

Ordo-Responsibility in the Sharing Economy: A Social Contracts Perspective

Stefan Hielscher

University of Bath

Sebastian Everding

Ingo Pies

Martin-Luther-University Halle-Wittenberg

Can private companies legitimately regulate sharing markets, and if yes, how? Whereas scholars have either criticized sharing platforms for expanding into private and public arenas or welcomed them to counterbalance encroaching government regulations, studies document their unbridled popularity. On the basis of a special version of social contracts theory pioneered by James Buchanan, we develop a heuristics that helps guide reasoning about the legitimacy of the sharing economy's regulatory function. First, we discuss the conditions under which free and responsible individuals deliberately subject themselves to rules without their prior direct participation, that is, exit, voice, and constitutional limits. Second, we suggest sharing platforms can use novel ordo-responsibilities to establish a sharing constitution that takes these conditions into account. Third, we argue that sharing platforms can legitimately do so within an enabling institutional environment in society, the provision of which relies on the joint efforts of sharing platforms, political actors, and civil society.

Key Words: sharing economy, social contract, corporate citizenship, ordo-responsibility, legitimacy

The sharing economy's rule-setting function, whereby private actors regulate "a web of markets in which individuals use various forms of compensation to transact the redistribution of and access to resources" (Mair & Reischauer, 2017: 12), has been the focus of recent research in management (Acquier, Daudigeos, & Pinkse, 2017; Bai & Velamuri, 2021), law (Calo & Rosenblat, 2017), and the social sciences (Koopman, Mitchell, & Thierer, 2015). Although focal concepts differ in detail, scholars seem to agree that sharing-platform operators are acting simultaneously as rule-takers and rule-makers. As rule-takers, Uber, Airbnb, Lyft, and Couchsurfing are similar to traditional companies that compete with rivals for users (Acquier, 2018; Brescia, 2016) and use the legal framework to make credible commitments to contracting partners (Acquier, 2018; Berkowitz & Souchaud, 2019; Brescia, 2016). However, as rule-makers, sharing-platform organizations assume a quasi-public role when they establish norms for sharing markets and subject users to them (Acquier, 2018; Berkowitz & Souchaud, 2019; Brescia,

2016; Dreyer, Lüdeke-Freund, Hamann, & Faccar, 2017). Although they have meaningful similarities to other digital product marketplaces, such as Amazon or eBay, in particular related to the reduction of transaction costs (Munger, 2018), sharing platforms expand their regulatory activities into public and private arenas where their rules may narrow or even substitute public regulation as well as private sharing norms among family, friends, and communities (cf. Murillo, Buckland, & Val, 2017).

The novel regulatory function of the sharing economy has sparked intense scholarly debate about its legitimacy. Two views dominate a nuanced interdisciplinary debate. First, some management and law scholars cast a priori doubt on the legitimacy of the sharing economy's regulatory function, in relation to either families and community spaces (cf. Murillo et al., 2017; Schor, Fitzmaurice, Carfagna, & Attwood-Charles, 2016) or public regulation (cf. Chaffee & Rapp, 2012; Katz, 2015), both of which are seen as being unduly penetrated. Many law scholars take the view that public actors legitimized by democratic citizen participation, not private actors lacking in democratic legitimacy, should be allowed to subject others to novel rules. The self-regulatory function of sharing platforms is met with suspicion and thus should be limited by governments (Chaffee & Rapp, 2012; Calo & Rosenblat, 2017; Katz, 2015; Lee, 2016; Rosenblat & Stark, 2016). Law scholar Vanessa Katz (2015: 1126) gets to the heart of such skepticism when she argues that the government "should not simply allow the sharing economy to grow in the shadow of the law" and claims that private sharing-platform regulation "cannot perform the same protective screening function as background checks and safety inspections" (1117). Such interventionist views are often invoked when scholars discuss potential negative effects of sharing, both social and environmental (cf. Cohen & Muñoz, 2016; for an overview, cf. Martin, 2016; Murillo et al., 2017).

Second, for some economists and political scientists, the advent of the sharing economy is an opportunity to call a priori into question the legitimacy of many forms of government regulation, which are seen as being overly centralized, interventionist, and unproductive. According to this view, the failure of government regulation to protect the welfare of both consumers and workers effectively invites private solutions, such as those provided by the sharing economy, as a welcome counterbalance (Berkowitz & Souchaud, 2019; Farren, Koopman, & Mitchell, 2016; Koopman et al., 2015; Lobel, 2019; Thierer, Koopman, Hobson, & Kuiper, 2016). Farren et al. (2016: 19), for example, hold that the taxi market would benefit from a "full repeal of taxi regulations," liberating both ride-sharing platforms and traditional taxi companies from productivity-strangling regulation. Such libertarian views are often invoked when scholars discuss the positive effects of sharing, such as when the rule framework of ride-sharing platforms is perceived to be more efficient and effective than traditional regulation (cf. Dreyer et al., 2017; Mazzella, Sundararajan, D'Espous, & Möhlmann, 2016).

Viewed in context, however, the debate presents a conundrum. On one hand, although there is widespread scholarly criticism of sharing platforms extending their activities into private and public arenas (Murillo et al., 2017; Schor et al., 2016;

Schor & Vallas, 2021), studies continue to document their unbridled popularity, emphasizing that myriad consumers and service providers voluntarily choose to make use of these opportunities (cf. Gerwe & Silva, 2020). In search of explanations, these critics often blame an allegedly exploitative “system”—capitalism (Martin, 2016) and neoliberalism (Murillo et al., 2017)—for distorting the preferences of individuals against their best interests (Schor & Vallas, 2021). While underestimating the agency of individuals to make informed choices, this view also misinterprets the sharing economy’s regulatory function as leading to systemic exploitation. On the other hand, libertarian skeptics find it difficult to acknowledge that sharing platforms thrive on many, often underappreciated forms of public regulation. These forms include contract law, as used in sharing and its enforcement, as well as the rule of law for platform competition (Koopman et al., 2015). In search of solutions, these scholars put their hopes in spontaneously emerging private-order solutions to protect consumer and service-provider welfare without much (allegedly negative) interference from governments (Lobel, 2019; Thierer et al., 2016). While overestimating the agency of individuals to create order, this view also underestimates the role of the institutional environment in society for incentivizing sharing platforms to exercise their regulatory function in the best interests of sharing partners.

Thus, although sharing platform interactions continue to penetrate private and public arenas, we know of no attempt to solve this conundrum that systematically connects the three aspects influencing the legitimacy of sharing platforms: 1) the sharing partners’ individual choices, 2) the sharing institutions—understood as the sharing platforms’ “rules of the game” (North, 1990: 3)—and 3) the enabling institutional environment as created by political actors. The failure to do so, we argue, hampers democratic societies from reaping the potential benefits of mutual betterment through platform-mediated exchange and, thus, improving the sharing economy’s legitimacy. To solve the puzzle, three questions need to be addressed:

- 1) Can the rule-setting function of sharing platforms be regarded as legitimate, and if yes, under which conditions?
- 2) How can sharing platforms improve on these conditions when establishing an order of sharing markets?
- 3) How can public actors establish an institutional environment that helps sharing platforms do so in the interests of sharing partners?

Answering these three questions requires novel advances in theory building. Needless to say, this is a mammoth task, and our article can only sketch some avenues by which to move ahead. We contribute to this endeavor by answering each of the preceding questions in a separate section.

First, we use a social contracts perspective (Hielscher, Beckmann, & Pies, 2014) informed by James M. Buchanan’s (1975) theory of constitutional contracts to analyze the legitimacy of the sharing platforms’ new rule-setting function. We discuss to what extent it is possible to view the decision of engaging in commercial (and noncommercial) sharing platforms as based on the agreement of free and

responsible individuals to be governed by constitutional and postconstitutional contracts that private organizations have set up without their prior direct participation. On the basis of Buchanan's individual concept of legitimacy, which starts with individual values as expressed in concrete choices (Buchanan, 1975: 207–8) and not with an external, idealist criterion for normativity (Suchman, 1995), we use an internal process criterion to argue that the self-regulation of sharing markets is legitimate if sharing institutions create mutual betterment for the directly involved sharing partners without compromising the valid claims of indirectly affected third parties. What is more, we contend that for sharing institutions to perform this task, some conditions need to apply, including “exit” options, that is, the availability of alternatives—maybe even competing sharing platforms—that enable contracting individuals to influence platform rules indirectly; “voice” options that allow direct participation of sharing partners in platform rule-setting (Hirschman, 1970); and constitutional limits enshrined in sharing constitutions that constrain the power of platforms to engage in exploitation. These insights contribute to the emerging literature on the sharing economy, which has left the issue of legitimacy unaddressed (cf. Etter, Fieseler, & Whelan, 2019; Flyverbom, Deibert, & Matten, 2017: 6–7; Laamanen, Pfeffer, Rong, & Van de Ven, 2018: 218).

Second, we argue that sharing platforms can contribute to establishing these legitimacy conditions by taking ordo-responsibility (cf. Beckmann & Pies, 2008; Pies, Beckmann, & Hielscher, 2010, 2014; Pies, Hielscher, & Beckmann, 2009). Sharing platforms can do so by assuming novel ordo-responsibilities, that is, constitutional and postconstitutional commitment services, that update and complement the ordonomic concept of ordo-responsibility using a 2×3 commitment strategy matrix. We argue that these novel commitment services make the sharing economy's regulatory function unique and different from corporate citizens addressing global governance gaps as discussed more than a decade ago (cf. Matten & Crane, 2005; Scherer, Palazzo, & Matten, 2009, 2014). These arguments challenge scholars to analyze the sharing economy as a novel manifestation of corporate citizenship where private companies administer citizenship rights and address regulatory needs stemming from organizational innovation, not globalization (Palazzo & Scherer, 2006).

Third, we discuss the view that these novel ordo-responsibilities compete with public regulation established by democratic rule-setting processes within nation-states. However, instead of fixating on a seeming conflict between private and public regulation—and then calling for either interventionist bans or radical deregulation—we argue that a more functional approach for governments and civil society is to take a second-order approach that aims at improving the sharing economy's capacity to make rules in the interests of (potential) sharing partners. On the basis of a simple two-player utility model, we demonstrate the sequential logic of ordo-responsibilities building on each other and, potentially, reaching ever higher levels of mutual betterment for sharing partners. We posit that public regulation can support exit options (interplatform competition) or, if unfeasible, voice mechanisms. These arguments contribute to debates about the role of regulation in the sharing economy (Farren et al., 2016; Katz, 2015). We emphasize the need to find regulatory solutions that meet the common interests of all sharing partners, actual and potential, and

empower them to take advantage of the platform economy's flexibility without sacrificing the benefits of income generation and consumption.

1. THE LEGITIMACY OF SOCIETAL RULE-SETTING FUNCTIONS: A SOCIAL CONTRACTS PERSPECTIVE

Debates about the legitimacy of coercive rule arrangements are deeply rooted in Western philosophy and run as a thread through the modern history of liberal thought (Hobbes, 1651/1998; Kant, 1795/1991; Rawls, 1971). Rawls used social contracts theory to discipline intuitions about justice using the notion of a fair social contract among equal and free citizens. Kant used social contracts theory to outline the cosmopolitan idea of perpetual peace. But this intellectual tradition really starts flourishing with Hobbes. Faced with the turmoil of religious conflict and civil war, Hobbes used the social contracts perspective to substitute the traditional justification of a king being the divine sovereign of power by a qualitatively new kind of justification that derives legitimacy from the consent of the governed. Hobbes argues that, given the relevant alternatives, reasonable citizens can agree to a constitutional contract that leads to clearly superior living conditions, although—or, more precisely, because—it involves coercion.

