

Markets, States, and the Extent of Morals

By JAMES M. BUCHANAN*

Man acts within a set of institutional constraints that have developed historically: in part by sheer accident; in part by survival in a social evolutionary process; in part by technological necessity; in part by constructive design (correctly or incorrectly conceived). These constraints which define the setting within which human behavior must take place may, however, be inconsistent with man's capacities as a genuine "social animal." To the extent that moral-ethical capacities are "relatively absolute," (see Reinhold Niebuhr, pp. 3, 267), there may be only one feasible means of reducing the impact of the inconsistency. Attempts must be made to modify the *institutions* (legal, political, social, economic) with the objective of matching these more closely with the empirical realities of man's moral limitations.

In a certain restricted sense, the observed behavior of the modern American is excessively "self-interested." Rather than hope for a "new morality," I shall focus on the potential for institutional reform that may indirectly modify man's behavior toward his fellows. Institutions may have been allowed to develop and to persevere that exacerbate rather than mitigate man's ever present temptation to act as if he is an island, with others treated as part of his natural environment. In a properly qualified sense, the latter pattern of behavior is the economist's "ideal," but the costs have not been adequately recognized.

Let me proceed by simple illustration. Consider two traders, each of whom is initially endowed with a commodity bundle. Gains from trade exist and cooperation through trade is suggested, but there arises the complementary conflict over the sharing of net surplus. As we extend the model by introducing additional

traders, however, the conflict element of the interaction is squeezed out, and, in the limit, each trader becomes a pure price-taker. "In perfect competition there is no competition," as Frank Knight was fond of emphasizing. (However, we must never lose sight of the elementary fact that this "economic ideal," including its most complex variants, presumes the existence of laws and institutions that secure private property and enforce contracts.)

Let me change the illustration and now assume that the same two persons find themselves in a genuine "publicness" interaction. (They are villagers alongside the swamp, to use David Hume's familiar example.) As before, there exist potential gains from trade, and these can be secured by agreement. Cooperation and conflict again enter to influence choice behavior, but here the introduction of more traders does nothing to squeeze down the range of conflict. Indeed, it does quite the opposite. Beyond some critical limit, each person will come to treat the behavior of others as part of the state of nature that he confronts as something wholly independent of his own actions.

Numbers work in opposing directions in the two cases. Under a set of laws and institutions that are restricted to the security of property and contract, the extension of the market in partitionable goods moves the efficiency frontier of the community outwards. But, under the same laws and institutions, if there exist nonpartitionable interdependencies (public goods), an increase in the size of the group may move the attainable efficiency frontier inwards.

I have introduced the familiar private goods-public goods comparison to illustrate my general argument to the effect that there are opposing behavioral implications involved in any extension in the membership of a community. The effects of group size on choice behavior, and, through this, on the normative evaluation of institutions,

*Virginia Polytechnic Institute. I am indebted to Roger Congleton, Thomas Ireland, Janet Landa, Robert Tollison, and Richard Wagner for helpful suggestions.

have not been sufficiently explored by economists, most of whom have remained content to concentrate on the formal efficiency properties of allocations. With relatively few exceptions they have worked with fixed-sized groups. And even in 1978, most economic policy discussion proceeds on the implicit presumption that "government" is benevolently despotic.¹

What is the orthodox economists' response when pure public goods are postulated? It is relatively easy to define the formal conditions that are necessary for allocative efficiency, but it is not possible to define the governmental process that might generate these results.² Work in public choice theory has contributed to our understanding of how governmental processes actually operate, but this theory is, in a general sense, one of governmental failure rather than success.

Political scientists have objected to the imperialism of public-choice economists who extend utility-maximizing models of behavior to persons who act variously in collective-choice roles, as voters, as politicians, and as bureaucrats. These critics intuitively sense that a polity driven solely by utility maximizers (with empirical content in the maximand) cannot possibly generate an escape from the large number analogue to the prisoners' dilemma suggested in the simple example of a public goods interaction. These critics have not, however, understood the basic causes for the general dilemma that modern collectivist institutions impose on citizens, politicians, and bureaucrats. Even more than the economists, orthodox political scientists have tended to ignore the possible effects of group or community size on individual behavior patterns.

Any political act is, by definition, "pub-

lic" in the classic Samuelsonian sense. An act of voting by a citizen potentially affects a result that, once determined, will be applied to *all* members of the community. Similarly, an act by a legislator in voting for one tax rule rather than another becomes an input in determining a result that will define the environment for all members of the polity. Comparable conclusions extend to each and every act of a civil servant and to each decision of a judge (see Tullock). Under what conditions could we predict that such political acts will provide public good? For instruction here, we can return directly to our elementary example. We should expect at least some such behavior to exhibit cooperative features in effectively small groups. We should not, and could not, expect persons who act politically to provide public good voluntarily in large number settings.

