



ETHICS AND ECONOMICS

Lecture Notes for Week 9

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Constitutional Economics

In 1990, J. M. Buchanan founded the journal "Constitutional Political Economy," marking the inception of Constitutional Economics as a new scientific sub-discipline situated between social and political philosophy and economics. Buchanan provided the following clarifications:

- Politics concerns the rules of the game, whereas policy focuses on the strategies that players adopt within those rules.
- Questions about what constitutes good rules fall under the domain of social and political philosophy.
- Questions about the strategies players will adopt given those rules fall under the domain of economics.
- Constitutional political economy analyzes the interplay between the rules and the strategies.

Buchanan posed two fundamental questions for this discipline:

1. Can the emergence of a State be explained by the optimizing behavior of free individuals?
2. Is the balance between order and freedom (between the Leviathan and anarchy, in his terms) sustainable?

Since Buchanan's time, Constitutional Economics has evolved into a field that examines the interplay between economic principles and constitutional law, focusing on how constitutional rules shape the behavior of political and economic agents within a society. This discipline, which is heavily influenced by public choice theory, explores how the design of constitutional structures—such as the separation of powers, the protection of property rights, and the enforcement of contracts—affects economic outcomes, incentives, and the overall efficiency of governance.

The first part of this chapter discusses the constitutional contract, offering an explanation of the state's protective role. Buchanan could have used the standard term "social contract" in his theoretical analysis, but as an American, he naturally considered the 1776 American Constitution to be the social contract that created the American nation.

The second part of the chapter explores the productive and protective roles of the

State, providing fundamental insights into public goods and common resources.

The third part will discuss the contractual changes in the status quo - in the current state of affairs.

Appendix 1 presents points for discussion on animal ethics, alongside ethology and Konrad Lorenz, one of its pioneers. Appendix 2 promotes an interview with James M. Buchanan on YouTube. Appendix 3 provides additional information about the readings promoted in Chapters 7 and 8.

Constitutional Contract and the Protective Function of the State

For Buchanan, the constitutional contract serves as the foundation for a society of free individuals. It represents an agreement on the original assignments of individual rights and the institutions for refereeing and enforcement, signifying the birth of the state. Buchanan's American background is evident here; indeed, the U.S. Constitution of 1776 was fundamental to the formation of the United States. Against this backdrop, Buchanan builds upon Thomas Hobbes' concept of a social contract. A common criticism of social contracts is that they are usually only implicitly understood. In response, it's worth noting that Jean-Jacques Rousseau regarded the social contract as an artificial construct, useful for understanding the deviation of current society from an ideal state. Similarly, Buchanan uses his constitutional contract to demonstrate how far the current U.S. state deviates from the libertarian ideal.

Buchanan's framework implies that market economies after the constitutional contract are efficient and just, as all parties had previously agreed upon the initial endowments—essentially, the property rights relevant to them—and the laws pertinent to voluntary exchanges. This implication is fundamentally libertarian.

Economics typically assumes the existence of a constitutional contract implicitly and begins its analysis with post-constitutional contracting, particularly concerning public goods.

Buchanan starts with a natural order in the state of nature, which is not anarchic but

ordered, analogous to the "pecking order" observed in a bird's roost. This pecking order was described by biologist Nikolaas Tinbergen (1907-1988), who shared the 1973 Nobel Prize with Karl von Frisch and Konrad Lorenz, and whose brother, the eminent economist Jan Tinbergen (1903-1994), received the first Nobel Memorial Prize in Economic Sciences in 1969, alongside Ragnar Frisch.

Buchanan elucidates the emergence of the constitutional contract using a model with two individuals, where timelessness (individuals live forever) and scarcity exist. There are initial unequal endowments of goods, and costs associated with attack and defense. Some predictability – natural order - exists in this state of nature.

Society emerges from a natural order as individuals seek to minimize the costs of aggression through disarmament agreements. Emerging constitutional order, like the natural order is unequal. Individual rights in the constitutional order vary, and even a slavery-based constitutional contract can result as a result of conquest. People differ in tastes (preferences or utility functions), capacities (production functions), and situational contexts, both in the natural and constitutional orders.

In the constitutional contract, the liberty of the natural order is traded for greater order in the constitutional order, in the sense of better predictability. The constitutional contract can lead anywhere from liberal democracy to totalitarian dictatorship, depending on the strengths of parties in the natural order and the severity of the natural order.

