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The Status of the *Status Quo*[1]

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Abstract. The *status quo* plays a central role in both the positive and normative analysis associated with the constitutionalist and contractarian perspective. This paper reviews the status of the *status quo* in this context by identifying and addressing a series of questions relating to the definition, emergence and value of the *status quo*.

1. Introduction

A central element in my continuing criticism of conventional analysis in several settings has been my insistence that we start from here and now, as existential reality. But what *is* the *status quo*? Clintonesque response is indeed appropriate here. From what did the *status quo* emerge? Whose choices brought it into being? What are the limits within which change is possible? And is my central presumption, that the *status quo* exists, in some meaningful and useful sense, valid? These are positive questions that must be examined with some care.

The normative issues become more difficult, and even more interesting. To what extent is the *status quo* privileged? Or, to state the question obversely, how can any changes from the *status quo* be legitimized? How are conceptually abstract contractarian structures reconciled with practical reality? Finally, can conflicting claims in the *status quo* be adjudicated short of overt war? If not, why not shift analysis back to the Hobbesian setting?

2. What is the *Status Quo*?

It is useful to commence with the most abstract level of discourse. In the social choice analysis that emerged in mid-century, the concept of "social states" was introduced as an abstract, and mathematically tractable, tool in describing the inclusive network of social interaction. A "social state" was explicitly defined as a vector that imputes to each person a precisely evaluated position, measured in commonly reckoned units. Arrow (1951) provides the seminal statement in his 1951 book, *Social Choice and Individual Values*:

> "The most precise definition of a social state would be a complete description of the amount of each type of commodity in the hands of each individual, the amount of each productive resource invested in each type of activity, and the amounts of various types of collective activity" (p. 17).

There are, of course, a subinfinity of social states, as defined, within the physically feasible set of constraints. One of these possibilities must exist, as of any given moment in time, and this particular social state may be designated as the *status quo*.

In his book *A Reconstruction of Economics*, Boulding (1950), writing also at mid-century, used the metaphor of a business firm's balance sheet to be descriptive of the "state of play" for the whole economy at a particularly designated moment in time. In the context of the question posed here, Boulding's approach is more helpful than Arrow's since it calls attention immediately to problems of evaluation. How are assets and liabilities valued? Arrow's definition seems to bypass all such questions through some implicit assumption that the goods in differing hands have been produced and are valued similarly by all participants in the nexus.

Consider a specific example. A young person, call her A, has graduated with a degree from a specific law school. What is her position in the vector that defines the *status quo*? What value is to be assigned that reflects the present discounted value of future earnings streams? These questions bring expectations directly into the exercise, and expectations, in turn, call attention to the rules and institutions that are in being, as vital elements in the *status quo* itself, at least indirectly. The example immediately suggests the limited usefulness of the abstract Arrow definition of social state. The value placed on the "good" held by the person, the measure of human capital, depends on the structure of institutions within which this "good" may be transformed into other "goods" that promise to yield final utility. The present value of any asset, human or nonhuman capital, depends critically on the security of ownership. The constitutional structure that determines this security becomes, therefore, a feature of the *status quo* itself.

Any definition of the *status quo*, considered as a snapshot, akin to a balance sheet, for the whole nexus of social interaction, requires resolution of a complex valuation process which itself becomes possible only to the extent that the institutional structure is carefully specified in terms of the limits to which separate persons, as choosers, may exchange that which they possess, goods or bads, with others in the network and beyond, and, further, may convert these stocks into ultimate utility value.

3. How Does the *Status Quo* Emerge?

How did the *status quo* come into being? It is, or should be, self-evident that the situation that exists, however this may be defined, was not chosen by any monolithic decision taker. The *status quo* emerged from a multiplicity of choices made quite independently by individuals acting both separately and in groups, and acting in both private and collective capacities. The simple example used above can be illustrative. The person, A, chose to enter law school and to accumulate the human capital reflected in the degree. The evaluation placed on this capital depends, in turn, on the rules that allow A to use the services yielded by this capital through exchanges with others. These rules must, themselves, have been chosen by persons acting in legislative or constitutional choice settings. And, persons authorized to act in such capacities must, again, have been chosen by others. The *status quo*, or that which exists, is a multidimensional vector that emerges from the many interdependent choices made along separate dimensions.

