

Chapter 2

Fiscal Justice and Justified Trust

Clemens Sedmak and Helmut P. Gaisbauer

Abstract In the following essay we are particularly interested in the relationship between formal (legal, political) frameworks and informal networks. There seems to be a culture of suspicion vis-à-vis the former and a culture of trust regarding the latter. This asymmetry in the readiness to trust leads to a way of thinking that supports the idea: “the lower the tax burden, the better”. On the other hand, the idea of a fiscal contract is based on an idea of mutual trust (tax authorities trusting the tax payers, i.e. through limited controls, tax payers trust the tax authorities in terms of tax fairness and the appropriate use of the fiscal income). The thesis we will develop here has three elements: (1) Formal frameworks (F) and informal networks (N) are interdependent and mutually linked; trust in F implies trust in N and vice versa. Social networks operate within structural frameworks and need “institutional framework trust” or “trust in systems” in order to be able to flourish. (2) The generation of income and wealth is based on trust—people need social capital and networks as well as legal and political frameworks and public infrastructure in order to generate incomes, in other words: non-communal money or capital independent of structure does not exist. (3) On the basis of this culture of trust as the centre of wealth-generation and common-good tax justice, justified trust can be linked via an “ability to trust” principle and a “responsibility to trust” principle.

2.1 The Key Question

Let us begin by analysing the idea of inheritance tax as it represents one of the most contested types of tax (Gaisbauer et al. 2013). Inheritance tax provides a window into fiscal ethics because it is by its very nature embedded in the question of

C. Sedmak (✉) · H. P. Gaisbauer
Centre for Ethics and Poverty Research, University of Salzburg, Mönchsberg 2a,
5020 Salzburg, Austria
e-mail: clemens.sedmak@sbg.ac.at

H. P. Gaisbauer
e-mail: helmut.gaisbauer@sbg.ac.at

redistribution and common-good considerations. The actual process of inheriting can be reconstructed as follows (Sedmak 2013a)—A inherits x from B:

1. B is in a “right holding” position vis-à-vis x (Rx),
2. Rx is transferrable,
3. Rx is regulated by a (“thin”) legal, political and social framework F ,
4. A and B are members of a social network N ,
5. N is usually “thick”, i.e. characterized by personal acquaintance, special obligations, and face-to-face interactions,
6. B transfers Rx to A after B’s death (or: Rx is transferred to A after B’s death),
7. Step 6 constitutes the difference between A’s pre-inheritance and A’s post-inheritance position, i.e. Rx changes A’s position both in F and in N ,
8. By accepting Rx , A accepts the new position in F and N ,
9. Step 6 can be justified on the basis of expectation fulfilment within “family rules” of N .

A standard argument against inheritance tax is often expressed as follows: x is N ’s (or B’s) property, based on merits and/or achievements and/or efforts by N -members (or B) and inheritance tax is akin to robbery by an unrelated agent (F). Seen in this light, the key question to be asked is the following: What is the relationship between (“thin”) F and (“thick”) N ? (e.g., what is the relationship between “System” and “Life world”, between “group” and “grid”?). There are three possible answers to this one question: (a) F - N are parallel social constellations with occasional points of contact that can (and should perhaps) be minimized or can at least be forged *ad libitum*; (b) F - N are mutually dependent on each other, thus the relationship is characterized by reciprocity; (c) the relationship F - N is asymmetrical (characterized either by F -predominance or by N -predominance). “ N ” is a set of personal contacts based on personal acquaintance and face-to-face interactions. N provides special levels of interpersonal trust and trustful relationships with a component of special obligations. N is based on “face-based trust”, that is trust connected with persons in their respective particularity. “ F ” is a (“thin”) legal, political and social framework based on a type of trust that is formal, institutional and follows the dynamics of “trust in systems”.