Conflicts generally arise not from specific assignments of individual rights but from disagreements and uncertainties about them. The emergence of a referee is inevitable. Who serves as the referee (umpire) and what enforcement measures are used must be integral to the constitutional contract. In social areas where individual rights are well-defined and recognized, and where mutual respect and tolerance prevail among all individuals, an ordered anarchy—order without a referee—is possible. Individual rights are usually well-defined as property rights for private goods and can be specified for common goods and general patterns of interpersonal behavior.

Even when individual rights are well-defined, both parties may find it advantageous to renege on the terms of the contract. This can be modeled as a Prisoner's Dilemma game. Parties may realize that it is a repeated game, and strategic thinking can lead them to respect rights and avoid free-riding.

Buchanan expands his model to include a larger number of individuals. Social contracting involves all members of society, but negotiations can occur at different levels among individuals, sub-groups, and coalitions. The costs of reaching an agreement increase sharply with the size and heterogeneity of the society, and strategic thinking that leads to respecting rights and avoiding free-riding becomes ineffective with many persons. Individuals are no longer considered by an individual as strategic partners but as part of the external environment. An enforcement institution for respecting individual rights becomes necessary, and a Protective State is born. Ideally, a Protective State must be external to the parties reaching agreement in the constitutional contract; an individual cannot be both a player and a referee. In historical reality, this has been difficult to achieve.

Comparison of Buchanan's approach with some other approaches:

Buchanan's natural order is different from the state in which all parties keep what they have or can produce. The latter was considered a natural order by John Locke (1632 – 1704) and Buchanan criticizes it. Distribution of rights in the constitutional contract can also be different from the Lockian order in which individuals have right to everything they link their labor with, under the condition that enough stays for the others.

Buchanan's constitutional contract also diverges from the idealized contract of John Rawls. It focuses on how a State can emerge from the contracting of non-equal, self-interested individuals, abstracting from the equity considerations that are central to John Rawls' theory.

Productive and Distributive Functions of the State

This subchapter links together the three primary functions of the State: protective, productive, and distributive. The protective function involves enforcing contracts, while the productive function entails delivering public goods and managing common resources efficiently to maximize citizen utility.

Goods can be classified according to two dimensions: excludability and rivalry. A good is excludable if one can prevent others from using it. It is considered rival in

consumption if one person's use diminishes others' ability to use the same unit of the good. Markets function best with private goods, which are both excludable and rival in consumption. Markets do not perform well for other types of goods.

Public goods, such as national defense and fundamental knowledge, are neither excludable nor rival in consumption. Since people can use these goods without paying, they have an incentive to free ride, and firms lack motivation to provide them. Thus, the government steps in to provide public goods, using cost-benefit analysis to determine the appropriate provision levels.

Common resources, which are rival in consumption but not excludable, include things like common grazing land, clean air, and congested roads. Because people can use these resources without paying, they tend to overuse them. Therefore, governments attempt to regulate the use of common resources.

Many goods fall somewhere in between these categories and are handled differently across countries.

Delivering public goods is Pareto-efficient with unanimous decision-making. However, with a large number of individuals, the costs of making decisions unanimously become prohibitive, which is why majority voting is usually employed. Conceptually, majority voting can lead to Pareto-efficient outcomes if decision-making is constrained. Without constraints, majority voting can result in Pareto-inefficient outcomes.

The third basic function of the State—to act as a Distributive State—has evolved differently in various countries, based on different approaches to distributive justice. Let's summarize some of these:

- Utilitarianism focuses on maximizing overall happiness or utility. Critics argue that utilitarianism can justify neglecting the rights and well-being of individuals or minorities.
- Meritocracy advocates that resources, rewards, and opportunities should be distributed based on individual merit, typically defined by talent, effort, and achievement. It suggests that those who demonstrate higher abilities or achieve more should receive more wealth, status, and power. Critics contend that meritocracy can perpetuate structural inequalities and hinder social mobility, concentrating advantages among the already privileged.

- Communism aims to abolish private property and establish a classless society where production means are collectively owned. Wealth and resources are distributed based on the principle "from each according to his ability, to each according to his needs." Despite aiming to eliminate economic inequality and exploitation, historical attempts to create such societies have been disastrous. Above this, strong theoretical arguments exist against a communist-type economy.
- Socialism, considered an intermediary step between capitalism and communism in former socialist countries, recognizes that resources are not unlimited. Wealth and resources are distributed based on the principle "from each according to his ability, to each according to his work."

