

## RATIONAL CHOICE AND RAT CHOICE: SOME THOUGHTS ON THE RELATIONSHIP AMONG RATIONALITY, MARKETS, AND HUMAN BEINGS

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### INTRODUCTION

The appearance of the term “rat choice” in recent academic argot is a pretty good joke, but also represents an important conceptual advance in law, social science, and philosophy. With it, we can eliminate the confusion that afflicts current discussions of rationality, definitively separate the different uses of this concept, and clarify its relationship to its 2,500 year intellectual tradition. To use Weber’s terminology, rationality can be directed either toward values, that is, toward ultimate ends that are pursued for their own sake, or toward instrumentalities, that is, means of achieving pre-established ends.<sup>1</sup> Rational choice is a theory arguing that people use instrumental rationality to achieve their pre-established ends. Rat choice is a theory arguing that a person’s ends, that is, the goals or values that the person attempts to achieve, are those that would lead us, in colloquial language, to describe that person as a rat.

Although this Article addresses a philosophic question, its analysis is not primarily philosophical in nature. Rather, it is intended as a contribution to social theory. The basic question it addresses is not whether rational choice and rat choice theory are philosophically correct, but rather, what these theories are asserting in the context of the modern world, and why they have flourished. Thus, the Article is modeled after the work of Randall Collins,<sup>2</sup> or of Jean Cohen and Andrew Arato,<sup>3</sup> rather than the work of the philosophers of rationality whom it discusses. Part I of the Article discusses rational choice theory. Part II discusses rat choice theory, as that term was just defined. Part III then explores the relationship between the two theories

1. 1 MAX WEBER, *ECONOMY AND SOCIETY: AN OUTLINE OF INTERPRETIVE SOCIOLOGY* 24–26 (Guenther Roth & Claus Wittich eds., Ephraim Fischhoff et al. trans., 1978).

2. RANDALL COLLINS, *THE SOCIOLOGY OF PHILOSOPHIES: A GLOBAL THEORY OF INTELLECTUAL CHANGE* (1998).

3. JEAN L. COHEN & ANDREW ARATO, *CIVIL SOCIETY AND POLITICAL THEORY* (1994).

and the concept that unifies them, namely, the idea of a free, competitive market.

## I. RATIONAL CHOICE THEORY

### A. *The Nature of Rational Choice Theory*

The distinction between instrumental and value rationality is well established in contemporary philosophic thought.<sup>4</sup> This is not to say that the distinction has gone unchallenged,<sup>5</sup> but simply that it is an entirely familiar and meaningful conceptual framework that can be either used or criticized, according to the writer's particular purpose. For present purposes, it will be used for the purpose of distinguishing rational choice and rat choice theory. The question of whether the distinction exhausts the range of meanings that the term rationality possesses can be set aside, because the distinction itself is sufficient to separate these two important theories.

Rational choice theory is defined as a theory of instrumental rationality; that is, the actor has a set of pre-established ends and then decides how these ends are to be achieved.<sup>6</sup> If the actor chooses the optimal means to achieve her pre-established ends, she is rational; if she chooses suboptimal means, she is irrational.<sup>7</sup> The particular claim of rational choice theory is that people are rational in this sense; that is, they choose the optimal means to achieve their ends. While this is related to Bentham's utilitarianism,<sup>8</sup> it avoids many of the problems with that approach by treating the person's

4. In addition to WEBER, *supra* note 1, see DAVID GAUTHIER, *MORALS BY AGREEMENT* (1986); 1 JÜRGEN HABERMAS, *THE THEORY OF COMMUNICATIVE ACTION: REASON AND THE RATIONALIZATION OF SOCIETY* (Thomas McCarthy trans., 1984); ROBERT NOZICK, *THE NATURE OF RATIONALITY* 133–81 (1993); HILARY PUTNAM, *REASON, TRUTH AND HISTORY* 174–201 (1981); DAVID SCHMIDTZ, *RATIONAL CHOICE AND MORAL AGENCY* (1995); VIVIAN WALSH, *RATIONALITY, ALLOCATION, AND REPRODUCTION* (1996); MAX WEBER, *THE PROTESTANT ETHIC AND THE SPIRIT OF CAPITALISM* (Talcott Parsons trans., 1958) [hereinafter WEBER, *PROTESTANT ETHIC*]; BERNARD WILLIAMS, *MORAL LUCK* 101–13 (1981). An alternative terminology is to refer to instrumental rationality as a thin theory of the subject and value rationality as a broad theory. See JON ELSTER, *SOUR GRAPES: STUDIES IN THE SUBVERSION OF RATIONALITY* (1983).

5. For one challenge, see SCHMIDTZ, *supra* note 4, at 60–66, who proposes the additional category of maieutic goals, that is, goals designed to generate other goals (e.g., I want to find a career for myself).

6. See, e.g., GARY S. BECKER, *THE ECONOMIC APPROACH TO HUMAN BEHAVIOR* (1976); JAMES M. BUCHANAN & GORDON TULLOCK, *THE CALCULUS OF CONSENT: LOGICAL FOUNDATIONS OF CONSTITUTIONAL DEMOCRACY* (1962); MANCUR OLSON, JR., *THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS* (1965); WILLIAM H. RIKER, *THE THEORY OF POLITICAL COALITIONS* (1962).

7. JON ELSTER, *ULYSSES AND THE SIRENS: STUDIES IN RATIONALITY AND IRRATIONALITY* (1979).

8. JEREMY BENTHAM, *AN INTRODUCTION TO THE PRINCIPLES OF MORALS AND LEGISLATION* (J.H. Burns & H.L.A. Hart eds., The Athlone Press, Univ. of London 1970) (1780).

ends as an ordered set of preferences, rather than as a single utility function.<sup>9</sup> The theory disclaims any attempt to judge the rationality or acceptability of the person's ends. Rational choice, however, is not entirely agnostic about ends; it demands that a person's ends be complete and transitive. Ends are complete if a person either chooses between two alternative outcomes or expresses indifference between them.<sup>10</sup> Ends are transitive if a person who prefers A to B and B to C also prefers A to C.<sup>11</sup> These requirements for rationality impose some constraints on a person's choices,<sup>12</sup> but they do not rule out any choices on the basis of their substantive content.<sup>13</sup>

It is now widely recognized that rational choice theory is empirically false;<sup>14</sup> in addition, it is of very limited ethical significance. The question then is why rational choice theory has exercised such a powerful effect on contemporary scholarship. Before exploring the limitations of rational choice theory, and the reason why it has nonetheless been so influential, it is important to acquit it of some obvious errors which it does not commit. These involve the subjectivity of choice, the constraints on optimal decision making, the persistence of suboptimal decision making, and the toleration of immorality.

9. GERARD DEBREU, *THE THEORY OF VALUE: AN AXIOMATIC ANALYSIS OF ECONOMIC EQUILIBRIUM* (1959); J.R. HICKS, *A REVISION OF DEMAND THEORY* (1956). More precisely, the person's ends are an ordered set of preferences and indifferences. The point is that identifying a preference set avoids the need to reduce all preferences to a universal metric based on utility and thus frees economics from the philosophical difficulties of utilitarianism.

10. See KENNETH J. ARROW, *SOCIAL CHOICE AND INDIVIDUAL VALUES* (2d ed. 1963). That is, given a choice between A and B, the person can prefer A, or B, or simply have no preference.

11. See JOHN VON NEUMANN & OSKAR MORGENTERN, *THEORY OF GAMES AND ECONOMIC BEHAVIOR* app. (3d ed. 1953); R. DUNCAN LUCE & HOWARD RAIFFA, *GAMES AND DECISIONS* 12–38 (1957). Arrow shows that collective decision making does not always achieve transitivity but is prone to cycling, that is, if Person One's preference order is A over B and B over C, Person Two's is B over C and C over A, and Person Three's is C over A and A over B, then A is chosen over B, B is chosen over C, and C is chosen over A. See ARROW, *supra* note 10, at 2–3. Rational choice theory does not assert that collectivities act rationally but limits its claims to individuals. See BUCHANAN & TULLOCK, *supra* note 6, at 11–15; Jon Elster, *Introduction*, in *RATIONAL CHOICE* 1, 2–14 (Jon Elster ed., 1986); William H. Riker, *Political Science and Rational Choice*, in *PERSPECTIVES ON POSITIVE POLITICAL ECONOMY* 163, 171 (James E. Alt & Kenneth A. Shepsle eds., 1990).

12. For a discussion of other constraints, see NOZICK, *supra* note 4, at 141–51. Nozick argues that rationality involves preferring that the conditions required for preferential choice exist: "being alive and not dying, having a capacity to know of alternatives and not have this capacity removed, having the capacity to effectuate a choice and not having this capacity destroyed, and so on." *Id.* at 142. This seems to restate the proposition that satisficing is irrational. See *infra* note 32. The point is usually regarded as a defect in the implementation of instrumental rationality, not a necessary goal or premise of the process.

13. Amartya Sen, *Internal Consistency of Choice*, 61 *ECONOMETRICA* 495 (1993).

14. See *infra* notes 30–36 and accompanying text.

To begin with, rational choice relies on the idea of subjective, not objective, optimality.<sup>15</sup> An objectively optimal choice is one that is actually optimal because it produces the best result. Given a choice of ten stocks at the beginning of last year, the objectively optimal choice is to buy the one whose price will have increased the most by the end of the year, assuming, of course, that the buyer's pre-established end, in buying stock, was to maximize his wealth. A theory based on objective optimality would declare that buying any stock other than the one that posts the largest gain is irrational. But the buyer does not know which of the ten stocks will go up the most, so describing his choice of some other stock as irrational is not particularly useful.

Rational choice theory is not vulnerable to this criticism; rather, it asserts that the buyer is rational if his choice is subjectively optimal, namely, as good as it can be given the resources that are available to him. This is sometime described as bounded rationality, that is, a decision that is optimal given the bounds, or constraints, on the decision maker.<sup>16</sup> The most serious resource constraint is clearly a lack of information, either because no one has the information or because the information is not available to the decision maker.<sup>17</sup> No one knows whether there will be an economic downturn later in the year; each corporation knows its internal plans, but there is no way for the buyer to discover them. Thus, evaluation of alternatives must frequently rely on assigning uncertain probabilities to different outcomes.<sup>18</sup> Another resource constraint involves the computational ability, or intelligence, of the decision maker.<sup>19</sup> If the buyer tries his best, but none-

15. See JON ELSTER, SOLOMONIC JUDGMENTS: STUDIES IN THE LIMITATIONS OF RATIONALITY 1–24 (1989); ALLAN GIBBARD, WISE CHOICES, APT FEELINGS: A THEORY OF NORMATIVE JUDGMENT (1990).

16. See Frederick A. Hayek, *The Use of Knowledge in Society*, 35 AM. ECON. REV. 519 (1945); ALLEN NEWELL & HERBERT A. SIMON, HUMAN PROBLEM SOLVING (1972); THOMAS J. SARGENT, BOUNDED RATIONALITY IN MACROECONOMICS (1993); Reinhard Selten, *What Is Bounded Rationality?*, in BOUNDED RATIONALITY: THE ADAPTIVE TOOLBOX 13 (G. Gigerenzer & R. Selten eds., 2001) HERBERT A. SIMON, ADMINISTRATIVE BEHAVIOR: A STUDY OF DECISION-MAKING PROCESSES IN ADMINISTRATIVE ORGANIZATION 38–41, 68–70, 80–84 (2d ed. 1957) [hereinafter SIMON, ADMINISTRATIVE BEHAVIOR]; HERBERT A. SIMON, MODELS OF BOUNDED RATIONALITY (1982) [hereinafter SIMON, MODELS OF BOUNDED RATIONALITY]; OLIVER E. WILLIAMSON, MARKETS AND HIERARCHIES: ANALYSIS AND ANTITRUST IMPLICATIONS 21–26 (1975). Simon's definition is that boundedness involves intended but limited rationality. SIMON, ADMINISTRATIVE BEHAVIOR, *supra*, at 79–109; Herbert A. Simon, *Rational Choice and the Structure of the Environment*, 63 PSYCH. REV. 129 (1956).

17. See LUCE & RAIFFA, *supra* note 11. The effect of limited information on rational decision making in the political context is discussed in HERVÉ MOULIN, GAME THEORY FOR THE SOCIAL SCIENCES (1982); PETER C. ORDESHOOK, A POLITICAL THEORY PRIMER 14–23 (1992).

18. Elster, *supra* note 11; John C. Harsanyi, *Advances in Understanding Rational Behavior*, in RATIONAL CHOICE, *supra* note 11, at 82.

