Buchanan on Ethics and Self-Interest in Politics:

A Contradiction or Reconciliation?

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Abstract: James Buchanan is well-known for his remarks about how rational approaches to political analysis takes the romance out of political theory, which is to say the presumed idealism of governmental actions. Those who undertake careers in politics should not be presumed to be any less self-interested than persons that undertake other careers. Nonetheless, Buchanan is one of the few economists who takes internalized ethical dispositions seriously. Given this, there may well be idealistic aspects to the actions of voters, politicians and bureaucrats.

The tension between non-idealistic accounts of political action and partly idealistic accounts of individual behavior is clear. This tension, he argues, is reduced by the role of self-interest in decisions about which rules of conduct to adopt. Buchanan suggests that dutiful behavior tends to be less common in large number settings such as those associated with national politics. The ethics of governance is thus diminished, if not eliminated entirely, according to his self-interest based theory of ethical dispositions.

I. Introduction

Buchanan is well known for his pioneering contributions to public finance and constitutional political economy.[1] A third less studied strand of his research attempts to determine how human nature and action should be characterized. Buchanan often wrote about the weaknesses of the mathematical models of rational choice that emerged in economics during the first half of the twentieth century, noting problems with both the utility-maximizing representation of decision making and the utilitarian norms grounded in that model. The latter

[1] For overview of Buchanan's public finance, see Congleton (1988). For an overview of his constitutional political economy see Congleton (2014).

were (and continue to be) routinely used by most economists to assess the relative merits of public policies and institutions.

Buchanan argues that people are not simply utility-maximizing automatons (Buchanan 1954, 1979). Rather than preferences motivating choices, he suggests that choices motivate the development of preferences. Alternatives are ranked at moments of decision (Buchanan 1969, 1979). Nonetheless, choices are not entirely independent of one another. Choices in the present can affect future choices in a variety of ways. Procedures for evaluating alternatives may be adopted or revised. Commitments to abide by ethical or other rules may be made. Both sorts of decisions affect future choices insofar as they are adhered to.

It is the choice and use of ethical rules that is the main focus of this chapter. Buchanan developed a unique model of civic ethics in 1965, which he used of and on for the rest of his career. It implies that rules of conduct tend to constrain human action in a variety of settings, although not all of them. His perspective on ethics and moral choice are parts of a broader model of human action which conceives each person as partly self-created and evolving through time.

This extended model of human action as well as its implications for moral constraints appear to conflict with much of Buchanan's own research, which relies upon, or is at least very consistent with, mainstream *homo economicus*–based analysis. For example, his claim that public choice results that take the romance out of politics (Buchanan 1984) is largely based on results that are derived from narrow opportunistic representations of human interests and choices. If conclusions from such models are realistic, then how important are Buchanan's critiques of the models of man used in economics? If human interactions in society are bound by internalized norms (ethics), then one might expect politics to be at least partially grounded in ethics rather than entirely opportunistic.[2] Moreover, most public choice models

[2] For the purposes of this piece, I use the terms norms and ethics as if they are equivalent terms, because both tend to have implications about personal conduct and both may be consciously adopted and revised. There are numerous distinctions, although these are not important for the purposes of this essay. For the purposes of this essay, it is sufficient to note that ethical rules are a

use tools from welfare economics to demonstrate the possibility of government failure, which must be taken to be useful and salient if they are to be accepted as evidence of problems associated with democratic rule.

This chapter argues that Buchanan's theory of the internalization and application of internal rules of conduct ultimately resolves this tension, but in a manner that is not entirely obvious. To appreciate his resolution requires understanding both Buchanan's characterization of choices regarding moral constraints and of constitutional rules. Most readers will be more familiar with the latter than the former; thus, this chapter focuses most if its attention on Buchanan's theories of choice and morality. This overview is followed by an analysis of the extent to which his analysis overcomes the tensions between his models of man and his contributions to political economy.