Recognition of this elementary point suggests the irrelevance of analysis based on any presumption that "social states" are, somehow, chosen by any decision maker or decision rule. That which exists, and which may be observed, was not within the choice set of any participant in the inclusive interaction process that generated it. So long as separate decision makers are in any way interdependent, one with another, the output vector cannot be chosen; it must emerge from the separated but interdependent choices made along the several dimensions of adjustment.

The simplest of game matrices calls attention directly to the point. The separate players choose among strategies, and the choices of the several strategies generate an outcome that is not explicitly chosen by anyone. Only in a setting where the individual finds herself in total and complete isolation from all other humans (or even animals) could we state that the "social state" is chosen (Buchanan, 1995a, 1995b, 2001).

4. How Can the *Status Quo* be Changed?

Recognition of the fact that the "social state" that defines the *status quo* is not chosen by any decision maker or through any decision rule should not be taken to imply a necessary stance of acquiescence. That which exists is brought into being by the choices made by many participants along many interdependent dimensions of adjustment. The separated choices, as such, cannot be directly controlled so as to generate a specifically defined comprehensive result. One facet of the fatal conceit of socialism, interpreted as central planning, was the failure to understand this point. But it is equally naive to presume that, because of the multidimensionality and complexity of the interaction process, that which has been brought into being is not subject to explicitly directed change.

Definition of the *status quo* in terms of either the social state or the balance-sheet metaphor is especially misleading at this point, despite mathematical tractability. Neither metaphor allows for a clear distinction between the stock values of goods (bads) assigned to persons and the facilitating institutional structure and processes within which these values are generated. The relevant distinction here is between the constraints that confine or limit the pattern of particularized "locations" and the singular "location" itself as of any point in time. An example may be helpful. The rancher may be unable, even should he desire to do so, to choose the specific location for each of many grazing steers on the pasture. He can, however, change the size and shape of the enclosure, thereby determining, within limits, the predicted pattern of results.

That which can be changed is the set of constraints, including the assignment of roles and authority, within which separate choices are made. This set is subject to deliberative choice at a more inclusive or "higher" level (Buchanan, 1962), and the elements of this choice process involve a comparison of the *status quo* and its alternatives. Patterns of results observable in the *status quo* (allocations, distributions) may be changed, but indirectly, by deliberative action that operates on the constraints, on the institutional–constitutional structure. There may be, of course, some institutions that have emerged through a slow process of cultural evolution and that cannot be readily modified. Acknowledgment that some such institutions exist does not, however, imply that others that can be deliberately changed are nonexistent or unimportant.

5. *Status Quo* or *Carte Blanche*

My own career-long insistence that we start from the here and now presumes that the *status quo* exists, that one among the subinfinity of "social states" describes reality at the chosen moment, or, more generally, that human action takes place within a set of rules, institutions, conventions, and practices that can be identified and defined. In this context, choice involves change from that which exists to something else. Somewhat surprisingly, however, much of social choice theory, from its most formal to its practical application, implicitly postulates that choices are made *carte blanche*, among alternatives that are exogenous to any reality that exists. This feature stems, perhaps primarily, from the fact that the origins of the social choice research program emerged from efforts to explain electoral outcomes from voting processes.

Consider Black's (1958) committee model – the committee must choose among motions, none of which is in being, or among candidates, none of whom is a default incumbent. The task for the individual participant, or voter, is to rank order the alternatives in the defined set, and the function of the decision rule is to aggregate these separate orderings so as to generate a "winner". The Black–Arrow discovery (or rediscovery) of the majoritarian cycle, generalized under Arrow's impossibility theorem label, dominated the attention of research scholars in social choice, with the resultant failure to examine and analyze the restricted range of applicability of the *carte blanche* setting.

