

Taking or Locating Responsibility?

An Ordonomic Perspective

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Commentary on the article by Martin Kolmar and Thomas Beschorner

1. Introduction

The article “Locating Responsibility – An Extended Transaction Cost Approach” by Martin Kolmar and Thomas Beschorner (2016) is an interesting essay on conceptual clarification. It proposes a new theory design in the field of business ethics. The authors combine intellectual resources from such diverse disciplines as philosophy, economics, sociology and political science. Their main argument is that globalization requires a re-assignment of responsibilities from nation states to organizations and individuals, and that such a re-assignment of responsibilities can – and normatively: *should* – be informed by transaction cost considerations.

This stimulating and indeed thought-provoking approach surely deserves much further attention and examination. However, due to strict space limitations, this short comment must confine itself to two points. Firstly, in Section Two, it compares the ontological distinction of five layers by Kolmar and Beschorner (Figure 1: p. 125) with the schematic three-level model employed by the ordonomic approach. Secondly, in Section Three, it then formulates some potentially critical questions in order to mark the space for further interdisciplinary dialogue about the appropriate theory design in the field of business ethics.

2. Two Multi-Level Approaches in Comparison

Kolmar and Beschorner distinguish *five* layers they hold to be important for locating responsibility. The basic layer (L0) is language, the first (L1) comprises norms and beliefs, the second (L2) refers to constitutional rules, the third (L3) to organizations, while the fourth layer (L4) represents behavior. The last three layers (L4, L3, and L2) are more or less identical with the familiar distinction of micro (i.e. individual), meso (i.e. organizational), and macro (i.e. societal) levels.

In contrast, the ordonomic approach to analyzing interdependencies between semantics and social structure employs a model that distinguishes just *three* levels: the social arenas of (a) a basic game, (b) a meta game and (c) a meta-meta game. In the basic game, actors choose their moves; they interact. In the meta game, they determine the rules of the

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basic game. And in the meta-meta game, they discuss their problems and possible solutions, thus forming normative expectations. Figure 1 gives an overview.

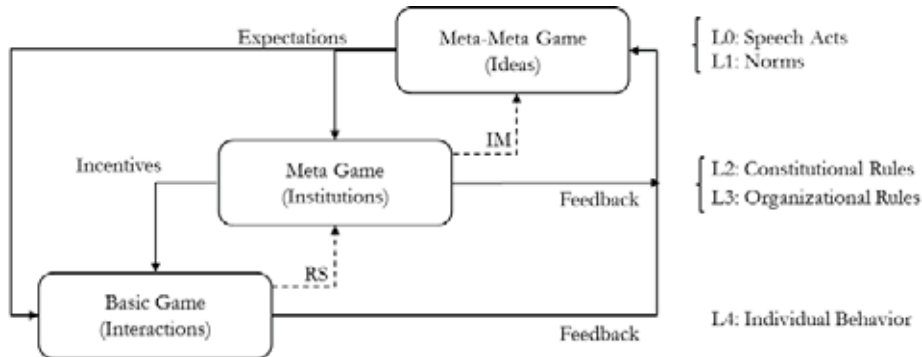


Figure 1: Two multi-level approaches in comparison (Source: own research).

It is easy to see that the first two layers distinguished by Kolmar and Beschorner (L0 and L1) bear a resemblance to what is called “semantics”, represented by the meta-meta game in the ordonomic model. Furthermore, the second two layers distinguished by Kolmar and Beschorner (L2 and L3) bear a resemblance to what is called “social structure”, represented by the meta game in the ordonomic model. Finally, the behavior located at layer L4 by Kolmar and Beschorner is to some extent similar to the interactions that take place in the basic game of the ordonomic model, although the authors seem to confine their layer to individual action (by natural persons), while the ordonomic model allows actors to be individuals, group of individuals, organizations, groups of organizations and even states or groups of states (i.e. both natural and artificial persons).

From the ordonomic perspective, this discrepancy between the two models hints at a weakness in the approach by Kolmar and Beschorner. On the one hand, they hold the view – shared by ordonomics – that organizations and even states can take responsibility. On the other hand, their model addresses states and organizations only as rules, not as actors. This is a serious shortcoming.