To the best of my knowledge, there is no single place where the entire argument can be found, although it seems to provide the organizing principle behind for much of his work on morality and politics. His work on civic ethics began in the 1960s with a series of papers published in the philosophical journal of the same name. A piece written at roughly the midpoint of his career (Buchanan 1979) provides the most complete overview of his perspective on man and the internalized rules, and that piece is used extensively throughout this chapter. These provide points of departure for his and our analysis of the role of morality in politics. Quotes from throughout his career are used to demonstrate his sustained interest in decisions regarding personal and society-wide rules.

He argues (1) that there are moral dimensions to human decision making; (2) that the same models of man should be used to analyze all human action, yet he concludes that (3) politics is largely amoral and opportunistic, but (4) nonetheless is potentially able to produce laws and decision-making procedures that are both moral and legitimate.

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proper subset of the norms that may be chosen and internalized. Rules for spelling are norms but decisions to place "i" before "e" (or not) are not moral choices.

II. Creating Oneself

Buchanan often reminds his readers and students that the utility-maximizing model of neoclassical economics and game theory is useful, but flawed. As models, they neglect many aspects of human decision-making that we know to be important. The usual rational-choice model assumes that a person can be characterized by his or her preferences, which are transitive, complete, and durable. Preferences and their associated utility functions are assumed to be completely stable for the period of analysis. In most such models, everyone knows their best course of action for every possible circumstance—and these do not change through time.

Buchanan argues that relatively few preferences are truly innate. Some are absorbed from one's local culture without much thought or action. Many others emerge as one considers one's alternatives in given circumstances or learns from experience. Decision making is an active process, not simply a preprogramed response to the circumstances at hand. As a consequence, one's rankings of alternatives may not be stable or durable.

> Individual values are, of course, constantly changing; so a post-decision ordering may be different from a pre-decision ordering. (Buchanan 1954: 120).

> I am trying to develop this argument for a purpose, which is one of demonstrating that modern economic theory forces upon us patterns of thought that make elementary recognition of the whole "becoming" part of our behavior very difficult to analyze, and easy to neglect. (Buchanan 1979: 246).

> Economists have been remiss in their failure to allow, explicitly, for the effects of ethical constraints on the choices made by individual buyers and sellers in the marketplace. (Buchanan, 2005: 33).

It bears noting that many of Buchanan's criticisms of the mainstream economic view of human nature would be uncontroversial to noneconomists, who often have a difficult time believing that persons are routinely rational in their day-to-day lives instead of occasionally rational at moments of reflection or major decisions. They are also often skeptical of narrowly self-interested characterizations of human motives that ignore social pressures or broader ethical concerns. Buchanan, however, criticizes not to chastise economists for their use of the *homo economicus* model, but to remind them that this model of man is incomplete and in some cases may mislead rather than enlighten. By neglecting broader interests, many

choices that we routinely observe in our dealings with others remain unexplained and in many cases unexplainable.

In Buchanan's more encompassing characterization of decision making, the implications of rational choice—even self-interested rational choice—are less restrictive but often less obvious and definite than they appear to be in the standard models.

A. Natural and Artifactual Man: Choices that Create Oneself

Buchanan (1979) begins his analysis of the human capacity to create oneself with a discussion of human nature and imagination, how imagination creates a very broad domain of choice, although the true possibilities are constrained in various ways.

> It is useful to think of man as an imagining being, which in itself sets him apart from other species. A person sees himself or herself in many roles, capacities, and nature, in many settings, in many times, in many places. As one contemplates moving from imagination to potential behavior, however, constraints emerge to bound or limit the set of prospects severely. …
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> Once all the possible constraints are accounted for (historical, geographic, cultural, physical, genetic, sexual), there still remains a large set of possible persons that one might imagine himself to be, or might imagine himself capable of becoming. There is room for "improvement," for the construction of what might be. Further in thinking about realizable prospects, a person is able to rank these in some fashion.
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> We move through time, constructing ourselves as artifactual persons. We are not, and cannot be, the "same person" in any utility maximizing sense. (Buchanan 1979: 250-1).

