
Democratic Devices and Desires

GEOFFREY BRENNAN

and

ALAN HAMLIN



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Introduction

This book is an exercise in rational actor political theory or ‘public choice’ theory. (We shall use the two terms without discriminating.) However, the discussion is unusual in two respects.¹ First, it focuses attention on a range of institutional *devices* that, although common enough in democratic practice and in constitutional analysis in other traditions, have been somewhat under-analysed within the rational actor tradition. Second, it adopts a more moralised conception of agent *desires* than rational actor analysis normally assumes. In this initial chapter, we want to say something about what the devices in question are, and speculate as to why they have been relatively ignored within the rational actor tradition. We shall then briefly discuss our picture of desires and agent motivation, and indicate how that picture differs from the standard, more determinedly egoistic one. Because devices and desires are not independent, we also want to direct attention to some aspects of their interconnectedness. Finally, we will offer some guidance to the reader on the organisation and structure of the remainder of the book.

But before any of this, a preliminary comment on our title, and on our use of ‘devices’ and ‘desires’ is in order. In the daily office of the Anglican Book of Common Prayer, 1662, the general confession states: ‘We have followed too much the devices and desires of our own hearts; we have

¹ We offer no real attempt at defining the ‘usual’ approach to public choice or rational actor political theory, but we have in mind the literature that would recognise Arrow (1963), Black (1958), Buchanan and Tullock (1962) and Downs (1957) amongst its list of modern classics. Mueller (1989) provides a standard text. Brennan and Buchanan (1985) provide a clear statement of the constitutional aspect of the approach.

offended against thy holy laws ...'. In that context, 'devices and desires' are conceived as inventions of 'our own hearts' which we, miserable sinners that we are, have 'followed too much'. Those particular devices and desires are things for which repentance is properly due and absolution rightly sought.

Perhaps there is much in this book for which repentance is appropriate. But the devices and desires of our title are not chosen for their penitential overtones. Nor do we wish to direct attention to an evil or corrupting aspect of democracy. Rather, the terms come to mind because they combine descriptiveness of our purpose with a certain euphony. We use the distinction between devices and desires to mark a rough division between the external and internal aspects of politics. Devices are seen as external political and constitutional artefacts operating across individuals and characterising the institutional and legal framework of society. Desires are seen as internal and more personal matters, formative of individual character; they are the basic motivational triggers that provide a starting point for any explanation of intentional behaviour. But we should emphasise that the distinction between an internal world of desires and an external world of devices is only a rough and ready point of departure. One of the objects of our discussion is to explore the possible interactions between these worlds.

Democratic devices

Traditional political theory – from Aristotle to Locke, from Hobbes to Hume and up to the present day – has focused on democratic institutions, to the extent that it was concerned with them at all, in the context of the question 'how can politics be made to work better?' Public choice theory has, by contrast, been primarily focused on the question 'what should government do?' The former question suggests as its implicit point of comparison a range of alternative ways in which political life might be organised, each with its own distinctive operating characteristics. The latter question takes as its starting point a comparison of political processes with non-political or market processes – a comparison of explicitly collective decision-making procedures with the decentralised, individualistic processes characteristic of market arrangements. It should be clear that these questions and the points of comparison with which they are associated are very different. These differences are part of what distinguishes public choice theory from traditional political theory. Yet some of the differences are arbitrary and entirely historically contingent. In particular, the reason why the comparison of market and political processes came to predominate in the formative years of modern public

choice theory is largely a matter of historical accident. And though the relevant history is fairly familiar, at least to public choice theorists, it may bear brief repetition here.