We can reach this conclusion by economic analysis that incorporates standard utility-maximizing behavior on the part of all actors. My principal hypothesis, however, involves the possible inconsistency between man's *moral* capacities and the institutions within which he acts. Is not man capable of surmounting the generalized public goods dilemma of modern politics by moral-ethical principles that will serve to constrain his proclivities toward aggrandizement of his narrowly defined self-interest? It is here that my secondary hypothesis applies. The force of moral-ethical principle in influencing behavior is directly dependent on the size of community within which action takes place. Other things equal, the smaller the number of persons with whom a person interacts, the higher the likelihood that he will seem to behave in accordance with something akin to the Kantian generalization principle: in our terminology, that he will provide public good in his choice behavior.

Even this secondary hypothesis can be discussed in a way as to bring it within a utility-maximizing framework. The extent that a person expects his own behavior to influence the behavior of those with whom he interacts will depend on the size of the

¹Economists have continued for eight decades to ignore the warnings of Knut Wicksell.

²A possible qualification to this statement is required with reference to the demand-revealing process, summarized by T. Nicolaus Tideman and Gordon Tullock. Even its proponents recognize, however, that this process remains a conceptual ideal rather than an institution capable of practical implementation.

group. Hence, utility maximization in a small number setting will not exhibit the observable properties of utility maximization in a large number setting (see the author). I want, however, to go beyond this strictly small group phenomenon of direct behavioral feedback. I want to introduce moral ethical constraints in a genuine non-economic context here. I propose to allow "Homo economicus" to exist only as one among many men that describe human action, and, in many settings to assume a tertiary motivation role.

The precise dimension of human behavior that I concentrate on here is the location of the effective mix between the two motivational forces of economic self-interest and what I shall term "community."³ I do not want to, and I have no need to, identify with any particular variant of nonself-interest: fellowship, brotherhood, Christian love, empathy, Kantian imperative, sympathy, public interest, or anything else. I want only to recognize the existence of a general motive force that inhibits the play of narrowly defined self-interest when an individual recognizes himself to be a member of a group of others more or less like himself. Robinson Crusoe could be motivated by nothing other than self-interest until Friday arrives. Once he acknowledges the existence of Friday, a tension develops and Crusoe finds that his behavior is modified. This tension exists in all human action and observed behavior reflects the outcome of some resolution of the inner conflict. The institutional setting determines the size of community relevant for individual behavior. This influence of size is exerted both directly in the sense of limits to recognition, and indirectly in the relationship between a community's membership and its ability to command personal loyalties. Conceptually, the "structure of community" within which an

individual finds himself can shift the location of behavior along a spectrum bounded on one extreme by pure self-interest and on the other by pure community interest within which the actor counts for no more than any other member.

The institutions (economic, geological, legal, political, social, technological), which define the sizes of community within which an individual finds himself, impose *external* bounds on possible behavior. Parallel to these external constraints there are also *internal* limits or bounds on what we may call an individual's moral-ethical community. There are, of course, no sharp categorical lines to be drawn between those other persons whom someone considers to be "members of the tribe" and those whom he treats as "outsiders." I make no such claim. I assert only that, for any given situation, there is a difference in an individual's behavior toward members and nonmembers, and that the membership lists are drawn up in his own psyche. This is not to say either that persons are uniform with respect to their criteria for tribal membership or that these criteria are invariant with respect to exogenous events. Clearly, neither of these inferences will hold. However the fact of behavioral discrimination is empirical and subject to test. I am not arguing normatively to the effect that individuals should or should not discriminate among other members of the human species, or even as between humans and other animals.

My colleague Tullock enjoys asking egalitarians whether or not they would extend their precepts for social justice to the people of Bangladesh. He gets few satisfactory answers. Why should precepts for distributive justice mysteriously stop at the precise boundaries of the nation-state? If one responds that they need not do so, that national boundaries are arbitrary products of history, then one is led to ask whether or not effective precepts of justice might stop short of such inclusive community, whether or not the moral-ethical limit for most persons is reached short of

³In a tautological sense, all behavior, including that which I label as moral-ethical, can be analyzed in a utility-maximizing model. In this paper, however, "utility maximization" and "self-interest" are defined operationally.

the size of modern nations.⁴ At provincial or regional boundaries? At the local community level? The extended family? The clan? The racial group? The ethnic heritage? The church membership? The functional group?