It is largely the ability to choose and internalizes our own rules that make us artifactual beings.

> The same analysis [the decision to quit smoking] can be applied to any aspect of human behavior that represents "civility" in the larger meaning of this term. I refer here inclusively to manners, etiquette, codes of conduct, standards of decorum, and, most important morals. A person conducts himself within the natural limits available to him, and the artifactual person he becomes does, at any moment, maximize utility subject to constraints. (Buchanan 1979: 252-3).

It is the freedom to choose, however limited, that ultimately makes us responsible individuals according to Buchanan and other ethical theorists.[3] The ability to create oneself also provides a rationale for liberty itself and a demand for such.

> Man wants liberty to become the man he wants to become. He does so precisely because he does not know what man he will want to become in time. (Buchanan 1979: 259).

> By implicitly refusing to consider man as artifactual we neglect the "constitution of private man," which translates into the necessary underpinning of a free society, the "character" of society, if you will. (Buchanan 1979: 252).

According to Buchanan, the ability to develop one's own character is central to the demand for a classical liberal system of democratic governments and open markets. One's character emerges gradually from choices over rules (maxims) to internalize, which are informed by the anticipated consequences of choices made under them.

> Heraclitus noted that man does not step into the same river twice, first, because the stream has passed, and second because man too has moved forward in time. Choice is, and must be, irrevocable, and a person is constructed by the choices he has made sequentially through time, within the natural and artifactual constraints that have limited his possibilities. (Buchanan 1979: 257)

In the artifactual man essay, Buchanan mainly focused on the domain of choice and how our choices ultimately determine our future selves. Choices over rules of conduct are clearly a subset of those choices, but ones that he regards to be among the most important.[4]

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[3] This rationale for individual responsibility is an ancient one with an intellectual history that includes most theologies and in secular philosophers back to Aristotle and beyond. Buchanan regards the interest in self-improvement and ability to do so to be a uniquely human characteristic (Buchanan 1979, 247).

[4] In the *Critique of Practical Reason*, Kant repeatedly distinguishes between moral behavior and self-interested behavior. For example: "The direct opposite of the principle of morality is, when the principle of private happiness is made the determining principle of the will" (*Critique of Practical Reason*, KL 10528–10529), or "All the morality of actions may be placed in the necessity of acting from duty and from respect for the [universal] law, not from love and inclination for that which the actions are to produce" (*Critique of Practical Reason*, KL 11273–11274). Excerpts are taken from the *Immanuel Kant Collection* (2013), KL refers to Kindle locations in that collection.

B. Choices Among Rules to Internalize

The ethical rules that a person might adopt can be loosely grouped into three categories. A person may adopt rules to improve one's own character. Such rules would be adopted regardless of social setting and may be regarded as virtue or private ethics. Other rules are adopted and internalized because they make life in communities more attractive. Such rules may be regarded as civic ethics. In addition, there are principles and procedures that can be used for assessing the qualities of institutions and public policies, what might be regarded as constitutional or social ethics. One's choices over all three sets of moral principles have long-term consequences that ultimately create one's self, what philosophers refer to as character or will.[5]

Although Buchanan does occasionally discuss internal rules that improve one's character (Buchanan 1979, Brennan and Buchanan 1985, ch. 5), for the most part, he focuses on civic ethics. With respect to social ethics, he has repeatedly argued in favor of the contractarian approach.

Most of Buchanan's analysis of moral rules per se are with respect to civic ethics, rules for living in communities. Rather than appealing to altruistic impulses, rule-utilitarianism, or the Kantian categorical imperative, Buchanan argues that civic norms emerge from reciprocity. A person adopts rules of conduct, because he or she anticipates that others will reciprocate and adopt similar rules.