The question: “What is the relationship between (‘thin’) F and (‘thick’) N ?” can be assumed to be the key question in the justification of any tax. Taxation as a process by which individuals, institutions, and communities are forced to make a contribution, via tax, to the authorities for the administration and development of society refers primarily to the ‘thin’ framework F . F is financed through taxes, i.e. through the compulsory exaction of money by a public authority for public purposes. Two core points of view are fundamental in motivating tax avoidance or even tax evasion: (1) Income is basically self-made and people should be free to support N as a preferential capital-commitment option; (2) Representatives of F will squander the money, and F is not an economically viable way of working with resources. These points relate to issues of trust: (1) either points to a form of self-trust that could be described as unjustified self-trust based on self-deception (see Govier 1993, p. 115 f.), or on the idea that, because of their bonds with N , people are

prepared to contribute more capital towards N than towards F—and feel justified in doing so. In other words: greater trust in N than in F justifies a corresponding allocation of resources. (2) points to a culture of suspicion of state authorities; based on such lack of trust in any policies outlining careful and prudential spending, people will justify tax avoidance or even tax evasion by arguing: “I could make better use of the money, even better use for the sake of the common good”.

In the following contribution, we will address this question of the relationship between taxation and trust with special reference to the relationship between thick networks (“N”) and thin frameworks (“F”).

2.2 What is the Relationship Between (‘Thin’) F and (‘Thick’) N: Two Examples

The idea of “self-made” wealth is prominent in debates about the myth of a pre-tax income and the myth of “self-made wealth”, i.e. wealth without framework or community support (Collins et al. 2004). We will examine two examples in this section on the premise that an example transcends the function of mere illustration. Examples can “tell” us something, especially how to close the gap between a rule and its application (Kroß 1999). Examples can serve as “windows into contexts” (cf. Chambers 1984, p. 66 f.). Examples can reject universally held truths and they can pinpoint crucial issues that can be used for further analysis. (Sedmak 2013b, pp. 11–18). In the light of these observations, let us take a look at two examples. In his autobiography (Sugar 2011; abbreviation: SWS) Alan Sugar (Lord Sugar of Clapton) describes his business success in terms of the self-made man: “No one actually started me off” (SWS 84). He describes his childhood as having laid the foundation stone for his ambitions: “My parents did their best, but not being able to have what I wanted made me determined to do something for myself—to be self-sufficient” (SWS 11). He engaged in business activities at an early age, identifying seemingly useless waste in a textile factory as something which could be put to good use elsewhere: “Basically, I’d spotted some stuff in one place and seen another place to sell it. And what’s more, I really enjoyed doing it” (SWS 13). His keen sense of recognizing opportunity made him realize the potential value of old wooden blocks destined to be dumped after street renovation: “Bingo! It occurred to me that these discarded wooden blocks could be made into fire-lightning sticks”; (SWS 15). In addition, Sugar soon proved he had a nose for business, or more precisely, marketing, in the store where he was working part time: “I introduced one of my marketing ideas ... When asked by the customer for a bottle of, say, Milk of Magnesia, if you were to reply, ‘Small or large?’ most punters would say, ‘Small’. Much better to ask, ‘Do you want the small 1s 6d one or the extra-value 2s 6d one?’ I applied this to lots of things in the shop ... and it worked nine times out of ten”; (SWS 29). Thirdly, apart from a keen sense of opportunity and marketing acumen, he demonstrated the courage to initiate business and accept the risks involved, e.g., by starting up a shampoo production business with Steve Pomeroy and Geoff Salt.