19. See ORDESHOOK, *supra* note 17, at 18–21; SIMON, *supra* note 16; WILLIAMSON, *supra* note 16, at 254–55.

theless makes a mistake in calculating the expected profits of the corporations in question because he is not particularly smart, that does not detract from the rationality of his decision. What rationality requires is simply that he have reasons for making his choice, or, more precisely, that he have reasons that the observer will accept as likely to produce the desired result.<sup>20</sup> Thus, if he chooses Trusty Corporation, a manufacturer of pharmaceuticals, because it has a low price-earnings ratio, good management, and a promising new product, we, as observers, would describe him as making a rational choice, even if Trusty goes bankrupt because its internal planning process was defective and its new product unexpectedly killed 137 people. On the other hand, we would describe him as irrational if he chose Rusty Corporation, a manufacturer of obsolete office equipment, because he liked the looks of its logo. We would hold to this assessment even if Rusty unexpectedly got a huge contract from the U.S. military and enjoyed the most success of the ten companies in question, because the buyer's decision was not based on acceptable reasons; he simply got lucky.<sup>21</sup>

In many situations, a decision maker can reduce uncertainty by gathering more information, or spending more time analyzing the problem at hand. To assume that additional information gathering or analysis is always warranted, however, is an error, and rational choice theory is free from this error as well. Information gathering and analysis always has costs;<sup>22</sup> if these costs exceed the benefit, it is not rational for the decision maker to incur them, assuming once again that his pre-established goal is to maximize his wealth.<sup>23</sup> In the case of an individual, the trade-off between the cost and benefit of information gathering can be computationally complex, because it requires the person to determine the value of his time. The issue can be simplified however, by considering an organization; because the organization can only act through human agents, whom it needs to pay, the cost of information gathering or analysis is automatically monetized in this situation. It then becomes relatively easy to see that paying a person

20. RICHARD A. FUMERTON, *REASON AND MORALITY: A DEFENSE OF THE EGOCENTRIC PERSPECTIVE* (1990), GIBBARD, *supra* note 15, at 7–10; DEREK PARFIT, *REASONS AND PERSONS* 21 (1984).

21. See Mordecai Kurz, *Rational Preferences and Rational Beliefs*, in *THE RATIONAL FOUNDATIONS OF ECONOMIC BEHAVIOR* 339 (Kenneth J. Arrow et al. eds., 1996).

22. See Kenneth J. Arrow, *Information and the Organization of Industry*, in *MARKETS, INFORMATION, AND UNCERTAINTY* 19 (Graciela Chichilnisky ed., 1999). "Information is indeed then a commodity in some ways like other economic commodities; it is costly and it is valuable." *Id.* at 20.

23. Elster, *supra* note 11; GERD GIGERENZER, PETER M. TODD & THE ABC RESEARCH GROUP, *SIMPLE HEURISTICS THAT MAKE US SMART* (1999).

\$250,000 per year to eliminate a 10% chance that a \$1,000,000 annual investment will become a total loss is not a rational decision.<sup>24</sup>

From rational choice theory's reliance on subjective optimality, it follows that there can be more than one rational choice in many situations. This is largely a result of uncertainty. If there are, let us say, five factors that determine whether a stock will appreciate over the course of the year, the subjectively optimal decision procedure is to evaluate each factor, combine all five, and choose the stock whose total is highest. Although the evaluations of each factor are necessarily estimates, there will still be a single optimal choice, on subjective grounds, namely, the stock that is most likely to do best at the time the decision is made. This will not be true, however, if the uncertainty about the estimated factors is large enough. In that case, several stocks may fall within the zone of uncertainty, and it would be irrational to treat one of these as superior to the others. Thus, rational choice theory does not demand that two people, confronted with the same situation, must come to the same conclusion; it readily accommodates the possibility that there will be a number of equally rational choices in particular situations.<sup>25</sup>

Rational choice theory does assert that subjective rationality will tend to align with objective rationality in many situations, thus achieving equilibrium, but it can provide a convincing account, free from philosophic error, to explain this assertion. Under conditions of uncertainty and computational constraint, as just discussed, a number of different and even inconsistent decisions will count as rational. Told to select only one stock out of ten, one decision maker will choose Trusty Corporation, while another will choose Crusty Corporation, but each will have equally good reasons for doing so. At the end of the year, however, one of these decision makers—the one who chose Trusty, let us say—will turn out to have made the better choice. This need not be because she was more rational, a conclusion which would violate rational choice theory, but because she had better information sources or was more intelligent.<sup>26</sup> If the decision process is now

24. See Arrow, *supra* note 22, at 23–25.

25. Kurz, *supra* note 21, at 345; Mordecai Kurz, *On the Structure and Diversity of Rational Beliefs*, 4 *ECON. THEORY* 877 (1994).

26. We might even say, without violating the principle of rational choice, that she had better instincts. Within a zone of inevitable uncertainty, a rational person must make a guess, and one rational person's guess may be superior to another because it is based on intuitive knowledge that cannot be articulated but will nonetheless produce consistently better results across a number of decisions. See MICHAEL POLANYI, *PERSONAL KNOWLEDGE: TOWARDS A POST-CRITICAL PHILOSOPHY* 49–131 (1962). Similar linguistic limits apply in organizational settings. See WILLIAMSON, *supra* note 16, at 255. Because the person cannot give reasons for his intuitive decision, it would not be rational for her to use intuition to displace a reasoned decision, but she can use intuition, or anything else, within the zone of uncertainty.

repeated for successive years, however, the decision maker who chose Crusty may learn to alter her behavior to produce the optimal result.<sup>27</sup> Alternatively, if she fails to learn and is in a competitive environment, she may go bankrupt, leaving only decision makers who chose Trusty.<sup>28</sup> The analogy that inevitably comes to mind is the survival of the fittest. Of course, if competition is replaced with some other principle, such as family background or political influence, there may be no alignment of subjective and objective optimality. Rational choice theory fully acknowledges this possibility as well.

Another criticism to which rational choice theory is not vulnerable is that it is immoral. Suppose the criteria of subjective optimality that our stock buyer employs indicate that the best investment is Lusty Corporation, a producer of pornographic films. This is useful information and will enable the buyer to fulfill his pre-established goal of maximizing his return. Whether he actually buys this stock, however, does not depend on rational choice analysis, but on the goal that he is trying to fulfill. If we think it is immoral to buy stock in such a company, then our condemnation should be directed to the choice of goal, not to the analysis. If the goal precludes the purchase of stock in companies that produce pornographic products, the analysis will not generate that choice; if it requires that half the profits from such purchases be donated to the Carmelite nuns, then the cost of this donation will be factored into the decision about which stock will return the greatest profit. In other words, moral considerations generally apply at the goal formation level. There are, to be sure, moral constraints on the way a goal may be implemented. A moral rule against unjustified killing not only prohibits setting out to kill someone but also running over the person to reach some other goal more quickly. Robert Nozick treats such moral rules as side constraints, that is, moral principles that constrain one's mode of action.<sup>29</sup> He wants to distinguish them from goals, which is fair enough, but

27. Alvin E. Roth, *Adaptive Behavior and Strategic Rationality: Evidence from the Laboratory and the Field*, in *THE RATIONAL FOUNDATIONS OF ECONOMIC BEHAVIOR*, *supra* note 21, at 255. This same process can also correct irrational decision making, a process that has been observed in laboratory experiments. *See id.* at 256–65. This process, however, is not fully consistent with rational choice theory.

28. *See* KENNETH J. ARROW & F.H. HAHN, *GENERAL COMPETITIVE ANALYSIS* (1971); Kenneth J. Arrow & Gerard Debreu, *Existence of an Equilibrium for a Competitive Economy*, 22 *ECONOMETRICA* 265 (1954); Robert J. Aumann, *Markets with a Continuum of Traders*, 32 *ECONOMETRICA* 39 (1964); Lionel W. McKenzie, *On the Existence of General Equilibrium for a Competitive Market*, 27 *ECONOMETRICA* 54 (1959).

29. ROBERT NOZICK, *ANARCHY, STATE, AND UTOPIA* 28–33 (1974). For an application of this approach to the concept of human rights, see EDWARD RUBIN, *BEYOND CAMELOT: RETHINKING POLITICS AND LAW FOR THE MODERN STATE* (forthcoming 2005) (manuscript at 260–95, on file with author); Edward Rubin, *Rethinking Human Rights*, 9 *INT'L LEGAL THEORY* 5 (2003).

they resemble moral goals in that they are readily separated from the calculation of subjectively optimal means and imposed on that process on the basis of moral considerations. Here, too, there is nothing in rational choice analysis that precludes the imposition of such constraints.

A number of scholars have challenged the two premises that underlie rational choice theory, that is, the premises that people's choices are complete and transitive.<sup>30</sup> But even if we assume that these foundational difficulties can be resolved, the problem with rational choice theory, as a universal characterization of human behavior, is that it is demonstrably false. It has become commonplace to observe that people do not always engage in subjectively optimal behavior to fulfill their pre-established ends.<sup>31</sup> The mild form of this shortfall is sometimes described as satisficing.<sup>32</sup> As noted above, rational choice theory readily incorporates the idea that reducing uncertainty through information gathering or analysis is not a desirable strategy if the cost exceeds the benefit. In some cases, however, the cost does not exceed the benefit, but the decision maker is too lazy, too distracted, or too anxious to carry out the necessary investigation or computation, and prefers to satisfice, that is, to decide on a more limited basis.<sup>33</sup> Beyond this failure of energy or will, experimental psychologists have discovered that decision makers often suffer from cognitive illusions.<sup>34</sup> For example, they may be overly optimistic about their chances for

30. See PAUL ANAND, FOUNDATIONS OF RATIONAL CHOICE UNDER RISK (1993); ISAAC LEVI, HARD CHOICES: DECISION MAKING UNDER UNRESOLVED CONFLICT (1986); AMARTYA SEN, CHOICE, WELFARE AND MEASUREMENT (1982).

31. For general statements of this conclusion, see Robert P. Abelson, *The Secret Existence of Expressive Behavior*, in THE RATIONAL CHOICE CONTROVERSY: ECONOMIC MODELS OF POLITICS RECONSIDERED 25 (Jeffrey Friedman ed., Yale Univ. Press 1996) (1995) [hereinafter RATIONAL CHOICE CONTROVERSY]; ROBYN M. DAWES, RATIONAL CHOICE IN AN UNCERTAIN WORLD (Jerome Kagen ed., 1988); ELSTER, *supra* note 4; DONALD P. GREEN & IAN SHAPIRO, PATHOLOGIES OF RATIONAL CHOICE THEORY: A CRITIQUE OF APPLICATIONS IN POLITICAL SCIENCE (1994); Michael Taylor, *When Rationality Fails*, in RATIONAL CHOICE CONTROVERSY, *supra*, at 223.

32. HERBERT A. SIMON, MODELS OF MAN: SOCIAL AND RATIONAL (1957). For discussions of the connection between satisficing and rationality, see Peter J. Hammond, *Consequentialism, Structural Rationality and Game Theory*, in THE RATIONAL FOUNDATIONS OF ECONOMIC BEHAVIOR, *supra* note 21, at 25; Gary Klein, *The Fiction of Optimization*, in BOUNDED RATIONALITY: THE ADAPTIVE TOOLBOX, *supra* note 16, at 103; MICHAEL SLOTE, BEYOND OPTIMIZING: A STUDY OF RATIONAL CHOICE (1989).

33. There is now a substantial amount of empirical support for this observation. See Daniel Kahneman & Amos Tversky, *Choices, Values, and Frames*, 39 AM. PSYCHOLOGIST 341 (1984); ROBERT E. LANE, THE LOSS OF HAPPINESS IN MARKET DEMOCRACIES (2000); BARRY SCHWARTZ, THE PARADOX OF CHOICE: WHY MORE IS LESS (2004). For a philosophical treatment of the issue, see MEIR DAN-COHEN, HARMFUL THOUGHTS: ESSAYS ON LAW, SELF, AND MORALITY 125-49 (2002). For an application to law, see Mark Seidenfeld, *Cognitive Loafing, Social Conformity, and Judicial Review of Agency Rulemaking*, 87 CORNELL L. REV. 486 (2002).