The voluntary nature of sharing platforms is arguably different from the coercive powers of the state. However, some scholars have associated the subjecting of members to platform rules (Reischauer & Mair, 2018) with exploitation (Chai & Scully, 2019) and privacy violations (Murillo et al., 2017) within a relationship rife with power imbalances (Calo & Rosenblat, 2017) and information asymmetries (Peticca-Harris, deGama, & Ravishankar, 2020). While this characterization invokes a parallel to subjecting individuals to coercive rules, the question remains whether sharing platforms can justifiably do so. To answer it, we present Buchanan's (1975) solution for the paradox of being governed (section 2.1) and then apply it to the sharing economy (section 2.2). While Buchanan analogizes the protective and the productive states, we analogize the traditional forms of public ordering by governments—including constitutional and postconstitutional contracts—with the new form of private ordering by sharing platforms.¹

1.1 Mutual Betterment as the Criterion of Legitimacy: Buchanan's Social Contracts Theory

In "The Limits of Liberty," James M. Buchanan (1975: xv) extended Hobbes's classical social contracts approach. Just like the Hobbesian line of thought can be used to derive normative criteria for specifying whether governmental institutions are legitimate, Buchanan argues that it can also be used to derive (and further

¹ We would like to thank an anonymous referee for the hint that, drawing on noncooperative game theory, a strand of the academic literature on social contracts tries to carefully specify alternative ex ante conditions to predict (the pattern of) ex post outcomes (cf. Binmore, 1997; Grimalda & Sacconi, 2005; Faillo, Ottone, & Sacconi, 2015). We hold this to be important work in the realm of *positive* analysis. However, in our article, we exclusively refer to the Hobbes–Kant–Rawls–Buchanan line of argumentation, which uses the idea of a social contract as a philosophical thought experiment that aims to clarify *normative* legitimacy criteria.

Table 1: The Social Contracts Perspective of Rules in Societies and Rules in Sharing Platforms

Social order	Social contracts perspective of rule-setting functions in societies (J. M. Buchanan)	Social contracts perspective of rule-setting functions in the sharing economy
Natural order (preconstitutional)	<i>Hobbesian anarchy</i> Lack of property rights, underinvestment, nonutilization of resources, waste by defending resources	<i>Institutional deficit</i> Lack of property rights enforcement, underinvestment, nonutilization of resources due to prohibitive transaction costs
Peaceful social order (constitutional)	<i>Secure property rights</i> Establishing trust and reliable framework conditions for social interactions, including courts, police, prisons, etc.	<i>Secure sharing rights</i> Establishing trust and reliable framework conditions for sharing platform interactions, including reviews, ratings, sanctions, etc.
Productive peaceful social order (postconstitutional)	<i>Productive public goods</i> Enhancing framework conditions and trust for social interactions, including infrastructure investments, social insurance, etc.	<i>Productive club goods</i> Enhancing framework conditions for sharing platform interactions, including infrastructure investments, loans, insurance, etc.

improve) normative criteria for specifying whether governmental functions are legitimate. As he was interested in a liberal justification of the welfare state and its use of mandatory taxation for providing public goods, Buchanan's idea was to extend the legitimacy of the classical (constitutional) social contract to the legitimacy of a modern (postconstitutional) social contract. Buchanan thus differentiates two constitutional contracts and two peaceful social orders (Table 1, left column).

First, in the *ex ante* state of *anarchy* ("natural distribution"), violent conflict systematically arises over resources as individuals lack a joint rule framework of rights to coordinate their interactions peacefully (Buchanan, 1975: 23–28). In the state of nature, while each person is putting much effort into securing and defending a small share of freely available resources, many other resources of society are wasted or remain underutilized. This Hobbesian anarchy is unproductive and associated with minimal levels of social welfare. As Hobbes (1651/1998: 84) described, the state of nature is a war of "every man, against every man" ("*bellum omnium contra omnes*"; Hobbes, 1642/1839: 148) under which life is "solitary, poor, nasty, brutish, and short" (Hobbes, 1651/1998: part I, chapter 13).

Second, members of society negotiate a constitutional contract to mutually agree on a basic structure of secure property rights to end endemic conflict and anarchy. Citizens agree to form the state as an organization that implements agreed-upon rules to enforce property rights and private contracting, including the law, the courts, and the police. The coercive powers of the state are viewed as legitimate if they overcome Hobbesian anarchy (Buchanan, 1975: 29; see also Munger, 2019: 41). The "paradox of being governed" (Buchanan, 1975) is thus solved by the idea that coercive government is a legitimate form of collective self-regulation of the people being governed. The basic idea is that citizens agree to—and thereby legitimize—

the “protective” state because it improves the basis for their cooperative efforts in producing and exchanging private goods that allow a relatively “commodious living” (Hobbes, 1651/1998: part I, chapter 13).

Third, going beyond Hobbes, Buchanan argues that members of society can also negotiate a postconstitutional contract. Here free citizens approve of further coercive rules that help them manage free-rider problems in the provision of public goods, which may yield direct or indirect benefits, for example, via increasing efficiency in the production or exchange of private goods. Examples include the provision of public infrastructure, institutionalized credit markets, social insurance arrangements, and social policy in general (Buchanan, 1975: 35–53). Citizens are interested in enlarging the government’s coercive powers if used as an instrument to collectively enhance their individual liberties, that is, if it proves useful to have government-supported institutions for improving their economic and otherwise private activities. In this regard, also the postconstitutional contract makes free citizens better off. Buchanan holds that citizens can agree to—and thereby legitimize—the “protective *and* productive” state because it further improves the basis for their cooperative efforts, especially by providing public goods.

In a nutshell, Buchanan’s normative research problem is to derive criteria for legitimizing the government functions of a modern state that provides law and order as well as further public goods, including welfare programs. His social contracts theory proceeds in two steps.

First, it analogizes the protective and productive state and argues that if one can agree to the protective state (brought about by a constitutional social contract), then one can also agree to the productive state and its welfare policies based on mandatory taxation (brought about by a postconstitutional social contract), because both social contracts follow the same logic of mutual betterment and hence voluntary agreement among reasonable citizens.

Second, Buchanan emphasizes another analogy. Because the legitimacy of the protective state rests on the criterion of general consent, it is possible to derive some constitutional limits that should be implemented in the constitutional contract, for example, basic human rights and basic procedures, such as division of powers, that are intended to guide a protective state to safeguard citizens against exploitative tyranny, thus creating trust in the constitutional contract. Following the same logic, it is possible to derive some democratic limits that should be implemented in the postconstitutional contract, for example, some property rights that should be protected by a productive state to safeguard citizens against exploitative taxation, thus creating trust in the postconstitutional contract. Again, Buchanan is analogizing both social contracts by asking, which constitutional provisions should be made to keep both social contracts in line with general agreement?

To avoid misunderstanding, it is important to note that this social contract theory aims at Pareto-superior rules. It does not require that not everyone will enjoy individual advantages in any isolated, single case. Rather, in a multilevel hierarchy of rules and meta rules, (post-)constitutional rules are meant to be so abstract that they govern a sequence of many different future situations. The fact that rules cover a series of single events forces actors to focus their agreement or disagreement on

average expected outcomes. This makes agreements about Pareto-superior rules (and the according outcome ranges that are to be expected on average) much more likely than agreements about the specific outcomes of single events (Brennan & Buchanan, 1985: 29–30; cf. also Hielscher et al., 2014: 538–39).

1.2 The Legitimacy of Sharing-Platform Organizations

We apply the perspective Buchanan used to address the legitimacy of the modern state and transfer it to the sharing-economy debate. While Buchanan analogized the protective and productive state to identify legitimacy criteria for government functions, we analogize private ordering and public ordering to identify legitimacy criteria for judging the rule-setting function of sharing platforms.

As we will demonstrate, a social contracts perspective is relevant for the sharing economy, but differently so for the two dominant organizational forms found in today's digital capitalism: cooperatives and commercial platforms (Sundararajan, 2016). For nonprofit cooperatives, establishing and executing the rules within the organization can be reconstructed as a “direct democracy” model along the lines of Buchanan's thought experiment for how citizens negotiate (post-)constitutional contracts in society. Members of sharing cooperatives are directly involved in negotiating a constitutional and postconstitutional contract to mutually agree on a basic structure of sharing rights. In line with Buchanan (1975), this bottom-up decision-making process combined with the democratic control of management functions achieves a state of mutual betterment by limiting, directing, and thus legitimizing the coercion exercised by the executive function of cooperatives. The democratic nature of cooperatives has been noted much earlier by economists who viewed cooperatives as “democracies within the economy” (“*Wirtschaftsdemokratie*”; cf. Boettcher, 1980; Bonus, 1986). However, transferring this win–win logic of legitimacy to commercials—the giants of the sharing economy, such as Airbnb, Uber, and Lyft—requires more effort, as we will argue next, following Hielscher et al.'s (2014) consent-based view of type II democracy. In doing so, we follow Buchanan's argument in three steps. First, we investigate the similarities and differences between private ordering and public ordering. Second, we ask whether the commercial sharing economy's constitutional and postconstitutional efforts provide the basis for mutual betterment and, third, whether some limits are provided to safeguard users from exploitation.

(1) In contrast to sharing cooperatives, commercial for-profit sharing-platform organizations exert coercion on behalf of sharing partners who initially have had no chance to directly participate in negotiating the platform rules at the time of their creation. While this is a notable difference, there are also structural similarities to Buchanan's constitutional model of indirect, representative democracy (cf. Table 1).

First, sharing partners initially face a problem of *institutional deficit*. Sharing partners witness a situation of insecure sharing rights and thus high transaction costs, three of which are particularly relevant: a) confidence costs to close the trust gap between sharing partners, b) risk costs to interact with potentially “unpleasant” individuals, and c) search costs to match suitable sharing partners (Munger, 2018). These three cost types add up to the total transaction costs of sharing (Munger, 2018)

and typically prevent mutually beneficial interactions. As a result, institutional deficits are inefficient in the same sense as is Hobbesian anarchy in Buchanan's thought experiment.

Second, sharing-platform organizations fill the void. They provide rules that help establish an order of sharing (markets) (Hartl, Hofmann, & Kirchler, 2016; Reischauer & Mair, 2018). These rules create new forms of property rights, including rules of appropriate behavior between sharing partners; monitoring and disclosure of rule violations through reciprocal reviews; and sometimes even the sanctioning of violations through platform surveillance, investigations, and account deactivations (cf. Marzen, Prum, & Aalberts, 2017; Reischauer & Mair, 2018). These rules establish secure sharing rights, create trust, and reduce transaction costs to a point that institutional deficits can be overcome and a potential of benefits for all sharing partners can be realized (Barbe & Hussler, 2019; Califf, Brooks, & Longstreet, 2020; Hartl et al., 2016; Reischauer & Mair, 2018).

Third, sharing-platform organizations improve the performance of their rule-setting function by providing "club" goods that help sharing partners reap further benefits of their mutual interactions. In analogy to the state's functions of providing national health and social security, some sharing initiatives have started to offer insurance schemes, credit lines, and infrastructure investments to improve and enhance exchange on sharing markets, thus aiming to enhance the use of hitherto underutilized resources (Sundararajan, 2016). While the constitutional contract provides the institutional setup for sharing markets, the postconstitutional contract encourages more productive interactions within this framework, providing even more mutual betterment for sharing partners.

A social contracts perspective of the sharing economy thus highlights two important aspects for the principled legitimacy of coercive rule-setting arrangements.

First, there are differences between commercial sharing platforms and democratic societies. Apart from the apparent fact that commercial platforms are business firms interested in private profits, whereas democratic states are public entities incentivized for and constitutionally committed to the common good, it is surely a meaningful difference that citizens can participate in postconstitutional decisions through elections, whereas sharing partners usually cannot participate in negotiating the postconstitutional contracts of commercials.

Second, it is not obvious whether these differences speak against or in favor of the legitimacy of the rule-setting function of commercial platforms. For example, the fact that sharing partners have largely no say in establishing the constitutional rules set up by commercial platforms is a structural analogy to young citizens being born into already-established states without having a say in the constitutional setup. Also, although commercial sharing-platform organizations do not allow sharing partners a say in the rule-setting process *ex ante*—that is, in determining the platform organization's top management and board—and restrict their ability to vote on rules and rule reforms, they do allow some influence *ex post*. Sharing partners have a meaningful right to continue or end their membership with a particular sharing platform, and they can adjust the quantity of productive services offered, all of which allows sharing partners to exert indirect pressure on sharing-platform rule-setting. Also, note that the

flexibility of membership is a meaningful difference to the nation-states' restrictive policies of allowing foreigners to become citizens. The indirect influence sharing platforms provide is therefore similar to Hirschman's (1970) "exit" strategy, which tends to be the primary feedback mechanism commercial sharing platforms use to organize consent top-down. This analogy tends to speak in favor of the a priori legitimacy of the rule-setting functions of commercial sharing platforms.