“Steve’s family business was lemonade, so they knew where to buy bottles and labels. I could source the ingredients to make the hair lacquer and the shampoo—a soap detergent with a little bit of perfume in it” (SWS 51). Soon he left his government job (much to the disappointment of his father) and became a sales person in electronics. The turning point came when he accidentally spotted some broken TV sets: “I thought of my mate Malcolm, who was a TV Engineer. He could fix the sets and I could flog them. I said, ‘I’ll take them.’” (SWS 74). Here we can clearly see Alan Sugar’s sense of opportunity at work, but we can also see how he found help in realizing opportunity by means of an informal, thick network of friends. He developed a simple business model: you take a discarded, broken item, fix it and then sell it—he followed this model for TV sets then record players and went on to found his own company. When he handed in his notice, his employer warned him: “Let me tell you, you haven’t got very good contacts”, (SWS 83) which plainly indicates the magnitude of the informal and thick network. N. Alan Sugar started up his own brand by putting a label on imported cigarette lighters: “I decided that I would use my own brand name on some products, even though I bought them from an importer”; (SWS 87)—“AMS Trading” was born. Obviously, Alan Sugar owed the possibility for implementing this business strategy to the fact that there were legal provisions in place to make that possible. At some point—here again, we see a personal trait in his inventiveness—Sugar had a break-through idea: “Ann and I visited my mum and dad’s for tea and I noticed they had a plastic butter dish—a red-tinted one. As I lifted the lid up, I saw a moulding mark, known to me now as a sprue mark—the place where the plastic is injected—and in that moment, something clicked in my brain. Here we had a coloured, see-through plastic butter lid, and all I needed to do was to make a similar item but much bigger, also see-through, with a nice grey tint to it” (SWS 107). He ordered a factory to produce the goods and sold them at a high price—“That was it—the start of the big time for me”, (SWS 109). After that he produced amplifiers, where success depended on sourcing the right technicians and managing to get into a mail order catalogue; and finally, he managed to enlarge his network, N, by establishing direct contacts with Japanese business partners. This was the basis for the huge economic success of Alan Sugar’s companies.

What does this story tell us about the relationship between “F” and “N”? (a) Alan Sugar’s capabilities can be identified as key elements in the process of wealth creation (creativity, persistence, flexibility, openness, ability to learn and adapt, and to make and maintain contacts, marketing and sales skills, inventiveness, sense of opportunity). While we do not want to underestimate the importance of those character traits, they alone would not have brought him the business success he experienced without the appropriate environment. We could compare the dynamics at work here with a Wittgensteinian observation on the importance of the appropriate surroundings for meaningful linguistic devices and communicative acts (Wittgenstein 1972, p. 250, 584). Similarly, Alan Sugar could not have developed his skills without the appropriate context; this is not only a developmental statement about the basis of his self-trust but also refers to the flourishing of his capabilities: capability-building is based on informal and structural conditions (cf. Sedmak 2011). (b) N turns out to

be a necessary condition in Sugar's business journey (his parents and friends provide him with a start-up loan, his parents' flat serves as his first storage space, his friends support him as business partners, business mediators as well as mentors; his friends together with their expertise and contacts are crucial to his success. In other words, Alan Sugar needed social capital to be able to build his business existence. "Social capital", as a set of social connections based on access to networks, norms, and trust, enables people who control them to pursue their goals more effectively. Social capital consists of trust-based connections with an expectation of reliability and reciprocity (cf. Putnam et al. 1993). Alan Sugar made ample use of his social connections thus investing trust. (c) F can be shown to be a necessary element in Sugar's success story: (i) Alan Sugar uses both tangible infrastructures (e.g. transportation, communication) and intangible infrastructures (e.g. education, access to credit) to build his business empire. A significant moment in his business life is the miners' strike in 1972 with the ensuing electricity cuts as a consequence: this taught him a lesson about dependency on a thin framework F. (ii) Sugar operated and still operates in a legally structured space (import and labelling freedom, little quality control mechanisms in place, no price regulation, possibility to hire and fire, possibility to found enterprise with little capital). He could not have started his business on the basis of N alone; without larger structural and infrastructural conditions in place he would not have had the environment and he would not have been able to convert his social capital into any operation, let alone large scale operations.

Alan Sugar's story is the story of a self-proclaimed "self-made" man whereby a close reading of his autobiography unambiguously reveals a twofold dependence on N and F. Sugar could trust his family and his friends and he could also trust the structural systems (transport, communication, legal system) in place.

