations of ecological and social sustainability.

Such an agenda requires suitable legal logics. I argue, following David Ellerman and Otto von Gierke, that a focus on the harmonization of factual and legal principles is of central importance in this respect. According to such a view, the fact that labor is responsible, creative and – above all – *inalienable* prevents a contract of *translatio* from obtaining. Given this fact, the traditional employment contract is considered illegitimate from a neo-Abolitionist perspective. Moreover, such a perspective should adopt the general principle of *cooperation*, which German jurist and legal historian Otto von Gierke opposes over and against *domination*. Gierke’s contribution to a neo-Abolitionist focus should also extend to his notion of the *social function of private law* and his famed phrase “no right without duty”.

We cover these issues below, beginning with Ellerman’s notion of the inalienability of labor.

## The Inalienability of Labor Relations

Table of injustices due to mismatch of factual and legal responsibility		Factual Responsibility	
		Factually responsible for X	Not factually responsible for X
Legal Responsibility	Held legally responsible for X	True positive	Type II injustice: Innocent party legally guilty
	Not held legally responsible for X	Type I injustice: Guilty party legally innocent	True negative

With regards to the employment contract, Ellerman elicits the alienation principle, suggesting that while “the owner of [an] instrument can factually fulfill [a rental or purchase] contract by turning over the use of the instrument to the buyer or renter so that party can be factually responsible for using it and for whatever is thereby produced [because t]he services of a thing are factually alienable”, the same cannot be said of the employment relation. Ellerman: “Responsible human agency is factually inalienable. Hence the contract to rent persons, like the voluntary contract to buy persons, is inherently breached and is thus inherently invalid. To pretend that responsible human agency can be transferred from one person to another is a legalized

Figure 4: A figure representing an adaptation of Figure ?? applied to divergence between factual and legal responsibility, taken from [Ellerman, 2021a, p. 44].

fraud carried out on an institutional scale in our current economic system, i.e., ‘a barefaced though legalised robbery’”. [Ellerman, 2021b, p. 103] This paradox can be seen in Figure [4], where the situation is described similarly to a Type I and Type II error in statistics.

Describing a situation of maximum conservatism in the traditional labor relation, Ellerman states that “At most, a person can and typically does voluntarily agree to obey the instructions of the employer, but then, in factual terms, they each share some of the *de facto* responsibility for the results of their joint actions.” (p. 104) However, the negative side of the invisible hand – i.e., the non-action of jurisprudence – is present in this circumstance, meaning that in the current scheme, the *de facto* shared responsibility is concealed behind the “legal fiction” of the labor contract. It is only by means of this “obverse invisible hand” that the laborer is considered an external supplier of “labor services”. Ellerman concludes,

Thus, the employment system inherently violates the juridical principle of imputation since one party is factually responsible for the whole product (the party consisting of



all who work in the enterprise) while another party legally appropriates the whole product (the legal party playing the role of the employer).(*Id.*)

Thus, Ellerman forcefully argues that, if we are to accept the principles which the Enlightenment, the Reformation and modern constitutions and international law enshrine – principles of self-rule, autonomy, the inalienability of reason and responsibility: in short, if we subscribe to the democratic civic imaginary outlined above, then *we must abandon the contemporary labor contract as not in keeping with the factual self-determination, or with the responsible, creative agency that the labor process naturally entails*. Even Adam Smith understood this, when he stated “The value which the workmen add to the materials . . . resolves itself . . . into two parts, of which the one pays their wages, the other the profits of their employer”<sup>24</sup>.