When the economic theory of the state came to be written, it was against the background of standard propositions in welfare economics about the 'success' of markets, derived variously from Adam Smith and David Ricardo and elaborated throughout the ensuing literature. Accordingly, when Paul Samuelson attempted to lay out a systematic account of the role of the state in economic activity in his influential series of papers on 'public goods',² his point of departure was to raise the question of what considerations the student of the public economy can set against the well-established economic tradition of *laissez-faire*. The obvious answer was a systematic treatment of market 'failure'. And it was just such a systematic treatment that Samuelson's theory of public goods sought to provide. Armed with the resultant array of market failure theorems, enthusiastic public economists began to discover instances of market failure everywhere and develop an accordingly extensive agenda for the 'properly theorised' state.³ It was precisely in reaction to this enthusiasm that public choice theory first appeared.⁴ The central element in the public choice project, as it was then conceived, was to challenge what public choice scholars saw as a misplaced onus of proof. Market failure could, so the public choice school insisted, only ever constitute a *necessary* condition for government action – not a *sufficient* condition. One would have to supplement charges of market failure with demonstration of relative political success before a coherent case for government action to correct market failure could properly be made. More generally, any satisfactory answer to the question of what government should do would require an analysis of political failure/success on an equal footing with the analysis of market failure/success; and any such analysis would require a treatment of political processes that adopted the same methods and techniques, and the same assumptions about agent motivation, as the economists' theory of markets. Furthermore, evaluation of political and market performance would have to appeal to the same normative criteria. Otherwise, as the public choice theorists of the time insisted, there was simply too much scope for *ad hoc* stipulation and ideological bias.

In other words, what was needed, as public choice theory saw it, was a model of political process that captured the central features of

² See Samuelson (1954), (1955) and (1958).

³ Stiglitz (1989) provides a clear overview and discussion of this approach to the state.

⁴ See for example, Buchanan (1954, 1964).

contemporary democracy – majority rule, electoral competition and so on – and that could be used to generate predicted equilibrium outcomes which could in turn be directly compared with competitive market analogues. For this purpose, analysts pretty much took as given the political institutions they saw around them, and exploited the most obvious analogies with familiar economic phenomena. The comparative analysis of alternative specifications of democratic political process was, in this setting, a much lower priority than the comparison of political and market equilibria.

It is hardly surprising, therefore, that public choice analysis immediately took on a rather (US) American cast. That is to say, it tended to take as given institutional arrangements that reflected American democratic experience. Since these early days, a wider range of institutional forms has gradually been added to the standard array, as public choice scholarship has become an increasingly significant presence in Europe (mainly over the last few decades). But American scholarship provided the initial impulse, and remains the predominant force and influence within rational actor political theory; subsequent work has inevitably been coloured by that fact. Moreover, there are many features that most Western political systems happen to share. These systems involve representative rather than direct democracy (Switzerland is an important partial exception); they are all dominated by relatively small numbers of political parties; most have bicameral structures of one kind or another; and all exhibit some form of a ‘separation of powers’. In this sense, the implicit US orientation has mattered much less than it otherwise might have. But one effect is that these common features – representation; bicameralism; strong parties; separation of powers, etc. – have largely been taken for granted. Certainly, the rational actor tradition has accorded them rather less in the way of detailed analytic scrutiny than one might have thought appropriate.

Against this background, one major objective of this book is to pose what we see as the traditional political theory question – how can politics be made to work better? – in the context of the rational actor theory approach (somewhat modified along lines that we shall shortly describe). That is, we shall set on one side the admittedly important question of the domain of public activity: we shall simply take it as given that the government has scope to act in the policy arena across a specified range. On this basis, we shall examine a set of institutional devices – representation, political parties, bicameralism, the separation of powers – which, it seems to us, deserves more critical attention within the rational actor tradition. To some extent, our thoughts on these devices are coloured by the institutional arrangements with which we ourselves are most familiar

– those associated with the (quasi) Westminster systems of Britain and Australia, with their quite tightly disciplined two-party systems and with their interpretation of the separation of powers doctrine which focuses on the judiciary/parliamentary divide rather than the legislative/executive one. We should make it clear that we have not set out specifically to provide a rational actor analysis of Westminster institutions; nor do we think that that is what we have delivered. But the institutional array we have chosen to study accommodates more of that tradition in political practice than is probably typical in public choice circles.

We should also make it clear that, although the ‘domain question’ (What should government do?) has been the predominant focus in public choice scholarship, it has not been an exclusive one. Buchanan and Tullock’s 1962 classic *The Calculus of Consent*, for example, is explicitly directed at the issue of the appropriate decision-rule for collective action – whether simple majority rule or some more inclusive decision requirement. Although Buchanan and Tullock note the implications of their discussion for the question of how extensive the role of collective decision making should be, this question is a secondary and derivative one. Similarly, Buchanan’s most recent book, with Congleton, on ‘the generality principle’⁵ is addressed to the question of how politics might be made to ‘work better’ in contexts where the use of more inclusive decision-rules is infeasible. The particular mechanism that Buchanan and Congleton look to is expanded use of a ‘generality requirement’. Equally, the ‘structure-induced equilibrium’ literature⁶ is addressed to such questions as how the US committee system might serve to suppress global cycling and impose political stability in settings where global cycling would otherwise be a problem. Finally, we might mention Mueller’s recent volume,⁷ which shares our general concern with the analysis of a range of constitutional devices, although it offers rather different analysis.