A second example could be the rise of the House of Rothschild in the eighteenth and early nineteenth centuries. The economic and social rise of Mayer Amschel Rothschild (1744–1812) was the beginning of the wealth of the House of Rothschild (cf. Ferguson 1998; Backhaus 2012, pp. 80–96; Elon 1996, Chap. 3; Wilson 1988, pp. 38–44). Mayer Amschel Rothschild came from a family of small textile merchants and grew up in Frankfurt's *Judengasse*. He learned the basics of commerce in the business of Wolf Jakob Oppenheimer where he worked as an apprentice in Hannover, a position mediated by relatives. After that he started his own business dealing in rare coins. The basis for this branch of business was twofold: expertise in numismatics and social capital, i.e. good contacts with the aristocracy. It was crucial for Rothschild that he won the patronage of Crown Prince William of Hesse (for whom his father had also worked). Access to the Court and gaining the title "Court Factor" in 1770 were major stepping-stones. In the same year, Rothschild entered into a strategic marriage with Gutle Schapper, another Court Factor's daughter, who provided him not only with access to economic capital but also access to social capital and contacts. Hence, even at this stage, we can see that three factors played a major role in the business success of Mayer Amschel Rothschild: social capital (access to the Court and other strategic social contacts), access to economic capital, and personal skills such as reliability, discretion, learnedness. He was also known for his detailed catalogues and accommodating flexibility in

pricing policy. On the basis of these three factors alone, Rothschild was able to enlarge his portfolio and enter the market of antiques. The business expanded and increasingly included established figures of a high social background. The business thus far made Rothschild prosperous, but he was by no means a man of fortune. His major breakthrough was his entering the world of finance through the provision of banking services to Crown Prince Wilhelm. The “smooth” transition took place on well-prepared ground and according to Niall Ferguson’s analysis: “In some ways, the transition was a natural one. An antique-dealer with a growing circle of suppliers and customers naturally would extend credit to some of these”, (Ferguson 1998, p. 45). By 1797 Mayer Amschel Rothschild was definitely well-off. In the throes of the French Revolution, business rapidly expanded, Rothschild handled payments from Britain for the hire of Hessian mercenaries, thus profiting from the war. He built up a position as an international banker to Wilhelm IX and was thus able to gain profitable contracts. In 1798 he sent his son Nathan to England so that Nathan could get first-hand experience of the textile business—this was the first foreign branch of his business. Nathan entered a strategic marriage to the daughter of a leading merchant as well, thus gaining social and economic capital in London. Soon after 1807 Nathan was forced to work illegally, entering the smuggling business: “in October 1807 he was sending a consignment of coffee to Sweden via Amsterdam, using an American registered ship and fake Dutch documents”, (Ferguson 1998, p. 58; see also Morton 1962, pp. 45–48). At the same time, Mayer Amschel Rothschild benefited from the growing egalitarian consciousness; he entertained strategic friendships, e.g. with Karl Friedrich Buderus, obtained insider knowledge and established a network of allies by strategically placing his sons in various European locations. Part of Rothschild’s business model was the categorical exclusion of daughters and sons-in-law from his business (Ferguson 1998, p. 74).

If we were to take a moral philosophical reflection on this well-known story what could we say? What does this story tell us about the relationship between F and N? (a) Again, personal skills, capabilities and features were key: Mayer Amschel Rothschild’s willingness for delayed imbursement, his sense of long-term business relationships, his sense of opportunity and his expertise in various quarters. (b) A second factor was the “thickness” of his family network, order and unity, the concentration of sons, strategic marriages. The fact that the Rothschild family could use Hebrew script to convey messages was crucial in a business that called for a high degree of confidentiality. Connected with this inner network of family ties was Rothschild’s social capital in a wider sense—which gave him access to information and closeness to political powers. Social capital was the basis for access to financial and economic capital: “Mixing with members of the aristocracy was essential if it was they who governed, and almost as much political information came from informal socialising as from formal meetings with ministers” (Ferguson 1998, p. 8). This is a clear understanding of the importance of “N”, networks in various degrees of “thickness”. (c) A third factor touches upon the framework “F”: Niall Ferguson identifies “political confidence” as a decisive factor in the history of the rise of the House of Rothschild (Ferguson 1998, p. 5). This is to say that investors need to trust the states with which they do business; they need to trust states to honour their con-

