

Book Review

Hardy Bouillon: Business Ethics and the Austrian Tradition in Economics.*

London-New York 2014: Routledge.
ISBN: 9780415600255

by *Susanne Hahn*

Life is short and time for reading books on business ethics is scarce. Those readers who are interested in the argumentative foundations of business ethics, but do not want to struggle through several hundred pages, can find a compact presentation in *Business Ethics and the Austrian Tradition in Economics*, written by Hardy Bouillon. The book is composed of four chapters: 1. *Ethical Preliminaries*, 2. *Economics*, 3. *Justice*, and 4. *Business Ethics*. It ends with a single page of concluding remarks. The headings alone give a good indication of the author's methodological program: Doing business ethics means considering the moral rightness or wrongness of economic actions. Therefore it is necessary to clarify the characteristics of what makes an action the object of moral judgement (chapter 1), the characteristics of economic actions (chapter 2), and the characteristics of just economic actions (chapter 3).

In chapter 1 Bouillon sets out the principles and definitions that will guide him in the rest of the inquiry: With respect to normative propositions he declares (appealing to a correspondence theory of truth): "Normative propositions cannot have any truth value." (11) As a consequence, he allows that his own normative statements have to be interpreted as hypothetical recommendations. *If* one wants to achieve or avoid a certain state, *then* one should accept a certain principle or norm. Another principle that plays an important role in the overarching argument is the principle of *Pareto* inferiority: Requests by a person A (or a group of persons A') directed towards another person B (or a group of persons B') are inequitable if their fulfilment would worsen the status of B (B') while not worsening the status of A (A'). The principle paves the way for a rejection of requests to change certain property relations, set out in the later chapters.

Bouillon's ethical framework is based upon an *individualistic* perspective on actions: Explaining or describing situations using methodological individualism means explaining a certain constellation by reference to the actions of individuals, not collectives. In individualist ethics, the author suggests, the objects of moral judgements are actions or omissions of individuals. As a consequence, in order to hold someone responsible for a certain state of affairs, one has to trace

* Work on this review article was funded by DFG (German Research Foundation), HA3114/3-1.

this state back to individuals and their actions or omissions. In addition, only behaviour that is performed with a certain intention counts as an action. Furthermore, the consequence—e.g. an evil to a person—has to be caused by this action. In order to be the object of moral judgement, then, human conduct has to display the “triad of intention, action, and consequence” (30). But—as Bouillon points out with reference to Hayek—not every state of a social order is the result of human action. Social orders can be the result of human design but can also be spontaneous. Spontaneous orders evolve out of the actions of individuals, but are not intended by them—they are by-products. Examples of such spontaneous orders are languages and markets; both are ordered, but not in a planned way. This view on social states has consequences for questions of business ethics: “None of the billions of market actors alone, or in consultation with others, creates the market result. By implication, it is nonsensical to attribute a moral dimension to the market outcome, to name it either just or unjust.” (30)—Bouillon’s characterization of moral actions is ‘neutral’, i.e. talking of a moral action does not mean that it is correct with respect to a specific moral norm, but rather that it is an action that can be the object of a certain form of judgement: “An action is moral, if it sufficiently causes a party a good or an evil and calls for our approval or disapproval.” (30)

In the second chapter, *Economics*, Bouillon delivers some definitions on matters of economics. Pointing out that “business ethics deals with economic actions that are moral at the same time” (37), he sets out his intention to fix the meaning of ‘economic action’ first and the meaning of ‘moral economic action’ secondly. Beginning with the common view that economic actions are “actions with scarce resources in face of rival interests” (37), he then adds some elements of Carl Menger’s characterization of ‘good’. To be an economic action implies three features of the object of action: the object is useful, scarce and tradable. The definition of moral economic action is analogous to the definition of moral action: “An economic action is moral, if it sufficiently causes a party a good or an evil, regarding her private feasible options, and calls for our approval or disapproval.” (46f.) As economic actions presuppose goods and rival interests, it is highly plausible to say something on property claims. Discussing John Locke’s proposal and rejecting it, Bouillon brings into play the libertarian anarchist view on property. He aligns himself particularly with Anthony de Jasay, who suggests the *finders keepers principle* as a mode of original appropriation. This means that someone who finds an unowned thing first—and being first implies that he does not meet someone with competing interests—does not have to justify his appropriation to anyone else, “he can dispose about [sic!] the acquired good as it pleases him” (61). If someone then comes along who disputes the first person’s find, there are competing “utility preferences”. In this case the status quo gets great weight: “The second-comer has no criterion that would justify priority of his utility preferences over those of the first comer.” (61)—In the rest of the chapter Bouillon departs from the central line of his argument and deals with some more specific questions, e.g. intellectual property, the drug industry, and the financial crisis.

The line of the main argument is resumed in chapter 3, *Justice*. Bouillon here returns to the already mentioned problem of the justification of norms. As norms can only be derived from other norms, the author proposes to provide norms “via decision, via enactment” (83). Again he refers to Anthony de Jasay, who, according to Bouillon, has presented a “successful attempt to show how norms can be derived from decisions without violating any of the fundamental principles, rules, and ideas, outlined in this treatise, so far” (83). De Jasay distinguishes liberties and rights. Liberties are simply there, while rights are produced. Liberties comprise all the actions that are feasible for a person and which do not violate the conventions of society. Rights relate to obligations; if A has a right to B, then B is obliged to fulfil a claim of A. Rights do not exist per se but have to be established. This establishment, e.g. by a unanimous contract, has to be documented, particularly by those who seek to ground a claim on this right. Contracting belongs to the basic liberties of agents.