34. Daniel Kahneman & Amos Tversky, *On the Reality of Cognitive Illusions*, 103 PSYCHOL. REV. 582 (1996); Jeffrey J. Rachlinski, *The "New" Law and Psychology: A Reply to Critics, Skeptics, and Cautious Supporters*, 85 CORNELL L. REV. 739 (2000); Cass R. Sunstein, *Behavioral Analysis of*

success or may attach unjustified value to the status quo. Moreover, recent scholarship has emphasized that people's emotions are often powerfully engaged when they are making decisions, and that this emotional content frequently distorts people's ability to make subjectively optimal assessments.<sup>35</sup> This may not be a surprise when the issue is abortion or terrorism, but Peter Huang has demonstrated the role of emotions in technical, seemingly "unemotional" areas of law such as securities trading and property transactions.<sup>36</sup> Related scholarship also suggests that this emotional component of decision making cannot be eliminated without making the entire decision-making process largely meaningless to the individual involved.<sup>37</sup>

Rational choice theorists argue that in a competitive market, suboptimal decision makers will be eliminated from a competitive environment through a Darwinian process of selection. This very process of elimination, however, attests to the existence of irrationality. Moreover, elimination takes time, and while the process is proceeding, there will be a number of market participants whose behavior does not conform to rational choice theory, even though they may ultimately be fated for extinction. Most serious, of course, is that many environments are noncompetitive, for a variety of reasons, and thus give the irrational an opportunity to survive and flourish.

### B. *The Motivation for Rational Choice Theory*

The fact that rational choice theory is empirically false appears to leave its impact unexplained. How could a theory whose universal claims can be so readily refuted have produced a transformative effect on microeconomics, law, political science, sociology, and a variety of other fields? In fact, there are a number of reasons for the theory's extensive influence.

*Law*, 64 U. CHI. L. REV. 1175 (1997); Amos Tversky & Daniel Kahneman, *Rational Choice and the Framing of Decisions*, 59 J. BUS. S251 (1986).

35. GEORGE AINSLIE, *BREAKDOWN OF WILL* (2001); JON ELSTER, *ALCHEMIES OF THE MIND: RATIONALITY AND THE EMOTIONS* (1999); Daniel M.T. Fessler, *Emotions and Cost-Benefit Assessment: The Role of Shame and Self-Esteem in Risk Taking*, in *BOUNDED RATIONALITY: THE ADAPTIVE TOOLBOX*, *supra* note 16, at 191; ROBERT H. FRANK, *PASSIONS WITHIN REASON: THE STRATEGIC ROLE OF THE EMOTIONS* (1988); NICO H. FRIJDA, *THE EMOTIONS* (1986); Peter H. Huang, *Herd Behavior in Designer Genes*, 34 WAKE FOREST L. REV. 639 (1999); JANET LANDMAN, *REGRET: THE PERSISTENCE OF THE POSSIBLE* (1993); MARY FRANCES LUCE, JAMES R. BETTMAN & JOHN W. PAYNE, *EMOTIONAL DECISIONS: TRADEOFF DIFFICULTY AND COPING IN CONSUMER CHOICE* (2001).

36. Peter H. Huang, *Trust, Guilt, and Securities Regulation*, 151 U. PA. L. REV. 1059 (2003); Peter H. Huang, *Reasons Within Passions: Emotions and Intentions in Property Rights Bargaining*, 79 OR. L. REV. 435 (2000). Huang also comments on the role of the emotions in areas where we would expect them to appear, such as genetic engineering. See Huang, *supra* note 35.

37. ANTONIO R. DAMASIO, *DESCARTES' ERROR: EMOTION, REASON, AND THE HUMAN BRAIN* (1994); RONALD DE SOUSA, *THE RATIONALITY OF EMOTION* (1987).

To begin with, it seems clear that people sometimes behave in the manner it describes. This gives the theory substantial empirical value but places it within the realm of human psychology. Rational choice simply becomes one of many different modes of action in which a person may engage. While psychology is an important branch of knowledge, it is not the field that rational choice theory claims to inhabit. If the theory asserted that people are sometimes instrumentally rational, and then tried to determine the kinds of people who were more likely to display such behavior, and the circumstances under which it would occur, rational choice theory would not be advancing any particularly strong claims, and few people would have any objection to it. But rational choice has presented itself as a universal key to human conduct, the master principle of social science, and the impact of this claim cannot be explained by the occasional, or even frequent, success of its explanatory model.

In fact, the value, and impact, of rational choice theory goes well beyond the field of individual psychology. The empirical inaccuracy of rational choice theory in describing people's instrumental efforts is neither as apparent, nor as significant, as suggested above. During the 1960s and 1970s, the idea that the behavior of normal human beings is always instrumentally rational seemed more plausible than it does today. Faith in reason is our society's inheritance from the ancient Greeks, the Renaissance, and the Enlightenment; while observers generally recognized that actual behavior was frequently irrational, they tended to ascribe it to curable defects in society such as lack of education, limits on the open exchange of ideas, or deliberate attempts by those in power to mislead and confuse. The popularity of deliberative democracy theory attests to the strength and continuity of this position.<sup>38</sup> It was against this background that theorists espousing the rational choice version of rational choice began to insist that everyone was already acting rationally and to derive policy recommendations from this claim. In response, a more comprehensive reconsideration of rationality began. Two specific bodies of scholarship that have developed as a result are cognitive psychology and the study of emotions,<sup>39</sup> but there has also been a more general reassessment of our prior faith in human rationality.

38. See, e.g., BRUCE A. ACKERMAN, *SOCIAL JUSTICE IN THE LIBERAL STATE* (1980); Joshua Cohen, *Deliberation and Democratic Legitimacy*, in *DELIBERATIVE DEMOCRACY: ESSAYS ON REASON AND POLITICS* 67 (James Bohman & William Rehg eds., 1997); JOHN S. DRYZEK, *DISCURSIVE DEMOCRACY: POLITICS, POLICY, AND POLITICAL SCIENCE* (1990); JAMES S. FISHKIN, *DEMOCRACY AND DELIBERATION: NEW DIRECTION FOR DEMOCRATIC REFORM* (1991); AMY GUTMANN & DENNIS THOMPSON, *DEMOCRACY AND DISAGREEMENT* (1996); JÜRGEN HABERMAS, *BETWEEN FACTS AND NORMS: CONTRIBUTIONS TO A DISCOURSE THEORY OF LAW AND DEMOCRACY* (William Rehg trans., 1996); CASS R. SUNSTEIN, *THE PARTIAL CONSTITUTION* (1993).

39. See *supra* notes 34–37 and accompanying text.

Moreover, the fact that the rational choice assertions about the rationality of people's instrumental efforts are false is not as devastating a critique of this theory as it might first appear to be. Although some rational choice theorists were undoubtedly motivated by a political agenda, there is also a rather attractive epistemological motivation for rational choice theory. If people are instrumentally rational, and if we know their ultimate goals, we can do a rather good job of predicting their behavior. Given a particular goal, a particular level of information, and an adequate amount of computational ability, every rational actor will make exactly the same decision. An observer, moreover, can readily reproduce that decision and consequently can predict it in advance.<sup>40</sup> Such prediction is the Holy Grail of social scientists, first, because it provides convincing evidence that their approach is correct, and second, because it enables us to formulate effective social programs. Perhaps even more importantly, the effort to generate predictions, and then prove or disprove these predictions with data, constitutes a definitive methodology that scholars can use to generate a coherent research agenda.<sup>41</sup>

These features are so appealing that they make rational choice theory seem worth pursuing even if its claim to provide a universal explanation of human behavior is empirically false. Because rational choice is the only theory that enables us to predict human behavior with any degree of confidence, it is worth pursuing to see what insights it will yield.<sup>42</sup> The points on which its predictions are confirmed will count as definitive knowledge; those where they are not confirmed, or where no predictions can be generated, must then be consigned to the realm of more impressionistic social science theories, where uncertainty prevails.<sup>43</sup> Thus, the claim that people act rationally to achieve their pre-established ends has functioned as a working hypothesis for political, sociological, and legal research, a presumption whose value is to be determined by the research that it generates.

40. It may be true, as noted above, that there is more than one rational strategy in a given situation due to irremediable uncertainty, but that is the fault of the world, not of the rational choice theory of behavior; that is, the variability comes from the inherent uncertainty of the situation, and the theory gives us as much predictability as we can expect to achieve.

41. On the importance of research agendas, see 1 IMRE LAKATOS, *THE METHODOLOGY OF SCIENTIFIC RESEARCH PROGRAMMES* (John Worrall & Gregory Currie eds., 1980); Imre Lakatos, *Falsification and the Methodology of Scientific Research Programmes*, in *CRITICISM AND THE GROWTH OF KNOWLEDGE* 91 (Imre Lakatos & Alan Musgrave eds., 1970). Lakatos's approach builds on Kuhn's idea of normal science paradigms. See THOMAS S. KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* (2d ed., enlarged 1970).

42. Stanley Kelley, Jr., *The Promise and Limitations of Rational Choice Theory*, in *RATIONAL CHOICE CONTROVERSY*, *supra* note 31, at 95.

43. See Dennis Chong, *Rational Choice Theory's Mysterious Rivals*, in *RATIONAL CHOICE CONTROVERSY*, *supra* note 31, at 37; Terry M. Moe, *Cynicism and Political Theory*, 87 *CORNELL L. REV.* 362, 369–70 (2002).

This has proven to be an appealing approach and has generated a large body of interesting scholarship. In fact, though, it suffers from a serious epistemological defect. Because the data gathered to confirm predictions are as theory-driven as the predictions themselves,<sup>44</sup> a theory based on false assumptions about human behavior will not generate definitive knowledge, but only self-contained elaborations of the theory.<sup>45</sup> Nonetheless, the possibility of prediction, combined with the creation of a methodology, has given rational choice an unquestionable appeal.

But the greatest value of rational choice theory lies beyond the realm of description. Rational choice theory possesses enormous prescriptive power; it provides a framework for designing optimal strategies by which pre-established aims can be achieved. It thus incorporates a vast field of intellectual endeavor that includes nearly every applied discipline. If we have the goal of transporting people from one place to another, of curing a disease, of ending unemployment, or of conquering Iraq, rational choice tells us the optimal way to achieve that goal, subject to whatever constraints we want to build into the starting premises. The theory's value becomes highly attenuated once one enters the realm of aesthetics; if the goal is to paint a beautiful picture or write an emotionally moving opera, rational choice theory will be of little help. But across a wide range of applied disciplines, it represents a virtually unchallenged approach to effective decision making.

Thus, there is great value to rational choice theory, and many reasons why it has been so influential despite its inability to sustain its most far-reaching empirical claims. But none of this is of much assistance for the fields of philosophy in general or ethics in particular. In philosophic terms, it could be asserted that rational choice theory provides a universal standard for judging human action. Given pre-established ends, one might say, it is best, in an ethical or philosophic sense, that the person engage in instrumentally rational action to achieve those ends. This is quite plausible and securely locates rational choice in the realm of philosophic inquiry about the basis of human action. The difficulty with it is that it is much too plausible. Who would ever contest it? Precisely what philosophic account of

44. See, e.g., RICHARD J. BERNSTEIN, *BEYOND OBJECTIVISM AND RELATIVISM: SCIENCE, HERMENEUTICS, AND PRAXIS* (1983); PAUL FEYERABEND, *AGAINST METHOD: OUTLINE OF AN ANARCHISTIC THEORY OF KNOWLEDGE* (1975); HANS-GEORG GADAMER, *TRUTH AND METHOD* (1988); CLIFFORD GEERTZ, *THE INTERPRETATION OF CULTURES* (1973); NELSON GOODMAN, *WAYS OF WORLDMAKING* (1978); KUHN, *supra* note 41; W.V. QUINE & J.S. ULLIAN, *THE WEB OF BELIEF* (1970); PETER WINCH, *THE IDEA OF A SOCIAL SCIENCE AND ITS RELATION TO PHILOSOPHY* (1958).

45. For a more extended discussion of this point, see Edward L. Rubin, *Public Choice, Phenomenology, and the Meaning of the Modern State: Keep the Bathwater, but Throw Out That Baby*, 87 *CORNELL L. REV.* 309 (2002).

human action does it challenge? Once a person has settled on her values, or ends, why would she not want to achieve those ends as effectively as possible?<sup>46</sup> On what possible grounds could an observer argue that a person should not try to achieve her ends, once the validity of those ends is accepted? As stated above, people do not always act in an instrumentally rational fashion, but it is difficult to imagine a normative standard that would counsel them not to do so.<sup>47</sup>

In the early days of anthropology, it was common to treat entire societies as subject to irrational forces that impaired their choice of means. Thus, Levy-Bruhl ascribes the actions of tribal people to an essentially mystical conception of the world;<sup>48</sup> more recently, Norman Brown argues that tribal rituals can be understood as reflecting infantile or neurotic fantasies.<sup>49</sup> The preferred approach, at present, follows Evans-Pritchard, who actually listened to the people he was interviewing and concluded that they were often as instrumentally rational as Western people, once one understood their goals and factual assumptions.<sup>50</sup> Thus the Nuer place deformed babies in a river to drown, not because they have an irrational fear of deformity, but because the birth represents a disruption of the boundaries between the human and animal worlds that they need to restore. Their response can be seen as an instrumentally rational way to do so.<sup>51</sup> Similarly, when the Azande try to prevent accidents with magic, they cannot be convinced that they are acting irrationally by being shown that the accident had naturalistic causes. Of course it did, they acknowledge, but those causes acted at this particular time, against this particular person, as a result of witchcraft.<sup>52</sup> The point is not that people always act rationally—the Nuer and the Azande can readily recognize an insane or incompetent person in their midst—but rather that most societies tend to have standards of behavior that reflect the most effective way to achieve their established goals, given the nature of the goals and their understanding of the world. The principle

46. See Christine M. Korsgaard, *The Normativity of Instrumental Reason*, in *ETHICS AND PRACTICAL REASON* 215 (Garrett Cullity & Berys Gaut eds., 1997). “Conformity to the principle of instrumental reason—prescribing to oneself in accordance with this principle—is constitutive of having a will.” *Id.* at 253–54.