## Cooperation versus Domination and the Social Function of Private Law

Gierke comments on the two distinct traditions of collective choice arising in Germany in the ancient epoch. The first of these he refers to as *freie Genossenschaft des alten Rechts*, which “as a peaceful and legal association based on natural cohesion ascribes all law to the collective,” [von Gierke, 1868, p. 9]. On the other hand, the second collective choice tradition he refers to as *herrschaftlicher Verband*. This type is associated with a “patriarchal and personal design”. This second form of association “has, from the beginning, confronted” the *freie Genossenschaft* and “has historically and with unrelenting advancement continually displaced it.” (*Id.*) It is through this struggle that the patriarchal constitution of antiquity is supplanted by the patrimonial constitution developed in the Middle Ages, and which came to fruition in the age of absolutism.

The principle of free association, argues Gierke, was able, in the course of the Medieval era, to increasingly supplant the right of patrimony and feudal privileges, as the latter “continued to collapse”, leading to a situation in which “authentic forms of association [*gekorene Genossenschaften*] were developed from the bottom-up in all sectors into the most wonderful organizations.”(*Id.*) In this way, “associations and cooperative communities conglomerate in ever higher [i.e., more complex] levels”. In an important passage, Gierke reflects that in performing this role, the cooperative mode of free association “prepared, from scratch, the notion of the emancipation of the subject [*Persönlichkeit*], without at the same time sacrificing the hard-fought (*gewonnene*) sovereign right to property.”(*Id.*, pp. 9-10)

Gierke also develops ideas like “Gesamtpersönlichkeit” (“total personality”) that should be of use to modern theorists concerned with notions of multi-level governance or emergence. While the cooperative associations of the late Medieval era “were able to serve as state, commune (i.e., municipality) and corporation”, they were, according to Gierke, unable to supplant the status orders or estates, such that the cooperative societies “began to ossify in their contemporaneous structures and became, as such, unable to withstand the larger and

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24 Smith, 1974, 151, cited in [Cockshott et al., 2009, p. 121].



concentrated power of centralized state authority, bringing with it a levelling of status orders, merging of town and country."(10)

This ossification led to “the definitive victory of the notion of territorial sovereignty in the form of a central state authority, aided by forms of authority imported through Roman legal code.” In this new construct, free association took on a subordinate role and “the absolutist state and absolute individuality become the motto of the era.”(*Id.*) Gierke sees the destruction of the guilds at the hands of the state ambivalently: on the one hand, the action “destroyed, in one fell swoop, both the privileges and inequalities of the old public law and for the first time in history accords to all individual freedom before the law in the form of subjects.” At the same time, through the construction of this new subject status, which Gierke intends to distinguish from the liberal freedoms many in the world know today, “all the political freedoms of the German man were mercilessly destroyed” by the shift.

The fifth period, which Gierke sees commencing during his own lifetime, is characterized by the idea of general citizenry and the representative state (Gierke is referring to the notion of *liberal democracy*), and in this era, Gierke sees the tradition of cooperative association “awake in a strengthened form after an extended death-like slumber, to find its culmination.” It is worth quoting Gierke at length here:

No longer bound by the restraints of estates and orders, no longer limited by exclusivity, limitlessly smooth and divisible in form, equally useful for the most and least privileged, for the most extensive and most limited ends, enriched by certain advantages of the Roman law, emptied, however, of the Roman template (*Schablone*) or mold, in whichever form it insinuates itself in theory or practice – this is the reborn ancient cooperative idea in German law, resuscitated in a panoply of new communal forms, in addition to filling the old forms with new content.” [von Gierke, 1868, p. 11]

Thus, to crystallize Gierke’s theories: Gierke sees much of the history of humanity, not as a struggle between classes, as *The Communist Manifesto* would have it, but as a struggle of different conceptions of association; on the one hand the notion of *Genossenschaft* and on the other, *Herrschaft*<sup>25</sup>.

