

## THE POLITICS OF CONSTITUTIONAL CHOICE

*Thomas R. Dye*

### Politics and Markets

America's foremost political scientist Harold Lasswell (1936) defined politics as "who gets what, when and how." Paul Samuelson (1976), one of the nation's leading economists, wrote: "Economics is deciding what shall be produced, how, and for whom." The similarity of these definitions of politics and economics is clear. Conventional political science studied decisionmaking in governments; conventional economics studied decisionmaking in markets.

It is now widely understood that both politics and markets provide mechanisms for making social choices. Politics organizes people for collective choice, and once choices are made it relies on governmental coercion to implement them. Markets organize people for individual choice, and once choices are made markets rely on voluntary exchange to implement them. Both politics and markets function to transform individual demands into goods and services, allocate costs, and distribute burdens and benefits.

The most important question to confront societies in the world today may be: Should we rely primarily on government or on the marketplace to provide and distribute goods and services? The question itself—what are the proper relationships between governments and markets—is the topic of political economy.

Buchanan and Tullock (1962, p. 43) pose this question in the rational individualist terminology of "public choice" economics: "When will a society composed of free and rational utility-maximizing individuals choose to undertake action collectively rather than privately?" They answer the question with their own "cost approach to collective action." The individual, they contend (p. 61), "must consider the possible collectivization of all activities for which the private orga-

---

*Cato Journal*, Vol. 7, No. 2 (Fall 1987). Copyright © Cato Institute. All rights reserved.  
The author is Florida State University Foundation Professor of Government and Director of the Policy Sciences Program.

nization is expected to impose some interdependence costs on him” and to compare these costs “with those expected to be imposed on him as a result of collective organization itself.” Presumably, the individual will choose the decisionmaking system that minimizes the net costs to him. Yet, the individual cannot assess this net cost until he knows what decision rule will be adopted for making subsequent collective choices in various activities. If the rule of unanimity is chosen, then the expected costs to the individual of collectivizing a decision are zero, because he will be assured that he alone can veto any action that imposes net costs on him. If the decision rule is a simple majority, however, the individual may be reluctant to risk his fundamental human and property rights to collectivization, because he knows that the majority may choose to do severe damage to him. “The appropriate decision-making rule for collective choice is not independent of the decision as to what activities shall be collectivized” (Buchanan and Tullock 1962, p. 48).

Thus, in the Buchanan and Tullock framework, all human activities are potential candidates for collectivization. Our fundamental freedoms—life, liberty, and property—are protected by the utility-maximizing individual’s unwillingness to risk severe damage to himself by submitting these “activities” to collective decisionmaking under any rule other than unanimity.

## Markets As a Political Decision

The public choice perspective views the decision about whether to rely primarily on individual market decisionmaking or collective governmental decisionmaking as a rational individual choice. However appealing such a notion may be in theory, it is not true in fact. The decision to establish a political economy on individualist, free-market principles or on collectivist, centrally planned doctrines is a *political* choice that emerges from political conflict—whether in the form of reasonable discussion, impassioned oratory, interest group pressure, party competition, electioneering, balloting, rioting, street-fighting, war, or revolution.

Political economies are not based on individual consent. The classical contract theorists, the precursors of modern public choice theory, recognized that they were developing moral precepts. Locke (*Of Civil Government*, ¶175) wrote: “Though politics can be founded on no other thing but the Consent of the People; yet such has been the disorders ambition has filled the world with, that in the noise of war, which makes so great a part of the history of mankind, this Consent is little taken notice of.” Most political regimes, Locke acknowl-

edged, are established by “conquest,” “usurpation,” or “tyranny.” He challenged their moral legitimacy, not their ubiquity throughout history.

## Understanding Political Choice

To understand society’s choice between public and private modes of decisionmaking, we must learn what forces drive this *political choice*. Rational, material self-interest is only one of the many complex forces that provide political motivation for individuals and societies; and tautological revisions of public choice conceptualization of individual “utility” will provide very little help to us in understanding these forces.

Consider, for example, the possibility that mass political support for capitalism or socialism arises out of popular notions of justice and injustice. These notions provide an explanation for the “moral anger” that drives wars and revolutions and are distinct from, yet related to, philosophical conceptions of justice. These notions are also distinct from perceived individual self-interest (e.g., Rawls, Nozick) and from class interests. They are rooted in structural differences between markets and politics, but they are independent of these differences and even include various perceptions of them. Robert E. Lane (1986) recently developed this argument in an apparent attempt to advise his collectivist-minded colleagues in political science about the American public’s confounding penchant for market justice over political justice and what might be done about it. But Lane’s insights into the cognitive and affective attitudes of the public toward markets and governments are very instructive to those who cherish individual freedom and limited government.