tractual obligations. This is a matter of political and legal frameworks. Representatives of these frameworks (Princes, Kings) were part of the Rothschild network. In other words, part of his success was the fact that he bridged the gap between N and F by entering network relationships with F-authorities.

Again, we see the dependence of an individual person's economic success on N and F and the key role of "trust". Mayer Amschel Rothschild could trust his family, his business friends and he could also base his business on "political confidence" including trust in the communication and transport systems. What does that tell us about the relationship between F and N?

2.3 What is the Relationship Between ('Thin') F and ('Thick') N? The Idea of Reciprocity

The stories told in the two examples above confirm normative considerations presented by Thomas Nagel and Liam Murphy (Murphy and Nagel 2002). A legal and political framework including the idea of property and property rights enables economic activities and network formation. "Private property is a legal convention, defined in part by the tax system; therefore the tax system cannot be evaluated by looking at its impact on private property, conceived as something that has independent existence and validity. Taxes must be evaluated as part of the overall system of property rights that they help to create" (Murphy and Nagel 2002, p. 8). Both informal networks and individual efforts towards wealth-generation are based on a framework including infrastructural features that have been produced by communal efforts. Networks can only prosper on the basis of reliable frameworks. Networks need to be cultivated and maintained, and in order to do that we need certain tangible as well as intangible infrastructures such as values, knowledge, trust. F provides tangible infrastructures such as communication and transportation and the infrastructure of public space. Informal networks provide intangible infrastructures such as ideas, trust, knowledge, values, and beliefs. These value and knowledge systems are formed on the basis of conversations. The proper place for conversation is encounter within networks. Whereas the political framework provides a legal system, networks N provide the "sense of justice" necessary for the legal system (Sedmak 2013b, pp. 126–129). Tangible structures as provided by F depend on intangible structures as provided by N. Katie Warfield, Erin Schultz and Kelsey Johnson regard intangible infrastructures as a: "soft infrastructure that facilitates the functioning and management of a tangible infrastructure" (Warfield et al. 2007, p. 2). One could perhaps illustrate "facilitating" thus: a tangible road network infrastructure can only achieve what it is meant for if those using it abide by the rules of the highway code i.e., stick to a standard code of conduct, have a keen sense of obligation and willingness to work together with other road users. In the public space intangible and tangible infrastructures come together, F and N are inextricably linked; one example in this regard is cultural infrastructures: "The cultural infrastructure is partly tangible and partly intangible. Architecture is the most visible example of the

tangible cultural infrastructure, while all cultural ideas (what we could call the ‘recipes’ of culture) constitute the intangible infrastructure.” (Andersson 2006, p. 5). Ideas are a core ingredient of intangibles and manifest themselves in the tangibles of architectural structures, office blocks, schools and/or other works of art. “In many instances, the intangible infrastructure is a precondition for the tangible: think of Modernism and its effect on architecture and industrial design in the nineteenth and twentieth centuries. Intangible ideas, expressed as creativity or innovations, facilitate the transformation of infrastructure” (Keane 2009, p. 79). Frameworks, on the other hand, provide the context within which networks can flourish: Orwell’s dystopia *Nineteen Eighty Four* presents a scenario where a totalitarian framework undermines network building and a culture of trust necessary for friendships. Ismail Kadare’s novel *The Palace of Dreams* or Franz Kafka’s works, to name but two other literary examples, would give us similar accounts. Networks need a climate of trust that is also based on the reliability of the wider political framework (Kadare and Bray 2008). Networks cannot flourish within a climate of suspicion. On the other hand, particularistic trust, as shown in networks, is the basis for general trust required for the functioning of F (Luo 2005). There seems to be reciprocity at work here: F provides the context for N to flourish, F would soon lose credibility without supporting networks following an Aristotelian thought of the importance of civic friendships for a vital political life (Scorza 2004).