Again, Boulding's balance-sheet metaphor may be more useful than the conventional social choice presuppositions. An ongoing firm describes its current situation in terms of a balance sheet; it would seem folly for this firm to try to rank order other balance sheets that may have existed and to make some imaginary choice among all such options. At best, the ongoing firm examines its current balance sheet and tries to make adjustments along those dimensional parameters that can be modified – to change from the *status quo* to some preferred position. With reference to the collectivity, as a unit, the issue is whether or not it is best modeled as an ongoing structure of interaction. Something must exist when choices among alternatives are considered.

Contractarian political theory is not especially helpful here. Justificatory arguments for the origins of collective action, or for the state, are often grounded on the as if supposition that participants meet as natural equals, but without much treatment as to the situation from which potential agreement might emerge. Hobbes (1651) does recognize that persons must be postulated to be equals in the factual sense of mutual abilities to kill one another. Winston Bush's formal analysis of the natural distribution in anarchy provides a plausible base point (Bush, 1972; Buchanan, 1975b). In the absence of some base point, or *status quo*, the stylized contractual process cannot be analyzed in any positive way.

In what was perhaps the closest historical experience of a contractual process of agreement, the American Founders, in drawing up the United States Constitution, were not choosing *carte blanche* among possible structures. The *status quo ante* was reasonably well defined; the members of the convention in 1787 were representing the thirteen separate states operating under the Articles of Confederation. Failure of the convention's delegates to have agreed on an alternative structure would have meant reversion to the rules defined under the Articles.

I suggest that the widespread usage of the *carte blanche* model for the analysis of either collective or private choice is highly misleading. Whether the chooser be a person, a firm, a committee, or a state, the alternatives for choice are best modeled to allow for a default option, for a continuation of that which is in being in the case of failure to choose a substitute. *Carte blanche* settings are, for the most part, artifactual constructions or intellectualized abstractions. If the ship does not turn to port or to starboard, it clears the narrow channel. If the government does not change the tax code, the same rates remain in effect. In neither of these settings is the choice made *carte blanche*.

6. Is the *Status Quo* Efficient?

If it is acknowledged that the *status quo* is a meaningful concept, further questions arise as to its characteristics. Do these characteristics carry normative weight? Is the *status quo* privileged, either because it exists or because it has attributes that are independently valued? Separation between positive evaluation and normative judgment becomes difficult once questions like these are raised.

The economist's natural proclivity is to concentrate initial attention on efficiency, and to raise the question directly: Is the *status quo* efficient? There are two indirectly related strands of discussion that offer affirmative responses to this question.

First, there is the evolutionary argument, associated with the later works of Hayek (1988). If the rules, institutions, and conventions that describe the constraints within which persons are observed to be interacting, one with another, were not, in some broad sense, "efficient," these rules would not have survived in the process of cultural evolution. These constraints were in no way deliberately designed and constructed; their existence is owed to their efficacy in performing functions demanded for survival. The normative implications are clear; efforts at "constructivism" are doomed to failure. The *status quo* is valued because it is a proven success in an evolutionary struggle.

A second argument, which may be associated with some members of the modern Chicago school of political economy, locates the putative efficiency of the *status quo*, not to success in an evolutionary struggle, as such, but instead from the presupposition that participants in sociopolitical–economic interaction are, by and large, rational choosers. If elements of some potentially observable but alternative *status quo* should be inefficient, it would be to the interest of some participants to undertake actions to eliminate such inefficiency. In this mind-set, the statement that "whatever is is efficient" becomes almost tautological.

The normative implications of both of these arguments are negative in the sense that they discourage efforts at making improvements in the existing arrangements. These arguments seem to eliminate any role for the political economist as reformer, even if she remains in the ivory tower and removed from hands-on policy discussion.