In what follows, we have not sought to discuss at any length the specific decision-rule for collective decisions – nor, with one or two minor exceptions, do we enter the debate on electoral reform. This is in part because these areas have received very considerable attention from public choice theorists following Buchanan and Tullock’s lead, and from social choice theorists following Arrow’s lead, as well as from scholars using a wide range of other styles of analysis.⁸ Accordingly in what follows, we assume simple majority voting – without any external legal

⁵ Buchanan and Congleton (1998).

⁶ For example, Shepsle and Weingast (1981).

⁷ Mueller (1996).

⁸ For an introduction see, for example, the papers collected in the Winter 1995 issue of the *Journal of Economic Perspectives*, or Dummert (1997).

constraints beyond those we shall from time to time specify. The same general grounds for exclusion apply to the issue of specifically federal structures of governance. Federalism has been extensively examined in the public economics literature (though not always with an adequate appreciation of the public choice nuances), and it seemed to us better to address constitutional devices that had been less extensively treated. Moreover, even those institutional arrangements that we do address have been subject to some discussion in the recent rational actor literature, a discussion which we cite in the relevant chapters. We do not, nevertheless, resile from our claims that the predominant focus in public choice scholarship has been on the domain issue, and that the democratic devices we examine in this book have so far received rather less attention than they deserve.

When this book was first conceived we intended that the rational actor analysis of the selected devices would be the predominant task. In particular, we had intended that the mode of rational actor analysis used would be standard. As the book has taken shape, however, we have become increasingly convinced that more attention should be given to the nature of rational actor analysis itself. Specifically, as the text has emerged, the discussion of democratic desires has occupied a larger and larger share of the territory and the discussion of particular devices a smaller and smaller share. Relatedly, we have come to see our discussion of the institutional devices less as an attempt to provide a full treatment of them, and more as an opportunity to put our modified rational actor approach through its paces – as a way of illustrating the novelty and power of the modified rational actor model we now endorse. Whether we have succeeded in that ambition, the reader will have to judge. But we can indicate here in this initial chapter something of what is at stake in these ‘modifications’ and why increasingly they have seemed to us to be necessary.

Democratic desires

For many observers, the most characteristic feature – and for some, the most objectionable feature – of public choice scholarship lies in the particular motivations that are ascribed to political actors. Voters, politicians, bureaucrats, policy advisers are all assumed ‘... to be knaves, and to have no other purpose in all their action but self-interest’.⁹ At one level, this assumption represents no more than the extension of the motivational apparatus standardly assumed in the ordinary economic

⁹ As Hume (1985) pp. 42–3, puts it.

analysis of markets to the study of politics. But this assumption was justified by first-generation public choice scholars, quite explicitly, on grounds that were much more self-conscious than mere analytic familiarity: public choice analysts were insistent that, if proper institutional comparisons between markets and political process were to be secured, ideological neutrality would require identical motivational assumptions across the two arenas. For example, to diagnose market failure on the basis of an assumption that all individuals are rationally egoistic, as economists routinely do, and then to presume political success on the basis of an assumption that all political agents are intrinsically benevolent seemed to public choice scholars to constitute flagrant bias. As Buchanan puts the point in one of the milder formulations, ‘the onus of proof would seem to lie with those who assume different motives in the two arenas’.¹⁰