### No right without duties

Gierke argues that the idea of “no right without duties” reflects the particularity of the Germanic legal tradition. The Roman legal tradition, on the other hand, sees limitations to the entitlements the law provides “only externally, via opposing entitlements”, [Gierke, 1889, p. 20] which “stands in contradiction to any social conception of law.” Thus, e.g., an absolute conception of property law (“ausschließliche Willkürherrschaft”), which Gierke observed in the then-contemporary draft of the German civil code, is described as “a pure fiction”. Moreover, Gierke describes such a fiction as a danger to public safety (*gemeingefährlich*). This because such a fiction views exceptions to the “exclusive arbitrary dominium” as singularities, as exceptions. Such a perspective leads to an “overloading” (*Überspannung*) of the concept of private

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25 Cf. [Schröder, 2021, pp. 113ff.] and [Schulz-Nieswandt, 2003].





property, which is, according to Gierke, “at root not an absolute right.” It is, in other worlds, at least in part, a *concessio* and not entirely a *translatio*.

## Towards a Sustainable Theory of the Firm

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In accordance with the above theses, we advance a *sustainable theory of the firm* as an agenda with merit. This theory should be lodged in an epistemic and methodological framework that embraces a pluralistic economy, couched in democracy as a normative guiding principle and which furthermore embeds a neo-Abolitionist framework in its notion of collective agency. The first goal of combining an adherence to pluralism and can be achieved by practicing what Robert Ulanowicz calls “metaphysical patience”. This standpoint attempts to counter the dangers of optimizing for single goals by taking an ecological approach that contributes to processes that may appear to be marginal to certain economic goals, but whose emphasis renders systems in total more stable.

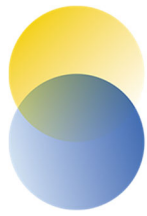
Thus, as opposed to the image of a single individual suffering from cancer, the human ecosystem is embedded in and dependent on a fragile global ensemble of interdependent ecosystems. Considering the contemporary scientific consensus of the combined threats of overpopulation and ecological devastation, there is a need in the contemporary world to order many social processes at system-wide scales. In fact, we must also mention the notion of redundancies whose impact and purpose lies beyond our comprehension<sup>26</sup>. This observation calls for a metaphysical patience, or a “willingness [...] to admit that we inhabit, as Ilya Prigogine [...] put it, a world of radical uncertainty.” [Ulanowicz, 2009, p. 156]

Such a world view would attempt to organize human social activity in such a way as to reduce human encroachment upon natural ecosystems to an accommodating minimum. It thereby relates to Popper’s notion of *intellectual patience*. Each of these perspectives appears to support a search on the part of scientists and the broader human community as to how to organize the remaining incursions on the natural biosphere in a democratic manner. Because constraints promote scarcity, which in turn raises the specter of competition for scarce resources, human intelligence needs to create systems for fairly allocating such resources via an active multi-stakeholder dialogue, thereby enabling the mutualism that underlies natural (including human) systems to operate synergistically. Notions of stewardship can facilitate this process. It must be stressed that this notion of metaphysical patience can serve as an important level particularly for translating *ecological* sustainability into individual firm governance.

The second goal of couching the theory of the firm in democracy can be realized by extending the notion of membership to stakeholders of a firm. As introduced above, patronage can be a good guide for such an endeavor. A true multi-stakeholder dialogue must entail both the

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26 Cf. E.O. Wilson’s notion that 80% of species have not been discovered or studied, Cf. [Wilson, 2016, Chapter 3].



inclusion of stakeholders, but it must also emphasize the *mechanisms* by which those stakeholders participate in shared-value creation and in governance. As such, the goal of a democratic ambition for firms necessarily entails the use of *democratic choice mechanisms*<sup>27</sup>. The point that should be emphasized in applying such concepts is their *dynamic* quality.

Finally, the goal of neo-Abolitionism appears a solution to the crisis of accountability which appears apparent in many sectors today. With a future in which jobs featuring self-determination, autonomy and active co-creation appear a luxury, there is a need to extend such features across the economy. In particular, a neo-Abolitionist framework seeks to empower labor investors, whose contributions to any organization are essential to the value generated in an organization. Extending this logic to other logics and arenas, such as data governance and public resource management, offer opportunities for extending the effectiveness of such principles in serving as anchors for organizations and their members in dealing with an uncertain and risk-laden future.