It is difficult to see how economics, as specialized inquiry, has a *raison d'etre* in either the Hayekian or the Chicago positions sketched earlier. Institutional settings described as generalized PD's would either not exist at all or, if observed, would be on the way toward resolution. Any apparent shortfall from the economist's stylized efficiency norms would be attributed to the operationally empty transactions costs vessel. The trained economist would be no better than the next person in locating opportunities for mutual gains, and notably in potential multiperson interactions. My argument is that such activity is precisely what economics and economists are all about.

7. Is Inefficiency Falsifiable?

For more than four decades, my own research program has centrally involved an articulation of a position that allows economists to diagnose efficiency shortfalls in the economy, with such diagnoses treated as hypotheses subject to falsification (Buchanan, 1959). It allows the economist to commence with the presupposition that generalized PD's abound, and especially in those settings where many persons are locked into complex interdependencies that insure spillover effects of separate individual actions. Tariffs, price and wage controls, minimum wage regulations, rent controls, barriers to entry and exit – these and like constraints generate results that are inferior, for all participants, than alternative constraints that can be put in place. But, given such efficiency-reducing constraints, there is little that the individual can do to initiate contractual rearrangements to eliminate the value shortfalls.

The role of the political economist is to label such constraints in the *status quo*, if they do exist, as efficiency reducing, at least in the sense of falsifiable hypotheses. The economist cannot, however, go beyond this identification–diagnosis step and derive explicit normative advice. The hypotheses that the constraints observed are, indeed, efficiency reducing may be falsified.

What is the meaning of falsification in this context? Consider rent control as an elementary example. The economist labels this constraint as efficiency reducing. But how is this to be put to the test when advanced as a refutable hypothesis? Those persons who secure the differential gains from rent control will not agree to straightforward removal of the constraint. And how can their predicted losses be set off against the gains of those who secure the benefits? Without some means of measuring and comparing utility gains and losses, the efficiency-reducing claim is not testable. Or so it seems.

At this point, the economist steps into a second role. The task becomes that of working out possible compensation arrangements through which prospective losers from removal of the constraint are subsidized by prospective gainers. If such arrangements can be made, general agreement among both prospective direct losers and direct winners will emerge. In this case, the amended hypothesis is not falsified. If no such arrangement seems to be within the possible, that is, if no set of compensations can be mutually agreed on by prospective losers and prospective gainers, the hypothesis that rent control, as a constraint on free exchange, is efficiency reducing is falsified.

8. Does Efficiency have Intrinsic Value?

The approach sketched out above seems to be normative in the sense that efficiency is introduced as the criterion for improvement. Note, however, that efficiency is defined endogenously rather than exogenously. That which is efficient is that upon which persons agree, whether the "exchange" process be simple or complex. There is no explicitly normative introduction of efficiency, as defined by economists, as a scalar against which proposed changes might be measured.

Agreement is the criterial test, and agreement itself becomes normative only to the extent that individual participants are presumed to be the only judges of relative values to themselves. In this sense, the postulate of methodological individualism, upon which almost all of economic theory is grounded, in itself represents a normative stance.

Note that the political economist, as such, need not herself positively value the result of the agreements that she observes. But she also recognizes that she moves beyond her self-assigned role when she becomes explicitly normative and injects her own value standards, whether these be those of the economist's efficiency, of justice, or anything else. It becomes illegitimate to assign intrinsic value to efficiency, as such, in the absence of agreement on the part of participants.

9. Does the Approach Privilege the *Status Quo*?

Critics have suggested that the approach outlined here assigns normative privilege to the *status quo*. It should be emphasized, however, that this apparent privilege arises not because the *status quo* assumes value because it exists, but rather because there is no means other than agreement of determining whether any proposed move away from the *status quo* is or is not preferred by participants.