(2) However, the social contracts perspective in favor of rule legitimacy crucially depends on whether the "rules of the game" (Buchanan, 1975) are capable of achieving a state of mutual betterment for all sharing partners. This includes the constitutional limits that safeguard against exploitation. So, how do commercial sharing platforms score on this criterion? To answer this question—first in an abstract sense, later more concretely—we need to compare the status quo ex ante with the status quo ex post as generated by the constitutional and postconstitutional rules established by sharing platforms.

For consumers, sharing-platform rules seem to provide novel opportunities for mutually beneficial exchange, opportunities that were absent before. Arguably, the rise of the sharing economy comes with a broader set of individual freedoms to choose not only among an increasing variety of goods and services (Koopman et al., 2015) but also among rule-setting frameworks that allow individuals to subject themselves to one or the other set of constitutional arrangements. Pervasive public criticism notwithstanding, the available empirical evidence, for example, suggests that ride-sharing platforms provide customers with a more flexible and broader supply of transport services than the established license-based taxi dispatch system. Uber and Lyft offer extra capacity in metropolitan areas during peak times of demand, for example, during rain or snow (O'Reilly, 2017: 48-70). Also, as reported from New York City, Uber drivers seem to serve impoverished neighborhoods much more frequently than that city's yellow cabs, which are known for shunning metropolitan areas like the Bronx and Brooklyn (Meyer, 2016). In developing countries, Uber has been successful in addressing insecurities that pervade local taxi markets, including (sexual) harassment and exploitation, violence, attempted robberies, or a low payment morale (Dreyer et al., 2017; Uzunca, Coen Rigtering, & Ozcan, 2018).

For service providers, sharing-platform rules seem to help individuals deliberately opt out of rigid employment relationships (Coase, 1937: 403) and opt in to new forms of flexible, independent, and entrepreneurial work.² As argued by Coase

²There is some scholarly debate about the status of service providers on ride-sharing platforms—whether to regard them as independent entrepreneurs or as dependent employees (cf. Etter et al., 2019). Also, with courts in San Francisco and London having ruled to treat them as dependent employees (cf. Department of Industrial Relations, 2020; Pitas, 2021), and voters in California having decided to treat them as independent entrepreneurs (Conger, 2020), their status seems contested. However, from the perspective of the directly involved actors, there is an empirical indication that they prefer to stay semi-independent, given that numerous service providers have quit their jobs to become ride-sharing partners (Peticca-Harris et al., 2020). Furthermore, although ride-sharing partners are devoid of employee protections, they seem to earn more than twice as much as they would in less flexible employee arrangements (Chen, Chevalier, Rossi, & Oehlsen, 2019).

(1937: 390–92), individuals tend to accept dependent employment in organizational hierarchies if the transaction costs of selling their labor services via private contracting are comparatively higher. This explains why a reduction in such transaction costs leads to a surge in entrepreneurial activities. Although we are only witnessing the beginnings of this trend—and so it remains difficult to judge its impact—Coase’s argument nevertheless hints at revealed preferences: given both options, people may choose working as a private contractor because they regard this as advantageous in comparison to working as an employee within a company. To the extent that the sharing economy is beginning to reduce the transaction costs of private contracting, it may therefore relax the need to use hierarchies as a conduit for participating in markets (Peticca-Harris et al., 2020; Hall & Krueger, 2018; for a critique, cf. Horan, 2019).

(3) However, these opportunities for mutual betterment only provide legitimacy to the extent that such advantages can actually be appropriated by sharing partners. This systematically relies on the “(post-)constitutional limits” that allow sharing partners to influence sharing-platform rule-setting and thus prevent platforms from becoming leviathans with a dangerous potential to exploit sharing partners. Two (post-)constitutional rules are relevant here.

First, exit opportunities can limit the power of sharing platforms. Similar to federalist systems of political decision-making where citizens’ right of free movement—such as in the United States—can limit “tax-budgetary exploitation” of “local governmental units” by migration (Buchanan, 1975: 131), the sharing partners’ right to switch platforms can limit discretionary rule-setting decisions against users in the sharing economy. The efficacy of exit, of course, is a function of competition. The more platforms compete for producers and consumers to satisfy their needs, the more efficacious will be the exit strategy or the strategy to withhold productive investments that can influence platform rule-setting. However, standard economics suggests that network economies possess positive scale effects that tend to favor large platforms at the expense of competition, leading to market power or even monopolies (Calo & Rosenblat, 2017; Katz, 2019; Rosenblat & Stark, 2016). If present in the sharing economy, these properties would limit the efficacy of exit strategies and thus the influence of sharing partners on sharing-platform rule-setting functions. Network effects could then lead to exploitation (Chai & Scully, 2019); ineffective implementation of rules of antidiscrimination, gender equality, and religious freedoms (Abrahamo, Parigi, Gupta, & Karen, 2017); or an infringement of platform social safety nets, at the expense of independent contractors who rely on the platform for making a living of sharing services (Ravenelle, 2017).

Second, if exit strategies are ineffective in reducing the market power of single sharing platform operators, participatory feedback mechanisms—along the lines of Hirschman’s “voice mechanisms”—such as complaint mechanisms or participation in rule-setting, would be feasible alternatives. There are two viable routes for implementing such mechanisms. First, they can be introduced through voluntary self-regulation by sharing platforms. Second, they can be established by public regulation. We further discuss and compare both options in section 3.3.

Summing up, a social contracts perspective suggests that the coercive rule-setting function may represent an agreeable consensus—and thus may be seen as legitimate—if these rules ensure that the sharing partners are better off compared to the status quo ex ante. Mutual betterment also requires (post-)constitutional limits of platform discretion to protect users against exploitation, in addition to exit or voice mechanisms. These measures constitute the analogy with Buchanan’s approach, who argued that the legitimacy of mutual betterment both in the protective and the productive state depends on effective constitutional limits for individuals to be protected from majority power (via basic human rights) and exploitative taxation (via property rights). So far, however, we have put forward the concept of mutual betterment *only* as an idea, highlighting its abstract potential and risks. What we need to do next is demonstrate that this idea can also become a valuable practice.

2. ORDO-RESPONSIBILITY IN THE SHARING ECONOMY: CONSTITUTIONAL AND POSTCONSTITUTIONAL COMMITMENT SERVICES TO REALIZE WIN–WIN–WIN POTENTIALS

How can sharing platforms use their rule-setting function in legitimate ways so as to create mutual betterment and guarantee (post-)constitutional limits? To answer this question, we draw on the ordonomic concept of ordo-responsibility of companies (section 2.1) and apply it to the sharing economy (section 2.2).

2.1 Ordo-Responsibility of Companies

A central contribution of the ordonomic approach of ordo-responsibility (Beckmann & Pies, 2008) is the insight that companies are forgoing a potential of mutual betterment with stakeholders—and thus an opportunity to make profits—if they fail to address governance gaps. The ordonomic approach suggests conceptualizing these situations as social dilemmas in two different forms (Pies et al., 2009), a *one-sided* and a *many-sided* social dilemma:

- Although both social dilemmas are situations of collective self-damage, a many-sided social dilemma describes a general version of the famous prisoners’ dilemma (Luce & Raiffa, 1957). This situation of multilateral exploitation allows for analyzing problems of collective action (Olson, 1965) and collective irrationality (Bowles, 2009).
- A one-sided social dilemma (Greif, 2000; Kreps, 1990), in contrast, is a situation of collective self-damage stemming from unilateral opportunities of exploitation. The one-sided social dilemma supports analyzing holdup or exploitation problems stemming from asymmetric information, specific investments, or unilateral dependencies (Pies et al., 2009).

To address situations of collective self-damage, the ordonomic approach recommends changing the “rules of the game” (Buchanan, 1990) and their respective incentive properties. To overcome a many-sided social dilemma, a collective commitment by all actors is required, while in a one-sided social dilemma, an individual

commitment of one actor suffices to realize opportunities for mutual betterment (Pies et al., 2009). Companies can create mutual advantage by committing themselves to escaping social dilemma situations and also helping stakeholders to overcome dilemma structures using commitment services. Combined with the two dilemma structures—one sided and many sided—the appropriate governance strategies, self-commitments and commitment services, offer companies four different ways to assume ordo-responsibility for the order of their *market interactions* (Pies et al., 2009).³

In line with Buchanan (1975), thus, the ordonomic approach endogenizes normativity in the sense that legitimacy is based on voluntary agreement, which itself originates from realizing the potential of mutual gains by implementing Pareto-superior rule reforms. The ordonomic approach, however, goes beyond the notion of “choice among rules” (Buchanan, 1990: 11) in the sense that creating new rules is not a choice activity but a governance activity that involves a creative social process of generating new knowledge and commitments through discussion and negotiation. In this respect, the ordonomic approach is close to Thomas Schelling’s understanding of credible commitments (cf. Schelling, 1960/2003, 2006) and, in particular, Oliver Williamson’s definition of governance as “the means by which to infuse order, thereby to mitigate conflict and realize mutual gain” (Williamson, 2010: 674; cf. also Williamson, 1983). Viewed from this governance perspective, the four strategic commitments are *formal* or *informal* contracts, which are deemed constructive and legitimate if they change the rules of the game so as to create mutually beneficial cooperation with stakeholders and society—that is, if they realize win–win–win potentials for 1) the firm, 2) the directly involved contracting stakeholders,⁴ and 3) the indirectly affected actors in society. In line with Buchanan’s approach, we hold that win–win–win outcomes are a necessary condition for legitimacy.

2.2 Ordo-Responsibility of Sharing Platforms

How is ordo-responsibility in the sharing economy different from the ordo-responsibility of business firms? To the extent one focuses on the commercial platform organizations as business firms, their ordo-responsibility is equivalent to that of conventional companies. Sharing companies, too, can assume ordo-responsibility in various ways, for example, by binding themselves individually using private contract law (individual self-commitment) or by binding themselves collectively to higher environmental standards (collective self-commitment). However, in terms of *commitment services*, the sharing economy’s rule-setting function covers a larger set of ordo-responsibilities than the corporate citizenship of classical business firms.

³Technically, ordo-responsibility includes “governance responsibility” and “discourse responsibility” (Pies et al., 2009). For simplicity, we here focus exclusively on governance responsibility.

⁴In addition, one could further subdivide the group of “contracting stakeholders” as service providers and consumers, which would open up a potential “win–win–win–win” space. Doing so would allow, for example, analyzing power relations among sharing partners on the platform, such as multiple hosting on Airbnb’s platform (cf. Pies et al., 2020).

From our ordonomic perspective, the novel ordo-responsibilities stem from establishing a *constitution* for novel sharing markets. When establishing a “platform constitution” for sharing markets, sharing platforms offer two types of commitment services for sharing partners. Using the social contracts perspective, these rule arrangements can be described and distinguished as constitutional and postconstitutional commitment services. In addition to these commitment services that help establish a sharing market and make it productive, sharing platforms also address some conditions of—or “constitutional limits” for—how these sharing markets can be managed once established. To further increase productivity of sharing markets, sharing platforms can honor the promises made to sharing partners by way of an individual self-commitment to refrain from exploiting them, and they can bind themselves collectively to higher common standards of accountability.

Considering that each of these commitment strategies can solve two different social dilemma situations, it is possible to establish a novel 2×3 matrix that collates six different ways how sharing-platform organizations can assume ordo-responsibility and thus create value in the sharing economy, four commitment-service strategies to establish sharing markets and make them productive, and two self-commitment strategies for enhancing productive exchange (Figure 1). In what follows, we will use real-life examples to illustrate these six possibilities of ordo-responsibilities in the sharing economy.

Box I in Figure 1 draws attention to institutional deficit problems. Institutional deficits cause situations of mutual exploitation and self-damage that can be analyzed using a many-sided social dilemma. The involved actors face the following incentive structure: although sharing partners are willing to cooperate by sharing goods and services on a digital platform, they lack the institutional means to credibly commit themselves and their interaction partners to mutually provide the promised benefits. Because all sharing partners are confronted with the same disincentives, cooperation breaks down—or fails to be established in the first place (Munger, 2018). Therefore, before the advent of digital platforms and the sharing economy, institutional deficits resulted in underutilized and wasted societal and environmental resources.