47. See NOZICK, *supra* note 4, at 133–39.

48. LUCIEN LÉVY-BRUHL, *PRIMITIVES AND THE SUPERNATURAL* (Lilian A. Clare trans., 1935).

49. NORMAN O. BROWN, *LIFE AGAINST DEATH: THE PSYCHOANALYTICAL MEANING OF HISTORY* (1959). For a discussion of the irrational character of neuroses in individuals, see DAVID SHAPIRO, *NEUROTIC STYLES* (1965).

50. See E.E. EVANS-PRITCHARD, *NUER RELIGION* 84–85 (1956) [hereinafter EVANS-PRITCHARD, *NUER RELIGION*]; E.E. EVANS-PRITCHARD, *WITCHCRAFT, ORACLES AND MAGIC AMONG THE AZANDE* (1937) [hereinafter EVANS-PRITCHARD, *WITCHCRAFT*].

51. EVANS-PRITCHARD, *NUER RELIGION*, *supra* note 50.

52. EVANS-PRITCHARD, *WITCHCRAFT*, *supra* note 50.

of instrumental rationality provides relatively little help in assessing different modes of action.

It might be possible to construct some bizarre hypothetical in which a person would consciously adopt a standard that she would not try to achieve her pre-established ends as effectively as possible. Concocting such a hypothetical might seem like a good argument in the tradition of analytic philosophy that includes attempted murder of a person standing at the bottom of a well by throwing a live person down on top of him, armed with a disintegrating ray gun to counteract the ray gun of the person at the bottom,<sup>53</sup> or a desert island on which one person happens to have a bomb that can blow up the entire island and uses the threat of doing so to enslave the other person on the island.<sup>54</sup> But the only realistic situation in which we might argue that a person would not try to achieve his established ends as effectively as possible is one in which the person is ambivalent or conflicted about those ends. The problem in this situation does not involve instrumental rationality, however, but rather values rationality; it is the uncertainty about the ends that causes the person's reluctance about adopting the most effective means.

These considerations bring us to the question of ends, or values. As stated above, rational choice theory abjures any effort to aid people in their selection of ends. The premise of the theory is to take people's ends as given, to treat these ends as a matter of individual preference, and to focus on the most rational means by which those ends are to be achieved. This premise, as discussed, does not render rational choice theory immoral, because there is no constraint on factoring moral considerations into the analysis. It does, however, restrict rational choice theory to a rather small corner in the realm of ethical discourse.

The central question in ethics involves the basis on which people choose their ends. Is it best to strive for happiness, for well-being, for virtue, for beneficial consequences, or to achieve the good?<sup>55</sup> Is it best to establish universalizable principles for action, or take the position of an ideal observer, or reflect until one reaches equilibrium?<sup>56</sup> From the time of Plato

53. NOZICK, *supra* note 29, at 34–35.

54. PARFIT, *supra* note 20, at 21.

55. See, e.g., SHELLY KAGAN, *NORMATIVE ETHICS* (1998); DAVID KNOWLES, *THE EVOLUTION OF MEDIEVAL THOUGHT* (D.E. Luscombe & C.N.L. Brooke eds., 2d ed. 1988); ALASDAIR MACINTYRE, *WHOSE JUSTICE? WHICH RATIONALITY?* (1988); MARTHA C. NUSSBAUM, *THE FRAGILITY OF GOODNESS: LUCK AND ETHICS IN GREEK TRAGEDY AND PHILOSOPHY* (1986).

56. On universalizability, see KAGAN, *supra* note 55, at 256–71; R.M. Hare, *Universal Prescriptivism*, in *A COMPANION TO ETHICS* 451 (Peter Singer ed., 1991). The classic account is IMMANUEL KANT, *CRITIQUE OF PRACTICAL REASON* (Lewis White Beck ed., trans., 3d ed. 1993) [hereinafter

and Aristotle to the present day, ethicists have defined themselves by their answer to this question.<sup>57</sup> Even more significantly, those answers have frequently involved an appeal to rationality, or reason, in at least two different forms. First, many ethicists argue that the question about ultimate ends is not one that must be left to individual preference, but rather is one that can be answered through the use of reason. Reason, specifically value rationality, enables us, many ethicists argue, to evaluate our ultimate ends and make judgments about which are superior.<sup>58</sup> Second, a number of ethicists argue that reason in general is a unique and defining attribute of human beings, and that this attribute serves as a basis on which ultimate ends should be selected. An end that does not enable human beings to use and expand their reasoning powers, it is argued, is one that fails to reflect our true nature, or the true capacities.<sup>59</sup> Rational choice theory does not use reason in either of these senses. It simply does not address the question of the way that ultimate ends are to be selected or the substantive nature of those ends.

Bentham's utilitarianism,<sup>60</sup> which is historically seminal in the development of rational choice theory, embodies a strong and highly contestable ethical claim. Ignoring, for present purposes, all the complex questions about expected value utilitarianism, and rule or act utilitarianism,<sup>61</sup> the

KANT, CRITIQUE OF PRACTICAL REASON]; IMMANUEL KANT, GROUNDING FOR THE METAPHYSICS OF MORALS (James W. Ellington trans., 3d ed., Hackett Publ'g Co. 1993) (1785).

57. ARISTOTLE, *Nicomachean Ethics*, in 2 THE WORKS OF ARISTOTLE 335 (W.D. Ross trans., 1952) [hereinafter ARISTOTLE, *Nicomachean Ethics*]; PLATO, *Philebus*, in COMPLETE WORKS 398 (John M. Cooper ed., 1997); PLATO, *The Republic*, in COMPLETE WORKS, *supra*, at 971. For present day discussions, see ALAN DONAGAN, THE THEORY OF MORALITY (1977); JOHN FINNIS, NATURAL LAW AND NATURAL RIGHTS (1980); CHARLES FRIED, RIGHT AND WRONG (1978); J.L. MACKIE, ETHICS: INVENTING RIGHT AND WRONG (1977); THOMAS NAGEL, THE VIEW FROM NOWHERE (1986); PARFIT, *supra* note 20; SAMUEL SCHEFFLER, HUMAN MORALITY (1992); JUDITH JARVIS THOMSON, RIGHTS, RESTITUTION, AND RISK: ESSAYS IN MORAL THEORY (William Parent ed., 1986).

58. *E.g.*, ELSTER, *supra* note 4, at 15–22; ALAN GEWIRTH, REASON AND MORALITY (1978); KANT, CRITIQUE OF PRACTICAL REASON, *supra* note 56, at 3–59; SCHEFFLER, *supra* note 57, at 73–97; WEBER, PROTESTANT ETHIC, *supra* note 4, at 155–83. John Rawls uses the veil of ignorance to transform social contract theory from an account of the formation of society (whether actual or hypothetical) to a device for facilitating rational reflection about one branch of ethics. JOHN RAWLS, A THEORY OF JUSTICE (1971). To be sure, this is not a universal approach. Some ethicists recommend more intuitive, culture-based methods. See MARK JOHNSON, MORAL IMAGINATION: IMPLICATIONS OF COGNITIVE SCIENCE FOR ETHICS (1993); ALASDAIR MACINTYRE, AFTER VIRTUE (2d ed., Univ. Notre Dame Press 1984) (1981); BERNARD WILLIAMS, ETHICS AND THE LIMITS OF PHILOSOPHY (1985).

59. FINNIS, *supra* note 57, at 88–89; HABERMAS, *supra* note 4, at 8–43; KAGAN, *supra* note 55, at 280–94; PLATO, *Apology*, in COMPLETE WORKS, *supra* note 57, at 17; PLATO, *Gorgias*, in COMPLETE WORKS, *supra* note 57, at 791.

60. BENTHAM, *supra* note 8. See also JOHN STUART MILL, *Utilitarianism*, in THE ESSENTIAL WORKS OF JOHN STUART MILL 183 (Max Lerner ed., 1961).

61. For contemporary accounts of utilitarianism, see R.M. HARE, MORAL THINKING: ITS LEVELS, METHOD, AND POINT (1981); DAVID LYONS, FORMS AND LIMITS OF UTILITARIANISM (1965); DONALD REGAN, UTILITARIANISM AND CO-OPERATION (1980); PETER SINGER, PRACTICAL ETHICS (2d ed. 1993). For criticisms, see MACKIE, *supra* note 57, at 125–44; RAWLS, *supra* note 58, at 22–33, 183–92;

essential assertion is that the goal of human life is to achieve happiness, and that particular acts count as good to the extent that they achieve this goal for the members of the relevant group. This is not very different from Aristotle's assertion in the *Nicomachean Ethics*, which after all defined the entire subject, that human happiness is the measure of the good.<sup>62</sup> But it was precisely this ethical issue that Kenneth Arrow, Gerard Debreu, and others<sup>63</sup> tried to avoid in the shift from utility to preference.<sup>64</sup> According to their approach, which serves as the basis of rational choice theory, no judgments are made about whether people's goals maximize their own happiness, or happiness in general, and there is thus no standard for declaring that these goals are good or bad. Rather, their goals, now treated as a preference set, are taken as a given, and the only question is whether their actions are designed to achieve those goals in a subjectively optimal, or rational, manner. This essentially excludes rational choice theory from the realm of ethics.

A possible role for rational choice theory in the crucial discussion of ultimate ends has been suggested by several contemporary philosophers who argue that instrumental rationality, not value rationality, is relevant to this discussion. David Gauthier, for example, argues that it is instrumentally rational to adopt generally cooperative attitudes and ultimate ends, because doing so will produce a society that works to everyone's advantage.<sup>65</sup> David Schmidtz argues that altruism is instrumentally rational because it enables the actor to expand her own purposes and thus enrich her life.<sup>66</sup> Derek Parfit, considering the same issue, rejects this possibility because he argues that instrumental rationality alone cannot stop a given individual who recognizes the beneficial effects of general cooperation from defecting when the defection works to her own personal advantage.<sup>67</sup> Gauthier's and Schmidtz's approaches will be considered in greater detail below. For present purposes, it is only necessary to observe that rational choice theorists treat their own theory as one that would allow defection

SAMUEL SCHEFFLER, *THE REJECTION OF CONSEQUENTIALISM: A PHILOSOPHICAL INVESTIGATION OF THE CONSIDERATIONS UNDERLYING RIVAL MORAL CONCEPTIONS* (1982).

62. ARISTOTLE, *Nicomachean Ethics*, *supra* note 57, at 340–45 (Book I, 11095a–1100a).

63. *See supra* note 9 (citing sources).

64. The shift can be seen as a reflection, if not a causal result of, twentieth-century democratic theory, which declares that the best government policy is the one that reflects the citizens' desires. In Britain, because of the doctrine of parliamentary supremacy, this principle is largely unqualified. The United States, through its Constitution, places constraints on majority decision making, but the Constitution was adopted by a majoritarian process, and the citizens, albeit by a supermajority, can change it in any way they choose.

65. GAUTHIER, *supra* note 4, in particular pages 1–59.

66. SCHMIDTZ, *supra* note 4.

67. PARFIT, *supra* note 20, at 83–108. Thus, he argues, an independent moral position is required.

from any collective goal unless one factored in a separate moral constraint. Gauthier and Schmitz concede this point by presenting their theories as a discovery, that is, an implication of rational choice theory that other proponents of this position have failed to recognize.