What can a person be predicted to do when the external institutions force upon him a role in a community that extends beyond his moral-ethical limits? The tension shifts toward the self-interest pole of behavior; moral-ethical principles are necessarily sublimated. The shift is exaggerated when a person realizes that others in the extended community of arbitrary and basically amoral size will find themselves in positions comparable to his own. How can a person act politically in other than his own narrowly defined self-interest in an arbitrarily sized nation of more than 200 millions? Should we be at all surprised when we observe the increasing usage of the arms and agencies of the national government for the securing of private personal gain?

The generalized public goods dilemma of politics can be kept within tolerance limits only if there is some proximate correspondence between the external institutional and the internal moral constraints on behavior.⁵ This century may be described by developments that drive these two sets of constraints apart. An increase in population alone reduces the constraining influence of moral rules. Moreover population increase has been accompanied by increasing mobility over space, by the replacement of local by national markets, by the urbanization of society, by the shift of power from state-local to national government, and by the increased politicization of society generally. Add to this the observed erosion of the family, the church, and the

law—all of which were stabilizing influences that tended to reinforce moral precepts—and we readily understand why “Homo economicus” has assumed such a dominant role in modern behavior patterns.⁶

Indirect evidence for the general shift from morally based resolution of conflict and morally based settlement of terms of cooperation to political-legal instruments is provided by the observed rapidly increasing resort to litigation. Modern man seeks not to live with his neighbor; he seeks instead to become an island, even when his natural setting dictates moral community. This movement, in its turn, prompts lawyers to turn to economic theory for new normative instruction.

Despite the flags and the tall ships of 1976, there is relatively little moral-ethical cement in the United States which might bring the internal moral-ethical limits more closely in accord with the external community defined inclusively by the national government. There is no “moral equivalent to war,” and, since Viet Nam, we must question whether war itself can serve such a function. Nonetheless, experience suggests that war and the threat thereof may be the only moral force that might sustain the governmental leviathan. Viewed in this light, it is ominous that each president, soon after entering office, shifts his attention away from the divisive issues of domestic politics toward those of foreign affairs. We must beware the shades of Orwell’s *1984*, when external enemies are created, real or imaginary, for the purpose of sustaining domestic moral support for the national government.

While I am not some agrarian utopian calling for a return to the scattered villages on the plains, I shall accept the label of a constitutional utopian who can still see vi-

⁴In an argument related to that in this paper, Dennis Mueller concentrates on the relationship between the size of community and the ability of a person to imagine himself behind a Rawlsian veil of ignorance.

⁵Gerald Sirkin refers to the “Victorian compromise” which is, in several respects, similar to the correspondence noted here.

⁶My diagnosis is restricted to the Western, specifically the American, setting. Perhaps the strongest empirical support for my argument is, however, provided in non-Western collectivized countries through the observed failures to create “new men” via institutional change.

sions of an American social order that would not discredit our Founding Fathers. To achieve such an order, drastic constitutional change is surely required. Effective federalism remains possible, within the technological constraints of the age, and "constitutional revolution" need not require the massive suffering, pestilence, and death associated with revolution on the left or right. Dramatic devolution might succeed in channelling some of the moral-ethical fervor in politics toward constructive rather than destructive purpose.

I become discouraged when I observe so little discussion, even among scholars, of the federal alternative to the enveloping leviathan. Where is the Québec of the United States? Where is the Scotland? Could a threat of secession now succeed? More importantly, could the emergence of such a threat itself force some devolution of central government power? Who will join me in offering to make a small contribution to the Texas Nationalist Party? Or to the Nantucket Separatists? From small beginnings . . .

We should be clear about the alternative. The scenario to be played out in the absence of dramatic constitutional reform involves increasing resort to the power of the national government by those persons and groups who seek private profit and who are responding predictably to the profit opportunities that they observe to be widening. Individually, they cannot be expected to understand that the transfer game is negative sum, and, even with such understanding, they cannot be expected to refrain from investment in rent seeking. Furthermore, as persons and groups initially outside the game come to observe their own losses from political exploitation,

they too will enter the lists. As the process moves forward through time, we can predict a continued erosion of trust in politics and politicians. But distrust will not turn things around. "Government failure" against standard efficiency norms may be demonstrated, analytically and empirically, but I see no basis for the faith that such demonstrations will magically produce institutional reform. I come back to constitutional revolution as the only attractive alternative to the scenario that we seem bent to act out. In the decade ahead, we shall approach the bicentenary of the Constitution itself. Can this occasion spark the dialogue that must precede action?

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