In the next chapter, we will discuss two more theories of distributive justice - libertarianism and John Rawls' approach - in more detail.

In its protective role, the State can rely on experts to gather relevant facts for conflicts and base its judgments on expert opinions. However, in its productive and distributive roles, relying on expert judgment on which public goods to deliver and how to redistribute is inappropriate. The State must balance the conflicting desires of different societal members.

Decisions on public goods and redistribution are contractual and require enforcement, which underscores that the productive and distributive functions of the State depend on its protective function.

We should remind that effective protective functioning of the State can be considered a public good, or more specifically, public capital goods, as was discussed in the last chapter.

Contractual Changes in the Status Quo

Is the current order—the status quo—legitimate? Perhaps not, but we must initiate changes from it as it is the only order we have.

Buchanan asks also other two questions: Why would people voluntarily comply with the existing order? Why would they want to renegotiate the status quo?

As we stressed in the last chapter, it is not always rational to change status quo because of its capital goods character. Concerning the renegotiation: expectations for renegotiation vary across societies and over time. An increasing gap between the status quo and these expectations can lead to a rise in the number and seriousness of defections from current rules and motivates the renegotiation of the existing order.

One real-world application of this is the Velvet Revolution in Prague in 1989. This peaceful, non-violent uprising ended 41 years of communist rule in Czechoslovakia, sparked by a student protest on November 17th. The movement rapidly expanded to mass demonstrations, with hundreds of thousands gathering in Wenceslas Square to demand political reforms and greater freedoms. The "Velvet" descriptor emphasizes the smooth, bloodless transition of power as the Communist Party relinquished control without violence. Key figures like Václav Havel, a playwright and dissident, emerged as leaders. By December's end, the Communist Party had collapsed, and Havel was elected the first non-communist president of Czechoslovakia, heralding a new democratic era.

Why did the communists consent to a reduction of their rights in the renegotiation? For them, it represented a trade-off between maintaining their order and ensuring their security.

Buchanan offers further insights related to changes in order:

- Support for major structural changes is more likely among those with claims to non-human resources than among those with similar claims to human capital. This is because transferring non-human resources, such as money, is easier than changing human resources. For example, economists in socialist Czechoslovakia were trained in Marxist political economy and had to learn economics from scratch after the Velvet Revolution, a costly endeavor for many.
- The argument of justice is often employed, which may or may not be based on hypocritical reasons.

To be Pareto-efficient, changes in laws (Buchanan refers to the constitution) should be unanimous, but this is practically impossible. This raises several questions:

- Who should initiate the change?
- Are changes implemented non-unanimously, that is, by the governmental-bureaucratic apparatus, legitimate?

Summary

The first subchapter discusses James M. Buchanan's concept of the constitutional contract as the foundation for a society where agreements on individual rights and enforcement institutions are central.

Buchanan models society's emergence from a natural order—an order similar to animal hierarchies—based on the idea of individuals minimizing aggression costs, trading natural liberty for the order and predictability of a constitutional State.

The need for a referee or umpire arises mostly from conflicts due to uncertainties about rights. Despite well-defined rights, parties may still renege on agreements, akin to a Prisoner's Dilemma situation. Maintaining agreements and strategic respect for rights is the protective function of a State; we speak of a Protective State if we want to stress this function.

The second subchapter links together the three primary functions of the State: protective, productive, and distributive. The protective function involves enforcing contracts, while the productive function entails delivering public goods and managing common resources efficiently to maximize citizen utility. Goods are categorized by excludability and rivalry, with markets best suited for private goods and the State needed to manage public goods and common resources due to free-riding and overuse issues.

In the distributive role, different theories of justice guide how resources and opportunities are allocated. Utilitarianism focuses on maximizing overall happiness. Meritocracy distributes based on individual merit, which can perpetuate structural inequalities. Communism seeks to eliminate private property for a classless society, distributing resources based on needs; this has been proved disastrous both theoretically and empirically.

Socialism is viewed as a transitional state between capitalism and communism, emphasizing distribution according to one's work.

The second subchapter also highlights the dependence of productive and distributive functions on the State's protective function, emphasizing that the State must balance competing societal interests and that its effective functioning is, in itself, a form of public good.

The third subchapter stresses that changes need to begin from the current order, the status quo, since it is the only order we have. It explores why individuals might comply with or seek to renegotiate the existing order, noting that increasing discrepancies between the status quo and renegotiation expectations can motivate the renegotiation.

