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# CONSTITUTIONAL POLITICAL ECONOMY

Vol. 2, No. 1

Winter 1991

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## REVIEWS

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essence of "rational" rule-following lies in the fact that the relevant "calculus of advantage" occurs at the level of patterns or rules of actions, not at the level of single actions. This seems to imply, that the point of following a rule is *not* to calculate *single actions* in a case-by-case fashion, but to be "non-calculative" in particular applications of the rule (though, of course, not with regard to the overall payoff from following the rule, compared to the expected payoff from potential alternative rule), an interpretation with which I fully agree. Yet, this is not what Rowe could be said to unambiguously and consistently argue when he talks about the incentives for rational agents to actually comply, in particular instances, with a rule that they "adopted."

Rowe's ambiguity in this matter is apparent in his explanation on the role of reputation in rule-following. He argues there, that "the only reason an agent can have for subsequently sticking to his rule in any instance, . . . is to maintain his reputation for doing so in the future"(6), and he adds that, "(i)f the value to an agent of violating his rule exceeds the value to him of maintaining his reputation for following it, then he will violate that rule"(24). Such argument sounds as if Rowe assumes a rule-following agent to engage in, what may be called, a second-level case-by-case calculation, in the sense that he calculates, in every single instance, whether following or not following the rule is the rational choice, given the value of his reputation and the "expected costs from the risk of losing his reputation"(98). Yet, to calculate, in such case-by-case fashion, whether or not to follow a rule, would seem to contradict the very meaning of rule-following. And it is difficult to see what is so significant about the distinction between act-individualism and rule-individualism, if rule-following is only a more comprehensive or sophisticated version of case-by-case maximization, if, what separates the rule-individualist from the act-individualist, is the fact that the latter "ignores the effect of his method of choosing actions on others' expectations of his future actions"(23).

To briefly sum up my response to Rowe's *Rules and Institutions*: I find it a thoughtful and stimulating contribution that starts from what is, in my view, an important and right insight, namely that a shift in perspective, from the rationality of single actions to the rationality of rules of actions, is essential in order to arrive at a more satisfactory economic theory of institutions. Yet, it appears to me, that the perspective presented in this book needs to be broadened and sharpened. It needs to be broadened by considering "reasons for rules" which go beyond the commitment-argument that commands Rowe's exclusive attention. And it needs to be sharpened by a concept of rule-following that allows for a more rigorous and systematic distinction between, in Rowe's terms, act-individualism and rule-individualism.

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JAMES S. COLEMAN (1990) *Foundations of Social Theory*. Cambridge, Mass.: The Belknap Press of Harvard University Press. xvi + 993pp.

For decades those interested in constitutional analysis have been able to follow Coleman's contributions in *Public Choice*, *The Public Interest*, *The*

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*American Journal of Sociology, Papers on Non-Market Decision Making* and many other disparate sources. In 1986, many of them appeared in a book called *Individual Interests and Collective Action*. Most prominently this work contains a model of collective decisions, a related analysis of power and various sociological comments on Rawls and Nozick. Yet on this basis it is very difficult to gain a clear impression of what Coleman would like to achieve in the field of constitutional analysis.

This situation has completely changed with the publication of his new book *Foundations of Social Theory*, a heavy tome of almost a thousand pages. What seems to have been a scatter of diverse contributions, now finds its place in one vast project. After an introductory chapter on "metatheory", the book presents five parts: i) "elementary actions and relations" (with among others a section on actors and resources, interest and control); ii) "structures of action" (with among others sections on authority, collective behavior, and norms); iii) "corporate action" (with among others sections on constitutions and social choice); iv) "modern society" (with among others, sections on the new corporate actors and on the new social science); and v) "the mathematics of social action" (with, among others, sections on dynamics of the linear system of action, corporate actors, and collective decisions). This last part is a mathematical treatment of many of the theoretical points made in the verbal presentations of the book.

Constitutional social science (including economics) deals with questions surrounding the choice of constraints, as Buchanan (1990) put it. It may be useful to discuss Coleman's approach by contrasting it to that of Buchanan because the latter can be taken to be the most prominent and best known exposition of constitutional analysis in the social sciences.

What makes Coleman's book *in toto* interesting for constitutional analysis is something quite annoying from the point of view of constitutional political economy. For Coleman, corporate actors are also real actors. "A social theory of purposive action must take as its elementary actors both natural persons and corporate bodies, because both have the essential properties of actors: control over resources and events, interests in resources and events, and the capability of taking actions to realize those interests through that control." (542) While this is not quite yet a communitarian stance, it is a far cry from, Buchanan's research program. This corporate actor is central to Coleman's kind of constitutional analysis, but this link needs some elaboration.

For Coleman the role of constitutional analysis and social science in general is determined by a particular historical development. For this very reason, it is useful to begin reading his book not with chapter 1 but with chapter 23 ("The relation of sociology to social action in the new social structure"). He does not see the Western history since the Middle Ages mainly as increasing individuation (although he does not deny this trend). For him, there are two most important transformations: from natural to constructed physical environment and from natural to constructed social environment. It is the latter that concerns us here. The constructed social environment consists of large corporate actors like firms, trade unions, professional organizations, large conglomerate schools,

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single-purpose voluntary organizations, and governments. They dominate "primordial" structures such as family, extended family, neighborhood, and religious groups. And they have acquired control over events that individuals are interested in, thus possibly creating the vicious cycle of dependent populations, loss of interest and a new shift of control away from the individual to the corporate actor. Since these large corporate actors are purposefully constructed and since they are important because they are real actors, social science should offer knowledge that is relevant to the evaluation and willful change of the design and the functioning of these actors. This is the context of Coleman's kind of constitutional analysis. In order to proceed within this context, Coleman needs both a normative and a positive theory. The normative theory is needed to create reasoned criteria for the evaluation of existing or imagined constructions. The positive theory is needed to provide the framework for the normative criteria and for the analyses themselves. Much of the difference between Coleman's and Buchanan's program comes from the greater weight that Coleman places on the distinction between the normative and the positive theories. In order to make this point clearer, let me play the devil's (i.e. Coleman's) advocate for the moment.