## II. RAT CHOICE THEORY

### A. *The Nature of Rat Choice Theory*

The impact of rational choice theory was not limited to its claims about the prevalence of instrumental rationality, however. Part of its impact derives from the conflation of rational choice theory with a distinctly different theory, which is aptly described by the term rat choice. The reason why these two theories have been conflated is that both are necessary elements if one wants to advance a particular policy recommendation, one of the most striking and influential policy recommendations of the last few decades. That recommendation is that the market is the preferable mode of social organization across large areas of collective life. The argument in this section will be that those who favor this recommendation are committed to rat choice theory as well as rational choice theory. Because the two theories are quite separate, and, in many ways, unrelated, their combination is both philosophically and empirically suspect. It appears as if market enthusiasts are arguing backwards from a preferred conclusion to a set of more general, underlying premises that are connected only because they support the conclusion, and not because they have any intrinsic connection with each other or sufficient evidence to support them.

Rational choice, as stated above, is a theory of instrumental rationality that treats people's ends as pre-established and abjures any effort to provide insights into how those ends are, or should, be chosen. Rat choice is a theory about the ends that people choose; it thus addresses the ethically important question that has been central to the 2,500 year long philosophic tradition of Western society. Contrary to much of that tradition, however, which holds that ultimate ends can be selected through the use of reason, rat choice scholars argue that people are entirely self-interested in their choice of ends, that they are concerned exclusively about their own well-being, and that they will do whatever they can to further their well-being at the expense of others. In other words, they will act like the kind of person who is colloquially known as a rat.

A rat is someone who will betray his friends if it serves his own purposes, who is always on the lookout for his own personal advantage, and

who never acts on the basis of altruistic or aesthetic considerations.<sup>68</sup> It is probably worth noting here that the usage is of course a metaphor, not a reference to rats as rodents.<sup>69</sup> All animals are probably self-interested, although Jeffrey Masson and Susan McCarthy argue that many animals experience compassion, altruism, shame, and an appreciation of beauty.<sup>70</sup> They report that female rats show particularly strong maternal inclinations, crossing an electric grid to bring unrelated baby rats into their nests, and willingly adopting baby mice, rabbits, kittens, and bantam chicks.<sup>71</sup> When we call a person a rat, we are not trying to say something about actual rats, but using a conventional image of rats, well-established in popular culture,<sup>72</sup> to say something about the person, namely, that she is self-interested or self-regarding.<sup>73</sup>

Rat choice is thus quite distinct from rational choice because it is a theory about people's choice of ends, not their choice of means. The two theories are also distinct because they take different positions about the rationality of human action. According to rational choice theory, people are instrumentally rational, that is, they choose the subjectively optimal means to achieve their pre-established ends by using reason. According to rat choice theory, people's ends are uniformly self-interested, that is, people always act like rats. This means that they do not employ reason in assessing different ends and deciding which is best for them, all things considered. Because they invariably reach the same result, namely self-interest, whether they reflect or not, reflection and reason cannot be a factor, and those who have the subjective impression that they have reached their choice through reflection are deluding themselves, because they would have reached that same choice no matter what they did.

The point here is not that rational choice and rat choice are mutually inconsistent. They are not, because they address different issues; rational

68. They are thus different from, and rather nastier than, Hilary Putnam's pig-men, who are totally uninterested in anything spiritual or cultural. PUTNAM, *supra* note 4, at 171. Putnam says that such people could be "cooperative, pacific, and reasonably kind to one another." *Id.* Rat people do not evince these amiable traits. On the other hand, they might have cultural or even spiritual inclinations, but they would satisfy those inclinations in a self-interested fashion.

69. It is perhaps to avoid such possible confusions that Derek Parfit refers to the theory that people are exclusively self-interested by using the somewhat blander designation of "S." PARFIT, *supra* note 20, at 3-4.

70. JEFFREY MOUSSAIEFF MASSON & SUSAN MCCARTHY, *WHEN ELEPHANTS WEEP: THE EMOTIONAL LIVES OF ANIMALS* (1995).

71. *Id.* at 69, 75.

72. See E.B. WHITE, *CHARLOTTE'S WEB* (1952) (portrayal of Templeton); *AN AMERICAN TAIL* (Universal Pictures Nov. 21, 1986) (portrayal of Warren T. Rat).

73. See John R. Searle, *Metaphor*, in *METAPHOR AND THOUGHT* 83 (Andrew Ortony ed., 2d ed. 1993). As Searle says, the phrase "Richard is a gorilla" is intended as a statement about Richard, and really says nothing about gorillas. *Id.* at 92-93.

choice addresses people's selection of means and rat choice addresses people's selection of ends. What is notable, rather, is that these two theories take distinctly different positions on the issue that supposedly unites them, that is, the extent to which human beings rely on reason. Rational choice gives reason more prominence than other theories about people's choice of means, such as those that emphasize traditions, values, emotions, cognitive errors, or fatigue. Rat choice gives reason less prominence than other theories about people's choice of ends, such as those that recommend philosophical reflection, education, or life experience.

Like rational choice, rat choice is empirically incorrect as a universal theory of human behavior. The rat choice assumption that people always act self-interestedly in choosing ends is simply not borne out by observation. Altruistic behavior is quite common, readily observed, and often impossible to explain on grounds of the basis of self-interest, no matter how convoluted the attempt.<sup>74</sup> Malicious behavior is equally common.<sup>75</sup> People vote in general elections, even if they live in very "red" states like Idaho or very "blue" states like New York, and have no chance of affecting the outcome with their individual votes.<sup>76</sup> Although public choice theory, the ap-

74. Altruism can be defined as action motivated by a concern for the well-being of others. See LAWRENCE A. BLUM, *FRIENDSHIP, ALTRUISM AND MORALITY* (Ted Honderich ed., 1980); FRANK, *supra* note 35, at 20–42; ALFIE KOHN, *THE BRIGHTER SIDE OF HUMAN NATURE: ALTRUISM AND EMPATHY IN EVERYDAY LIFE* (1990); *BEYOND SELF-INTEREST* 133 (Jane J. Mansbridge ed., 1990); THOMAS NAGEL, *THE POSSIBILITY OF ALTRUISM* (1970); JAMES R. OZINGA, *ALTRUISM* (1999); STEPHEN G. POST, *UNLIMITED LOVE: ALTRUISM, COMPASSION, AND SERVICE* (2003). For specific case studies of altruistic behavior, see JONATHAN KOZOL, *AMAZING GRACE: THE LIVES OF CHILDREN AND THE CONSCIENCE OF A NATION* (1995); SAMUEL P. OLINER & PEARL M. OLINER, *THE ALTRUISTIC PERSONALITY: RESCUERS OF JEWS IN NAZI EUROPE* (1988); LORETTA SCHWARTZ-NOBEL, *GROWING UP EMPTY: THE HUNGER EPIDEMIC IN AMERICA* (2002); RICHARD M. TITMUS, *THE GIFT RELATIONSHIP: FROM HUMAN BLOOD TO SOCIAL POLICY* (1971).

75. AINSLIE, *supra* note 35, at 183–86; FRANK, *supra* note 35, at 1–4; WALSH, *supra* note 4, at 131–33. Kant defines envy as action unmotivated by self-interest. IMMANUEL KANT, *THE METAPHYSICS OF MORALS* pt. II, § 36, at 206 (Mary Gregor trans., 1996) ("Envy . . . is a propensity to view the well-being of others with distress, even though it does not detract from one's own."). More precisely, the test for envy would be whether a person would be willing to give up a small amount of money to deprive a rival or enemy of a larger one. It would be difficult to maintain that this inclination is nonexistent. Elster describes this as strong envy, as opposed to weak envy, where the person wishes misfortune on his rival only if it occurs at no cost to himself. He argues that neither form can be "sanitized" by economic or rational actor explanations, ELSTER, *supra* note 35, at 175–82, and strong envy certainly eludes such explanations. Mathematical formulations for fair division assume that an optimal result is one that is envy-free. See JACK ROBERTSON & WILLIAM WEBB, *CAKE-CUTTING ALGORITHMS: BE FAIR IF YOU CAN* (1998). Rawls concedes that envy would be an issue in determining the justice of his difference principle. RAWLS, *supra* note 58, at 530–41.

76. John H. Aldrich, *Rational Choice and Turnout*, 37 *AM. J. POL. SCI.* 246 (1993); A. Bruce Cyr, *The Calculus of Voting Reconsidered*, 39 *PUB. OPINION Q.* 19 (1975); GREEN & SHAPIRO, *supra* note 31, at 47–71. As Green and Shapiro point out, the efforts by rational choice scholars to explain this problem away are so convoluted or unrealistic that they virtually concede the issue. See, e.g., John A. Ferejohn & Morris P. Fiorina, *The Paradox of Not Voting: A Decision Theoretic Analysis*, 68 *AM. POL. SCI. REV.* 525 (1974) (speculating that people vote to avoid the potential regret they will experience if the candidate who favors their interests turns out to have lost by one vote); William H. Riker & Peter C.

plication of rational choice to politics, predicts that legislators will be motivated solely by the desire to be re-elected or obtain some other career advantage, virtually every political scientist who has studied legislators has concluded that they possess many other motivations, including the desire to advance an ideology, to be respected by their colleagues, and to do a good job.<sup>77</sup> Although collective choice theory, the application of rational choice to group decision making, predicts that people will not contribute time or money to general causes that reflect their interests, but will prefer to free ride on the efforts of others,<sup>78</sup> virtually every social scientist who has studied these movements has concluded that many are able to obtain extensive contributions from their supporters.<sup>79</sup>

Even more striking, some social movements are not only able to overcome the free rider problem but have no plausible connection to self-interest at all. The international human rights movement, the anti-abortion movement, the animal rights movement, the environmental protection movement, and the consumer movement all mobilize extensive support from people who have no direct stake in the issue, but only an abstract or ideological commitment.<sup>80</sup> Consider, for example, people's desire that the

Ordeshook, *A Theory of the Calculus of Voting*, 62 AM. POL. SCI. REV. 25 (1968) (listing rewards for voting that are both highly speculative and clearly verbal efforts to put non-self-interested motivations in self-interested-sounding terminology).

77. JAMES DAVID BARBER, *THE LAWMAKERS: RECRUITMENT AND ADAPTATION TO LEGISLATIVE LIFE* (1965); RICHARD F. FENNO, JR., *CONGRESSMEN IN COMMITTEES* (1973); STEVEN S. SMITH & CHRISTOPHER J. DEERING, *COMMITTEES IN CONGRESS* (1984); WILLIAM K. MUIR, JR., *LEGISLATURE: CALIFORNIA'S SCHOOL FOR POLITICS* (1982); JOHN W. KINGDON, *CONGRESSMEN'S VOTING DECISIONS* (1973); ARTHUR MAASS, *CONGRESS AND THE COMMON GOOD* (1983).

78. OLSON, *supra* note 6.

79. See BARRY D. ADAM, *THE RISE OF A GAY AND LESBIAN MOVEMENT* (1987); JANE CAMPBELL & MIKE OLIVER, *DISABILITY POLITICS: UNDERSTANDING OUR PAST, CHANGING OUR FUTURE* (1996); DENNIS CHONG, *COLLECTIVE ACTION AND THE CIVIL RIGHTS MOVEMENT* (1991); SARA EVANS, *PERSONAL POLITICS: THE ROOTS OF WOMEN'S LIBERATION IN THE CIVIL RIGHTS MOVEMENT AND THE NEW LEFT* (Vintage Books 1980) (1979); J. CRAIG JENKINS, *THE POLITICS OF INSURGENCY: THE FARM WORKER MOVEMENT IN THE 1960S* (1985); ETHEL KLEIN, *GENDER POLITICS: FROM CONSCIOUSNESS TO MASS POLITICS* (1984); DOUG MCADAM, *POLITICAL PROCESS AND THE DEVELOPMENT OF BLACK INSURGENCY 1930-1970* (1982); FRANCES FOX PIVEN & RICHARD A. CLOWARD, *POOR PEOPLE'S MOVEMENTS: WHY THEY SUCCEED, HOW THEY FAIL* (Vintage Books 1979) (1977); EDWARD J. WALSH, *DEMOCRACY IN THE SHADOWS: CITIZEN MOBILIZATION IN THE WAKE OF THE ACCIDENT AT THREE MILE ISLAND* (1988).