From an ordonomic perspective, the solution requires a constitutional commitment. In this sense, the institutional deficits of sharing are similar to the problem of Hobbesian anarchy. That is why the solution is similar too. Like the protective state, sharing-platform organizations offer a “platform constitution” as a service to sharing partners that helps them overcome the many-sided social dilemma that prevented them from sharing.

How do sharing-platform operators do so? Generally speaking, commercial sharing platforms provide incentives for cooperation while discouraging defection through monitoring, disclosing, and sanctioning deception, fraud, and other forms of uncooperative behavior (Barbe & Hussler, 2019; Reischauer & Mair, 2018). For example, the popular sharing platform Airbnb performs background checks before admitting members to the platform and requires a detailed listing of accommodation features with pictures, neighborhood information, host profiles, house rules, and prices (Subbaraman, 2011). Airbnb also operates two feedback mechanisms; a platform-wide transparent review system; antidiscrimination rules; and a bilateral, nonpublic

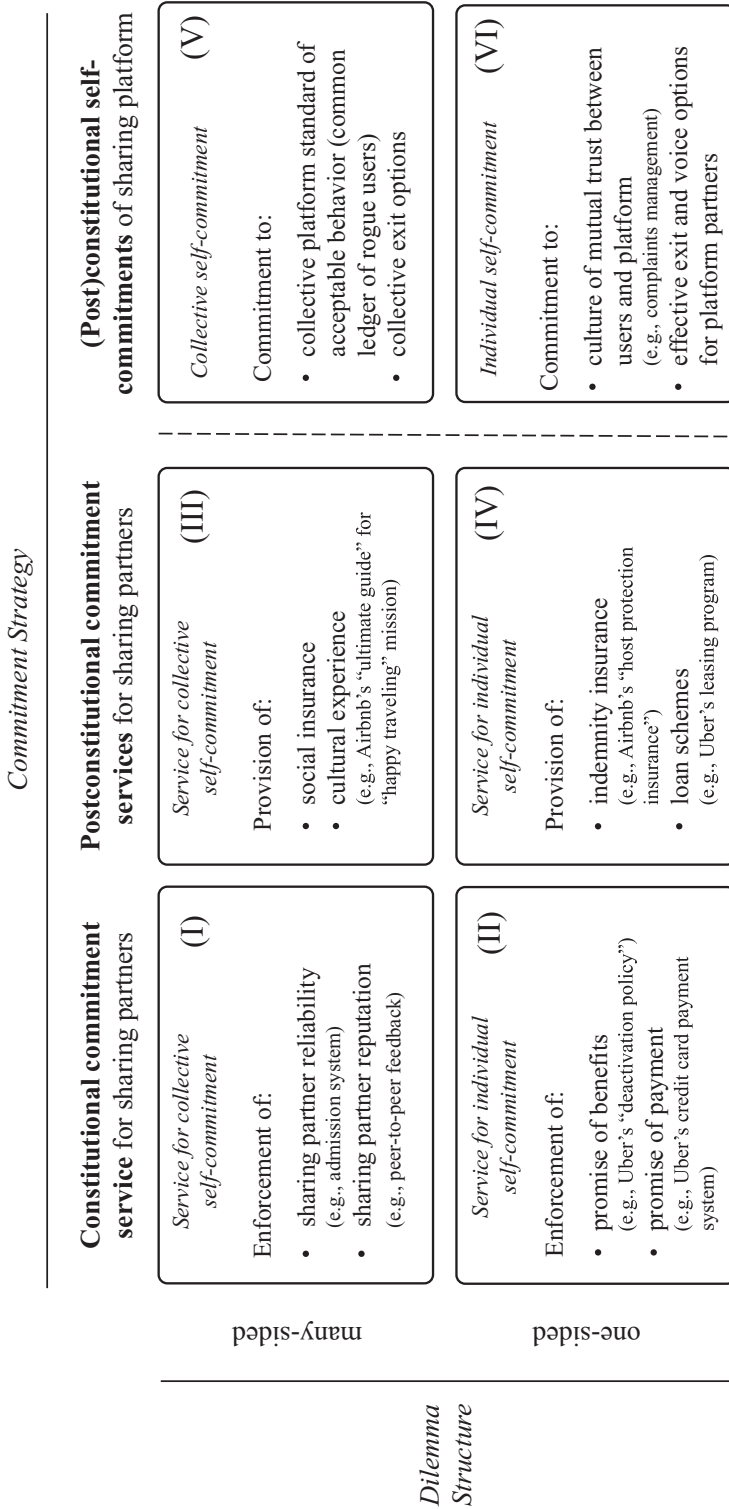


Figure 1: Ordo-Responsibility in the Sharing Economy
Note. Own diagram, extended from Pies et al. (2009: 389).

feedback system that allows generating individualized feedback to help new members improve their services without affecting public review ratings (Sundararajan, 2016: 151). Empirical studies show that Airbnb members tend to choose their sharing partners based on their performance—that is, on past behavior as visible in reviews and ratings (Parigi, State, Dakhllallah, Corten, & Cook, 2013). In a similar way, BlaBlaCar provides a peer-to-peer feedback mechanism that helps to create trust between potential passengers and drivers (Barbe & Hussler, 2019; Mazzella et al., 2016). From an ordonomic perspective, all these provisions help to set up a “platform constitution” as a service for collective self-commitments by sharing partners. This allows achieving a state of mutual betterment because the platform constitution enables interactions that were previously prevented by deficient institutions of sharing. Ex ante anarchy and the ensuing cooperation failure is transformed into the ex post situation of successful sharing.

Box II emphasizes the subsequent trade in private goods and services. To reap the full benefits of mutually beneficial exchange among sharing partners, further trust problems need to be solved. Problems of trust usually take the form of a one-sided social dilemma. For example, sharing service providers cannot be entirely sure that platform consumers will keep their promises to pay for services used, and consumers cannot fully trust that providers will deliver their services as promised (cf. Califf et al., 2020). Both problems are pervasive in the taxi market, in particular but not exclusively in the emerging markets of low- and middle-income countries. If law enforcement is weak, passengers might be tempted to behave inappropriately during the ride (damage property, harass drivers) or avoid payment after the ride (or pay less than agreed ex ante). These and other security issues often prevent, for example, female service providers from offering private ride-sharing services in developing countries (cf. Hielscher & Everding, 2021). Ride-sharing platforms, such as Uber, Lyft, and Cabify, offer an individual constitutional commitment service to consumers to pay as promised (via a credit card payment system that forces passengers to pay in advance) and behave appropriately (by using two-sided review systems or emergency security hotlines, e.g., Uber’s safety report). Such commitment services help the interaction partners in achieving a win–win–win situation, which has been shown for Uber in Egypt (Uzunca et al., 2018) and Mexico (Hielscher & Everding, 2021). In Egypt, for example, Uber has been successful in combating sexual harassment through required driver registration and reporting incidents to the police, with the effect that a considerable number of women (15,000; Egyptian Streets, 2018) are now operating Uber taxis in Alexandria and Cairo (Uzunca et al., 2018). The admission, screening, and review systems also support service providers in making credible their intent to keep promises. For example, the review system often discloses—and thus informally sanctions and prevents—uncooperative driver strategies pervasive in traditional taxi markets in developing countries, such as deliberate detours or attempted robberies (Dreyer et al., 2017; Uzunca et al., 2018). Studies also show how a variety of sharing platforms in Berlin help overcome opportunism in one-sided social dilemmas between sharing partners by monitoring, disclosing, and sanctioning uncooperative behavior (Reischauer & Mair, 2018). In sum, such governance initiatives help interaction partners in overcoming one-sided social

dilemmas via constitutional services for individual self-commitments that create and enhance mutual trust.

Box III highlights that platform club-good arrangements can enhance the sharing experience. For example, Airbnb's motto "Happy traveling" is not just a promise to provide a platform for members to share accommodations; it is also a promise to foster a unique experience for guests (and hosts), including "switching-off," reviving a relationship, connecting with other cultures, and creating special moments, thus enabling experiences many associate with traveling but rarely realize (de Botton & Chesky, 2015). However, to nurture these unique experiences, hosts and guests face a many-sided social dilemma situation: confronted with alternative choices, everyone would like to consume an "enhanced" Airbnb experience without contributing much to it, because doing so involves "costs" (both monetary and non-monetary), including time, information, devotion, and thought. To overcome this free-rider problem of collective action, Airbnb offers a postconstitutional commitment service to all sharing partners. Airbnb reminds hosts to contact their guests in advance, provide holiday tips and valuable information about the neighborhood, and identify guest preferences to enhance the guest's experience. Airbnb also reminds guests to follow basic house rules and rules of politeness, share plans and personal preferences with hosts, and so on. Although it proves arguably difficult to prescribe "enhanced" moments, Airbnb is at least starting to experiment with solutions to a problem that traditional travel companies have failed to address for a long time, thus attempting to reach a higher level of mutual betterment. Furthermore, the provision of social insurance—for example, a "social safety net"—for sharing partners (Sundararajan, 2016: 187–92) falls into the same category of *postconstitutional services for collective self-commitments*, as this would help sharing partners overcome a many-sided social dilemma of pooling resources to address the social hardship that might occur for service providers.

Box IV describes how platform club-good arrangements can help overcome holdup problems of asymmetric information and dependency among sharing partners that limit their potential to reap the benefits of cooperation. For example, even if the platform constitution has secured sharing rights, it is still possible for Airbnb guests to damage a host's property unintentionally. In such a situation, guests might be tempted to cover up their involvement, which might lead hosts to furnish their homes with inexpensive and lower-quality furniture, thus reducing the travel experience for travelers in the future. Sharing-platform organizations can overcome this one-sided social dilemma by providing an individual postconstitutional commitment service for guests by offering insurance coverage for damages. Airbnb, for example, provides a host protection insurance against liability claims up to US\$1 million (Airbnb, 2014). A similar problem is present on Uber's ride-sharing platform (Uber, 2021). To allow service providers to offer a high-quality transport experience, Uber offers a loan scheme that supports drivers' purchases of modern cars while credibly committing to repay the loan (by taking interest and repayments out of individual platform revenues). Both Airbnb's insurance and Uber's loan scheme are postconstitutional services for individual self-commitments by sharing partners that help them in generating mutual benefits.

Boxes V and VI, finally, describe how sharing platforms can bind themselves to assure platform users that they are safely protected against exploitation. Both cases define constitutional or postconstitutional limits of platform discretion.

Box VI draws attention to the possibility that sharing platforms can establish a platform “culture” of mutual trust between the platform and its users to overcome holdup problems related to power and information asymmetries. To do so, platforms can make use of individual self-commitments to honor the promises they have made explicitly or implicitly to users once they become part of the platform community. This includes the promise to offer a functional digital platform for user matching, admission and screening, payment processing, reviews and ratings, pricing, and other financial services. While some of these aspects are part of general terms and conditions, and are thus made credible through private contract law, platforms retain some important flexibilities, for example, in pricing, fees, ratings, and marketing, to be able to react to market developments (Sundararajan, 2016). Potentially, this could create holdup problems for specifically invested users, thus exacerbating information asymmetries and power imbalances (Calo & Rosenblat, 2017; Katz, 2019; Rosenblat & Stark, 2016) between platforms and sharing partners. Finding themselves in a one-sided social dilemma, however, sharing platforms should have some interest in self-committing to refrain from exploiting users—and thus elicit their cooperative responses. In a sense, these specific investments and thus the exploitation potentials are comparable with the specificity that emerges when mobile phones are not portable from one to another service provider. If such specific investments make it harder for sharing partners to exit and change platforms, sharing platforms could provide them with stronger voice options, for example, by implementing a complaints mechanism that guarantees partners who are dissatisfied a right to be heard. Airbnb, for example, allows members a say in platform rule changes that affect hosts in a particular area, so-called Airbnb “home-sharing clubs” (Sundararajan, 2016).