The text uses the Velvet Revolution in Prague in 1989 as an example of peaceful change following public dissatisfaction with the communist regime. This event demonstrated how a significant shift in governance could occur through negotiations, without violence, leading to new democratic beginnings.

James Buchanan's further insights into renegotiations are discussed, emphasizing that support for major structural changes is likely to come from those with material resources as these are easier to transfer compared to human capital. The text also highlights the complexities and challenges of achieving unanimous agreement on legal changes, raising questions about the legitimacy of non-unanimous decisions and how to prevent the state from overregulation.

Appendix 1: Animals Ethics; Ethology and Konrad Lorenz

Animals Ethics

Are animals moral personalities? Basic attributes of a moral personality are debatable, but we can name: consciousness (it feels pain), reasoning, self – motivated activity, the capacity to communicate and self – awareness. The debate about whether animals are moral personalities has significant ethical implications for how humans treat animals. If animals are recognized as moral personalities, this would require a radical rethinking of practices in industries like farming, entertainment, and research.

What is moral community? Moral community consists of moral personalities. They have an inherent value, a moral status, and moral rights. If animals are moral personalities, they are members of moral community, they have a moral status and they have moral rights.

What is the difference between moral personality and moral agency? Moral personality and moral agency are related yet distinct concepts in ethical philosophy. Moral personality refers to the recognition of an individual or entity as having intrinsic moral worth and deserving of ethical consideration, typically associated with possessing certain rights, such as the right to life and dignity. This status is often attributed to beings with self-awareness, the capacity to experience pain or pleasure, and the potential to engage in relationships. On the other hand, moral agency refers to the capacity to make moral judgments and decisions, and to be held accountable for one's actions. To be a moral agent, an individual must possess the ability to reason, deliberate, and act according to moral principles. While all moral agents are moral persons, not all moral persons are moral agents, as moral agency requires a higher level of cognitive and emotional capacity.

What is the difference between the moral agency and the moral patiency? While animals are generally not considered moral agents in the same way humans are, they are increasingly recognized at least as moral patients deserving of ethical consideration. Traditionally, moral agency has been attributed primarily to humans due to their advanced cognitive abilities, self-awareness, and capacity for rational thought. Most philosophers argue that animals do not possess the level of cognitive complexity required to be considered moral agents. Animals are often considered moral patients rather than moral agents. This means they are beings deserving of moral consideration and protection from harm, even if they cannot be held morally responsible for their actions.

Do animals have cognitive abilities? Research in animal cognition has shown that many animals exhibit behaviors that suggest not only cognitive abilities but a level of empathy, cooperation, and even fairness. For example, certain primates, dolphins, and elephants show behaviors that could be interpreted as moral, such as caring for others in distress or displaying a sense of justice.

What is the utilitarian perspective on animals' rights? The Australian philosopher Peter Singer (1946 -) argues from a utilitarian perspective that animals should be given moral consideration because they can experience suffering. This view emphasizes the ethical obligation to minimize harm to animals. In his book *Animal Liberation*, he popularized the term speciesism. It is used to describe the discrimination against or exploitation of certain species by humans, based on the belief that humans are inherently superior to other animals. The concept is often compared to other forms of discrimination, such as racism or sexism, where arbitrary distinctions are made to justify unequal treatment.

What is the Kantian perspective on animals' rights? According to Immanuel Kant, animals do not moral agents because they lack rationality and autonomy. Only human beings can be moral agents. However, Kant also argued that humans have indirect duties towards animals, as treating animals with cruelty can lead to the degradation of human morality.

Is experimentation on animals morally acceptable? The moral acceptability of animal experimentation is a complex and contentious issue, with arguments both supporting and opposing it. Proponents, often drawing on utilitarian principles, argue that the potential benefits to human health and scientific advancement justify the use of animals in experiments, particularly when no viable alternatives exist. They point to the development of life-saving treatments as a justification, alongside regulations designed to minimize animal suffering. In contrast, opponents, especially those advocating for animal rights, argue that animals possess intrinsic value and rights that should not be violated, emphasizing the ethical concerns around causing pain and distress. They also question the necessity of many experiments, advocating for alternative methods. The debate hinges on whether the potential human benefits outweigh the ethical costs and whether more humane research methods can replace animal testing.