Clearly, however, motivational symmetry could be achieved with any particular (common) motivational model – ranging anywhere from complete egoism to complete benevolence (or indeed, malevolence) and covering the huge range of possibilities in between. Conceivably, within that range, the motivational assumption made might turn out to favour some institutional arrangements over others. For example, it seems likely that choosing a pure self-interest model will prove relatively more hospitable to markets (and less to political process) than a model of partial benevolence. This would be the case, for example, if ‘invisible hand’ processes were more effective in markets than in politics: political process might be more demanding of a minimal benevolence than markets are and, indeed, it may be that markets can work tolerably well without any benevolence at all. If this is so, then the choice of the *homo economicus* assumption as the universal model of agent motivation may in itself constitute a source of bias in institutional comparison and more generally in institutional design. Consider, for example, and merely as a matter of conceptual possibility, two kinds of institutional device that might be ruled in if agents are partly benevolent and be ruled out if strict egoism applies:

1. If motivations are heterogeneous, and specifically if some agents are more ‘publicly interested’ than others, then it may be possible to use ‘selection devices’ that will determine who the relatively publicly spirited agents are and allocate these agents to those arenas in which their relative ‘virtue’ is most socially productive. On this view, public-interested motivations may be somewhat like human capital – a resource like physical capital which can be allocated to its highest social

¹⁰ Buchanan (1984).

value uses. The way in which various institutions assist in recognising and allocating persons with this kind of motivationally embodied social capital becomes an important feature of those institutions' performance and hence becomes an object of specific attention in normative institutional analysis. Note that any argument for a particular institutional arrangement along such lines would meet the onus of proof that Buchanan lays down in relation to 'motivational symmetry' in political and market processes. But no such argument could ever get off the ground if everyone were assumed at the outset to be a Humean knave.

2. If agents with different motivations are differentially rewarded in the politico-economic system, then it may be that different institutional arrangements will lead to the differential 'production' of different motivations. Adam Smith, for example, believed that the market system had this effect with respect to trustworthiness: on Smith's view, the Dutch were more trustworthy than the English, and the English more trustworthy than the Scots precisely because commercial society was better developed in Holland than in England and in England than in Scotland.

These two suggestions illustrate the possibilities that might arise in a setting in which the *homo economicus* motivational assumption is relaxed in favour of something that is a little less 'dismal' (and a little less extreme) about human nature. We do not suppose that these two examples exhaust the variety of ways in which institutions and motivational assumptions are interconnected. Nor do we take it for granted that the particular lines of reasoning embodied in these examples are unproblematic. After all, they depend on the capacity of agents to discern the motivations of others, in circumstances where there may be incentives for agents to pretend that they are motivated in ways other than they actually are. Our claim at this point is the more modest one that such possibilities are worth considering: they should not be simply ruled out *a priori*.

It is worth emphasising in this connection that there is ample evidence – both in the empirical literature and in the emerging accumulation of experimental results – that there *is* a significant degree of motivational heterogeneity and specifically that some agents are more egoistic than others. Somewhere between one-third and one-half of subjects routinely 'co-operate' in *n*-person prisoner's dilemma situations, for example.¹¹ The only plausible argument for ignoring this evidence would be that motivational assumptions do not really matter – that somehow the *homo*

¹¹ On the experimental literature, two useful synoptic views are provided by Ledyard (1995) and Sally (1995).

economicus abstraction captures everything that is relevant about motivations for the purpose of institutional analysis. But certainly on the face of it, no defence of the *homo economicus* construction on purely empirical grounds seems available.

Moreover, motivational neutrality across institutional forms does not imply *behavioural* neutrality. Different institutions lead to different consequences by virtue of what might be termed generalised relative price effects – the idea, that is, that different institutions associate different costs and benefits with the actions available to the individuals operating within them. Indeed, tracing out the impacts of such relative price effects lies at the heart of the economic analysis of institutional choice. However, public choice orthodoxy has tended to interpret the scope of those relative price effects rather narrowly. In particular, as one of us has argued at length elsewhere,¹² there are good reasons to suppose that voters will *not* routinely vote for policies that they expect to leave them better off – in precise contrast to consumer choice in the marketplace. In this respect, market and political processes differ. The reason for this particular difference lies in the fact that individual consumers are decisive in the market over the options they consume, whereas individual voters are characteristically non-decisive: voters operate, as it were, behind a ‘veil of insignificance’. Voters are thereby led to discount the instrumental aspect of rival policies and attend differentially to the intrinsic benefits and costs attaching to lending support for one candidate rather than another. Ideological loyalties, moral convictions and/or the aesthetic properties of the options seem, on this basis, likely to play a much more extensive role in voting behaviour than they do in market behaviour. Equally, conceiving political action as a kind of scramble for the promotion of individual interests seems likely to present an extremely partial and analytically misleading picture. Because standard means–ends notions of rationality do not apply to the connection between vote cast and political outcome preferred, we ought to expect electoral and market processes to be rather different. Note that this claim makes no assault on individual rationality – with rationality appropriately abstractly understood. But there is an assault on the simple idea that voter behaviour can be rationally explained as an attempt by the individual voter to promote her instrumental interests. What rationality entails in the political arena is more complex – and certainly less familiar – than in the marketplace and any proper rational actor political theory must, in our view, accommodate that fact. In this sense, the arguments elaborated in earlier work¹³

