Buchanan@100: Special Issue in Honor of James M. Buchanan

Geoffrey Brennan¹ · Hartmut Kliemt²

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On October, 3, 2019 James M. Buchanan, 1986 Nobel laureate in economics, would have turned “100”. As things turned out, he died in January 2013; so he is not around to enjoy the birthday festivities. But he would have appreciated that his ideas provided the content of any centenary celebrations; and we believe he would have enjoyed the papers included here, even where (perhaps especially where) he might have taken issue with the arguments.

In July last year, we were delighted to join with Liberty Fund in organizing a week-long colloquium focused on “The Legacy of James Buchanan”. The event was held in Blacksburg, Virginia—a place where Buchanan spent an important part of his academic career (at Virginia Tech) and where he lived for the final dozen or so years of his life. Throughout his career, Jim had enjoyed a close relationship with Liberty Fund and he would surely have appreciated both the sponsor and the location of the colloquium event. Since the 1970s Buchanan (who often referred to himself as a “Tennessee farm-boy”) had owned a farm close to Blacksburg where he enjoyed the pleasures of a simple rural life.¹

One of the significant features of that colloquium was its explicitly inter-disciplinary character, and in particular the mix of economists and political philosophers among participants. That mix reflected both Buchanan’s own interests and the way he is increasingly being recognized by the relevant disciplinary communities. Although he was never formally a member of anything other than Economics departments, he claimed for his work a close affinity with that of John Rawls,² and he is increasingly being recognized by the philosophy discipline as a political philosopher in his own right. Economists know of Buchanan’s philosophical interests

¹ Quite different from the creative fancy of McLean (2017).

² Though as he observed in later life, they had been interpreted rather differently. See Buchanan (2005).

This is an editorial to the Buchanan@100 special issue

✉ Hartmut Kliemt
hartmut.kliemt@t-online.de

¹ Australian National University, Canberra, Australia

² Justus Liebig University, Giessen, Germany

but typically are less acquainted with the *modus operandi* of philosophers. It seems to us something of a puzzle that leading economists³ tend to pay attention to the philosophies of Rawls and Nozick—just to name the two other, so-called, “new contractarians”⁴—but much less attention to Buchanan as a political philosopher in their own midst. For this reason, we thought it worthwhile for this special issue of *Homo oeconomicus* to induce participants of the Liberty Fund colloquium with a philosophical background to share their views on Buchanan with a primarily economist audience.

Of course, the roots of Buchanan in Public Finance should not be neglected completely. Therefore, this special issue commences with Romina Boccia’s account of the dismal facts of how public debt has been, and still is, expanding in the US. Boccia’s paper very much represents what drove Buchanan towards reflecting on the democratic political processes—initially in a public choice setting and then within a more explicitly ‘constitutional’ perspective. Daniele Bertolini criticizes Buchanan’s conception of law making; John Thrasher defends Buchanan’s vision as a genuinely democratic contractarian; while Chris Melenovsky critically assesses the role of the status quo in Buchanan’s work; and finally Kevin Vallier explores to what extent a Buchanan type conception of rent-seeking can be extended to the case of “ideological rent-seeking”.⁵

The papers in this volume more or less speak for themselves—and have to. We cannot however resist the temptation to add a brief remark of our own.

As we see it, there are four major issues of interpretation in relation to Buchanan’s ‘constitutional contractarianism’.

First of all, it seems clear that Buchanan is committed both: to the contractarian idea that ‘consent of the governed’ is a fundamental criterion for regime legitimacy; and to the notion that such consent should apply not to outcomes or even to policies but to the rules under which the political and economic system operates—specifically the rules for markets (laws governing property rights and the terms of their exchange) and for collective decision-making (rules governing the domain of public activity and the proportion of the relevant voting body required for collective decisions to be valid). Coming as Buchanan does out of a broad welfare economics tradition, he tends to see these institutional questions through the lens of welfare economics and more particularly via the apparatus of ‘Pareto optimality’—and specifically the Pareto criterion. Buchanan endorses Wicksell’s insight that unanimous decision-making is the institutional embodiment of the Pareto criterion; but recognizes, as Wicksell seems not to have, that unanimity as a decision-rule is self-defeating: citizens would, Buchanan reckons, unanimously reject unanimity as a rule for ordinary economic and political interactions. But what would they unanimously accept? The answer to that question is the core of Buchanan’s normative concerns.

³ with the notable exception of Sugden (2018).

⁴ See Gordon (1976).

⁵ In a paper not yet included in this collection Alexandra Oprea will close the circle by exploring economic theories of politics—public choice—in relation to Buchanan’s other concerns.

However, in answering that question, Buchanan often finds himself in different moods on certain key features. One feature is whether the consent in question is taken to be actual or hypothetical. He (quite rightly in our view) often concedes that citizens have not consented to—and routinely do not consent to changes in—the institutional arrangements under anything like the unanimous bargaining model that Buchanan conceives as ideal. But he rather resents it when commentators make claims about what people would agree to that do not accord with his own intuitions—and then he is likely to insist that the evidence lies in actual agreement! He will often claim that all normative claims are speculations that must ultimately be brought before the court of actual consensus; but if that court never meets (and arguably can never meet) it is not clear what the ‘actual consensus’ test amounts to.