80. See HAROLD D. GUTHER, *ANIMAL RIGHTS: HISTORY AND SCOPE OF A RADICAL SOCIAL MOVEMENT* (1998); WARREN LEE HOLLEMAN, *THE HUMAN RIGHTS MOVEMENT: WESTERN VALUES AND THEOLOGICAL PERSPECTIVES* (1987); JAMES M. JASPER & DOROTHY NELKIN, *THE ANIMAL RIGHTS CRUSADE: THE GROWTH OF A MORAL PROTEST* (1992); PHILIP LOWE & JANE GOYDER, *ENVIRONMENTAL GROUPS IN POLITICS* (1983); KRISTIN LUKER, *ABORTION AND THE POLITICS OF MOTHERHOOD* (1984); ROBERT N. MAYER, *THE CONSUMER MOVEMENT: GUARDIANS OF THE MARKETPLACE* (1989) (showing that most members of the movement were educated consumers who did not need its protections for themselves); DAVID S. MEYER, *A WINTER OF DISCONTENT: THE NUCLEAR FREEZE AND AMERICAN POLITICS* (1990); GARETH PORTER & JANET WELSH BROWN, *GLOBAL ENVIRONMENTAL POLITICS* (1991); THOMAS R. ROCHON, *MOBILIZING FOR PEACE: THE ANTINUCLEAR MOVEMENTS IN WESTERN EUROPE* (1988).

baleen whales be saved from extinction.<sup>81</sup> People who contribute money and time to this endeavor are not doing so because they want to eat whale meat once the whale population rebounds. Rather, they are motivated by empathy for another living thing or desire to achieve a general state of the world. In addition, many social movements that benefit a specified group of people have participants who are members of the target group. There are many whites in civil rights movements, and many of those who favor redistribution of income are not potential beneficiaries, but potential contributors.

Rat choice cannot be rescued, as an empirical account, by arguing that people benefit from having conditions that they prefer come into effect, because that simply restates the phenomenological reality of human beings—that they are conscious entities with desires that can stimulate action. If one defines all actions designed to produce a state of the world that the actor prefers as self-interested, then all human action fits that description. But within the general area of human action, we could still distinguish between action that is designed to produce direct benefits to the individual and those designed to benefit others or to produce a general state of the world that the individual prefers. We would then need to call the first type of action something else, such as narrow self-interest, and the second general self-interest, and nothing would have been achieved except verbal confusion.

The juxtaposition of rat choice theory and rational choice theory raises further questions about the empirical support for each theory. As stated above, there is no logical inconsistency between the insignificant role that human reason plays in rat choice theory and the very prominent role that it plays in rational choice. But surely there is some sort of empirical inconsistency involved. Rational choice treats reason as a very powerful and readily deployed capacity. Confronted with a claim that she should act in a particular way because “we’ve always acted in this manner,” a person, according to rational choice theory, will engage in critical reflection. She might then conclude that the traditional mode of action will not optimize her ability to achieve her goals, and that she should not follow it, or she might conclude that it will, perhaps because it is the most effective strategy after all, perhaps because violating the tradition will impose costs on her that exceed the benefit she would obtain by adopting a more effective, nontraditional approach. But if a person can use reason in such an effective, sophisticated,

81. PATTI H. CLAYTON, *CONNECTION ON THE ICE: ENVIRONMENTAL ETHICS IN THEORY AND PRACTICE* (1998); ROBERT HUNTER, *WARRIORS OF THE RAINBOW: A CHRONICLE OF THE GREENPEACE MOVEMENT* (1979).

and consistent fashion to evaluate her means, why should she not employ this same capacity to evaluate her ends? Why does she not then ask, contrary to rat choice theory, “What is the real value of these ends that I am trying to achieve by using reason? Do I really want to advance my self-interest? Wouldn’t it be better to sacrifice my interests and help others? What exactly do I mean by ‘better’ in this context, anyway? On what basis should I decide?”

There is, perhaps, some intuitive sense that these are two rather different uses of the capacity for reasoning or even different meanings of the word “reason.” The rational choice reasoning seems to be derived from a model of human beings as action-oriented, hard-headed, practical types, while anti-rat choice reasoning seems to be derived from a model of human beings as reflective, somewhat dreamy, filled with self-doubts and uncertainties. But the intuition may be based on observing different types of people, rather than a universal insight about the behavior of all human beings. Without a more robust account of reason than either rational choice or rat choice offers, it is difficult to say. Suppose paleontologists unearth the bones of some previously undiscovered prehistoric amphibian, and conclude, from the configuration of the bones, that this thing had the capacity to run really fast. How much evidence would we demand before we were comfortable with the further conclusion that this creature used this capacity only to run away from things it was afraid of, and never ran toward things it wanted to eat? Would it be sufficient if the paleontologists discovered, from further morphological evidence, that the creature hunted by stealth? Perhaps it snuck up on its prey most of the time, but would this really convince us that it never used its running capacity to hunt? And how much further evidence would we demand before accepting the additional conclusion that it always ran away from threats, and never snuck away?

### B. *The Motivation for Rat Choice Theory*

The reasons why rational choice theory has been so influential, despite its empirical inaccuracy, were described above.<sup>82</sup> But why has rat choice been so influential, and why has it been so readily combined with the rather different theory of rational choice? Unlike rational choice, rat choice is not ethically irrelevant, but rather states a definitive and important position about the goals of human behavior that challenges more aspirational and flattering accounts. Given its empirical inaccuracy, and the apparently unattractive picture of human beings that it creates, it seems surprising that this

82. See *supra* notes 38–67 and accompanying text.

position would be such a formidable contestant in the ongoing debate about goal formation. The answer seems to lie in its relationship to a body of policy recommendations that favor market mechanisms and that oppose government regulation of business, redistribution of income, and social welfare programs. Markets, it is generally agreed, provide a means by which people can satisfy their preferences for goods and services in a most efficient manner.<sup>83</sup> Those preferences are regarded as pre-established and not subject to any normative evaluation. Some people like caviar, brie cheese, and champagne while other people like spinach and broccoli. A competitive market will provide each product at the lowest possible price, that is, at its cost, including the cost of capital. It will “refuse” to satisfy someone’s preferences only if the people who want that product are unwilling to pay the minimum price at which the product can be produced. Thus, it can be said that a market is the most efficient way of satisfying individual preferences for goods and services.

There are, however, a number of well-recognized difficulties with markets, despite their efficiency in delivering goods and services. To begin with, it is well recognized that markets fail in various ways, due to monopolization, externalities, and information asymmetries.<sup>84</sup> When these conditions occur, the market will not achieve efficiency—the monopolist will underproduce its product, the factory will impose costs on its neighbors, and the merchant will exploit the consumer. How often such failures occur is an empirical question and a matter of disagreement. Some observers believe the market is rife with failures, while others maintain that competitive pressure will clear the market of most failures.

A second problem is that there are only certain goals that a market can fulfill. Even perfect markets cannot provide what economists describe as public goods, that is, goods whose benefits cannot be restricted to the delimited group of people who are willing to pay for them.<sup>85</sup> The classic public good is national defense; a country must protect itself at its borders and cannot expose nonpaying citizens to foreign attack while keeping the paying citizens safe. Clean air, clean rivers, civil order, the survival of the baleen whales, the preservation of the wilderness, and information about the origins of the universe are all public goods as well. To the extent that these constitute goals that people want to fulfill, the market simply cannot serve the purpose.

83. PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, *ECONOMICS* 157–61, 291–92 (17th ed. 2001).

84. See ROBERT COOTER & THOMAS ULEN, *LAW AND ECONOMICS* 45–49 (1988); ROBERT S. PINDYCK & DANIEL L. RUBINFELD, *MICROECONOMICS* 294–95, 591–93 (5th ed. 2001).

85. COOTER & ULEN, *supra* note 84, at 108–16.

Third, the market distributes its benefits with stunning unevenness. Some people become extremely rich, while others, with less marketable skills, get very little.<sup>86</sup> A significant group of people will get nothing at all. In the present day United States, for example, which is very far from having an unregulated market, the people in the top quintile of the income distribution receive 50.1% of the national income, while those in the bottom quintile receive 3.5%.<sup>87</sup> There are also a group of other social goals that can be regarded as subsidiary to income distribution, such as adequate nourishment, health care, housing, and education for all members of the society. These are services that can, of course, be provided by the market to those with sufficient resources. But some people believe that every one should have a certain level of nourishment or health care,<sup>88</sup> and markets do not necessarily provide this, just as they do not ensure that everyone has a car or a flat screen TV. This goal can only be achieved through some form of income distribution, either by giving people the money they need to obtain these benefits or by subsidizing the benefits themselves.

The correction of market failure, the provision of public goods, and the alleviation of inequality through income distribution or direct services all require government intervention, at least in the context of the modern world.<sup>89</sup> As a result, an observer's support for, or opposition to, government intervention will often depend on the severity of the problems that the market creates. Someone who believes that the market fails regularly, that there are many desirable public goods, and that income should be redistributed will tend to favor government intervention, while someone who views these problems as less serious will oppose government intervention and favor a relatively unregulated market. This is not a minor matter; disagreements about the proper level of government intervention in the market can be described, with some accuracy, as the most controversial issue in Western society over the course of the last two centuries.

86. For a classic statement, see FRIEDRICH ENGELS, *THE CONDITION OF THE WORKING CLASS IN ENGLAND* (David McLellan ed., Oxford Univ. Press 1993) (1993). See also JOHN ARTHUR & WILLIAM H. SHAW, *JUSTICE AND ECONOMIC DISTRIBUTION* (2d ed. 1991); DEREK L. PHILLIPS, *TOWARD A JUST SOCIAL ORDER* (1986).

87. U.S. Census Bureau, Housing and Household Economic Statistics Division, *Current Population Survey, Annual Demographic Supplements*, available at <http://www.census.gov/hhes/income/histinc/ie1.html> (last visited on May 18, 2005) (for year 2001). These figures have become steadily more extreme during the course of the past several decades. In 1980, at the beginning of the Reagan administration, the comparable figures were 43.7% for the top and 4.3% for the bottom. *Id.* At that time, the top 5% of the distribution received 15.8% of the income; now, it receives 22.4%. *Id.* at <http://www.census.gov/hhes/income/histinc/ie3.html>.

88. See, e.g., PHILLIPS, *supra* note 86; RAWLS, *supra* note 58; HENRY SHUE, *BASIC RIGHTS: SUBSISTENCE, AFFLUENCE, AND U.S. FOREIGN POLICY* (2d ed. 1980); SINGER, *supra* note 61.

89. NEIL K. KOMESAR, *IMPERFECT ALTERNATIVES: CHOOSING INSTITUTIONS IN LAW, ECONOMICS, AND PUBLIC POLICY* 98–122 (1994); PINDYCK & RUBINFELD, *supra* note 84, at 625–38.

Rational choice theory and rat choice theory speak directly to this controversy. Taken together, these two theories present the best case for minimizing government regulation of the market. According to rational choice, people will seek the optimal means to satisfy their preferences. Consequently, they will be effective market actors. Market failures will tend to be rare because consumers will seek substitutes for monopolized products and hasten to patronize any vendor who contests the monopoly; those subject to externalities will organize to transfer them whenever transaction costs of organizing are lower than the benefit to be received; and buyers will seek information to overcome information asymmetries. According to rat choice theory, people's preferences are determined by self-interest, which means that they are primarily concerned with maximizing their material well-being. Consequently, they will seek a minimum of public goods, such as the survival of the baleen whales, and prefer the kinds of goods that can be provided by the market. According to rational choice and rat choice combined, people have self-interested goals which they then implement effectively, so they neither want to redistribute money to others, nor feel that they themselves are likely recipients of such redistributive programs. Thus, rational choice theory and rat choice theory, when combined, provide a comprehensive argument for an unregulated market, an argument grounded in a theory of human behavior and human choices.

Those who oppose the free market ideology of rational choice and rat choice must necessarily embrace government regulation, as administrative governance is the only means of regulating markets that is available in the contemporary state. The question of market regulation, therefore, does not turn exclusively on the desirability of markets, but also on the capacity of government to regulate them in an effective manner.<sup>90</sup> Here, rational choice and rat choice combine to provide a perfectly complementary set of attitudes in opposition to government regulation. According to rational choice theory, government officials will strive to achieve their goals in the most effective manner; according to rat choice, those goals will be exclusively self-interested. Thus, these officials will never act to counter market failure and increase the public good, but will only strive to increase their job security, salary, or range of discretion, and they will do so effectively.<sup>91</sup> The

90. See KOMESAR, *supra* note 89.

91. This application of rational and rat choice theories to public officials is called public choice. See generally DANIEL A. FARBER & PHILIP P. FRICKEY, *LAW AND PUBLIC CHOICE: A CRITICAL INTRODUCTION* (1991); DENNIS C. MUELLER, *PUBLIC CHOICE II* (rev. ed. 1989). For specific studies adopting this methodology, see JOHN A. FERREJOHN, *PORK BARREL POLITICS* (1974); MORRIS P. FIORINA, *REPRESENTATIVES, ROLL CALLS, AND CONSTITUENCIES* (1974); DAVID R. MAYHEW, *CONGRESS: THE ELECTORAL CONNECTION* (1974).

result is that the very same attitudes that render markets efficient in meeting people's needs render government inefficient in correcting any failures that those markets might display. Rational choice and rat choice theory thus provide the market with a second line of defense; they suggest that the minor disease of market failure is preferable to the debilitating cure of regulation.