Finally, Box V describes the possibility of collective platform self-regulation as yet another way to safeguard users from exploitation. To do so, sharing platforms can make use of collective self-commitments, for example, by binding themselves to higher social standards of accountability in international standardization clubs (collective self-commitment). Such collective self-commitments could possibly include creating a common ledger or blacklist of misbehaving sharing partners, referring to deception and fraud. Creating a collective cross-platform “club” standard of acceptable platform behavior, which covers monitoring, disclosure, and sanctioning mechanisms (Prakash & Potoski, 2007), would not only increase the quality of each participating sharing platform but also meet the interests of sharing partners to enhance their interaction experience. Furthermore, it would protect their sectoral reputation. Interestingly, we are not aware that this strategy has been used so far.

Overall, our reconstruction suggests that in comparison to traditional firms, sharing platforms typically have—and indeed make use of—more governance options. Innovative sharing platforms establish and improve a constitution for sharing using two constitutional and two postconstitutional commitment services and a self-commitment to a platform trust management that reduces the level of

potential exploitation. A fully legitimate interaction on a sharing platform would thus be measured against a triple notion of “win–win–win” outcomes that combines three relevant dimensions of legitimacy: the first “win” refers to benefits of the sharing platform, the second “win” to advantages of the directly involved sharing partners, the final “win” to the neutral or positive impact on indirectly affected third parties. If the latter are negatively affected, we speak of win–win–lose outcomes. In line with Buchanan’s approach, we hold that win–win–win outcomes are a necessary condition for legitimacy.

3. THE ROLE OF AN ENABLING INSTITUTIONAL ENVIRONMENT FOR THE LEGITIMACY OF ORDO-RESPONSIBILITY IN THE SHARING ECONOMY

Arguably, not all sharing-platform organizations will live up to this ideal. In fact, many practices in the sharing economy have been criticized for disenfranchising or exploiting employees and disempowering consumers (cf. Abrahao et al., 2017; Calo & Rosenblat, 2017; Chai & Scully, 2019). Therefore, the final question to be addressed is how sharing-platform organizations can realize win–win–win outcomes, thus benefiting not only the platform and the directly involved sharing partners but also the indirectly affected individuals in society.

Figure 2 illustrates our response in a utility diagram depicting the simple case of two sharing partners interacting on a platform. It highlights how a variety of commitments and commitment services by various actors allows the two partners to obtain different levels of utility in a two-player society. In this formulation of the problem, we determine possibility spaces for actors who try to realize mutual benefits, the lower and upper boundaries of which are marked by iso-utility curves that describe the aggregate utility levels both partners can possibly achieve given strategic responses to the respective rule incentives. For example, space A describes all possible outcomes of Hobbesian anarchy, space B all outcomes when property rights are secured, and so on.⁵

Commercial sharing platforms operate within the framework conditions set up by political processes that establish secure property rights and productive club goods. This is the societal infrastructure the sharing economy can use as a starting point. Buchanan-type constitutional and postconstitutional social contracts allow citizens to overcome anarchy (space A), and then to move further from a peaceful constitutional stage to a productive and peaceful postconstitutional stage (space B). The extent to which citizens can reach mutual betterment also involves the safeguards

⁵ We here use a simple two-actor model similar to the one Buchanan (1975: 29) used for his thought experiment. We assume rational actors and Pareto-optimality of rules in a strict sense. This means that rational actors will only agree to positive net expected gains. Also, Figure 2 abstracts from the exact distribution of utility among the sharing partners, although this could be modeled in detail. For example, power asymmetries among contracting parties could result in unequal gains from trade, i.e., in the spaces left or right of the 45° line through the origin. In a similar way, specific preferences, such as inequality aversion in the distribution of gains, can be modeled in that such contracting partners would not accept any mutual betterment beyond the line of origin or otherwise reject exchange opportunities.

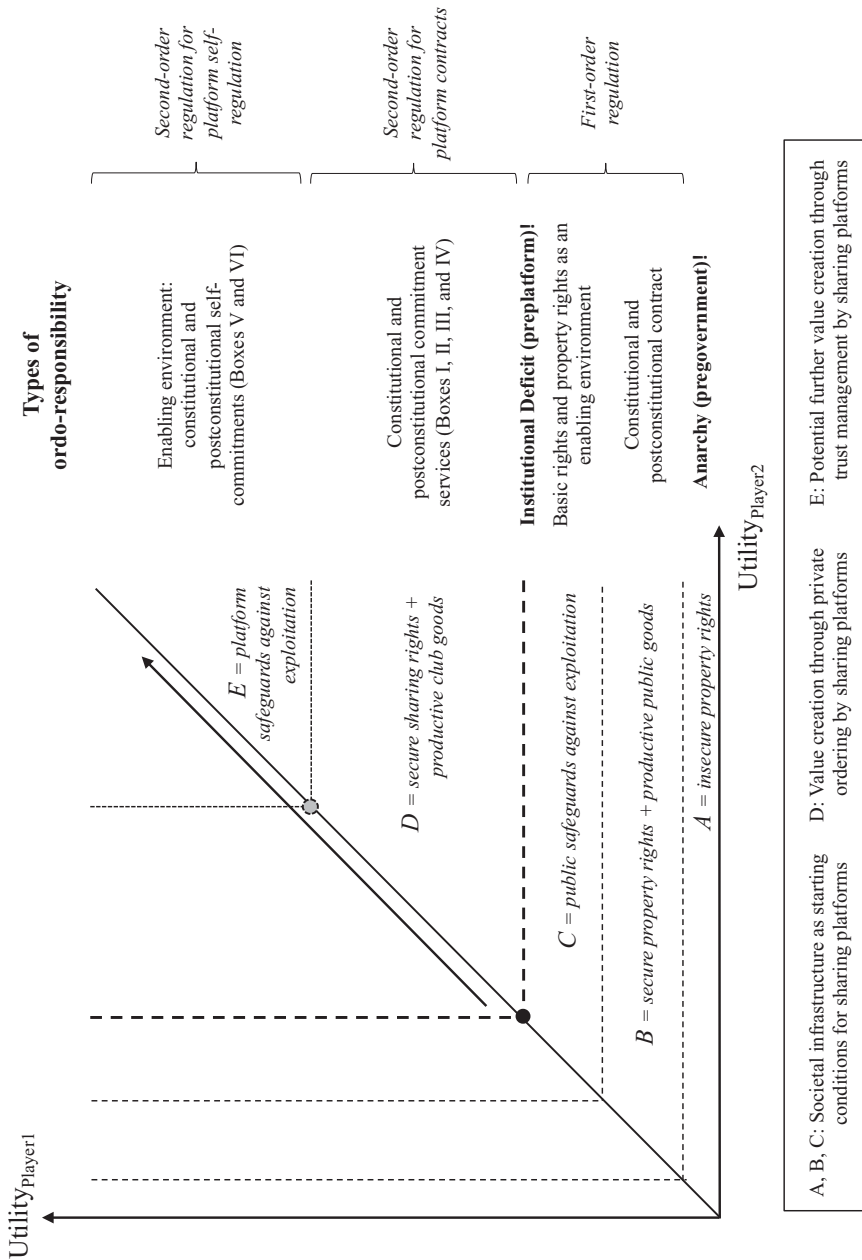


Figure 2: The Enabling Environment for Legitimate Ordo-Responsibilities in the Sharing Economy

(“constitutional limits”) as enshrined in basic rights and property rights that protect from physical harm and expropriation (space C).

Space D can be entered when commercial platform operators create a platform constitution that liberates sharing partners from the limits of still existing institutional deficits, thus allowing them to reap novel benefits of mutually beneficial exchange. Platforms further thrive on refining and improving postconstitutional commitment services for their members, thus moving further into space D. These novel forms of ordo-responsibility—including the commitment services I to IV—are based on the consent of the involved actors, because they allow sharing partners to realize mutual benefits through constitutional and postconstitutional commitment services. From an ordonomic perspective, this governance logic of mutual betterment provides a strong argument in favor of considering these activities legitimate.

Achieving some point within the utility space D requires a societal institutional framework that appreciates the potential empowerment effect of constitutional and postconstitutional commitment services provided by sharing platforms. These win–win–win opportunities, however, are sensitive to the regulatory environment provided by governments. Banning or severely restraining commercial sharing platforms through interventionist measures, for example, would run the risk of depriving sharing partners of valuable opportunities for consumption and income generation. This is particularly relevant if sharing platforms provide a superior rule-setting framework that is able to 1) solve problems of opportunism more efficiently than government regulation (Koopman et al., 2015; Thierer et al., 2016) or 2) circumvent dysfunctional regulation, especially in developing countries (cf. Dreyer et al., 2017; Uzunca et al., 2018).

Government authorities intervening to prohibit, strangle, or otherwise restrict sharing platform operations will lower the utility for the involved sharing partners, thus diminishing the utility space D in [Figure 2](#). In 2017, for example, the European Court of Justice decided to treat Uber as a transport company, not as a technology service that connects drivers and customers (European Court of Justice, 2017); a UK employment court ruled to treat Uber drivers as workers and not as private contractors (Rao, 2017); and London’s public transport authority decided against renewing Uber’s license in London—this decision, however, was revoked in 2020 (Cowen, 2017; Transport for London, 2017; Westminster Magistrates’ Court, 2020). Often, these and similar decisions find the support of civil society organizations, in particular labor organizations, that seem to be interested primarily in protecting the privileges of public transport organizations and less so in promoting the interests of sharing partners, effectively transforming win–win–lose outcomes into lose–lose–win outcomes instead of accepting sharing platforms as innovations with legitimate negative impact (in the sense of pecuniary externalities) on economic rivals and legitimate positive impact on sharing partners. To the extent that such decisions come with increased transactions costs, sharing partners will limit their services, thereby creating fewer opportunities for mutual betterment, restricting the space D. The exact location of the new equilibrium will depend on the cost effects of regulation for each sharing partner, which are partly mediated by platform policies.

Moving in the opposite direction, sharing platform operators could bind themselves collectively and create a collective cross-platform standard of acceptable platform behavior or facilitate exit options. As discussed, if sharing partners can easily swap platforms, transfer reputation capital, and choose from a diversity of platforms, users can exert influence over managerial decisions, avoid exploitation, and provide incentives for platform rule-setting to be designed (also) in their interests. Alternatively, sharing platforms can introduce voice mechanisms as individual commitments in case platform competition is not a feasible alternative (due to strong network effects). Transparent complaints-handling procedures are a case in point. This would be equivalent to expanding the possibilities for mutual betterment into space E via commitment strategies V and VI.

However, it seems questionable to what extent moving forward into space E is possible on a purely voluntary basis of spontaneous self-regulation. Realizing mutual betterment in space E could benefit from a public regulatory framework that promotes interplatform competition, thus introducing and reinforcing possible exit options of sharing partners. This would strengthen effective feedback mechanisms and provide incentives for functional self-regulation of sharing platforms. As a case in point, there could be a political requirement for platform operators to introduce safeguards against exploiting sharing partners or a requirement to let sharing partners actively participate in platform rule-setting (cf. also Katz, 2019; Posen, 2015). A further example would be a carefully balanced antitrust policy to encourage interplatform competition, supported by accurate empirical analyses of the real-world effects of dominant positions on sharing markets. Also, legislation could bolster transparency and allow sharing partners to transfer their reputational capital from one platform to another, thereby reducing switching costs and barriers to entry for new competitors (Zingales & Lancieri, 2019).

Creating such an “enabling environment” to attain positions in space E has been referred to as a second-order regulation (“*Ordnungspolitik zweiter Ordnung*”; Pies & Hielscher, 2019; Pies & Sass, 2008), as opposed to first-order regulation of command and control, because it aims at improving public rules for private rule-making. Second-order regulation does not tell sharing platforms what to do; instead, it influences them indirectly via incentivizing standard conformity, thus providing a meta-constitution for platform constitutions. A laissez-faire position (cf. Farren et al., 2016; Koopman et al., 2015) could underestimate the fact that the quality of commitment services and self-commitments critically depends on the availability of exit and voice options. A version of laissez-faire insensitive to such possibilities could have the unintended consequence that the threat of monopoly power would further prevent sharing partners from realizing opportunities for mutually beneficial cooperation.