Buchanan has been somewhat equivocal on the distinction "normative-positive," not by deriving the *ought* from the *is*, as some people have claimed, but by the ambiguous status of the contractarian metaphor. For him, the contractarian models are "not designed to be historically descriptive. They are, instead, designed to assist in the development of criteria with which existing political-legal systems may be evaluated." (Buchanan 1975: 50). To what degree do you need positive, historically descriptive theory for the development *and use* of such criteria? Here Buchanan commits himself to two important restrictions. First, existing structures have to be evaluated *as if* they were the outcome of a current contract, or one that is continuously negotiated, irrespective of how they really came about. *There is no path dependency* for the functioning of the corporate body. Second, the evaluation sticks to "economic" aspects. For example, the reasons for defection from agreed-on contractual terms must be "strictly economic". What he seems to mean is that there should be no ethical constraints assumed. But how about legitimate power differences, social capital and status (e.g. reputational) constraints? This choice may itself be path-dependent in the sense that Buchanan's intellectual roots reach deeply into the intellectual debate against anarchy and his tools belong to one of two camps in this discussion: the individualistic camp which used traditionally micro-economics as its base.

Coleman's approach is clearly driven by a (perceived) social problem: the increase in constructed corporate actors and the concomitant social effects. This problem leads to the demand of a social science that addresses that problem: develop criteria and tools for the evaluation of constructed corporate actors. There are no roots in the intellectual debate against anarchy. Rather Coleman's work is embedded in the debates around applied social research. But contrary to the theoretical tradition of, say, the Chicago School and the Columbia School, Coleman places his "new social science" into the context of

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a recent development that has reversed a long trend to the contrary: the new convergence between sociology and economics (see Lindenberg 1990). What does this entail?

Ideologically, Coleman chooses between the two actors in the following way: "Corporate actors merit existence only insofar as they further the ends of natural persons. Thus only by starting conceptually from a point where all sovereignty rests with individual persons is it possible to see just how well their ultimate interests are realized by any existing social system." (531) And he reinforces his choice with two theses: "A right comes into existence only when there develops a consensus about its locus. Yet individual persons do have primacy, because it is persons, not corporate actors, whose consensus determines the initial locus of rights." (*Ibid.*) On this basis, he places the framework for the analysis within methodological individualism and within that into exchange theory. Here there is no difference between him and Buchanan. But since Coleman stands in the new "tradition" of rational choice sociology, he confronts a more modern situation. Before say 1975, it was very much the case that economics could be identified with the individualistic tradition and sociology with the collectivistic (or communitarian) one. For this reason Buchanan came to identify individualistic and economic, thereby restricting himself to the limitations of micro-economics. In the meantime, rational choice sociology has grown by leaps and bounds and there is no reason any more to limit oneself to micro-economics if one wishes to remain within the bounds of methodological individualism and exchange theory. In fact, Coleman's book is mainly a demonstration of how rational choice sociology would go about explaining the building blocks of the allocation of rights, especially the sacrifice of control in exchange for the partial control of the actions of others: authority and trust relations, norms, authority structures that make up corporate actors, and social choice.

Developing these building blocks makes for exciting reading but, for the moment, it is also the limitation of the approach. Let me turn around and be the devil's advocate for Buchanan's side. While there is great rigor in the mathematical backbone of the book, there is so much that needs to be demonstrated by way of the possibilities of a rational choice sociology that the constitutional analysis becomes more of a program than an achievement. Coleman develops an interesting criterion for optimality of a constitution: "A constitution is optimal if in the system that results, rights for each class of actions are allocated in accordance with the interests of those who, postconstitutionally, have power-weighted interests that are stronger than the opposing power-weighted interests." (355) Yet, Coleman does not make much use of the other building blocks (trust, norms, authority) in order to demonstrate the power of this optimality criterion. There is very little demonstration of this kind anyway. For example, he develops four criteria for rules for the resolution of differences about the action a corporate actor should take. These criteria are: consistency (i.e. how to aggregate votes), veridicality (i.e. corporate action should well reflect the interests of the members), action potential (i.e. leading to corporate action with sufficient force), and non-divisiveness (i.e. the action should not

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destroy the corporate actor). These criteria play virtually no role when he deals with the tasks of the new social science. There he is much more concerned with a substitution for the functions of primordial social structures and the language that accompanies that kind of tradition. Clearly these ends must be made to meet.

Coleman should not be blamed for not doing what he did not set out to do. He did not write a book on constitutional analysis. What he did write is a book on rational choice sociology in the context of a new task for the social sciences that comes very close to the self-proclaimed aims of the constitutional political economy. For those who work in this field of constitutional political economy, it is certainly worth while to look into this book and to realize how much the landscape of the social sciences has changed. These changes must have consequences for how any kind of political economy is to be conducted.

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