Another crucial distinction refers to the methodical status of these two models. Kolmar and Beschorner present their model as an *ontological* portrayal. In contrast, the ordonomic model is used in a strictly *schematic* (i.e. constructivist) way that is open to diverse applications. One possible application would be to interpret the basic game as the economy, the meta game as politics and the meta-meta game as public discourse. Another possible application would be to interpret the basic game as activities within an organization (e.g. corrupt behavior or mobbing), the meta game as defining organizational rules that aim at regulating such behavior (e.g. via a code of conduct) and the meta-meta game as the discourse process within the organization (including management, employees, trade unions and other stakeholders). A third possible application could refer to a tri-sectoral “new governance” initiative such as EITI: the basic game covers the interactions between states and firms, the meta game establishes the transparency principle “publish what you are paid for”, and the meta-meta game is the public discourse at the

global level in which states, civil society organizations, business firms, journalists and academic researchers participate.

Kolmar and Beschorner (p. 126) emphasize that their multi-level model can be used both top-down as well as bottom-up. This is a point of utmost importance – and in full agreement with the ordonomic approach, which is interested in societal learning processes and thus analyzes how ideas, institutions and interactions exert *mutual influence* on each other. With regard to the top-down analysis, the meta-meta game restricts the meta game via normative expectations, and the meta game restricts the basic game via institutional incentives.¹ Looking at it the other way round, i.e. bottom-up, there are important feedback mechanisms from lower to higher levels without which societal learning processes could not succeed.

However, the ordonomic approach also identifies two *dysfunctional* feedback mechanisms: (a) actors in the basic game can try to short-circuit transparent feedback via rent-seeking (RS in Figure 1), and (b) actors in the meta game can try to short-circuit transparent feedback via information manipulation (IM in Figure 1). As a case in point, firms can lobby for being unfairly privileged (RS), and politicians can impose censorship or strategically manipulate information they give to the media in order to maintain or gain public support (IM). It goes without saying that similar forms of rent-seeking and manipulative information can also be observed *within* organizations. In this regard, the ordonomic approach is in full agreement with Kolmar and Beschorner (pp. 129; 143), who emphasize structural “self-similarities” among different layers in their ontological portrayal.

While Kolmar and Beschorner introduce their model with the aim of providing an ontological basis for vertical and horizontal transaction cost comparisons, the ordonomic three-level model is meant to focus the analytical perspective especially on discrepancies between semantics and social structure. Such discrepancies may cause a variety of diverse problems. For example, they might lead to *market failures* with regard to basic games, to *political failures* with regard to meta games, and even to “*discourse failures*” (Pincione/Tesón 2006) with regard to meta-meta games. Kolmar and Beschorner (p. 129) seem to suggest something similar when they hint at “dysfunctional epistemologies”.

In this respect, however, the ordonomic approach might be more radical, since it explicitly and systematically distinguishes two paradigmatic questions that are meant to be of equal importance. On the one hand, it asks whether (a) the social structures (i.e. the institutions and incentives) of modern societies comply with the requirements of normative semantics (i.e. the terms and thought categories of our moral reasoning); and on the other hand it asks whether (b) our normative semantics comply with the requirements of the social structures of modern societies, thus opening a window of opportunity for *mutual* learning processes: (a) via (re-)forming institutional order and/or (b) via (re-)forming ideational order.

¹ As Figure 1 shows, the meta-meta game can exert a direct influence on the basic game, too. For example, public discourse might be helpful in setting a focal point that contributes to solving a coordination problem in the sense of Schelling (1960). In this regard, the ordonomic approach seems to be in full agreement with Kolmar and Beschorner (pp. 121; 122; 126), who explicitly mention this possibility.

Kolmar and Beschorner maintain that transaction costs matter, an insight pioneered by Ronald Coase. In contrast, the ordonomic approach emphasizes another contribution by Coase, which the authors leave unmentioned. Judged by the ordonomic research interest in discrepancies between social structures and semantics, a major achievement that belongs to the intellectual legacy of Ronald Coase (1960: 2) is to deconstruct the still popular (and still misleading) causation principle, which tends to identify offender-victim relationships, whereas in reality “(w)e are dealing with a problem of a reciprocal nature”.

3. Critical Questions from an Ordonomic Perspective

Firstly, the systematic focus of the ordonomic approach is to identify, reconstruct, deconstruct and overcome those dimensions of moral discourses that end up in a tradeoff perception of value conflicts. Such a perception implicitly assumes a zero sum game. In many cases, it is possible to overcome this assumption by showing that in fact the game underlying the perceived conflict is a positive sum game. This then enables one to shift the paradigm from a win-lose to a win-win perspective that fosters mutual betterment. Thus, the ordonomic approach aims at generating positive analyses that inform and improve normativity without taking sides in a controversial value conflict.