Finally, creating an enabling environment requires societal learning processes of “new governance” (cf. Pies & Koslowski, 2011; cf. also, in particular, Pies, 2011), that is, an intersectoral division of labor among governments, civil society actors, and sharing platforms to assume ordo-responsibility. Civil society organizations, for example, can fulfill their advocacy function (Hielscher, Winkin, Crack, & Pies, 2017) by drawing attention to apparent misconduct, such as rent-seeking, that goes

at the expense of society at large. Civil society can ring the alarm bell about multi-hosting practices on Airbnb's platforms having a negative societal impact, for example, by contributing to rising rents and housing shortages in metropolitan areas. Public pressure can then help create functional incentives for sharing platform organizations to avoid such win–win–lose outcomes by reforming their rule frameworks, such as Airbnb did with its “One Home, One Host” campaign (Pies, Hielscher, & Everding, 2020). However, because rent-seeking is not limited to the giants of the sharing economy but is pervasive in society, a second-order approach encourages campaigning indiscriminately against rent-seeking activities, also where traditional taxi companies aim to protect their traditional privileges against competition from sharing platforms (Farren et al., 2016).

4. DISCUSSION

The arguments presented in each section allow us to answer the three questions asked in the beginning of this article. Here we do so by offering a heuristic that can guide reasoning about the a priori possibilities and conditions of legitimate rule-setting responsibilities of sharing platforms. Following Buchanan's (1975) social contracts perspective, we have demonstrated that the status quo ex ante features some aspects of Hobbesian anarchy and that the rules as set in practice hold, in principle, the potential for realizing mutual benefits for all directly and indirectly involved actors. We deduce the possibility of win–win–win outcomes that legitimize the governance activities by sharing platforms from the following premises:

- Premise I: Sharing platforms provide some form of external rule enforcement to their contracting sharing partners (i.e., by sanctioning noncompliant behavior when platforms deactivate users with consistently low reviews and ratings).
- Premise II: It is observed on a large scale in today's markets that individuals interacting on sharing platforms engage in contracting practices that let them succeed in sharing.
- Premise III: If the sharing partners did not perceive the governance performance of sharing platforms as offering them valuable advantages, sharing partners would exit and use other options (if competition exists) or complain on a large scale (if competition is weak).
- Premise IV: We do not observe large-scale exit or complaints. In contrast, we observe large-scale influx into sharing platforms wherever they are allowed to operate, often with social or environmental effects that are generally beneficial. However, we also observe some protests by not directly involved third parties that are indirectly affected. This might hint at win–win–lose outcomes. However, it is vital to understand that some of these protests are legitimate and require appropriate (re-)regulation of sharing platforms, whereas others are in fact illegitimate and can be dismissed as rent-seeking behavior, aiming at raising rivals' costs, which requires appropriate (re-)regulation for a level playing field of fair

competition. Either way, protests can be adequately addressed by an enabling environment that supports sharing platforms in creating value for themselves and their partners and meeting general approval.

- Conclusion: If I, II, III, and IV hold, it follows that we can reasonably conclude that there is an a priori possibility that the rule-enforcement practices of sharing platforms allow contracting sharing partners to achieve win–win–win outcomes, thus pointing to a normative desirability of the governance performance—and in particular of the rule-making functions—of sharing platforms.

In the remainder of this section, we discuss (1) potential contributions of this argument to the academic debate, (2) implications for other digital platforms, and (3) limitations and future research opportunities.

(1) Our article, first, contributes to the emerging literature on the sharing economy. To our knowledge, we are the first to address the legitimacy of platform capitalism head-on (cf. Etter et al., 2019; Flyverbom et al., 2017; Laamanen et al., 2018). Contrary to dominant approaches of organizational legitimacy (cf. Scherer & Palazzo, 2011; Suchman, 1995) that use idealist notions of “good” processes—for example, “good” participatory mechanisms—for businesses activities to gain legitimacy, we start with the interests of the involved individual actors as expressed in their real-world choices and then ask how companies can promote them. From our perspective—and for Buchanan (1975: 207–8)—the notion of “good” is grounded in the willingness of free and responsible individuals to voluntarily restrain their individual rights via constitutions to promote their common interests in creating new valuable liberties. Based on such a criterion of normativity, as we have shown, different social contracts allow for different levels of Pareto improvements and thus provide sources of legitimacy. Thus realizing mutual betterment is both the goal and the source for potential consensus, and it can be achieved using different organizational means (cf. Hielscher et al., 2014). Commercial sharing platforms are one such tool, sharing cooperatives are another, and so are governments.

Second, we contribute to the debate about corporate citizenship. Related to Pies et al.’s (2009) treatment of “classical” corporate citizenship, we argue that ordo-responsibility in the sharing economy involves six generic commitment strategies, not four, and that constitutional commitment services establish a platform constitution on which all other commitments are based. The extended scope of ordo-responsibilities might be coined as *platform citizenship*.⁶ We argue that this ordonomic concept and its governance focus on (post-)constitutional rule-making challenges business ethics scholars to analyze the sharing economy as a novel and innovatively expanded manifestation of “classical” corporate citizenship where private companies administer (aspects of) property rights (Matten & Crane, 2005) and address regulatory needs in novel arenas of economic activity (Palazzo & Scherer, 2006).

⁶We owe this term to Andrew Crane, who provided this interpretation of platform responsibility as a comment.

Third, our application of constitutional contracts theory to the sharing economy contributes to debates about the role of regulation in the sharing economy specifically and in novel arenas of the economy more generally. In contrast to interventionist views (e.g., Katz, 2015; Lee, 2016), we emphasize the need to find regulatory solutions that meet the common interest, which includes the interests of all sharing partners, actual and potential. This makes it desirable from a normative point of view to empower sharing partners to take advantage of the platform economy's flexibility without sacrificing the benefits of income generation and consumption. While we support the view taken by libertarian approaches to the sharing economy (e.g., Farren et al., 2016) and business ethics more generally (Brennan & Jaworski, 2016; Hasnas, 1998, 2013; Heath, 2014; Jaworski, 2014) that private rule innovations—by entrepreneurs and companies, and supported by civil society—can promote the interests of both sharing partners and society, we argue that the same holds true for public rule innovations, provided that governments follow an adequate second-order approach to regulation. Even if one concedes that government has grown too big and powerful (cf. Farren et al., 2016; Koopman et al., 2015), it is rather difficult to ignore the possibility that a functional second-order government regulation might help improve the framework conditions of sharing partners even further, a possibility that pure deregulation strategies cannot hope to realize, as we have shown.

(2) Although much of our article has focused on the for-profit platforms, which are relevant in size and user base and thus at the center of controversial debates, our approach has implications for other digital platforms.

First, the Pareto-criterion contributes to understanding nonprofit platforms in relation to for-profits:

- a) Cooperatives might have stronger voice mechanisms, and thus stronger constitutional limits against exploitation, which might be rooted in the founders' deep social missions.
- b) Exit strategies might be less effective in nonprofits because alternative cooperative sharing platforms might not be available as they are for-profits. We know that users rarely pick up on innovations as initially intended by innovators, and the sharing economy—both for-profit and nonprofit organizations—is no exception in this regard (Cockayne, 2016). However, the ability and willingness of customers to choose freely among a set of alternatives, and thus the threat of user "exit," forces for-profit innovators to adapt their services to customer needs. Nonprofits, in turn, can follow their self-declared missions as long as founders keep donors happy, even if users would prefer different services. This points to a special need for governing principal-agent relationships in nonprofit platforms.
- c) The lack of effective exit options might explain what the literature has described as a "limited scaling potential" of nonprofit platforms (Acquier et al., 2017: 4), that is, weaker network effects that reduce options for mutual betterment for sharing partners.

A telling example is time banks, such as TimeBanks and hOUR (cf. Evans, 2009), which use time instead of money as a medium of exchange. They implement a rigid value scheme that ascribes each service hour the same exchange value. This means that, for example, one hour of language training is worth one hour of gardening. However, as Schor and Vallas (2021) and Schor et al. (2016) report, users seem to have different views about the relative value of their services and have introduced “exchange rates” for different time prices or switched back to money-based exchange. While scholars (and founders) have criticized users deviating from the rigid 1:1 clearing system as having the “wrong mental model,” the user response could equally be seen as resulting from the founders’ ideologically biased unwillingness to adapt their services to user needs. It shouldn’t come as a surprise if this attitude prompted users to switch to other (for-profit) platforms that are more willing to cater to their needs, thus hampering the growth of these nonprofits.

Second, the social contracts perspective has implications for social media platforms. Digital sharing platforms and product platforms (Amazon, eBay) share the feature of building a trust infrastructure that reduces the transaction costs of exchanging private goods (Sundararajan, 2016). While sharing platforms are different from product platforms in facilitating service coproduction, which requires more detailed and credible information about personal characteristics, supported by fine-grained rules and rule enforcement mechanisms, social media companies provide a platform for the sharing of ideas, that is, nonrivalrous and nonexcludable public goods. Current discussions (cf. Allcott & Gentzkow, 2017; Rauf, 2021; Sunstein, 2017) and legal disputes (*Prager University v. Google LLC, FKA Google, Inc., YouTube, LLC*) illustrate the multifaceted legitimacy issues that arise when private companies like Twitter or YouTube are managing a rule framework, including access (“platforming”), speech rules (“hate speech” vs. “cancel culture”), and exit or exclusion (“deplatforming”) for what is intended to be a generally public platform of discourse and deliberation. Although much research is needed to explore the boundaries between private and public tasks, our approach suggests that social media platforms could benefit from functional second-order regulations that allow them the kind of practical rule experimentation required to figure out where to draw the line, for example, between protecting the privacy of individuals and respecting free speech for public spaces of deliberation.

(3) Although we have addressed the a priori possibility of legitimate rule-setting responsibilities of sharing platforms, it is also important to note what we have not done and thus what needs to be left for future research.

First, we have not identified an equilibrium point that occurs between sharing partners, nor do we analyze the role norms and emotions play in guiding sharing partners’ negotiations of Pareto improvements. Theoretical approaches to game theory (cf. Binmore, 1989, 2005; Harsanyi, 1953, 1955; Nash, 1953) could precisely analyze to what extent sharing platforms can make sharing partners better off compared to the status quo ex ante. This could provide insights into possible disproportionalities of sharing advantages, for example, due to information asymmetries or negotiation skills. Such insights could then be used by platform operators

to adjust their commitments to sharing partners or by public actors to better understand the functional requirements of an enabling regulatory environment for sharing platforms. Behavioral game theory, on the other hand, could empirically test the conjecture that emotions like anger and surprise (Geanakoplos, Pearce, & Stacchetti, 1989), altruistic attitudes (Grimalda & Sacconi, 2005), and fairness and equality considerations (Rabin, 1993) may play an important role in the emergence of equilibria and the resulting sharing patterns.

Second, although we discuss the possibility of monopolistic platforms having negative effects for sharing partners' ability to achieve Pareto improvements, empirical research could study in more detail how much market power sharing platforms currently possess; how likely monopolies are; or if sharing partners are worse off relative to the status quo ex ante and to what extent, thus forcing users to accept rule frameworks that invite outcomes that they consider unfair. Behavioral game theory could study possible equilibria using a variety of models, potentially also ultimatum or dictator games. Empirical research is required to understand whether the self-governed rules of the sharing economy can achieve mutual betterment more effectively than alternative market rules established by government regulations (cf. Dreyer et al., 2017; Hielscher & Everding, 2021; Uzunca et al., 2018), how third parties are affected, for example, taxi medallion holders in local taxi markets (cf. Burch, Carnahan, & Greenwood, 2018; Farren et al., 2016), and how appropriate compensation could be devised.

Third, our approach has not made any exact prediction to what extent sharing partners will comply with the sharing platform rules. Although one can reasonably infer a high level of compliance from many platform success stories, one cannot conclude that every user follows those rules. Details might be important here. For example, there are different ways how sharing partners can (ab)use the review system, each of which with different consequences with regard to fairness considerations (Rabin, 1993), emotions (Geanakoplos et al., 1989), or other norms and conventions (Bicchieri, 2005). For example, sharing partners could collude by agreeing to provide each other with an excellent review. Such quid pro quo collusion can reduce the rule system's effectiveness if ratings are unrelated to the quality of the service reviewed. Here further research could study which community-based norms promote and which inhibit the efficient implementation of market-based rules.