A second ambiguity lies in the status of the unanimity test itself—whether satisfying it is merely sufficient for normative desirability or sufficient and necessary. A similar issue revolves around the Pareto criterion. In some moods, Buchanan exhibits extreme skepticism about the validity of any normative assessments that are not grounded in citizens’ expressed support—he refers to such assessments as trying to “play God” (something he is decidedly against!). On occasion though, he seems to accept that there might be grounds for normative assessment that do not reduce to universal assent; but then declares that since he doesn’t know what these might be or how we might judge their authority,⁶ he must content himself with the unanimity criterion. Of course, once we admit that there might be normative criteria independent of individual value/preference satisfaction,⁷ then universal consensus may not even be *sufficient* for desirability: independent norms can conflict with popular consensus and call for trade-offs between both kinds of desiderata.

A third interesting feature of Buchanan’s work lies not so much in an ambiguity as a puzzling silence. Suppose we could establish what the citizenry would agree to in terms of the institutional arrangements under which those citizens were to operate. And suppose we achieve a unanimously agreed constitution on that basis. What constrains individuals, once they emerge from behind the veil of ignorance/uncertainty and are back in the arena of in-period action, to abide by the rules so agreed? After all, the very circumstances of ‘constitutional choice’ (in particular, the ‘veil of uncertainty’ that Buchanan assumes) which are, on Buchanan’s account, *required* for agreement, will change once business reverts to the “in-period” level. To put the puzzle in Buchanan-esque language, we can conceptualize (as Buchanan wants us to) the exercise of individuals, not just choosing *within* constraints⁸ but also of choosing *among* the constraints themselves; but what makes the “constraints” so chosen genuinely *constraining*? Even if there is a consensus that a particular institutional arrangement is the best feasible, and even if that agreement can be regarded as a promise to comply with its terms (itself a questionable leap), there would still

⁶ And, of course, he extends such ignorance, by presumption, to everybody else!.

⁷ A certain amount of the problem may lie in the implied equivalence of ‘preferences’ and ‘values’: both preferences and values may have the property that they are possessed by individuals, but if preferences and values diverge then there is an issue as to which should be decisive.

⁸ As in the standard choice setting between goods in markets.

be the question as to what would compel agents to keep the promises so made. And since there will almost certainly be some ambiguity as to what has been consented to, and will be new unanticipated cases that will require determination as to how the agreed arrangements apply, there will need to be institutions of interpretation and enforcement. There will accordingly be questions about how *those* institutions of interpretation/enforcement will operate and how the agents in those institutions will find it in their interests to faithfully fulfil their appointed roles.

Interestingly for a person so insistent on institutional analysis (both of markets and of politics) with specific attention to the incentives that such institutions embody, it is surprising that Buchanan spends so little attention to this issue when it comes to ‘*judicial*’ institutions. We can certainly ask what decisions by courts would maximize aggregate utility (as much “law-and-economics” does) or secure Pareto optimality (as the Coasian tradition asks), but what encourages (presumptively self-interested) judges to find in this way? And even if they do so find, what would compel compliance to judicial decisions (especially if the party subject to the decision is a prevailing government)? It would surely not be enough for Buchanan (or any follower) to respond that the challenge as to who shall guard the guardians is an old issue and one to which no-one has a satisfactory answer (or at least no answer that does not abandon the general principal-agent framework within which the whole issue is posed.) As we say, the puzzle is not so much that Buchanan cannot find a satisfactory answer to this challenge, but that he doesn’t seem to think that the question is of sufficient interest or relevance to raise.

Finally, we want to raise a question about the relation between constitutional consensus and the Pareto criterion.⁹ The Pareto criterion is typically framed in terms of ‘well-being’—understood in preference-satisfaction terms. Consensus in large-scale collective-decision settings (whether at the in-period political level or the ‘constitutional’) is properly understood in terms of expressed evaluative judgments. Or so we reckon, following Brennan and Lomasky (1993). We think there is a difference of substance between those two bases of evaluation—preferences and evaluative judgments. If so, seeing constitutional agreements through the lens of Paretian welfare economics may involve a significant distortion. Once the difference between preferences and values is recognized [as Buchanan seems to in Brennan and Buchanan (1984/1999)] there needs to be a clear specification as to which carries normative authority in the contractarian scheme and why. Otherwise, the whole exercise is clouded in ambiguity.

These matters, all four, understandably crop up in the papers in this issue in various ways—though not always explicitly. They may not be the only points of obscurity in Buchanan interpretation, but they are, in our view, among the more significant. They involve “questions of clarification” that philosophers more than economists are likely to raise. Which is part of the reason why conversations between economists and philosophers in connection with Buchanan’s work are likely to be especially fruitful.

⁹ This query might be formulated in terms of the distinction between preferences and values—a distinction to which Buchanan, along with most economists perhaps, seems totally oblivious.

Compliance with ethical standards

Conflict of interest There is no conflict of interest.

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