What are the pros of vegetarianism? Vegetarianism offers several significant benefits, both for individual health and the environment. Health-wise, a well-balanced vegetarian diet is associated with lower risks of chronic diseases such as heart disease, hypertension, type 2 diabetes, and certain cancers. It can also contribute to lower cholesterol levels and healthier body weight. Environmentally, vegetarianism reduces the demand for meat production, which is a major contributor to deforestation, greenhouse gas emissions, and water consumption. By adopting a vegetarian diet, individuals can reduce their carbon footprint and contribute to more sustainable food systems. Additionally, vegetarianism aligns with ethical considerations for animal welfare, as it avoids the exploitation and harm associated with factory farming and animal slaughter.

What are the cons of vegetarianism? One of the primary concerns is the risk of nutrient deficiencies, particularly in vitamins and minerals that are commonly found in animal products, such as vitamin B12, iron, calcium, and omega-3 fatty acids. Without careful planning, a vegetarian diet may lack these essential nutrients, leading to health issues such as anemia, weakened bones, and cognitive decline. Additionally, some people may find it challenging to maintain a balanced vegetarian diet, especially in social situations or in areas where vegetarian options are limited. There is also the consideration that some processed

vegetarian foods can be high in sodium, sugar, and unhealthy fats, which could negate some of the health benefits typically associated with a plant-based diet. Finally, transitioning to vegetarianism might involve a significant lifestyle change, which can be difficult for some individuals to sustain over the long term.

Ethology and Konrad Lorenz

Ethology is the scientific study of animal behavior, typically focusing on behavior in natural environments. It involves observing animals in their natural habitats to understand their behaviors, social interactions, mating rituals, and survival strategies. The field emphasizes understanding the biological and evolutionary bases of behavior, often exploring how behaviors have adapted over time to increase an animal's chances of survival and reproduction. Ethologists employ a combination of field studies and controlled experiments to analyze instinctive and learned behaviors, contributing to broader insights in biology, psychology, and ecology.

Konrad Lorenz (1903 – 1989) was a pioneering Austrian zoologist, ethologist, and ornithologist, widely recognized as one of the founding figures of modern ethology. His research significantly advanced the understanding of instinctive behavior and the biological foundations of animal behavior. Lorenz's contributions to the field earned him the Nobel Prize in Physiology or Medicine in 1973, which he shared with Nikolaas Tinbergen and Karl von Frisch. His influential books, such as *On Aggression* (1966) and *Behind the Mirror: A Search for a Natural History of Human Knowledge* (1973) brought ethological concepts to a broader audience, exploring the instinctive behaviors that govern both animal and human actions.

Lorenz developed a theory of instinctive behavior that saw behavior patterns as largely innate but triggered through environmental stimuli. He argued that animals have an inner drive to carry out instinctive behaviors, and that if the right stimulus is not imprinted in them during a critical period shortly after birth, they will eventually engage in the behavior with an inappropriate stimulus.

While humans share many biological and behavioral traits with other animals, they are distinguished by advanced cognitive abilities, complex language, cultural development,

and moral reasoning. Lorenz believed that it emerged during the process of evolution suddenly through *fulguratio*, the flash of lightning. It denotes the act of creation of a totally new talent of a system, created by the combination of two other systems with talents much less than those of the new system.

Lorenz's moral positions are closely tied to his observations of animal behavior and his theories about the biological roots of aggression and social behavior. Lorenz believed that many aspects of human morality are grounded in our evolutionary history and that behaviors such as aggression, territoriality, and social bonding have deep biological origins. He argued that understanding these instincts is crucial for managing human behavior, particularly aggression, in a way that fosters social harmony and prevents conflict. Lorenz was concerned about the potential for human aggression to lead to destructive outcomes, especially in the context of modern technology and warfare. He emphasized the importance of education and cultural evolution in curbing these instincts and promoting ethical behavior. He understood social morality as a mechanism that accommodates our instinctive dispositions to the needs of the social life.

There is a link between the ideas of Lorenz and Richard Dawkins (1941 -). Dawkins, particularly in his book "*The Selfish Gene*," argues that genes are the primary units of selection in evolution. He proposes that behaviors, whether seemingly altruistic or selfish, can be understood as strategies that genes use to maximize their own survival and replication. Dawkins extends the concept of natural selection to focus on the level of genes rather than individuals or species.