> Since we may assume that each [person] prefers to live in a setting of mutual self-respect, as shown by our ordering, the most likely outcome will surely be one where

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[5] Person-altering choices are related to, but not the same as what economists refer to as investments in human capital. They have different effects on preferences. The fundamental nature or preferences of a particular human is normally assumed to be unaffected choices to invest in this or that form of training, although some preferences over goods and services may be affected (Stigler and Becker 1977). A carpenter may have a stronger demand for hammers than a lab technician. In contrast, the decision to give up carpentry for the lab (or vice versa) may involve many changes in one's preferences over goods and services, interest in accuracy, rules and routines for engaging with fellow workers, and one's approach to life in general.

> each and every person adopts and follows something that is akin to the Kantian categorical imperative. His standard for behavior will be some version of the generalization principle. (Buchanan 1965: 6–7).

Note that he does not say that such rules should satisfy the categorical imperative, but will tend to satisfy it. Rules of conduct are adopted because behavior in accordance with those rules is expected to affect that of others (or not).

In Buchanan's analysis it is reciprocity—mutual self-restraint—that generates universality, rather than Kant's categorical imperative. Although not fully explained, he seems to have in mind a civic ethics based on common interests and/or shared moral intuitions.[6] In small communities, repeat dealings are commonplace, and treating potential trading partners honestly and with respect is likely to elicit the same behavior from one's trading partners.

To justify his conclusion, Buchanan assumes that persons in the relevant community can make rational decisions and will do so to advance their personal interests, which may be quite narrow and self-centered. In contrast to Bentham and Kant, ethics emerge from shared advantage, rather than philosophical insight.

> I am much more sympathetic to a quite different sort of moral constructivism, one that seeks to ground moral precepts for behavior within the rational self-interest of individuals, in the cognition and preferences that exist, rather than in some extra-individualistic sources.
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> The rational morality of an individual does require constraints on the open ended choice options that seem to describe particularized circumstances. But these constraints are themselves a product of, and are chosen by, a rationally based choice calculus at the higher level of dispositional alternatives. (Buchanan 1991, pp. 232–33.)

The rules of civic ethics are adopted for pragmatic, utilitarian, or constitutional reasons, rather than Kantian ones, although they tend to satisfy Kantian norms of generality and also

[6] Buchanan's Kantian predictions about civic norms might also be regarded to be similar to those developed by Rawls (2009) concerning rights and principles of distributive justice. That is to say, there are some conclusions about ethics that are natural or instinctive, because of human nature, evolution, or the meaning of morality.

tend to elicit treatment of others as ends rather than means insofar as mutual respect facilitates market and other social transactions.[7]

C. Ethics and Markets

As an economist by training, Buchanan naturally applies his ideas about internalized rules of conduct to market-relevant decisions. He argues that morality plays a critical role in both exchange and production.

> Why does the individual trade at all? By stealing, cheating, or defrauding potential trading partners, the individual may secure a preferred bundle of goods by giving up a smaller share of the endowments initially possessed than that required in the trading process The elementary exclusion of all such opportunistic behavior from analysis relies on the presumption that the effective price of any good obtained opportunistically is as high or higher than that which confronts the person in the straightforward exchange relationship. … Many persons do not behavior opportunistically, even with the possibilities of apparent advantage are preset, because they adhere to certain moral precepts or norms….We should recognize that the efficacy of any market order depends critically on the endogenous behavioral constraints that are in existence." (Buchanan 1994, pp. 124-5.)

> One reason for the relatively enhanced productivity of the economy whose participants adhere to ethical constraints against opportunistic behavior lies in the implied efficacy of impersonal dealings. In an economy where widespread fraud is absent, persons can enter exchanges without the personalized relationships that may be necessary for the insurance of trust in the economy where fraud is prevalent. The advantages of specialization can be more fully exploited as the scope for trading prospects is extended. (Buchanan 2005: 34).

Without a well-developed internalized moral code, markets would be less productive, indeed, they might be impossible.

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[7] That characterization of moral principles, rules, and actions distinguishes his theory from that of Kant, who stresses that moral choice and self-interest are completely separate spheres of choice and conduct. Two short quote from Kant can make this clear:

The direct opposite of the principle of morality is, when the principle of private happiness is made the determining principle of the will. (*Critique of Practical Reason,* KL 10528–10529).