There is abundant evidence in political science that popular evaluations of economic structures are independent of perceived material self-interest. We know that neither inequality nor deprivation are sufficient conditions to produce popular feelings of injustice or unfairness. People must not only want something, but they must also believe that they deserve it and they must come to expect it. Thus, deservedness and expectation are important components of justice and are independent of material well-being. In reality, these sentiments tend to provide political support for the marketplace. According to Lane (1986, pp. 394–95), “It is the genius of the market to stimulate wants without at the same time stimulating a sense of deserving more than one gets . . . if one believes that the outcomes are attributable to one’s own acts—that the self is to be credited or blamed for one’s own fate—one does not invoke justice sentiments.”

People believe that they can control their fate in the marketplace but not in politics. Opinion data constantly show strong support for American free enterprise, with respondents perceiving it as "giving everyone a fair chance" (McCloskey and Zaller 1985). In contrast, large majorities of people consistently take a dim view of government and politics; for example, "the government is pretty much run by a few big interests looking out for themselves" (Lipset and Schneider 1983).

Public evaluations of the marketplace and government are only loosely tied to perceived material self-interest. Political research shows that people vote more according to national *news* of unemployment than their own employment situation (Kiewiet 1983). Voters are more concerned with economic conditions in society as a whole than with their own financial situations. Massive new government programs to help the "homeless" win widespread support among Americans who have never been homeless and never expect to be, even when most Americans know that homelessness is primarily a result of alcoholism, drug abuse, and mental illness. Americans do not perceive these conditions to be market problems (much to the frustration of our Marxist colleagues) but as problems for the government. The public blames the government for poverty, unemployment, and homelessness, not the marketplace.

Political research also shows that popular attitudes toward income distributions are acquired quite independently of people's income. Americans at all income levels support wide disparities of income when they are perceived as a product of skill, knowledge, hard work, education, risk-taking, initiative, and even good luck. "A sense of deservedness is central to the concept of justice, at least among the lay public if not always among philosophers" (Lane 1986, p. 386).

Most Americans believe that they are receiving about what they deserve and what they expected to receive from life. This belief is crucial to the amount of political support there is for the American free enterprise system. But Americans are not satisfied with what they get from government. Taxes are "too high," and government is "wasteful," run for the "special interests," and is "too powerful." These evaluations of government predominated during the 1960s and 1970s but leveled off and declined during the 1980s, when confidence in government was somewhat restored. This new confidence may pave the way for increased reliance on government during the 1990s, making people more willing to rely on collective choice. Yet, on balance, Americans tend to believe that the market is fairer than government.

If material well-being was people's sole motivation, then we would expect that all forms of income would be equally valued. But earned income is valued more than government transfer income. We cannot easily dismiss the expressions of welfare recipients that they prefer work to welfare or the expressions of farmers that they prefer market returns to governmental subsidies. And political support for social security has always depended on the myth that benefits were earned through contributions. Market income confers self-esteem; government transfer payments do not.

Public choice theory views both markets and politics as being driven by self-interest, but political scientists tell us that popular notions of right and wrong, of justice and injustice, motivate voters more than self-interest. The general public believes that self-interested behavior in the marketplace is appropriate and beneficial, if properly constrained; self-interested behavior in government is perceived as being evil. The self-interested or ambitious politician is the object of suspicion, so politicians spend a great deal of time and money creating a public image of themselves as unselfish, humble servants devoted to the public good. They prudently portray their own motivations in terms of "public service," "doing good," "helping others," and "civic duty." The voters would be unlikely to support a candidate who described his or her motives in terms of "getting re-elected," "acquiring power," "becoming famous," or "wielding influence."

On balance, the American public favors markets over politics as a means of distributing burdens and benefits. Lane formulates the question of distributive justice in a way that parallels Lasswell's definition of politics: "*Who distributes what to whom, in virtue of what critical characteristics by what procedures, with what distributive outcomes?*" Lane contends that most Americans prefer markets over politics on each component of this question. According to Lane, people perceive the market to be a fairer agent of distribution than the political system. "They prefer the market's criteria of earned deserts to the political criteria of equality and need, and believe market procedures are more fair than political procedures. They are satisfied that they receive what they deserve in the market, but much less satisfied with what they deserve in the polity" (Lane 1986, p. 387). Finally, people accept unequal distributions of income resulting from market operations, but they are angered by inequalities of influence in the political system.

In short, the general public distinguishes between governmental and market decisionmaking and apply different standards of behavior

to each arena. Buchanan and Tullock argue that “the average individual acts on the basis of the same overall value scale when he participates in a market activity and in political activity.” The thrust of empirical research, however, fails to support their assertion.

These observations should warn us that the fundamental constitutional choice between market and governmental decisionmaking will *not* rest exclusively on individual material self-interest. People must be convinced that the market is fair and just.