Both Lorenz and Dawkins share a focus on the evolutionary basis of behavior. Lorenz's emphasis on instinctive behaviors that promote survival parallels Dawkins' argument that such behaviors can be viewed as strategies employed by genes to ensure their propagation. While Lorenz focused more on observable behaviors and their evolutionary functions, Dawkins provided a genetic framework that explains why these behaviors might evolve, framing them as expressions of "selfish" genes acting in their own interest.

Comparison of the transcendental epistemology of Kant with the evolutionary epistemology of Lorenz: Kant's transcendental epistemology places human cognition in a realm apart from the natural world, governed by fixed, a priori categories, Lorenz's evolutionary

epistemology embeds human cognition within the biological realm, subject to evolutionary forces and adaptations. Each offers a profound, albeit very different, explanation of how we come to know and understand our world.

Kant's Transcendental Epistemology

Immanuel Kant's transcendental epistemology is presented most famously in his work *Critique of Pure Reason*. Kant argues that our understanding of the external world is shaped not merely by sensory data, but by the ways our mind organizes and structures this data. According to Kant:

- **A Priori Structures:** Human cognition is equipped with innate, a priori structures (like space and time, and categories like causality and substance) that help us process sensory inputs. These structures are not derived from experience; rather, they make experience possible.
- **Phenomena vs. Noumena:** Kant distinguishes between phenomena (things as they appear through our sensory and categorical framework) and noumena (things-in-themselves, which are beyond our sensory and categorical reach). Our knowledge is confined to phenomena; we cannot have direct knowledge of noumena.
- **Synthetic a priori judgments:** Kant proposes that we can have synthetic a priori knowledge, which is knowledge that is both informative about the world and not derived from experience. This kind of knowledge arises because our mental faculties actively shape experiences.

Lorenz's Evolutionary Epistemology

Konrad Lorenz, on the other hand, approaches epistemology from a biological and evolutionary standpoint. His evolutionary epistemology suggests that cognitive structures evolve through natural selection and are adapted to the environment. Key aspects include:

- **Biological Basis of Knowledge:** Lorenz argues that the cognitive apparatus of each species, including humans, evolves to meet the survival needs of that species. Thus, our cognitive structures are adaptations that have proven effective in interacting with the world.
- **Adaptation and Fitness:** Cognitive systems are shaped by evolutionary pressures, meaning that our perceptions and understandings are tuned to what is most advantageous for survival and reproduction, not necessarily to an objective truth.

- **Continuity of Cognitive Processes:** Lorenz suggests a continuity between human and animal cognition, with human reason being an extension of biological cognitive processes found in other species. This is in contrast to Kant's view, which sets human reason apart as a unique faculty that imposes structure on chaos.

Comparison

- **Similarities:**
 - Both approaches agree that there is a structure to how organisms understand the world, though for different reasons. Kant sees this structure as a priori and necessary, while Lorenz sees it as a result of evolutionary adaptation.
 - Both approaches suggest that there are limits to human knowledge—Kant through the distinction between phenomena and noumena, and Lorenz through the limitations imposed by evolutionary adaptiveness.
- **Differences:**
 - **Origins of Epistemic Structures:** For Kant, cognitive structures are innate and fixed, necessary for any experience at all. For Lorenz, these structures are biological and evolved, shaped by their utility in historical survival and reproductive success.
 - **Flexibility and Change:** Kant's epistemic structures are static and universal across humanity, whereas Lorenz's are subject to change over evolutionary time and can vary across species.
 - **Objective Truth:** Kant maintains that while we cannot know noumena, the structures of understanding are universally the same and thus objective in a formal sense. Lorenz, however, would argue that what we perceive and understand is always through the lens of survival advantage, which may differ from objective reality.

Appendix 2: Interview with James Buchanan

<https://www.youtube.com/watch?v=178aognlYHA>

James M. Buchanan (1919 – 2013) was a prominent American economist and a leading figure in the field of public choice theory, which applies economic principles to the study of political behavior. Buchanan's work fundamentally changed how economists and political scientists think about government decision-making processes, emphasizing that politicians and bureaucrats, like individuals in markets, act out of self-interest. He was awarded the Nobel Memorial Prize in Economic Sciences in 1986 for his contributions to the development of theories about economic and political decision-making, particularly his exploration of how public sector choices are made and the implications for democratic governance. Buchanan's legacy continues to influence discussions on government policy, taxation, and the design of political institutions.