All the morality of actions may be placed in the necessity of acting from duty and from respect for the [universal] law, not from love and inclination for that which the actions are to produce. (*Critique of Practical Reason,* KL 11273–11274).

E. Ethics and Politics

Perhaps surprisingly, Buchanan rarely mentions morality in his many analyses of politics. Instead, he more or less routinely applies and defends the *homo economicus* model in that context.[8] Nonetheless, he occasionally acknowledges that internalized norms have effects on public policies markets and vice versa. Laws may, for example, simply codify preexisting norms.

> The historically determined constraints may be descriptively summarized in the laws, institutions, customs, and traditions of the community, including the rules or institutions that define the means of making collective "choices." Again, as in the earlier analysis, the "choices" made by the collective unit as such in t_0 will modify the options that will emerge in t_1 and beyond, through influences on the constraints or preferences or both. (Brennan and Buchanan 1985: 87).

There is always some risk that other persons will not follow the usual rules, the norms of one's own moral community. Informal sanctions may consequently be "topped up" by formal sanctions against those violating community norms. Moreover, civic morality may itself be a subject of public policy.

> With these considerations the individual may, on quite rational grounds, invest current-period resources in the indoctrination, dissemination, and transmission of a set of general principles or rules that will, generally, influence behavior toward patterns of situational response that are predictably bounded. (Brennan and Buchanan 1985: 92).

> At the margin, the positive benefit–cost ratios from investment in ethics may be much larger than those from investment in politicization, which may indeed be negative. (Buchanan 2005: 97).

Because civic ethics are not uniquely determined by human nature, natural law, or holy scripture, members of a community will not internalize exactly the same rules or to the same degree. Supporting particular civic norms may reduce transactions costs and be expected to increase the gains from social interaction.

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[8] See, for example, Kirschgassner (2014) for a careful overview of his use of this model in his constitutional theory.

III. Internal Tensions in Buchanan's Approach to Ethics, Markets, and Politics

All the above demonstrates that Buchanan's model of man and approach to political economy includes personal decisions about ethics and the development of ethical dispositions. We now turn to tensions and ambiguities generated by his interest–based approach to ethics and politics. There are at least three tensions associated with interest-based theories of ethical dispositions within his political economy. (1) If ethics emerge because they make persons in a community better off, then why are persons not uniformly ethical? (2) If ethics can substitute for law, why do we need laws or the organization that enforces laws? Herbert Spencer (1851/2011), for example, once argued that the state would wither away as social evolution produced the best possible set of internalized rules of conduct.[9] Although Buchanan is not as optimistic about ethics replacing law and politics as Spencer was in the mid-nineteenth century, this possibility is also appears to present in Buchanan's work, as he acknowledges (Buchanan 2005: 100). If so, (3) there is a methodological tension between Buchanan's claim there is a moral dimension to human action and his claim that public choice removes the romance from politics.

Buchanan was aware of these tensions and largely resolved through two hypotheses: what might be called the large number and the veil of uncertainty hypotheses. People will more completely internalize ethical dispositions in small number settings than in large number settings, because reciprocity is stronger in small number settings than in large number seettings. An exception to that rule occurs at constitutional moments when the uncertainty

[9] "It is a mistake to assume that government must necessarily last forever. The institution marks a certain stage of civilization—is natural to a particular phase of human development. It is not essential but incidental. As amongst the Bushmen we find a state antecedent to government; so may there be one in which it shall have become extinct. Already has it lost something of its importance....Government, however, is an institution originating in man's imperfection; an institution confessedly begotten by necessity out of evil; one which might be dispensed with were the world peopled with the unselfish, the conscientious, the philanthropic; one, in short, inconsistent with this same "highest conceivable perfection." (*Social Statics,* reprinted in *The Complete Works of Herbert Spencer,* Kindle Location: 39713–63).

associated with broad long-term commitments induce all the persons at a constitutional convention to account for every imaginable consequence on themselves. By doing so, a reflective form of reciprocity or encompassing interests results.