Bouillon defines a concept of formal justice, which is at the same time a condition which every material concept of justice has to fulfil. “A moral economic action is formally just if it does not unjustified obstruct another in the use of his liberties and unjust if it unjustified obstructs another in the use of his liberties.” (88) In the course of the chapter the author discusses several material theories of social justice. It is no surprise that with respect to the fixed principles and definitions, these material concepts of justice all fail to be compatible with formal justice, since all require more or less redistribution. The interplay between granting a particular weight to the status quo by the *finders keepers principle*, the application of the principle of Pareto inferiority, and the definition of formal justice, cannot bring about any other result.

Now equipped with the concept of a just moral economic action, Bouillon deals with several issues that are normally subsumed under business ethics (chapter 4). Again, the reader who has followed Bouillon as far as this chapter will not be surprised by his results, here illustrated by his treatment of the shareholder-stakeholder controversy: In agreement with the liberal understanding of the nature of a corporation, he states that the activities of managers are grounded on contracts with the owners. Usually the owners want the managers to maximize profits. “Given that *shareholder value* is understood in terms of the stock price of a company, and an agreement, implying just economic actions, is settled between the owner(s) and the manager(s), then we face the regular case, which was once described, boldly and exactly, by Milton Friedman, saying: ‘The social responsibility of business is to increase its profits.’” (113)

When it comes to stakeholder value, Bouillon asks, “To which extent, if at any, can claims and expectancies in terms of morally just actions be addressed to a company, apart from the justified claims of shareholders?” (114) Parties who have a contract with the company and raise claims to fulfil these contracts do not raise stakeholder claims in the usual meaning of the expression. Claims that go beyond these contracts are unjust. If e.g. a labour contract contains no details concerning termination, then “the enforcement of claims, such as to terminate the contract only in face of strong reason, would include an unjustified

restriction of individual liberty” (114). Another case has to be considered when people raise claims that have only an indirect relation to the company. If e.g. a neighbour of a factory asks for the emissions of the factory to be lowered, it is up to him to justify his claim. The company does not have an obligation to fulfil his claim unless he has shown its validity. The situation is even worse with respect to claims from stakeholders who do not have a contract with the company if free goods are affected. “[. . .] [S]takeholders asking companies to refrain from using free goods, or to use them carefully and compensate stakeholders for eventual losses, could not be the subject of business ethics at all.” (116) Similar answers are given with respect to the fashionable concepts of corporate social responsibility, corporate citizenship etc. These “represent an advanced version of the stakeholder idea, in as much as they presuppose that corporations have to meet obligations, which do not result from any of their voluntary agreements but rather from the peculiarities of the constellation in which corporations stand to other parts of society” (117). So, a manager who acts according to his understanding of corporate social responsibility acts in a manner that is morally unjust. Questions concerning sustainability, exploitation etc. are answered in a similar way.

The reader and—*a fortiori*—the typical reader of business ethics literature will presumably raise many objections. But the merit of Bouillon’s inquiry is the construction of an argument which begins with statements concerning the moral status of actions, the economic status of actions and the determination of the justness of moral economic actions, and ends with issues in applications to specific business-ethical questions (or what are deemed to be such questions). And the line of argument seems to be valid. So, if one dissents from the conclusions—as many readers will—and if one wants to argue against them, the way to proceed seems clear: In order to defend the view that corporations have stronger obligations, one has to provide stronger foundations for morally just actions. In order to argue for a theory of social justice, one has to show that one can justify norms that allow redistribution. It is obvious that this justification cannot be done on the grounds Hardy Bouillon presents. The *finders keepers principle* and the principle of Pareto inferiority express a bias in favour of a status quo. To see no normativity in these principles is not plausible. The concept of liberties as merely feasible actions is not beyond doubt. To speak of liberty can also mean to speak of a liberty that is constituted by a system of law. As a consequence, the appropriation as a first-comer would simply be a feasible action, but not an application of liberty. Furthermore, not every status quo is acceptable. Following this line of argument, one probably has to admit that the presupposition of unanimous agreement cannot deliver norms of redistribution. So, if one wants to defend changes in the status quo that do not receive consent from all participants, one has to defend another concept of justification, one that does not require factual consent. Many practical philosophers would here offer concepts of ideal consensus or hypothetical contracts, but one could also think of a pragmatic version of reflective equilibrium.—In sum, by making his own assumptions explicit, Hardy Bouillon makes it easy for the reader to locate specific

areas of dissent and identify the direction which an alternative approach must take.

From a broader perspective, one can ask whether the understanding of (business) ethics presented in this work is adequate—in the sense that it is a framework for the treatment of morally relevant questions—for modern civil societies. The answer seems to be negative, as the acceptance of the social and political order of modern societies already implies acceptance of a system of norms that cannot be justified by factual unanimous agreement. Modern civil societies depend heavily on trust in their institutions and on the participation of their members in sustaining these institutions. But in order to sustain a wide spectrum of people in the role of participating citizens, redistribution is required—e.g. for funding education or political institutions. If redistribution is excluded—and admittedly it is to be expected that there will always be persons who will not agree to give away any amount of their income—then the presented theory is not compatible with this kind of societal organisation. Indeed, it seems not even to be compatible with a state and a system of law (at least a state that goes beyond a minimal one). Norms of law are not the result of complete agreement. Nevertheless, one evaluates many norms as justified and enforces them against people who do not agree with them.

Although these considerations point in another direction, the mere fact that we need to consider them underlines the importance of Bouillon's plea for a form of business-ethical reflection that does not operate *ad hoc*, according to whatever theory of justice that is in fashion, but via reflection on its ethical foundations. This is an imperative that he himself has fulfilled by writing this book.