The Pareto construction, familiar from theoretical welfare economics, is helpful in clarifying the issues here. Using the stylized social state conceptualization, an initial step involves the classification of all social states into the two mutually exclusive sets – those that are Pareto optimal or efficient, and those that are nonoptimal. The first set is the nondominated set in the sense that no change can be made from a position in this set without damaging at least one person. By contrast, any position in the dominated or nonoptimal set is dominated by at least one position in the non-dominated set. But any such position in the dominated set is not Pareto dominated by all positions in the nondominated set. From any position in the dominated set there exists at least one move that is Pareto superior; at least one person can be made better off with no one made worse off.

If we define the *status quo* to be a position in the dominated set, there must be some change that will be Pareto superior. But any change, even to a position classified at Pareto optimal, need not be Pareto superior. For economists to recommend change based only on the initial classification would be an illegitimate usage of the whole construction. Such a stance would elevate Pareto efficiency to independent normative status.

The Pareto construction may, of course, be translated directly into the Wicksellian approach (Wicksell, 1896) already outlined by making agreement the only test for determining whether or not any proposed change is Pareto superior. There may be normative properties of the set of compensations that might be required to secure agreement on proposed efficiency-enhancing shifts in constraints – normative properties that the observing political economist might, in some personalized way, abhor. Straightforward "taking," as opposed to compensation aimed to secure agreement, may seem preferred, and especially if the positions in the *status quo* seem to be "ill-gotten." Nonetheless, a too-early or too-eager intrusion of external and independent value norms into the discussion will serve only to reduce the usefulness of the whole Wicksell–Pareto construction, which, as noted, remains value free save for the minimal normative weight assigned to the individualistic presupposition.

If the values of some persons, including those of the observing economists, are presumed to count for more than those of others, the whole realm of discourse is shifted, and that which exists, the *status quo*, takes on significance only as it might be assigned an intrinsic value because of its very existence. Here the discussion becomes one of arguments about what and whose values are to be weighted. Explicitly normative considerations enter that are wholly left out of account in the more limited exercise outlined above.

10. How are Conflicts Resolved?

To this point, the discussion has been overly simplified by the implicit presumption that separate claims in the *status quo*, whether defined in the formalized manner of social states or in the balance sheet analogy, are compatible, one with another. That is to say that, if my balance sheet measures my debt to you as a liability of \$100, your own balance sheet measures the asset as being worth $100. Or, in social-state terms, goods are distributed so that the separate shares add up to the total quantities in existence.

It is evident that these equivalences may not be present, and especially as valuations are placed on positions attainable under collectively imposed constraints. Consider, again, the rent control example. What capitalized value does the currently subsidized occupant place on the *status quo* that includes the presence of rent control? And what aggregate value do potential gainers from the abolition of such control place on the imagined free market?

If both the current occupant and the prospective gainers from decontrol should treat the claims of the occupant as if these are protected by a genuine property rule (Calabresi and Melamed, 1972), that is, if agreement is legally required before control is abolished, little conflict might arise and agreement might be within the possible. Suppose, however, that the control regulation has been put in place by a majority coalition in a legislative assembly, and therefore has nothing akin to a property rule assigned to claims. Alternative majority coalitions may possess the potential authority to remove the control. In this setting it is clear that the capitalized value of the claim of the current occupant is much lower than in the first case, either for the occupant or for the prospective gainer from abolition.

An additional source of possible disagreement on the evaluation of claims in the apparent *status quo* lies in the attribution, or nonattribution, of moral legitimacy. If a person is, for any reason, not considered to be "entitled" to that which she claims, those who might be expected to proffer compensation are unlikely to value the claim as highly as the putative holder. Return again to the rent-control example. If the initial legislation establishing rent control is considered to have been an unwarranted "taking" of potential value from acknowledged owners of property, the maximal compensation that might be offered to beneficiaries may be much below that required to secure agreement.

For any of several reasons, there seems to be a strong likelihood that the parties on the separate sides of any potential agreement will differ, and perhaps substantially, in their relative evaluations of the control claim. The current recipient of the housing subsidy may treat the claim as if protected by an operative property rule, whereas the prospective beneficiaries of abolition may reckon optimistically on electoral success, in part because they do not accept the claims to be legitimate. Both sides of the prospective debate about legislative action to remove existing controls may find it advantageous to invest resources in rent seeking – the occupant, to protect the value of her claim, and the prospective beneficiary of removal, to secure the promised return. The political economy of conflict replaces the political economy of consensus.