A. The Attenuation of Ethics in Large Communities

Recall that Buchanan's theory of civic ethics is grounded in reciprocity. Persons adopt rules when they believe that that behavior will be reciprocated. Buchanan argues that this effect diminishes as the size of the group one interacts with increases. As group size increases moral behavior tends to be replaced by opportunistic or narrowly self-interested behavior. There is less moral reciprocity. Thus, civic morality tends to work more poorly in large groups than small ones.

> In a group of critically large size, the individual will tend to adopt the rule of following the expediency criterion even if he thinks that all of his fellow citizens are saints. (Buchanan 1965, 7).

> The extent that a person expects his own behavior to influence the behavior of those with whom he interacts will depend upon the size of the group. (Buchanan 1978, 365).

An implication of this large number effect is that civic morality, as opposed to opportunism, tends to become less common as polities become relatively large. Politics in the small tends to be constrained by the norms of civic morality, but those constraints become less binding and behavior becomes more opportunistic as the scale of politics increases.

> 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 limits? The tension shifts toward the self-interest pole of behavior: moral ethical principles are necessarily sublimated. … 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? (Buchanan 1978, 367).

From Buchanan's perspective, Spencer's prediction thus has a bearing on small scale local politics, but not on larger scare national politics. Small groups of lifetime friends will behave ethically toward each other without formal agreements, formal rules or standing procedures for rule enforcement. Formal agreements and rules, however, become more necessary

as the group expands, as uninhibited self-interest replaces the morally constrained self-interest that characterizes behavior in small number settings. Because civic morality is adopted for pragmatic reasons rather than because it contributes directly to self-esteem, productivity or provides a satisfaction-enhancing perspective on life, as it ethics tend to from Aristotelian or Smithian perspectives, its justification depends on the likely effects that it has on the behavior of others. This diminish as the community becomes larger, repeat transactions less frequent, and relationships more impersonal.

B. Constitutional Moments Do Not Require Ethics

If civic morality declines as large groups emerge, how is it possible that such groups can adopt morally appealing rules for conducting their affairs? Buchanan's answer to this is based on the nature of the choices and commitments made at constitutional moments.

> The veil of ignorance and/or uncertainty offers a means of bridging the apparent gap between furtherance of separately identified interests and agreement on the rules that conceptually define the "social contract." Potential contractors must recognize that the basic rules for social order—the ultimate constitutional structure—are explicitly chosen as permanent or quasi-permanent parameters within which social interaction is to take place over a whole sequence of periods. This temporal feature, in itself, shifts discussion away from that might take place among fully identified bargainers toward discussion among participants who are unable to predict either their own position or how differing rules will affect whatever positions the come to occupy. … Criteria of fairness may replace those of advantage; agreement may emerge as the predicted working properties of alternative sets of rules are examined. …
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> Each participant will also recognize that others will agree to impose constraints on their own behavior only as part of a reciprocal "exchange." In this preliminary sense, reciprocation implies generality. … Rules that apply to others must also apply to one's own behavior. (Buchanan and Congleton 1998, 6.)

Again, reciprocity produces rules that satisfy the Kantian categorical imperative, but here the reciprocity is produced by discussion and agreement in a setting of extreme uncertainty, rather than in private assessments of how one's own behavior affects that of others.

This is not to say that common moral perspectives may not contribute to agreement, but simply to say that common norms are not a prerequisite for the adoption of rules that are fair and uniformly applied. In large groups, contract-based law tends to be morally more ap-

pealing than the anticipated behavior of those agreeing to adopt and implement a constitution. Neither altruism nor moral dispositions are required, although internalized norms or dispositions would affect the kinds of agreement reached.[10]

IV. Conclusion: On the Tensions between Moral Dimensions of Choice and Constitutional Political Economy

Buchanan's model of man is distinguished from the mainstream neoclassical one in many respects. Utility functions do not exist. Rankings of alternatives are not found in the minds of the choosers prior to choice but emerge through the process of deliberation and evaluation at moments of choice. Individuals are not static beings but ones that change through time, in part because they are able to imagine alternative future selves and take actions to realize those possibilities, including the adoption of moral principles. That which emerges is largely a consequence of biological and social evolution, but at the margin it is self-created and artifactual. At the margin, we are responsible for whom we are.