¹² See Brennan and Lomasky (1993).

¹³ Specifically, in Brennan and Lomasky (1993).

have coloured our approach to the analysis of democratic ‘desires’, though what we argue here goes beyond, and moves in rather different directions from, that earlier work.

In summary, in the treatment of the various democratic devices we examine, we bring to bear our distinctive conception of democratic desires. We use our account of political motivations/behaviours to assess the significance of diagnoses of political failure standard in normative public choice theory. In the process we add to that list some diagnoses of our own. And with the diagnoses of the problems of democracy appropriately amended, we proceed to examine the selected devices, noting in particular as we go the possibility of the effects of these devices both as tools of selection and as tools for promoting and rewarding certain motivational dispositions.

There is, finally, a conceptual reason, beyond the descriptive and analytic ones, for choosing a more moralised picture of agent motivation than public choice analysis usually allows. This is that, in accepting the force of the motivational asymmetry challenge, we want to be careful not to arrogate to ourselves as writers – or, for that matter, to our readers – a monopoly on normative concerns. This book, like much else in political theory, (whether of the rational actor type or otherwise) is an exercise in normative analysis: our ultimate concern is to explore how democracy may be made to work better. We address this book to readers who, we believe, will share that kind of normative concern. We believe, therefore, that our general conception of agent motivation had better make allowance for this possibility. It is not entirely clear what a book on the institutions of politics written by total egoists and for an audience of total egoists would look like – but this is not that book. On the other hand, it is not a book for an audience of saints either. What we believe of ourselves and of our readers and of the ordinary agents we write and read about is that they lie in that huge range between moral perfection and unmoderated venality. We have, all of us, a desire to make the world a better place; but this desire is not the only one we have.

A reader's guide

We begin with desires. The six chapters that make up part I of this book are concerned to establish and explore our view of the motivational structure of political agents. Chapter 2 states our theme that the precise formulation of motivations matters, and that the adoption of *homo economicus* motivational assumptions distorts the normative analysis of political institutions. We outline an alternative position that grants morality a foothold in the motivational structure of individuals without

in any way suggesting that individuals are essentially moral. Indeed, we see our suggestion as a simple way of capturing some of the tension between moral and other motivations. Chapter 2 also addresses a number of preliminary, but important, issues such as whether the detailed specification of individual motivations will be important in analysing the properties of social institutions, and the relationship between individual motivations and normative theory. Throughout our discussion of democratic desires we will adhere to the principle that the basic motivational structure of individuals should be unified – in the sense that, at any one time, agents should be conceived as having just one set of desires regardless of the range of institutions that they operate within. This fundamental commitment should not, however, be taken either as a commitment to the proposition that agents necessarily *behave* similarly in different institutional settings, or as a commitment to the proposition that desires may not change over time in response to institutional forces.

The idea that moral motivations may be of particular significance in political (as opposed to market) settings is further explored in chapter 3. The argument here also serves to introduce the idea of dispositions. We take dispositions to be an important aspect of the typical agent's motivational landscape – even though it is one that is treated with considerable scepticism by economists. Roughly, a disposition is a type of commitment strategy – an indirect means of achieving overall ends that may not be directly accessible. Dispositions are ultimately based on desires, but are not themselves desires – rather they are structures that partly determine the individual's decision-making process. Chapter 3 presents an extended discussion of dispositions in the context of the case of trust, and argues that dispositions – and moral dispositions in particular – are likely to play a particular role in the analysis of political behaviour.