In contrast, Kolmar and Beschorner (p. 122) advocate a transaction cost approach in order to recommend “on what societal levels responsibility *should* be located” (emphasis added). Although this clearly aims at a normative analysis, they explicitly claim that they are not engaged in “doing moral reasoning of any kind” (ibid.).

From an ordonomic perspective, this raises two critical questions:

- Would it not be appropriate (and advisable) to start with a strictly positive analysis that aims at explaining empirically observable responsibility assignments before one normatively tries to improve already existing assignments via (re-)locating responsibilities?
- The approach advocated by Kolmar and Beschorner stands and falls with the operationalization of transaction costs. Accurate measurability is the linchpin of their analytic procedure. In fact, they want to substitute moral reasoning by transaction cost reasoning. Whether this is possible remains to be seen. Several case studies would be helpful in this respect. In the meantime, the question arises whether their approach is endangered because controversies about transaction cost measurement may open the (back) door for exactly that kind of moral reasoning the authors would like to avoid.

Secondly, the ordonomic analysis of responsibility semantics and the recommendation of a new category called “ordo responsibility” (Beckmann/Pies 2008) is driven by the concern to strictly avoid overstraining actors normatively. *Ultra posse nemo obligatur*. That *ought implies can* is true and important for both natural and artificial persons alike. The core idea is to distinguish between the moves and rules of a game and to argue that if changing one’s moves in a given game runs against the vital self-interest of a person, it might not be asked too much to expect her engagement in changing the rules of the game. It thus serves as the foundation of the ordonomic approach to corporate citizenship (Pies et al. 2009), to sustainability management (Beckmann et al. 2014), and to the democratic legitimacy of corporate governance (Hielscher et al. 2014). Furthermore,

since the category of “ordo responsibility” refers to natural and artificial persons alike, it becomes possible to draw analogies between individual citizenship and corporate citizenship (Pies et al. 2014).

One can assume that Kolmar and Beschorner (p. 143) have something similar in mind when they write that “(a)ctors have ... political duties to change the institutional structure within their sphere of influence.” But while the ordonomic approach addresses all persons that are capable of participating in meta games and meta-meta games and tries to encourage them to actively take “ordo responsibility” in order to system(at)ically improve the outcomes of basic games, the approach advocated by Kolmar and Beschorner aims not at *taking* responsibility but at *assigning* responsibility. This seems to be an important difference.

Their analytical procedure raises three critical questions:

- Who exactly are the addressees of their analysis?
- What are the criteria for choosing these addressees?
- Is the category of transaction cost well suited for making sure that (re-)locating responsibilities does not in fact normatively overstrain the relevant persons that are expected to take responsibility?

Thirdly, following the line of argumentation pioneered by Gary Becker (1981), the ordonomic approach expects individuals (i.e. natural persons) to behave rather altruistically in a family context and comparatively selfishly in a market context. Furthermore, again following Gary Becker (1993), the ordonomic approach reconstructs the individual formation of a moral character as the accumulation of human capital, especially during the early years of family and small-group socialization. The main message is that one has to get the incentives right: moral behavior needs encouragement and protection. Persons (both natural and artificial) become reluctant to behaving morally when they fear to be taken advantage of. Exploitation kills good will.

In sharp contrast, Kolmar and Beschorner (p. 133) hold the view that “a complete delegation of normative responsibility to some abstract institutional level ... can be dysfunctional because it demotes individuals to rule followers”. In order to substantiate this view, they twofoldly cite Aristotle’s famous quote that “(l)awgivers make the citizens good by inculcating habits in them” (pp. 133f., 140). From an ordonomic point of view, this raises the following questions:

- Aristotle advocates perfect laws as a normative ideal, and at the same time he is a champion of virtue ethics and advocates the normative ideal that people become moral via habit formation. Do the authors think that there is a contradiction in Aristotle?
- If they do *not* assume a contradiction in Aristotle, why do they cite this quote in order to criticize mainstream economics?
- Do they fall prey to the popular fallacy of assuming a general tradeoff between intrinsic and extrinsic motivation, which takes the exception as the rule and

thus overlooks that the practice of moral education can only be successful because in general intrinsic motivation follows extrinsic motivation via norm internalization?

- Do they really mean to propagate bad rules in order to leave room for moral training?
- Do they perhaps underestimate that – especially young – people need good rules in order to acquire good habits?
- Do they perhaps overlook that bad rules breed bad habits?
- Would it not be more appropriate for them to write that in modern times perfect laws become less and less probable and that therefore further initiatives are needed to provide (both natural and artificial) persons with better incentives?

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