Buchanan does not carefully model the selection and internalization of rules of conduct, nor does he discuss it in much detail, in part because his more complete model of man does not allow the superficial precision of the standard neoclassical models and, in part, because to the extent possible, he resists the temptation to moralize and place one subset of rules of conduct above others. This approach nonetheless allows us to analyze the extent to which internalized rules can advance individual interests and the extent to which social evolution and deliberate choices generate support for appropriate constitutional rule and government policies.

With respect to civic ethics, Buchanan accepts largely Kantian ideas about the nature of morality, although not the motivation for it. He believes that self-interest and consensus favor rules of conduct that are consistent with Kant's categorical imperative. In small number settings in which one's behavior is likely to elicit similar responses from others, informal

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[10] Buchanan spends much of a later book (2005) exploring why ethical and other dispositions make a liberal political economic order more or less likely to emerge from constitutional negotiations.

rules emerge that reduce or eliminate opportunistic behavior. However, as the number of persons dealt with increase, such reciprocity is less likely, and the rules of thumb (maxims) that best advance a person's interests become less and less universal. Internalized duties are insufficient to motivate sufficiently moral conduct in large number settings given the diminished reciprocity of such settings. Moral duties only bind behavior in small number settings.

It is this large number effect on ethical behavior that allows Buchanan to simultaneously argue that there is (1) an important moral dimension to human decision making, (2) that the same model of man should be used to analyze economic and political actions, and (3) that morality plays little role in politics.

Politics is in today's world a large number setting. The limits of morality, as in Locke and Paine, provide rationales for government and law enforcement, although it cannot explain why general laws and adopted and enforced.[11] If pragmatism dominates day-to-day politics, why would the law or law enforcement be more than a system of rent-extracting rules? Buchanan's answer to that relies on the contract foundations of legitimate government and the veil of uncertainty associated with long term commitments to constitutional rules. The persons negotiating a social contract in a large number setting are not inhibited by moral norms, but nonetheless are induced to select fair, productive, rules because agreement is likely to require that everyone abide by the same rules. There is a role for civic morality in such negotiations, but it is not an essential one. Such internalized rules and predispositions may affect the constitutional rules agreed to, but are not necessary for constitutional deliberations to produce agreement and legitimate rules.

Overall, this is a neat resolution of a fundamental tension between *homo economicus* and the rule of law and between moral man and an unromantic view of politics. Whether it is the

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[11] Locke (1690), for example, states that "And were it not for the corruption and vitousness of degenerate men, there would be no need of any other; no necessity that men should separate from this great and natural community, and by positive agreements combine into smaller and divided associations." (Excerpt from *The John Locke Collection: 6 Classic Works* [p. 145].) A century later, Paine (1776) sets out a similar idea: "Here then is the origin and rise of government; namely, a mode rendered necessary by the inability of moral virtue to govern the world; here too is the design and end of government, viz. freedom and security." (Excerpt from *Common Sense*, KL 97–99).

last word or not, it is clearly one of the most sophisticated systems of thought on these political and philosophical issues.

Indeed, Buchanan (2005) acknowledges that there may well be ethical foundations for a liberal constitutional order. Not every social contract would be a liberal one, as for example the Hobbesian contract tends not to be. Moreover, without a moral base in support of markets and democratic politics, the idea of a hypothetical constitutional convention with its associated veil of uncertainty is itself less than plausible. This final tension was left unresolved, but without the multi-level choice over rules framework developed by Buchanan, it could hardly be raised or addressed.

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