This argument may seem unfair in that it appears to ascribe insincere motive to serious scholars. It seems to assert that scholars who simultaneously subscribe to rational choice theory, which argues that people are instrumentally rational, and rat choice theory, which argues that people's value choices are self-interested, or rat-like, are not doing so because they believe that people truly behave in this manner, but only because they want to validate the market as a mode of social organization. In fact, several arguments can be advanced to support this assertion. The first, already discussed above, is that both rational choice and rat choice are empirically incorrect. Any reductionist account of human motivation, such as behaviorism, functionalism, or sociobiology, must contend with the tremendous variety of human behavior and the intense sense of consciousness and choice that each individual human experiences. Rational choice and rat choice clearly explain a certain amount of behavior quite convincingly, but their claim to universality runs up against obvious counterexamples, as well as our intuitive sense of ourselves. The convoluted efforts that devotees of these approaches have attempted to explain away these contradictions indicate the weakness of rational choice-rat choice as a universal theory of human behavior.

A second indication that rational choice and rat choice are artifacts, or results, of their proponents' policy preference for unregulated markets, rather than independent conclusions, is internal to the argument. According to rat choice, people are motivated entirely by self-interest, not by the desire to find meaning or discover truth. According to rational choice, people will find the optimal means to achieve their pre-established interests. Taken together, these views represent a rejection of the scholar's role as a disinterested investigator, and a claim that scholars, like everyone else, are simply trying to advance their own interests as effectively as possible. Thus according to their own theories, rational choice-rat choice scholars are using those theories as a way of advancing their individual self-interest. This may mean only that they will say whatever will enable them to get tenure or subsequent salary raises within the university, but it may also mean that they will favor unregulated markets because that position enables them to

obtain private consulting fees, obtain grants, or advance the interest of their own social class.

Admittedly, the foregoing argument is something of a debater's point. After all, most other scholars would reject the idea that scholars are not sincerely searching for right answers, and even rational choice-rat choice scholars do not explicitly advance it. There is, however, an inclination to suspect that people who have a truly cynical interpretation of human beings may themselves be more cynical, that they are either partially convinced by their own arguments, or that they are generalizing from their own case. More significantly, the notion that scholarship can be understood as the product of underlying attitudes, and is designed for purposes other than a disinterested search for truth, is hardly unfamiliar. Marxians would argue that scholarship, like everything else, is an instrumentality of class conflict,<sup>92</sup> and post-Marxian scholars have focused specifically on ideology, including scholarship, as a means of maintaining economic inequality.<sup>93</sup> Foucault, who may or may not count as a post-Marxian, has offered some particularly insightful accounts of knowledge as a means of maintaining the impersonal but all-pervasive power structure of society.<sup>94</sup> In a somewhat different but related vein, George Lakoff argues that political attitudes are pre-analytic cognitive constructs that comprehensively determine our judgments;<sup>95</sup> while he does not specifically discuss scholarship, it readily fits into his general theory. It will be noticed that these Marxian, post-Marxian, and conceptual explanations of scholarly positions would apply to all positions and not exclusively to rational choice and rat choice. This does not pose a problem for the present analysis. The point is not to prove that rational choice and rat choice are wrong, but merely to explain their origin and connection to each other. The origin or validity of other views is simply not part of this particular discussion.

92. See ANTONIO GRAMSCI, *SELECTIONS FROM THE PRISON NOTEBOOKS* 3–43 (Quintin Hoare & Geoffrey Nowell Smith eds., trans., 1971).

93. See MAX HORKHEIMER & THEODOR W. ADORNO, *DIALECTIC OF ENLIGHTENMENT* (John Cumming trans., 1972); HERBERT MARCUSE, *ONE-DIMENSIONAL MAN: STUDIES IN THE IDEOLOGY OF ADVANCED INDUSTRIAL SOCIETY* (1964).

94. MICHEL FOUCAULT, *THE BIRTH OF THE CLINIC: AN ARCHAEOLOGY OF MEDICAL PERCEPTION* (A.M. Sheridan Smith trans., Tavistock Publ'ns, Ltd. 1973) (1963); MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (Alan Sheridan trans., 1979); MICHEL FOUCAULT, *POWER/KNOWLEDGE* (Colin Gordon ed., Colin Gordon et al. trans., 1980). For a helpful discussion, see HUBERT L. DREYFUS & PAUL RABINOW, *MICHEL FOUCAULT: BEYOND STRUCTURALISM AND HERMENEUTICS* 184–204 (2d ed. 1983).

95. GEORGE LAKOFF, *MORAL POLITICS: HOW LIBERALS AND CONSERVATIVES THINK* (2d ed. 2002). Lakoff argues that liberals subscribe to a conceptual construct or worldview that he calls Nurturant Parent, while conservatives' worldview can be described as Strict Father. For the underlying theory of conceptual constructs, see GEORGE LAKOFF, *WOMEN, FIRE, AND DANGEROUS THINGS: WHAT CATEGORIES REVEAL ABOUT THE MIND* (1987).

There is still another indication that rational choice and rat choice are driven by a preference for markets, one that has the advantage of exempting these scholars from any implication of insincerity. Markets are a dominant feature of the modern world; their existence indicates the existence of a set of underlying attitudes that would support it as a mechanism of economic and social organization. How are we, after all, to decide what motivates people, if not by studying their behavior at the individual level and the institutional structures they create at the collective level? Of course, the prevalence of markets in contemporary Western society will not support the universal claims of rational choice or rat choice. Those claims must depend on the existence of market-oriented attitudes in prior times, and the absence of markets in those times must be explained by the existence of various external constraints. Such claims are empirically implausible, perhaps as implausible as the claims that all human behavior can be derived from a single, relatively narrow set of attitudes. Their implausibility, however, does not detract from the role of rational choice and rat choice as a theory of contemporary sensibilities.

### III. RATIONALITY, THE MARKET, AND HUMAN BEHAVIOR

Regulation of the economic system, whether by governmental, religious, traditional, or private actors, has been common throughout most of history. A relatively unconstrained system of production and distribution—a free market—is a distinctive feature of modern Western society.<sup>96</sup> In order for such a system to develop, people must think and act in particular ways, and there is every reason to think that these modes of thought and action are as distinctive as the system they support. Rational and rat choice theorists, in their efforts to claim that market behavior is universal, have often focused on the constraints that societies impose on economic action, treating such constraints as distinctive disruptions of underlying, naturally occurring human attitudes. In fact, it is the development of the free market that requires explanation.

To appreciate the distinctiveness of a market economy, it is useful to compare it to its historical predecessor. During the Middle Ages, many trades were organized into guilds. A guild was an association of people doing work that had been socially constructed as a field, such as shoemak-

96. For a description of its development, see the three-volume work FERNAND BRAUDEL, *CIVILIZATION AND CAPITALISM, 15th–18th Century* (Siân Reynolds trans., Univ. Cal. Press 1992) (1979).

ing, old-clothes mending, or wine selling.<sup>97</sup> Guilds regulated the price and quality of the items produced or services rendered, determined the hours that both masters and apprentices could work, carried out inspections to enforce these rules, prohibited many forms of competition among members, restricted entry into their field, and provided for sick or destitute guild members.<sup>98</sup>

While the innumerable restrictions on the shoemaking trade that they enacted and enforced could be viewed as artificial restrictions on their members' natural desire to maximize their profits, there was actually nothing particularly artificial about guilds. They were a special case of the confraternities that flourished throughout medieval society and that included purely social or religious organizations in addition to economic ones.<sup>99</sup> In the stratified society of the medieval period, artisans in a particular locality would naturally tend to socialize with one another, and those in a particular craft would have most in common with other members of that craft. Given the relatively small scale of a medieval city or county, all the shoemakers in the locality would know each other, probably quite well. Their mutual agreement to divide the available shoemaking business among themselves, so that each was guaranteed at least a minimally decent livelihood seems a perfectly natural response to their situation. It seems equally natural to collect some common fund to support a member who became incapacitated—a common occurrence that all might fear in the sickly Middle Ages. Limits on hours worked, on the amount produced, and on access by potential entrants all follow from this same desire to secure a stable income and maintain amicable relationships. The rules designed to maintain the quality of all the shoes produced were motivated by these same inclinations, not only because they limited competition, but also because they kept the shoemakers, as a group, in good standing within the general community.

This account of a medieval guild can be translated into the terms discussed above. They probably were not trying to maximize their profits at all, nor were they entirely self-interested. Rather, they thought about the different goals that they might strive to achieve and chose among them on the basis of reflection. One goal was certainly the desire to earn a liveli-

97. Old-clothes mending was a different trade from new clothes manufacture, an indication of the socially constructed nature of the categories. See JOSEPH & FRANCES GIES, *LIFE IN A MEDIEVAL CITY* 89–90 (1969).

98. See generally HOWARD L. ADELSON, *MEDIEVAL COMMERCE* (Louis L. Snyder ed., 1962); STEVEN A. EPSTEIN, *WAGE LABOR & GUILDS IN MEDIEVAL EUROPE* (1991); HEATHER SWANSON, *MEDIEVAL ARTISANS: AN URBAN CLASS IN LATE MEDIEVAL ENGLAND* (1989).

99. 2 *A HISTORY OF PRIVATE LIFE: REVELATIONS OF THE MEDIEVAL WORLD* 577–78 (Georges Duby ed., Arthur Goldhammer trans., 1988).

hood, but they apparently wanted to ensure that they had leisure time and pleasant working conditions. Their willingness to divide the amount of business among the guild members, and to contribute to the support of disabled members, was partially motivated by self-interest, but may also have been motivated by genuine concern and friendship for the fellow members of their confraternity. They also seemed to find aesthetic satisfaction in making a good shoe, and in the fact that their guild, as a group, made good shoes and had a reputation for doing so in the community. In addition, they probably had genuine religious convictions and regarded the basic rules of the guild—its division of the business among members, its concern for quality, and its care for disabled members—as a morally required approach to their trade. Given these goals, the rules of the guild were, in large measure, instrumentally rational. There were, undoubtedly, some less than optimal rules; the number of restrictions on the way products like shoes could be made seems obsessive, and the treatment of apprentices was often closer to fraternity hazing than to genuine training and socialization. Moreover, individual guild members were undoubtedly lazy, superstitious, dysfunctionally vindictive, and otherwise irrational in achieving their goals. But the presence of cooperative or religious goals cannot be taken to indicate a lack of instrumental rationality.

Consider now the situation in a modern city, with, to be realistic, a number of shoe repair stores rather than shoemakers. Instead of mutual cooperation, there is competition; instead of values rationality, the store owners are motivated by self-interest, in particular, the desire to maximize their profits. One store owner is more effective than the others, perhaps because he is smarter, or more creative, or works harder. With his new technique of shoe repair, his business gradually expands at the expense of the other shoe repair stores. Seeing them becoming less successful, he goes to the bank, obtains a loan, and opens up additional stores, taking further business away from the other stores. Ultimately, these other stores go bankrupt, and their owners must either leave town and seek work elsewhere, or leave the trade they have been trained for and which they have been doing all their adult lives. If the economy is doing badly, some of them may not be able to obtain other employment and may wind up destitute or on welfare.

The natural thing for these unsuccessful shoe repair store owners to do, if historical experience can be taken as a test of what is natural, is to kill the person who has destroyed their livelihood. Competitive practices that led to the economic ruination can be reasonably regarded as highly aggressive behavior that merits retaliation. At present, of course, we recognize

them as the features of a market, but this mundane label, which had an entirely different meaning in the Middle Ages, hardly explains people's willingness to accept a situation that is inherently fraught with conflict. Of course, the economic suppression of some people by others is hardly unique to Western society. In most other societies, however, economic advantage largely corresponds to status, and status is secured by force. The person who makes you poor, or keeps you poor, in premodern society, appears in all the grandeur and regalia of an aristocrat, a noble, a lord of the realm. Behind him stands the armed might of the political entity, which is specifically organized to protect the privileges of the elite. In modern society, the person who makes you poor is the owner of a shoe repair store.

People's willingness to tolerate the inequities and contentiousness of the market depends on several factors that are characteristic of Western society. Two of these are civil order and internalized attitudes. Government authority is sufficiently robust and comprehensive to maintain civil order, not just on behalf of the elite, but for all members of society. In addition, aggressive competition is seen as appropriate behavior, so that those who lose out as a result of it, however much regret or anger they may feel, do not believe that they have been wronged or that they are justified in retaliating.<sup>100</sup> Both these elements are necessary. Internalized attitudes are not sufficient to maintain civil order without an effective government; on the other hand, a government, no matter how effective, would have difficulty maintaining civil order without these underlying attitudes.