## Conclusion

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If we are to apply a sustainable theory of the firm in the future, then this involves rethinking notions like innovation and investment. It also involves, as we have argued above, expanding the concept of sustainability beyond ecological sustainability. The benefit of a relational view lodged in a progressive notion of democracy and an appeal to neo-Abolitionism within this effort is clear. Thus, firms like Amazon, the second-largest employer in the United States, and Walmart the largest employer in the United States, and their respective analogues internationally (think of Alibaba, Aldi, Tesco, Carrefour, etc.) can learn from the example of Eroski and Huawei, two cooperatives which include their employees not only in profit-sharing, but which engage them in governance. In particular, what the latter firms' experiences show is that relational contracts not only feature additional costs, but also present a field of networked relations that can instill beneficial feedback effects in the form of *relational rents*.

Similarly, with respect to what [Mazzucato, 2021] refers to as the "wicked" problems of the present and future, exemplified by the Covid-19 pandemic and the climate crisis, relational, cooperative and neo-Abolitionist solutions provide captivating alternatives to the profit-oriented model of the status quo. In fact, the attempt by doctors at Texas Children's Hospital to develop a "people's vaccine" serves as a compelling alternative to the chaotic process of developing quick fixes to the supply chain hurdles of providing PPE and vaccines to wide swathes of the

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27 Cf. Chapter 6 and 7 of my own *The Cooperative Economy*. Moreover, recent legal decisions in Germany, Bolivia and a handful of other countries, which have either bestowed nature itself with agency and rights, or underlined the failure of present policy to account for the deleterious effects of present-day (unconstrained) economic activity on future generations' quality of life are enlightening and encouraging in this respect.



global population and to care workers<sup>28</sup>. Existing models such as GAVI and GISRS can provide excellent templates for such efforts, which can extend to the production of traditional and relational goods, including data governance.

In terms of discovering and implementing new models of data governance, data sovereignty and data security, events like the Facebook-Cambridge Analytica scandal revealed the decidedly harmful effects of a consolidated and intransparent model of data governance. These include envelopment, the “commodification of consent” and entrepreneurial dependence. Reforming this situation, which involves network effects and first-mover advantages, must involve both governments and civil society groups operating in tandem to reclaim a hegemonic position in the governance of cyberspace. Campaigns towards this end could involve a multi-stakeholder-driven “Hostile cooperative takeover”. This could involve a social network where people interact and share life information, events, organize in groups, etc. The relations here are known and exportable by the user, who could export their identity, including connections, to a profile with data cooperatives like Polypoly. Following this, could then that profile and connections be uploaded to a cooperatively managed platform. An example is FairBnb’s ability to import Booking.com calendars. By such means, social enterprises can create “communities of quality”, focused on the principle of creating shared value.

Lastly, Chile’s current efforts to draft a new constitution provide a template for carrying these debates of a “communications view” into the traditional domain of political economy. This can be seen, for example, in its efforts to impel parity in terms of gender and indigenous representation. The Chilean efforts demonstrate the need to actively re-establish a social contract and not merely take consent as being implicit. They also demonstrate the challenges and difficulties in promulgating and consummating such a complex process at the level of a nation.

The above has attempted to show how a focus on democracy and a framework of cooperation, manifesting in a logic of discourse, emphasizing the relational aspects of polyvalence and polylingualism offers a suitable framework for a sustainable theory of the firm, with respect to resource governance and notions of creating shared value. We have hoped to sketch to what extent a legal lens, as well as a focus on networks can complement an ethical lens and a view of traditional economics and management theory to generate discourses towards a more socially and ecologically sustainable economy. Translating missions like the UN’s Sustainable Development Goals (SDGs) into firm-level principles appears the one of the most pertinent tools towards this end.

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28 <https://tinyurl.com/pplvacc>



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