An important contribution towards a deeper understanding of the mutual connectivity between F and N can be found in the documents of the Catholic Social Teaching tradition. Catholic Social Teaching operates within the assumption of permeability between micro categories and macro structures (see Sedmak 2014): Categories describing face-to-face interaction are relevant in shaping structures: “Respect” and “Love” can be reconstructed as political categories (cf. Paul VI 1965, p. 28). “Respect” enables a culture of conversation which can serve as a model for doing politics and for establishing a framework F (cf. Williams 2000, p. 4 f.). “Friendship” (again following the Aristotelian model) is a relevant political category (John Paul II 1991, p. 10). The third chapter of *Caritas in Veritate* presents economics and civil virtues as a unity, making use of ideas developed in the civil economy approach (cf. Bruni 2007). “The Church’s social doctrine holds that authentically human social relationships of friendship, solidarity and reciprocity can also be conducted within economic activity, and not only outside it or ‘after’ it” (Benedict XVI 2009, p. 36). N and F are presented in a way that the one could not exist without the other. Another aspect of such permeability is the relationship between community and society; particular communities are necessary for an inclusive society, i.e. networks that need to be nourished and sustained (John XXIII 1961, p. 146; Leo XIII 1891, p. 51; John XXIII 1963, p. 89), the right to “associate” is a key feature of Catholic Social Thought (cf. Fleckenstein 2002); hence, particular networks are necessary for wider frameworks to be built. Consistency between the various social spheres can be illustrated by the fact that we find the claim in Catholic Social Teaching that “inter-personal relations” and “inter-structural relations” follow the same “grammar”, the same regulatory patterns: “History shows with ever-increasing clarity that it is not only the relations between workers and managers that need to be re-established on

the basis of justice and equity, but also those between the various branches of the economy, between areas of varying productivity within the same political community, and between countries with a different degree of social and economic development” (John XXIII 1961, p. 122). One element of the claim here is that the meaning of the terms used to characterize interpersonal relationships can be transferred to the structural level thus adding depth to the understanding of the macro dimension of frameworks.

If we accept the idea that F and N are mutually connected, their mutual dependence will have tax policy implications: “Individual citizens don’t own anything except through laws that are enacted and enforced by the state. Therefore, the issues of taxation are not about how the state should appropriate and distribute what the citizens already own, but about how it should allow ownership to be determined.” (Murphy and Nagel 2002, p. 176; see also Murphy 2005; Maultzsch 2004; Zelenak 2003). The point of taxation is the safeguarding of societal and communal infrastructures. This dimension of reciprocity between F and N motivates the idea of a fiscal contract regulating a balance between taxpayers’ input and the output provided by the fiscal authorities. This brings us to the concept of trust.

2.4 Taxation and Trust

We assume “trust” to be a basically rational attitude that accepts our own vulnerability and need for cooperation, and makes us enter relationships characterized by a certain irreducible risk (cf. Hartmann 2011, p. 56). If x trusts y , x hands over A to y . A is important to x , but y may damage or destroy A , and there is no guarantee that A will not be damaged or destroyed. In this sense, trust is based on recognition of vulnerability. Vulnerability is the position of a person who cannot protect herself from events that threaten that which she takes to be important to her (Anderson 2014, p. 135). “Trust” is psychologically based on the recognition of integrity, competence, benevolence, and reliability (Bierhoff and Rohmann 2010). Trust is a basis for knowledge claims and knowledge chains as well as for conversations (Hardwig 1991; Cockburn 2014). Trust reduces social complexity and transaction costs (Luhmann 1973). If someone is trusted, this changes her moral status as well as her self-understanding (Hertzberg 2010).