5. CONCLUSION

Our article offers a heuristic to reason about the legitimacy of the sharing economy's rule-setting function, and we offer guidance about which aspects need to be taken into account when taking a Buchanan-type social contracts perspective. In essence, our approach offers an alternative view—an “orthogonal position” (Pies et al., 2009: 380)—to the current debate between those who find the sharing economy's rule-setting function a priori illegitimate because private actors assume a rule-setting function and those who find it a priori legitimate because sharing platforms offer an antidote to inefficient public regulations. Our argument is that there are good grounds for an a priori presumption that the sharing economy's rule-setting function is legitimate *if*

sharing platforms create value for sharing partners in a way that meets general approval. Typically, sharing platforms provide a constitution that limits their own discretionary decision-making power and specifies rights and responsibilities of sharing partners. Furthermore, sharing platforms use the governance mechanisms of voice, exit, and constitutional limits to allow sharing partners to provide valuable feedback. However, the legitimacy of sharing platforms also depends on the external effects of partners' behavior on indirectly affected third parties, whose protests may be regarded as legitimate or illegitimate. In either case, these problems can be solved by public regulation. The upshot is that sharing platforms can improve the legitimacy of their rule-setting function by assuming ordo-responsibility, while government regulation and public discourses can provide an enabling environment for ensuring that sharing platforms enable win–win–win outcomes in a generally beneficial way.

Acknowledgements

We thank Andreas Rasche for his editorial guidance through the review process as well as three anonymous reviewers for providing their constructive feedback. We also appreciate comments and advice from Andrew Crane, Bryan W. Husted, and Andrew Wicks and from participants at the seventy-eighth annual meeting of the Academy of Management, 2018, and the Society for Business Ethics annual conferences, 2017 and 2021.

REFERENCES

- Abraham, B., Parigi, P., Gupta, A., & Karen, S. C. 2017. Reputation offsets trust judgments based on social biases among Airbnb users. *Proceedings of the National Academy of Sciences of the United States of America*, 114(37): 9848–53.
- Acquier, A. 2018. Uberization meets organizational theory: Platform capitalism and the rebirth of the putting-out system. In N. Davidson, M. Finck, & J. Infranca (Eds.), *The Cambridge handbook of the law of the sharing economy*: 13–26. Cambridge: Cambridge University Press.
- Acquier, A., Daudigeos, T., & Pinkse, J. 2017. Promises and paradoxes of the sharing economy: An organizing framework. *Technological Forecasting and Social Change*, 125: 1–10.
- Airbnb. 2014. *Host protection insurance*. <https://www.airbnb.com/host-protection-insurance>.
- Allcott, H., & Gentzkow, M. 2017. Social media and fake news in the 2016 election. *Journal of Economic Perspectives*, 31: 211–36.
- Bai, G., & Velamuri, S. R. 2021. Contextualizing the sharing economy. *Journal of Management Studies*, 58: 977–1001.
- Barbe, A.-S., & Hussler, C. 2019. “The war of the worlds won’t occur”: Decentralized evaluation systems and orders of worth in market organizations of the sharing economy. *Technological Forecasting and Social Change*, 143: 64–75.
- Beckmann, M., & Pies, I. 2008. Ordo-responsibility—conceptual reflections towards a semantic innovation. In J. Conill, C. Lütge, & T. Schönwälder-Kuntze (Eds.), *Corporate citizenship, contractarianism and ethical theory*: 87–115. Farnham, UK: Routledge.
- Berkowitz, H., & Souchaud, A. 2019. (Self-)regulation of sharing economy platforms through partial meta-organizing. *Journal of Business Ethics*, 159: 961–76.

- Bicchieri, C. 2005. *The grammar of society—the nature and dynamics of social norms*. Cambridge: Cambridge University Press.
- Binmore, K. 1989. Social contract I: Harsanyi and Rawls. *The Economic Journal*, 99(395): 84–102.
- Binmore, K. 1997. *Just playing: Game theory and the social contract*, vol. 2. Cambridge, MA: MIT Press.
- Binmore, K. 2005. *Natural justice*. Oxford: Oxford University Press.
- Boettcher, E. 1980. *Die Genossenschaft in der Marktwirtschaft—Einzelwirtschaftliche Theorie der Genossenschaften*. Tübingen, Germany: Mohr Siebeck.
- Bonus, H. 1986. The cooperative association as a business enterprise: A study in the economics of transactions. *Journal of Institutional and Theoretical Economics*, 142: 310–39.
- Bowles, S. 2009. *Microeconomics: Behavior, institutions, and evolution*. Princeton, NJ: Princeton University Press.
- Brennan, G., & Buchanan, J. M. 1985. *The reason of rules: Constitutional political economy*. London: Cambridge University Press.
- Brennan, J., & Jaworski, P. 2016. *Markets without limits*. New York: Routledge.
- Brescia, R. H. 2016. Regulating the sharing economy: New and old insights into an oversight regime for the peer-to-peer economy. *Nebraska Law Review*, 95(1): 87–145.
- Buchanan, J. M. 1975. *The limits of liberty: Between anarchy and Leviathan*. Chicago: University of Chicago Press.
- Buchanan, J. M. 1990. The domain of constitutional economics. *Constitutional Political Economy*, 1: 1–18.
- Burtch, G., Carnahan, S., & Greenwood, B. 2018. Can you gig it? An empirical examination of the gig economy and entrepreneurial activity. *Management Science*, 64(12): 5497–520.
- Califf, C. B., Brooks, S., & Longstreet, P. 2020. Human-like and system-like trust in the sharing economy: The role of context and humanness. *Technological Forecasting and Social Change*, 154: 119968.
- Calo, R., & Rosenblat, A. 2017. The taking economy: Uber, information, and power. *Columbia Law Review*, 117(6): 1623–90.
- Chaffee, E. C., & Rapp, G. C. 2012. Regulating online peer-to-peer lending in the aftermath of Dodd-Frank: In search of an evolving regulatory regime for an evolving industry. *Washington and Lee Law Review*, 69(2): 485–533.
- Chai, S., & Scully, M. 2019. It's about distributing rather than sharing: Using labor process theory to robe the sharing economy. *Journal of Business Ethics*, 159(4): 943–60.
- Chen, M. K., Chevalier, J. A., Rossi, P. E., & Oehlsen, E. 2019. The value of flexible work: Evidence from Uber drivers. *Journal of Political Economy*, 127: 2735–94.
- Coase, R. H. 1937. The nature of the firm. *Economica*, 4(16): 386–405.
- Cockayne, D. G. 2016. Sharing and neoliberal discourse: The economic function of sharing in the digital on-demand economy. *Geoforum*, 77: 73–82.
- Cohen, B., & Muñoz, P. 2016. Sharing cities and sustainable consumption and production: Towards an integrated framework. *Journal of Cleaner Production*, 134(A): 87–97.
- Conger, K. 2020. Uber and Lyft drivers in California will remain contractors. *New York Times*, November 4. <https://www.nytimes.com/2020/11/04/technology/california-uber-lyft-prop-22.html>.
- Cowen, T. 2017. London's Uber ban is a big Brexit mistake: Why would tech companies want to invest in the U.K. and subject themselves to such a slap in the face? *Bloomberg View*, September 22. <https://www.bloomberg.com/view/articles/2017-09-22/london-s-uber-ban-is-a-big-brexite-mistake>.

- de Botton, A., & Chesky, B. 2015. *The new art of travel*. New York: Penguin.
- Department of Industrial Relations. 2020. *Labor commissioner's office files lawsuits against Uber and Lyft for engaging in systemic wage theft*. News release 2020-65, State of California, Salinas.
- Dreyer, B., Lüdeke-Freund, F., Hamann, R., & Faccar, K. 2017. Upsides and downsides of the sharing economy: Collaborative consumption business models' stakeholder value impacts and their relationship to context. *Technological Forecasting and Social Change*, 125: 87–104.
- Egyptian Streets. 2018. "Fyonka" all-female ride hailing service seeks empowering Egyptian women. December 11. <https://egyptianstreets.com/2018/12/11/fyonka-all-female-ride-hailing-service-seeks-empowering-egyptian-women/>.
- Etter, M., Fieseler, C., & Whelan, G. 2019. Sharing economy, sharing responsibility? Corporate social responsibility in the digital age. *Journal of Business Ethics*, 159(4): 935–42.
- European Court of Justice. 2017. *The service provided by Uber connecting individuals with non-professional drivers is covered by services in the field of transport*. Press release 136/17, Court of Justice of the European Union, Luxembourg.
- Evans, M. S. 2009. Zelizer's theory of money and the case of local currencies. *Environment and Planning A: Economy and Space*, 41(5): 1026–41.
- Faillo, M., Ottone, S., & Sacconi, L. 2015. The social contract in the laboratory: An experimental analysis of self-enforcing impartial agreements. *Public Choice*, 163: 225–46.
- Farren, M., Koopman, C., & Mitchell, M. 2016. *Rethinking taxi regulations: The case for fundamental reform*. Arlington, VA: Mercatus Center at George Mason University.
- Flyverbom, M., Deibert, R., & Matten, D. 2017. The governance of digital technology, big data, and the internet: New roles and responsibilities for business. *Business and Society*, 58(1): 3–19.
- Geanakoplos, J., Pearce, D., & Stacchetti, E. 1989. Psychological games and sequential rationality. *Games and Economic Behavior*, 1(1): 60–79.
- Gerwe, O., & Silva, R. 2020. Clarifying the sharing economy: Conceptualization, typology, antecedents, and effects. *Academy of Management Perspectives*, 34: 65–96.
- Greif, A. 2000. The fundamental problem of exchange: A research agenda in historical institutional analysis. *European Review of Economic History*, 4(3): 251–84.
- Grimalda, G., & Sacconi, L. 2005. The constitution of the not-for-profit organisation: Reciprocal conformity to morality. *Constitutional Political Economy*, 16: 249–76.
- Hall, J. V., & Krueger, A. B. 2018. An analysis of the labor market for Uber's driver-partners in the United States. *ILR Review*, 71(3): 705–32.
- Harsanyi, J. 1953. Cardinal utility in welfare economics and in the theory of risk-taking. *Journal of Political Economy*, 61: 434–35.
- Harsanyi, J. 1955. Cardinal welfare, individualistic ethics, and interpersonal comparisons of utility. *Journal of Political Economy*, 63: 309–21.
- Hartl, B., Hofmann, E., & Kirchner, E. 2016. Do we need rules for "what's mine is yours"? Governance in collaborative consumption communities. *Journal of Business Research*, 69(89): 2756–63.
- Hasnas, J. 1998. The normative theories of business ethics: A guide for the perplexed. *Business Ethics Quarterly*, 8(1): 19–42.
- Hasnas, J. 2013. Teaching business ethics: The principles approach. *Journal of Business Ethics Education*, 10: 275–304.
- Heath, J. 2014. *Morality, competition, and the firm: The market failures approach to business ethics*. New York: Cambridge University Press.