Moral motivations and dispositions provide the vocabulary of virtue. Chapter 4 attempts to articulate this vocabulary: to both identify an appropriate conception of virtue, and explore the idea of economising on virtue in institutional design. Economising on virtue is carried to its logical extreme in the traditional economic approach where virtue is completely ignored so that institutions must substitute for virtue. A basic theme of chapter 4 is that once virtue is admitted, several senses of economising on virtue must be distinguished – not least because they may have very different institutional characteristics and very different implications.

Chapters 5, 6 and 7 then take the basic motivational apparatus outlined in the three earlier chapters and begin the process of directing this apparatus toward institutional concerns. Chapter 5 provides an

analysis of a variety of ways in which institutions may engage with individual motivation – the range of mechanisms by which institutional devices can work. A central point here is that the recognition of motivations of the type identified as specifically ‘democratic’ desires opens up a range of mechanisms that are suppressed under the narrower interpretation of motivations associated with *homo economicus*. Chapter 6 then provides a more formal discussion of the possible interaction between these institutional mechanisms and dispositions. The model presented in that chapter addresses the question of whether a reliance on private incentive mechanisms – the standard economist’s mechanism for ‘economising on virtue’ – may serve to undermine virtue in society. In crude terms, the question is whether the use of market-like mechanisms may tend to make citizens less concerned with civic virtue. Although the model we present is very simplified, it serves to illustrate the range of considerations on which answers to questions of this sort can depend. As the final element of part I, chapter 7 then offers a discussion of a variety of approaches to the central issues that arise in the design of democratic political institutions. Without a clear diagnosis of the problems of democratic politics it would be difficult to identify with any precision the diseases for which the various institutional devices on offer may be cures. But diagnosis depends on the background assumptions made, and these background assumptions include assumptions about the motivation of individuals. We suggest that the motivational model that we propose provides a distinctive lens through which to view the problems of democratic politics, and one that offers diagnoses rather different from those associated with the more traditional public choice literature.

Democratic devices move to centre stage in the five chapters that make up part II of this book. The structure here is very simple. Each chapter concentrates on a major aspect of what might be termed the archetypal liberal democratic constitution. Chapter 8 takes as its subject the most basic element of democracy – voting – and recasts the discussion of voting in the light of our discussion of democratic desires. The emphasis is on constructing a simple analysis of electoral equilibrium that draws on the idea of expressive behaviour by individuals which is in turn seen as a rational response to the institutional setting. This discussion of voting then feeds into the discussion of political representation in chapter 9, where the distinction, critical to the idea of representation, between voting for policies and voting for candidates is brought to the fore. The starting point here is to question the normative relationship between direct and representative democracy. Standard rational actor analysis typically assumes representative democracy as the prevailing practice, while holding up direct democracy as a relevant normative ideal. Our

discussion, based on our model of motivation, not only provides a distinctive argument for the normative superiority of representative democracy but also points to a different idea of representation from the essentially statistical notion that is often taken as relevant. Chapter 10 moves on to consider the institution of political parties that so dominate the landscape in many democratic countries. Just as the standard rational actor analysis often obscures the distinction between policies and candidates, so that analysis also obscures the distinction between candidates and parties. Indeed, we argue that political parties are often mis-analysed both within the rational actor tradition and in other traditions of political analysis. Again, our perspective on motivation provides us with a treatment of parties that, we believe, sits comfortably with practical politics, at least as we perceive it.

Chapters 11 and 12, taken together, turn to the (rather less precisely specified) set of institutional arrangements that correspond to the idea of the 'separation of powers'. In fact we distinguish two broad ideas at work here and label them the separation of powers and the division of power. Roughly, the separation of powers applies to institutional devices that serve to unbundle powers and place each power in the hands of different agents or bodies, while the division of powers relates to institutional devices that attempt to spread a single power across a number of individuals or bodies. The separation of powers between a legislature and an executive may, then, be either a 'separation of powers' or a 'division of power' depending on the details of the institutional arrangements. Bicameralism provides another example of the same ambiguity. In these areas there is so little pre-existing analysis that there is little agreement on what the standard rational actor analysis of politics has to say on the separation and division of powers. These chapters, then, are an attempt to frame relevant questions about the 'arithmetic' of powers and provide some preliminary steps towards a more fully rounded analysis. The relatively preliminary nature of our discussion in these chapters indicates that while they mark the end of this book, they certainly do not constitute the final word.