Appendix 3: More about readings promoted in the 7th and 8th chapters

Friedrich August von Hayek: Law, Legislation and Liberty - Volume 1, Chapter 4 "The Changing Concept of Law"

- *Law is older than legislation:*
“Law in the sense of enforced rules of conduct is undoubtedly coeval with society; only the observance of common rules makes the peaceful existence of individuals in society possible. Long before man had developed language to the point where it enabled him to issue general commands, an individual would be accepted as a member of a group only so long as he conformed to its rules.”
- *The lessons of ethology and cultural anthropology:*
“The study of comparative behavior has shown that in many animal societies the process of selective evolution has produced highly ritualized forms of behavior governed by rules of conduct which have the effect of reducing violence and other wasteful methods of adaptation and thus secure an order of peace.”
- *The process of articulation of practices:*
„Those who first attempted to express rules in words did not invent new rules but were endeavoring to express what they were already acquainted with.”
“Not merely in the primitive tribe but also in more advanced communities, the chief or ruler will use his authority for two quite different purposes: he will do so to teach or enforce rules of conduct which he regards as established, though he may have little idea why they are important or what depends on their observance; he will also give commands for actions which seem to him necessary for the achievement of particular purposes. “
- *Factual and normative rules:*
“,..This is the distinction between descriptive rules which assert the regular recurrence of certain sequences of events (including human actions) and the normative rules which state that such sequences 'ought' to take place. It is difficult to say at

what particular stage of the gradual transition from a wholly unconscious observance of such rules to their expression in articulated form this distinction becomes meaningful. “

“This, of course, does not alter the circumstance that our language is so made that no valid inference can lead from a statement containing only a description of facts to a statement of what ought to be.... One can follow from the other only if at the same time some end is accepted as desirable and the argument takes the form of 'if you want this, you must do that'. But once such an assumption about the desired end is included in the premises, all sorts of normative rules may be derived from them.”

- *The classical and the medieval tradition:*

“From the thirteenth century onwards, and mainly on the European continent, law-making slowly and gradually came to be regarded as an act of the deliberate and unfettered will of the ruler. From the detailed studies of this process it appears to be closely connected with the rise of absolute monarchy when the conceptions which later governed the aspirations of democracy were formed. This development was accompanied by a progressive absorption of this new power of laying down new rules of just conduct into the much older power which rulers had always exercised, their power of organizing and directing the apparatus of government, until both powers became inextricably mixed up in what came to be regarded as the single power of 'legislation'. “

- *Why grown law requires correction by legislation:*

“The fact that all law arising out of the endeavor to articulate rules of conduct will of necessity possess some desirable properties not necessarily possessed by the commands of a legislator does not mean that in other respects such law may not develop in very undesirable directions, and that when this happens correction by deliberate legislation may not be the only practicable way out.”

- *The origin of legislative bodies:*

“It was in connection with rules of the organization of government that the deliberate making of 'laws' became a familiar and everyday procedure; every new undertaking of a government or every change in the structure of government required

some new rules for its organization. The laying down of such new rules thus became an accepted procedure long before anyone contemplated using it for altering the established rules of just conduct. But when the wish to do so arose it was almost inevitable that the task was entrusted to the body which had always made laws in another sense. “

- *Allegiance and sovereignty:*

“The effective limitation of the powers of a legislature does therefore not require another organized authority capable of concerted action above it; it may be produced by a state of opinion which brings it about that only certain kinds of commands which the legislature issues are accepted as laws.”

John Stuart Mill: On Liberty. Chapters 1 and 2.

- “By liberty, we usually mean protection against the tyranny of the political rulers.”
- “Like other tyrannies, the tyranny of the majority was at first, and is still vulgarly, held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant—society collectively over the separate individuals who compose it—its means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries.”
- “There is a limit to the legitimate interference of collective opinion with individual independence: and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.”
- “The effect of custom is all the more complete because the subject is one on which it is not generally considered necessary that reasons should be given, either by one person to others or by each to himself.”
- “We have now recognized the necessity to the mental well-being of mankind (on which all their other well-being depends) of freedom of opinion, and freedom of the expression of opinion, on four distinct grounds; which we will now briefly recapitulate.”
 - “First, if any opinion is compelled to silence, that opinion may be true. To deny this is to assume our own infallibility. “

- “Secondly, though the silenced opinion be an error, it may, and very commonly does, contain a portion of truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.”
- “Thirdly, even if the received opinion be not only true, but the whole truth; unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds. And not only this, but,”
- “fourthly, the meaning of the doctrine itself will be in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct: the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heartfelt conviction, from reason or personal experience. “