Trust is a necessary element both at the F-level and at the N-level. Jerry Evensky has shown at the macro level that trust can be reconstructed as the foundation of economic activities in Adam Smith’s thought (Evensky 2011). The quasi-magical energy of markets that coordinate production and consumption is “unleashed by human freedom in almost magical ways... only where trust prevails” (Evensky 2011, p. 250). Without trust, there can be no culture of private property, no incentive to accumulate or re-invest capital, no mechanism to obtain credits, in fact no monetary culture at all. Trust is a necessary element in imperfect markets (Gilbert 2007). A free market system depends on the fact that citizens trust that their fellow citizens share a moral sense of values and respect the legal framework F. The framework

for market-enabling trust is provided by governments and a shared sense of law and order. In his *Theory of Moral Sentiments*, Adam Smith reminds us that justice is: “the main pillar that upholds the whole edifice [of society]. If it is removed, the great, the immense fabric of human society... must in a moment crumble into atoms” (Smith 2002, p. 86). There is also a political meaning of trust in the sense that: “lack of confidence in government increases the cost of maintaining social stability and decreases the productivity of society” (Evensky 2011, p. 260)—if there is no trust, rules will not be respected. A good (however atrocious) example of the political meaning of trust can be found in the Chinese famine 1958–1962: more than 36 million people died due to the destructive spiral of mistrust and dynamics of self-deception (Yang et al. 2012; Dikötter 2010). The importance of trust for the level of networks has been illustrated above with reference to social capital theories. Trust requires a particular “climate” to flourish, even in the political sphere (cf. Hartmann 2011). One element of this climate are soft factors such as N-aspects. Now, if F and N are both necessary for the generation (and maintenance) of tax-relevant income or capital, there can be no doubt that the issue of trust is key to considerations of tax justice in particular or the idea of taxation in general.

However, there seems to be a certain crisis of trust. Onora O’Neill discussed this crisis in both her Gifford and her Reith Lectures using the National Health Service (NHS) as her UK-based example (O’Neill 2002). O’Neill discusses the phenomenon of misplaced mistrust which has lost recognition over the debates about misplaced trust. She reminds readers (if we continue in the “signs” we have used so far in this article) that the N-dimension of personal relationships cannot be reduced to the F-dimension: if F is a legal framework providing contractual relationships and if N is the level of networks with personal relationships based on trust, it can clearly be shown that contracts cannot be entered in a trust-less atmosphere. Trust is valuable social capital; we need trust to understand a contract, to allow for contingencies and the proper application of a contract which cannot be realized by drawing up and implementing yet another contract. Hence, there is a primacy of trust over contract. Without trust no institution and no profession can offer areas of cooperation. O’Neill states that we find ourselves in a crisis of trust and a culture of mistrust and suspicion because of deception, terrorism, new hazards, higher levels of information, an increased sense of rights and entitlements, etc. Whereas trust often invites reciprocal trust thus triggering a ‘virtuous’ spiral, mistrust can trigger the dynamics of increased and recursive mistrust. One standard answer to counter the culture of suspicion is the introduction of a culture of accountability and mechanisms of auditing (O’Neill 2002, pp. 129–134; see also Power 1997). A culture of accountability, however, can lead to even higher levels of mistrust, i.e., not only in terms of “who will guard the guardians”, but also in terms of more contractualizing (including relationships), especially if there is no “intelligent accountability” allowing for judgement to be made or a rational discussion of indicators and criteria. A second solution O’Neill puts forward to counter the culture of suspicion is to introduce higher levels of transparency which, again, is not bad in itself, but does not help to reduce mistrust if we are simply confronted with “more information”. Here again, we need “intelligent transparency” with a sense of judgement. The real enemy of

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