

## Choosing What to Choose

*Comment*

by

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One of the most significant developments in contemporary economics is the type of constitutional thinking that has evolved from Professor Buchanan's work. Within this strand of thought, a central – and still largely unsolved – question is: why is it that people obey rules, particularly self-imposed rules and constitutions, even if they could easily disregard them? The answer suggested in this paper is that people have a preference for observing such rules, and this integrates rule-obedience into the ordinary rational calculus.

The preference for observing certain rules, we are told, may be due to some evolutionary process or to explicit choice. While I have no objection to the evolutionary story (which tells us that whatever we observe today has its roots somewhere in the past), I am slightly sceptical regarding a possible choice of rules.

For the sake of brevity I refrain here from entering the infinite recourse suggested in the title of the paper, but it seems difficult to maintain that a rule will be chosen *rationaly* that requires, under certain conditions, actions that are *not* utility maximizing. I am alluding here to the standard argument against rule utilitarianism that underpins “the economist's familiar prejudices against the rationality of deliberative choices made in order to constrain choices”.<sup>1</sup> It runs as follows. Let  $C$  be the set of possible circumstances and denote by  $A$  the set of possible actions. Denote further the set of possible rules by  $R$ . Any possible rule  $r \in R$  assigns an action  $a \in A$  to any given circumstance  $c \in C$ . If an individual has chosen a possible rule  $r$  that under certain circumstances  $c'$  requires an action  $a' = r(c')$  that is worse than a possible action  $a''$  under these circumstances, then there is another rule  $r^*$  that is strictly better than  $r$  and is defined as follows: for all circumstances save  $c'$ , apply rule  $r$  and choose  $a = r(c)$ ; for  $c'$ , choose  $a''$ :

$$r^*(c) = r(c) \text{ for all } c \in C/\{c'\}, r^*(c') = a''.$$

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<sup>1</sup> The quotation is from BUCHANAN [1994]. The argument against rule utilitarianism is given e.g. in MACKIE [1977, 136–138]. Mackie also observes that psychological considerations may restrict the set of possible rules and render rule utilitarianism meaningful.

If a suboptimal rule such as  $r$  is *rationaly chosen*, this would require that  $r^*$  is not available (i.e. not in  $R$ ). So this part of Professor Buchanan's argument seems to require either that people choose suboptimal rules (such as  $r$ ) because they simply *like* them or there are real constraints – rather than self-imposed constraints – that render the amended rule  $r^*$  unavailable. Both arguments would merge if *psychological* constraints were to prevent people from choosing  $r^*$  rather than  $r$ . There may be *moral reasons* supporting  $r$  that are not valid for  $r^*$ . The rule “Always tell the truth!” may be justified more convincingly than the apparently better rule “Always tell the truth unless lying can't be detected!”, and people may prefer the first rule because they like justifying their action. Such an argument builds on psychological dispositions that determine what is morally convincing and what is not convincing. The moral reasons cannot, themselves, result from utility maximization, since they constrain behavior *away* from utility maximization. This may benefit society, as Professor Buchanan argues. It may, however, also be very harmful not only for the individual foregoing some immediate benefits, but also for society at large. Moral behavior may have indeed very dire consequences; morality is not always a good thing.

Another aspect of norms ought to be stressed a little more than is done in the paper, namely that the *rules people observe are widely shared and should be conceived, therefore, as largely independent of idiosyncratic choices*.<sup>2</sup> This points to shared propensities of men and, therefore, to invariances of psychological organization. The point may be illustrated by David HUME's [1978] theory of property, where property is related to “a quality . . . in human nature, that when two objects appear in close relation to each other, the mind is apt to ascribe them any additional relation, in order to complete the union.” Property is, according to Hume, such a completion of “a relation betwixt a person and an object”. He traces many observations back to these psychological propensities. “. . . And I farther observe, that a sensible relation, without any present power, is sometimes sufficient to give a title to any object. The sight of a thing is seldom a considerable relation, and is only regarded as such, when the object is hidden, or very obscure; in which case we find, that the view alone conveys a property; according to that maxim, *that even a whole continent belongs to a nation, which first discover'd it*. 'Tis however remarkable, that both in the case of discovery and that of possession, the first discoverer and possessor must join to the relation an intention of rendering himself proprietor, otherwise the relation will not have its effect; and that because the connection in our fancy betwixt the property and the relation is not so great, but that it requires to be help'd by such an intention”<sup>2</sup>.

It seems to me that psychological considerations of this kind may help us to understand *widely shared* constitutional elements such as the rules governing

<sup>2</sup> The quotations are from HUME [1978, 506–507]. See KUBON-GILKE and SCHLICHT [1993] for a discussion of David Hume's theory of property in its relation to gestalt psychology.

property, and may also be helpful in understanding the *emotions* ultimately underpinning and establishing these rules. All this is, however, not a matter of choice.

#### References

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