- Hielscher, S., Beckmann, M., & Pies, I. 2014. Participation versus consent: Should corporations be run according to democratic principles? *Business Ethics Quarterly*, 24(4): 533–63.
- Hielscher, S., & Everding, S. 2021. *Trust me if you can: How can sharing institutions address contractual, property, and human rights?* Unpublished manuscript, University of Bath.
- Hielscher, S., Winkin, J., Crack, A., & Pies, I. 2017. Saving the moral capital of NGOs: Identifying one-sided and many-sided social dilemmas in NGO Accountability. *VOLUNTAS*, 28(4): 1562–94.
- Hirschman, A. O. 1970. *Exit, voice, and loyalty: Responses to decline in firms, organizations, and states*. Cambridge, MA: Harvard University Press.
- Hobbes, T. 1642/1839. *De Cive*. London: Bohn.
- Hobbes, T. 1651/1998. *Leviathan*. Oxford: Oxford University Press.
- Horan, H. 2019. Uber's "academic research" program: How to use famous economists to spread corporate narratives. *Pro Market*, December 5. <https://promarket.org/ubers-academic-research-program-how-to-use-famous-economists-to-spread-corporate-narratives/>.
- Jaworski, P. 2014. An absurd tax on our fellow citizens: The ethics of rent seeking in the market failures (or self-regulation) approach. *Journal of Business Ethics*, 121(3): 467–76.
- Kant, I. 1795/1991. Perpetual peace: A philosophical sketch In H. S. Reiss (Ed.), *Kant: Political writings*: 93–130. Cambridge: Cambridge University Press.
- Katz, M. L. 2019. Platform economics and antitrust enforcement: A little knowledge is a dangerous thing. *Journal of Economics and Management Strategy*, 28(1): 138–52.
- Katz, V. 2015. Regulating the sharing economy. *Berkeley Technology Law Journal*, 30(4): 1067–1126.
- Koopman, C., Mitchell, M. D., & Thierer, A. D. 2015. The sharing economy and consumer protection regulation: The case for policy change. *Journal of Business, Entrepreneurship, and the Law*, 8(2): 529–45.
- Kreps, D. M. 1990. Corporate culture and economic theory. In J. E. Alt & K. A. Shepsle (Eds.), *Perspectives on positive political economy*: 90–143. Cambridge: Cambridge University Press.
- Laamanen, T., Pfeffer, J., Rong, K., & Van de Ven, A. 2018. Editors' introduction: Business models, ecosystems, and society in the sharing economy. *Academy of Management Discovery*, 4(3): 213–19.
- Lee, D. 2016. How Airbnb short-term rentals exacerbate Los Angeles's affordable housing crisis: Analysis and policy recommendations. *Harvard Law and Policy Review*, 10: 229–53.
- Lobel, O. 2019. *Regulating the sharing economy: Self-governance, efficiency and values*. Paper 19-419, San Diego Legal Studies.
- Luce, R. D., & Raiffa, H. 1957. *Games and decisions: Introduction and critical survey*. New York: John Wiley.
- Mair, J., & Reischauer, G. 2017. Capturing the dynamics of the sharing economy: Institutional research on the plural forms and practices of sharing economy organizations. *Technological Forecasting and Social Change*, 125: 11–20.
- Martin, C. J. 2016. The sharing economy: A pathway to sustainability or a nightmarish form of neoliberal capitalism? *Ecological Economics*, 121: 149–59.
- Marzen, C., Prum, D. A., & Aalberts, R. J. 2017. The new sharing economy: The role of property, tort, and contract law for managing the Airbnb model. *New York University Journal of Law and Business*, 13(2): 295–336.

- Matten, D., & Crane, A. 2005. Corporate citizenship: Toward an extended theoretical conceptualization. *Academy of Management Review*, 30(1): 166–79.
- Mazzella, F., Sundararajan, A., D’Espous, V., & Möhlmann, M. 2016. How digital trust powers the sharing economy. *IESE Insight, Third Quarter*, 30: 24–30.
- Meyer, J. 2016. *Uber-positive: Why Americans love the sharing economy*. New York: Encounter Books.
- Munger, M. C. 2018. *Tomorrow 3.0: Transaction costs and the sharing economy*. Cambridge: Cambridge University Press.
- Munger, M. C. 2019. Starting from where we are: The importance of the status quo in James Buchanan. In R. E. Wagner (Ed.), *James M. Buchanan: A theorist of political economy and social philosophy*: 39–64. Fairfax, VA: Palgrave Macmillan.
- Murillo, D., Buckland, H., & Val, E. 2017. When the sharing economy becomes neoliberalism on steroids: Unravelling the controversies. *Technological Forecasting and Social Change*, 125: 66–76.
- Nash, J. 1953. Two-person cooperative games. *Econometrica*, 21: 128–40.
- North, D. C. 1990. *Institutions, institutional change, and economic performance*. Cambridge: Cambridge University Press.
- Olson, M. 1965. *The logic of collective action*. Cambridge, MA: Harvard University Press.
- O’Reilly, T. 2017. *WTF? What’s the future and why it’s up to us*. New York: HarperCollins.
- Palazzo, G., & Scherer, A. G. 2006. Corporate legitimacy as deliberation: A communicative framework. *Journal of Business Ethics*, 66: 71–88.
- Parigi, P., State, B., Dakhllallah, D., Corten, R., & Cook, K. 2013. A community of strangers: The dis-embedding of social ties. *PLOS ONE*, 8(7): e67388.
- Peticca-Harris, A., deGama, N., & Ravishankar, M. N. 2020. Postcapitalist precarious work and those in the “drivers” seat: Exploring the motivations and lived experiences of Uber drivers in Canada. *Organization*, 27(1): 36–59.
- Pies, I. 2011. Introduction: Corporate citizenship and new governance—The political role of corporations. In I. Pies & P. Koslowski (Eds.), *Corporate citizenship and new governance—the political role of corporations*: 1–6. Berlin: Springer.
- Pies, I., Beckmann, M., & Hielscher, S. 2010. Value creation, management competencies, and global corporate citizenship: An ordonomic approach to business ethics in the age of globalization. *Journal of Business Ethics*, 94(2): 265–78.
- Pies, I., Beckmann, M., & Hielscher, S. 2014. The political role of the business firm: An ordonomic concept of corporate citizenship developed in comparison with the Aristotelian idea of individual citizenship. *Business and Society*, 53(2): 226–59.
- Pies, I., & Hielscher, S. 2019. *Fighting corruption: How binding commitments of business firms can help to activate the self-regulating forces of competitive markets*. Discussion paper 2019-04, Chair of Economic Ethics, Martin Luther University Halle-Wittenberg.
- Pies, I., Hielscher, S., & Beckmann, M. 2009. Moral commitments and the societal role of business: An ordonomic approach to corporate citizenship. *Business Ethics Quarterly*, 19(3): 375–401.
- Pies, I., Hielscher, S., & Everding, S. 2020. Do hybrids impede sustainability? How semantic reorientations and governance reforms can produce and preserve sustainability in sharing business models. *Journal of Business Research*, 115: 174–85.
- Pies, I., & Koslowski, P. 2011. *Corporate citizenship and new governance: The political role of corporations*. Berlin: Springer.
- Pies, I., & Sass, P. 2008. Wie sozialschädlich ist Korruption?—Ein Überblick zum Erkenntnisstand der empirischen Forschung. In I. Pies (Ed.), *Wie bekämpft man Korruption?*

- Lektionen der Wirtschafts- und Unternehmensethik für eine "Ordnungspolitik zweiter Ordnung"*: 9–78. Berlin: wvb.
- Pitas, C. 2021. *Uber faces UK supreme court ruling on worker rights in gig economy test*. Reuters, February 19. <https://www.reuters.com/article/us-uber-britain-idUSKB N2AJ007>.
- Posen, H. A. 2015. Ridesharing in the sharing economy: Should regulators impose über regulations on Uber. *Iowa Law Review*, 101(1): 405–34.
- Prager University v. Google LLC, FKA Google, Inc., YouTube, LLC* (Wash. 9th Cir., 2020).
- Prakash, A., & Potoski, M. 2007. Collective action through voluntary environmental programs: A club theory perspective. *Policy Studies Journal*, 35(4): 773–92.
- Rabin, M. 1993. Incorporating fairness into game theory and economics. *American Economic Review*, 83(5): 1281–302.
- Rao, P. S. 2017. Uber hit with new blow in London as panel says drivers aren't self-employed. *New York Times*, November 10. <https://www.nytimes.com/2017/11/10/business/uk-uber-london.html>.
- Rauf, A. A. 2021. New moralities for new media? Assessing the role of social media in acts of terror and providing points of deliberation for business ethics. *Journal of Business Ethics*, 170: 229–51.
- Ravenelle, A. 2017. Sharing economy workers: Selling, not sharing. *Cambridge Journal of Regions, Economics and Society*, 10(2): 281–95.
- Rawls, J. 1971. *A theory of justice*. Cambridge, MA: Belknap Press.
- Reischauer, G., & Mair, J. 2018. How organizations strategically govern online communities: Lessons from the sharing economy. *Academy of Management Discoveries*, 4(3): 220–47.
- Rosenblat, A., & Stark, L. 2016. Algorithmic labor and information asymmetries: A case study of Uber's drivers. *International Journal of Communication*, 10: 3758–82.
- Schelling, T. 1960/2003. *The strategy of conflict*. Cambridge, MA: Harvard University Press.
- Schelling, T. 2006. *Strategies of commitment and other essays*. Cambridge, MA: Harvard University Press.
- Scherer, A. G., & Palazzo, G. 2011. The new political role of business in a globalized world: A review of a new perspective on CSR and its implications for the firm, governance, and democracy. *Journal of Management Studies*, 48: 899–931.
- Scherer, A. G., Palazzo, G., & Matten, D. 2009. Introduction to the special issue: Globalization as a challenge for business responsibilities. *Business Ethics Quarterly*, 19(3): 327–47.
- Scherer, A. G., Palazzo, G., & Matten, D. 2014. The business firm as a political actor: A new theory of the firm for a globalized world. *Business and Society*, 53(2): 143–56.
- Schor, J. B., Fitzmaurice, C., Carfagna, L. B., & Attwood-Charles, W. 2016. Paradoxes of openness and distinction in the sharing economy. *Poetics*, 54: 66–81.
- Schor, J. B., & Vallas, S. P. 2021. The sharing economy: Rhetoric and reality. *Annual Review of Sociology*, 47(1): 368–89.
- Subbaraman, N. 2011. Airbnb's small army of photographers are making you (and them) look good. *Fast Company*, October 17. <http://www.fastcompany.com/1786980/airbnbs-small-army-photographers-are-making-you-and-them-look-good>.
- Suchman, M. 1995. Managing legitimacy: Strategic and institutional approaches. *Academy of Management Review*, 20(3): 571–610.
- Sundararajan, A. 2016. *The sharing economy: The end of employment and the rise of crowd-based capitalism*. Cambridge, MA: MIT Press.

- Sunstein, C. R. 2017. *#Republic: Divided democracy in the age of social media*. Princeton, NJ: Princeton University Press.
- Thierer, A., Koopman, C., Hobson, A., & Kuiper, C. 2016. How the internet, the sharing economy, and reputational feedback mechanisms solve the lemons problem. *University of Miami Law Review*, 70(3): 830–78.
- Transport for London. 2017. Licensing decision on Uber London Limited. September 22. <https://tfl.gov.uk/info-for/media/press-releases/2017/september/licensing-decision-on-uber-london-limited>.
- Uber. 2021. *Need a car to earn?* August 2. <https://www.uber.com/ca/en/drive/vehicle-solutions/>.
- Uzunca, B., Coen Rigtering, J. P., & Ozcan, P. 2018. Sharing and shaping: A cross-country comparison of how sharing economy firms shape their institutional environment to gain legitimacy. *Academy of Management Discoveries*, 4(3): 248–72.
- Westminster Magistrates' Court. 2020. *The matter of an appeal under the private hire vehicles*. London: Westminster Magistrates' Court.
- Williamson, O. 1983. Credible commitments: Using hostages to support exchange. *American Economic Review*, 73(4): 519–40.
- Williamson, O. 2010. Transaction cost economics: The natural progression. *American Economic Review*, 100(3): 673–90.
- Zingales, L., & Lancieri, F. M. 2019. *Stigler committee on digital platforms*. Chicago: Stigler Center.

...

STEFAN HIELSCHER (S.Hielscher@bath.ac.uk, corresponding author) is an assistant professor (lecturer) of business and society at the University of Bath, United Kingdom. His research program combines the theoretical perspectives of ethics and governance. He analyzes how private organizations—businesses, NGOs, and civil society—can contribute to sustainable development by realizing win–win solutions. In his empirical and conceptual work, he is particularly interested in organizational governance innovations and how they underpin morality in modern society.

SEBASTIAN EVERDING is a researcher and PhD candidate at the Chair of Economic Ethics at the Martin-Luther-University Halle-Wittenberg, Germany. His research interests are centered around understanding the sharing economy. In his empirical and conceptual work, he is particularly interested in the development and management of sustainability through organizations.

INGO PIES has been a tenured professor since October 2002 and holds the Chair of Economic Ethics at Martin-Luther-University Halle-Wittenberg, Germany. He develops a research program that combines economic, psychological, sociological, and ethical strands of thought. He analyzes the moral appropriateness of societal institutions as well as the societal functionality of traditional morality.