## The Politics of Public and Private Choice

The market may be an enormously successful mechanism for generating wealth and relieving poverty, but if the market is perceived as unjust, it will be replaced by less efficient mechanisms, even if material well-being is lessened for everyone. Public choice theory may not perceive such an “irrational” outcome, but it is a very real prospect in the world of politics.

Even though market justice with its principle of earned deserts has popular appeal, so also do the principles of need and equality; and government is widely perceived to be the best mechanism for implementing these principles. Most people believe that government should provide for the needy and guarantee equality and that government should rectify any injustices created by the marketplace. Most people exhibit strong sympathy for the poor, the aged, the handicapped, the ill, the unemployed, and others for whom market returns are minimal. Even though transfer payments to these people violate the principle of earned deserts, they receive wide support.

When people confront political decisions, they tend to think of the welfare of all of society, that is, the “public interest.” Perhaps politics is a cheap way to display one’s altruism; all but an infinitesimal portion of the funds voted for various causes comes from other people’s pocketbooks. But it is more likely that political decisionmaking, simply because it is collective decisionmaking, encourages people to think about others in making choices. Because market decisionmaking is an *individual* process, people are free to think mainly about themselves. But people understand that political decisionmaking in a democracy requires the consent of others and that policies must be formulated in the public interest.

Our knowledge of the political foundations of private versus collective choice is surprisingly limited. In contrast to the well-developed rationalist theory of constitutional choice in the public choice literature, political research on individuals’ perceptions of and attitudes about markets and governments and the forces that shape them is skimpy at best. Our philosophical ideas about justice and fairness

have been elaborately developed (Rawls 1971; Nozick 1974), but our understanding of popular notions of justice and fairness is minimal. The wealth of theory contrasts sharply with the paucity of empirical observations. There are, of course, important exceptions to these generalizations (Hochschild 1981; Lipset and Schneider 1983; Lane 1986; McCloskey and Zaller 1985), but the political foundations of market economics are still not fully understood. Public choice theory can play a central role in helping us to understand societal choices between markets and politics, if only because rational calculation of material well-being is a powerful human motivation. But even when human behavior diverges from the predictions of public choice theory, the prediction is still valuable as an indicator of the extent to which other social and psychological motives are at work. Public choice theory, however, is not a substitute for research into the wide range of human motivations that shape societies.

We understand the *logic* of collective choice; we need to know more about the *politics* of collective choice. When will people choose to collectivize an activity? What ideas, perceptions, and motives will drive them to do so? What is the public understanding of the concepts of public goods and externalities? What is seen as fair or unfair about the marketplace? Do people distinguish between fairness in procedures and fairness in outcomes? Is fairness understood in individual terms or in terms of group, class, or race? Does the public perceive equality as equality of opportunity or equality of outcome? When and under what conditions will people employ different definitions of equality? Do popular notions of fairness and equality change over time; if so, what societal conditions affect these changes? How is governmental decisionmaking popularly perceived? When is majority decisionmaking perceived as illegitimate? What conditions affect the public's view of the fairness, legitimacy, power, and wastefulness of government?

Even though we need to know more about popular perceptions of markets and governments, we also need to know how these perceptions affect society's decisions to collectivize or privatize activities. Do constitutional choices reflect mass opinion, or do they reflect the interests of political elites, which may not be congruent with mass opinion? Is mass opinion shaped by elites, or are elites heavily constrained by mass attitudes? Whose interests are better served by market decisionmaking and whose are better served by governmental decisionmaking? We have acquired some important insights into these kinds of questions, but a heavy agenda of political research awaits us if we are to fully understand the politics of constitutional choice.

## References

- Buchanan, James M., and Tullock, Gordon. *The Calculus of Consent*. New York: John Wiley, 1962.
- Hochschild, Jennifer L. *What's Fair? American Beliefs About Distributive Justice*. Cambridge: Harvard University Press, 1981.
- Kiewiet, Roderick D. *Macroeconomics and Micropolitics*. Chicago: University of Chicago Press, 1983.
- Lane, Robert E. "Market Justice, Political Justice." *American Political Science Review* 80 (June 1986): 383–401.
- Lasswell, Harold D. *Politics: Who Gets What, When and How?* New York: McGraw Hill, 1936.
- Lipset, Seymour Martin, and Schneider, William. *The Confidence Gap: Business, Labor, and Government in the Public Mind*. New York: Free Press, 1983.
- McCloskey, Herbert, and Zaller, John. *The American Ethos: Public Attitudes Toward Capitalism and Democracy*. Cambridge: Harvard University Press, 1985.
- Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 1974.
- Rawls, John. *A Theory of Justice*. Cambridge: Harvard University Press, 1971.
- Samuelson, Paul. *Economics: An Introductory Analysis*, 9th ed. New York: McGraw Hill, 1976.