There is another sense in which internalized attitudes are necessary for the existence of a free, competitive market. These attitudes not only enable people to accept the rigors of competition without resorting to violence, but they also generate the behaviors necessary to initiate competition in the first place. Again, one must be wary of assumptions about natural modes of human action. Of course, many people want to obtain material benefits for themselves in a wide variety of situations and will often break social rules to do so; very few societies, for example, are free from theft. But competitive behavior is much more specific than the general desire to benefit oneself. It is a particular orientation toward one's work life that lies beyond the conceptual horizon of people in many other societies. To establish a functioning market, such behavior must be generated, validated, and internalized.

For society as a whole, the benefit of internalized attitudes that accept aggressive competition as a valid behavioral norm are apparent. Medieval

100. On the amorality of the market, see GAUTHIER, *supra* note 4, at 83–112.

guilds may have exhibited many very pleasant, communitarian features and can serve as objects of social nostalgia, but they were stultifying institutions. As a result of their regulations, many people in the Middle Ages went without shoes or failed to get the kinds of shoes they wanted; innovation was squelched and individual initiative was rendered worthless; opportunities to enter the shoe making business were limited to relatives or friends of the guild members. By unleashing the forces of a free, competitive market, Western society was able to achieve a level of technological progress and material well-being that lay beyond even the fantasies of its predecessors.

We have become so accustomed to this idea that we have become inured to the astonishing disjunction that lies at its core, namely, that the public good will be increased if people act on the basis of private, selfish motives. Throughout history, it was assumed that an ideal regime could be generated by the aggregation of ideal behavior by individuals. The sense of ironic tension in the opposite idea is vivid in the writings of the eighteenth-century thinkers such as Bernard Mandeville and Adam Smith who first articulated it.<sup>101</sup> Smith, although often regarded as the world's first real economist, was primarily a moralist, as his other major work, *The Theory of Moral Sentiments*, suggests.<sup>102</sup> Like Mandeville, his main point in *The Wealth of Nations* was the remarkable observation that collective good could be produced by the self-interested behavior of individuals.

The preference for markets that drives rational choice and rat choice theories, therefore, is something more than a partisan position in the current political debate about government intervention. It is an account of an important and distinctive aspect of Western society, one that is largely responsible for the West's extraordinary progress and its current worldwide dominance. The combination of a rat choice approach to values or ends, and a rational choice approach to the means by which those ends can be

101. 1 BERNARD MANDEVILLE, *THE FABLE OF THE BEES, OR PRIVATE VICES, PUBLIC BENEFITS* (1988); ADAM SMITH, *THE WEALTH OF NATIONS* (Everyman's Library 1977) (1776). Before the hive's conversion to virtue, Mandeville wrote:

Thus every Part was full of Vice,  
Yet the whole Mass a Paradise;  
Flatter'd in Peace, and fear'd in Wars,  
They were th'Esteem of Foreigners,  
And lavish of their Wealth and Lives,  
The Balance of all other Hives.  
Such were the Blessings of that State;  
Their Crimes conspir'd to make them Great:

MANDEVILLE, *supra*, verse 9, at 24. Mandeville's argument, it should be noted, is not based on the efficiency of market competition but on the necessity of selfish appetites to a flourishing economy.

102. ADAM SMITH, *THE THEORY OF MORAL SENTIMENTS* (Knud Haakonssen ed., Cambridge Univ. Press 2002) (1759).

achieved produces this competitive, dynamic ethos. Rational choice and rat choice, to be sure, are both broader than market-oriented behavior. Rational choice includes any effort to achieve one's ends by instrumentally rational means, including altruistic, religious, and aesthetic ends. Rat choice includes all self-regarding behavior, including the way one acts in nonmarket settings such as government agencies and the way one treats one's family members. The converse, however, is true—market behavior depends on both rational choice and rat choice.

Many scholars treat the distinctiveness of Western society as the product of a larger trend than the development of free, competitive markets. This trend is often described as rationalization and includes the general rejection of tradition, the decline of religion, the development of an administrative or bureaucratic state, the growth of technology, and the growing acceptance of technological change.<sup>103</sup> It is sometimes regarded, like the free market, as a distinctive feature of Western society, and sometimes as a general teleology of human development. The nature of this trend, its historical occurrence, and the use of the term rationality to describe it all suggest a strong connection with rational choice and rat choice theory. There are, however, crucial differences. Rational choice theory is not limited to rationalized, that is, modern Western people. As discussed above, one can be rational in the pursuit of any goal, including restoration of the boundaries between the animal and human world, or combating witchcraft. In other words, rational choice theory is too general to constitute a theory of the West's uniqueness. In fact, the theory is presented as a universal rule of human action. That claim, as stated above, is empirically false, but largely because people in all societies are often instrumentally irrational, not because all societies, as a whole, have been instrumentally irrational until modern times.

More importantly for present purposes, rat choice theory is much narrower than rationalization. Rat choice insists that individuals are exclusively self-regarding. Rationalization is not nearly so restrictive about the ends, or objectives, of human behavior. It excludes certain ends, such as the preservation of tradition and the salvation of one's soul. But it allows for other-regarding behavior based on altruism, or a concern for fairness and justice, or perhaps most significantly, the development of and reliance on human reason. This follows, almost as a matter of logic, from current phi-

103. See NORBERT ELIAS, *THE CIVILIZING PROCESS: THE HISTORY OF MANNERS AND STATE FORMATION AND CIVILIZATION* 475–92 (Edmund Jephcott trans., Blackwell 1994) (1939); HABERMAS, *supra* note 4; FERDINAND TONNIES, *COMMUNITY AND SOCIETY* (Charles P. Loomis ed., trans., 1957); WEBER, *supra* note 1, at 212–99.

losophical debates about whether people should be self-regarding or other-regarding. The idea of rationalization is not really a philosophic theory but a social one; it argues that historical processes have produced a certain mode of thought in Western society. While that mode of thought excludes assertions of religious faith, it certainly includes claims that people should engage in other-regarding behavior. Such claims, therefore, are necessarily included within the realm of rationalized discourse.

It is at this juncture that the limits of rational choice and rat choice as a theory of market behavior come into view. As stated above, the creation of a free, competitive market requires that civil order be maintained and that specific attitudes about the normative acceptability of competition be internalized. These are sufficient to get the market started, but they are not sufficient to sustain it. As historical experience has shown, the inequalities of the market and the harsh consequences that it produces for those people whose enterprises fail, or who have nothing to sell but their own labor, leads to widespread social dissatisfaction. In a monarchy or a dictatorship, this dissatisfaction is frequently expressed through violence. In an electoral regime, it is expressed through social movements and political action. In either case, the result is to place considerable stress on both the regime's ability to maintain civil order and the populace's internalization of market-oriented attitudes. Neither civil order nor attitude internalization are definitive entities or permanent conditions. Rather, they represent a dynamic equilibrium of opposing forces, one that can be destabilized by widespread dissatisfaction.

The way this instability has been resolved in modern Western nations is through the social welfare programs of the modern administrative state. These include unemployment insurance, social security, health care, public education, public housing, poverty relief, and the redistribution of income through the tax system. By means of these programs, the harshness of a market economy is meliorated, and those who have been less successful in this competitive environment feel that they are at least adequately provided for. In historical terms, it was the development of this social welfare system in the latter part of the nineteenth century that saved Europe's market-based, capitalist regimes from the dire fate that Marx had so confidently predicted for them. In the United States, the threat was less severe, and social welfare programs were instituted at a somewhat later date, but the end result has been the same.

In order to achieve this resolution—in order to institute and operate social welfare programs—the dominant elite of each nation must willingly agree. If it does not, the situation will remain conflictual and inherently

unstable. Willing agreement means that members of the elite are no longer committed to the rat choice model of behavior, that is, to achieving their self-interest. Rather, they recognize a goal, or end, beyond self-interest. This is the goal of fairness, a willingness to support social welfare programs and redistribution of income so that everyone in society can live a minimally decent life. It is the internalization of this goal, and its extension to all members of the society, that modifies people's rat choice, market-oriented attitudes, and that permits the survival of a social space where rational choice and rat choice reign supreme, producing their beneficial effects on the economy.

One might argue that the necessity of social welfare and redistributive programs for social solidarity means that the attitudes that support these programs are not other-regarding at all, but merely a form of enlightened self-interest. This argument has been advanced, in different versions, by David Gauthier<sup>104</sup> and by David Schmitz,<sup>105</sup> as noted above. Robert Axelrod has demonstrated by computer simulation that a cooperative strategy, described as "Tit-for-Tat," is the optimal solution to a repeated Prisoner's Dilemma Game.<sup>106</sup> Whatever may be said for this claim as either a philosophic or mathematical argument, it seems questionable as social theory because it demands such a farsighted, collectively-oriented understanding of one's own self interest. People would not only be tempted to defect as individuals, but also tempted to defer their commitment to others on the ground that the resulting conflict might be controlled, or suppressed, or postponed until some uncertain future. Gauthier finds that he can only avoid this by including a social contract as a necessary step in his argument.<sup>107</sup> Schmitz tries to avoid it by basing his argument on the premise that people are inherently reflective and would want to expand their range of self-interested goals.<sup>108</sup> Axelrod concedes that the superiority of his optimal, cooperative strategy only becomes manifest after hundreds of iterations and would prevail by an "ecological," rather than a phenomenological, process.<sup>109</sup>

104. GAUTHIER, *supra* note 4, at 128 ("We may then think of co-operative interaction as a visible hand which supplants the invisible hand, in order to realize the same ideal as the market provides under conditions of perfect competition.").

105. SCHMITZ, *supra* note 4, at 105 ("I conclude that we have self-regarding reasons to incorporate (so far as we are able to do so) other-regarding preferences into our utility functions, or, in other words, we have self-regarding reasons to internalize other-regarding concerns.").

106. ROBERT AXELROD, *THE EVOLUTION OF COOPERATION* (1984).

107. GAUTHIER, *supra* note 4, at 8–10, 233–67.

108. SCHMITZ, *supra* note 4, at 104–05.

109. AXELROD, *supra* note 106, at 50–54. He then proceeds with specific recommendations to promote cooperation, which suggests his awareness that the strategy would not prevail on its own as self-evidently in the actor's self-interest. *Id.* at 124–41.

Guathier's, Schmitz's, and Axelrod's arguments do not depict real social attitudes, but philosophic or mathematical constructs, which is perhaps all they are intended to be. While they may be convincing to scholars, they hardly reflect general patterns of thought. If we observe cooperative behavior in certain situations, it is not likely to be related to calculations of rational self-interest. Rather, it is the result of internalized, historically generated cultural attitudes, of the sort that social scientists who study real societies invariably observe. It is a deontological commitment to certain culture modes of behavior, one that goes beyond the rat-like attitude of self-regard, that is necessary to assure the continuation of rational and rat choice dominated markets.

### CONCLUSION

The term rationality has long been a lightning rod for controversy. Some of this controversy springs from genuine differences in views, but some springs from differing uses of the term and the consequent confusion that such usages engender. The goal of this Article is to provide clarification and then suggest a preliminary social theory about the present role and future possibilities of the concepts that underlie this verbal farrago. Rational choice theory is the study of how human beings, as decision makers, implement pre-established goals. A separate theory asserts that the only goals that human beings strive to implement are those that maximize their individual self-interest. Because this second theory is different from rational choice, and because it specifically denies that people use reason to select their goals, the term "rationality" is best avoided in describing it. In this Article, it is called rat choice because a person who is exclusively self-interested is often described, in colloquial parlance, as a rat.

Although they have been conflated through use of the term "rationality," rational choice theory and rat choice theory have no necessary connection to one another. Rather, certain scholars link them because, taken together, they support a policy orientation that favors a free, unregulated market. Market actors are generally assumed to follow both rat choice, that is, have exclusively self-interested ends, and rational choice, that is, strive to achieve those ends as effectively as possible, given the resources available to them. If these assumptions are made, the market will tend to function efficiently, and public officials will be ineffective in remedying those situations when the market fails. This market orientation of rational choice-rat choice scholars can be regarded as an effort to use a descriptive theory to advance a normative position. But rational choice theory and rat choice theory also represent a valuable contribution in explaining a unique feature

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of Western culture, and one that is at least partially responsible for that culture's position of dominance in the modern world. They are not a complete explanation, however, because market economies probably would not have survived if people did not also adopt the cooperative, non-self-interested attitudes that led to the development of the modern administrative state.