11. What Remains?

If the difficulties outlined in the preceding section are fully acknowledged, what is there left of the Wicksellian–contractarian structure worth preserving? If separate claims in the *status quo* conflict, and if evaluations differ so widely as to make generalized agreement on change impossible, the construction seems to be empty in any sense of practicable usage. In this case, why not simply abandon the effort and model all sociopolitical choice as straightforward conflict among interests, with the ill-defined *status quo* treated no differently than any alternative set of constraints? In this setting, economics, defined as the science of exchanges, or catallactics, has nothing to contribute to the discourse.

Needless to say, I reject this avenue of inquiry, and categorically so.[2] To acknowledge that some claims may conflict in any *status quo*, and further, that general consensus may be attained on few, if any, proposed changes in the set of constraints, does not imply that all claims are up for grabs and that proposed changes may not be evaluated through some appropriate measure of the degree of consensus attained. Empirical evidence may be used to suggest that participants in the sociopolitical–economic nexus go about their ordinary affairs within an acceptance of the legal framework that incorporates the distinctions among separate rights and claims to sources of value. For the most part, no one disputes your claims of ownership of your house or your car, even if your usage of these items may be subject to defined constraints. These claims, along with the constraints on usage, are elements in the existing *status quo*. Any change that modifies your ownership rights and that is made without your agreement or consent cannot be modeled as a part of any exchange process. Even if, at some conceptualized constitutional level or stage of choice, you might have agreed to authorize democratically organized government to modify your set of rights, it does not at all imply that, at the postconstitutional stage, there is no distinction to be made between an overt "taking" and a compensated "exchange," even if both acts are nonvoluntary.

A fully comprehensive definition of the *status quo* would reckon on the formal structure of rights and claims and the expectations that these rights and claims would be protected from confiscation by either private or public predators. Failure to commence from the *status quo*, even in their thought processes, has led modern legislatures and courts to act as if changes are zero sum, as if adjudication involves choosing between net gainers and net losers. This basic flaw in legal-political reasoning causes the prospects for mutual advantages from genuine "exchanges" to be bypassed and overlooked, with the consequence that public cynicism about the operations of legal and political institutions increases.

In some ultimate sense, politics must be understood by the members of the public to be a positive-sum game – a process of exchange for mutual advantage – if society is to remain viable. But any such conceptualization, or model, requires that the parties to the game, or exchange, acknowledge base positions from which the process commences. History itself dictates the distribution of rights and claims in the *status quo*. We cannot choose an alternative history that might have been. We can, however, engage in constructive dialogue concerning ways and means through which that which is might be changed to the benefit of all participants. As political philosophers, we may seek to derive principles of justice upon which we could contractually agree – derivation that does not call upon external sources of value. As political economists, we may seek to work out schemes of compensation that will generate consensus on changes in constraints that are mutually beneficial (Buchanan, 1959, 1975a). As political agents, we may strive for general consensus, even as we recognize the necessity of some minimal arbitrary action (Buchanan and Tullock, 1962). As judicial officers, we may remain within the domain of defining rights and claims in the *status quo* which is, indeed, privileged by the fact that its existence is critical in determining individuals' evaluations of claims (Buchanan, 1988a).

Notes

1. As the number of my own pieces in the list of references suggests, this paper can scarcely be described as a venture into new territory. I have variously discussed "the status of the *status quo*," both in the abstract and in practical application. I have not, however, examined the issues head on, so to speak, and my arguments have not been widely accepted. Extension and clarification remains on the "unfinished agenda" of my career-long research program.
2. For explicit discussion in the context of a specific application, see my exchange and discussion with Warren Samuels (Samuels, 1971; Buchanan, 1972; Buchanan and Samuels, 1975). Also see Buchanan (1988b).

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