

FREEDOM OF ASSOCIATION AND ITS DISCONTENTS: THE *CALCULUS OF CONSENT* AND THE CIVIL RIGHTS MOVEMENT

Vlad Tarko and Santiago José Gangotena

ABSTRACT

Does the classical liberal emphasis on freedom of association provide an intellectual cover for bigotry? We formulate this question in economic terms using James Buchanan's economic approach to ethics, according to which moral values can be understood as preferences about other people's behaviors. We discuss two possible market failures associated with freedom of association: inter-group externalities and Schelling-type emergent segregation. We show that the classical liberal position about freedom of association, as elaborated in Buchanan and Tullock's Calculus of Consent, is fully equipped to deal with the first one, but not with the second. The progressive view that some preferences are so offensive that they should be dismissed rather than engaged or negotiated with can be reframed as an attempt to solve the emergent segregation problem, but it is vulnerable to political economy problems of its own, in particular to an inherent tendency to over-expand the meaning of "bigotry."

Keywords: Calculus of consent; Schelling segregation; social justice; educational vouchers; moral preferences; freedom of association

There are many who consider as an injury to themselves any conduct which they have a distaste for, and resent it as an outrage to their feelings; as a religious bigot, when charged with disregarding the religious feelings of others, has been known to retort that they disregard his feelings, by persisting in their abominable worship or creed. But there is no parity between the

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feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it. (Mill, 1859, sec. IV.12)

INTRODUCTION

Preferences about the proper organization of society – that is, about how we should organize the non-private, communal aspects of life, and including the preference about what gets classified as “communal” rather than “private” – should be aggregated via democratic procedures and no point of view should be a priori excluded from participating in this process. It is the democratic process itself which should determine which views are to be put into practice and used as a basis for policy.¹ This is the classic liberal position, which is now commonly challenged from a progressive perspective according to which some views are simply beyond the pale and should be actively fought against, including by means of government power. Some views are so reprehensible that they should not be allowed to be heard, and they should be excluded from participating in the democratic process altogether, rather than relying on the democratic process itself to defuse them. As the argument goes, we cannot extend the courtesy of tolerance to the intolerant, as that would put in danger the very foundation of a tolerant society. This is perhaps the biggest tension between the liberal and the progressive perspective: the liberal refusal to judge individual preferences, as opposed to a progressive political philosophy based on identifying and enforcing a relatively small set of acceptable values.

This tension manifests itself most clearly when we are dealing with social preferences that are unambiguously frowned upon in polite company, such as racism and other forms of bigotry, as well as the political advocacy of non-democratic systems such as fascism.² However, from the progressive side, there is a reasonable suspicion that the classical liberal emphasis on freedom of association simply gives cover to bigotry (see, e.g., J. T. Levy, 2016).³ To use Marcuse’s (1969) famous line, classical liberals support a repressive form of tolerance. Does the classical liberal view that we should take *everyone’s* preferences into account imply that the state and its public administration should remain agnostic on such matters, for instance, by not having anti-racism campaigns or policies that would limit freedom of association?

The counter-point from the liberal side is the suspicion that, under the excuse of fighting bigotry, the progressive range of “unacceptable views” will quickly expand driven by partisan motives. The fact that the decision to exclude some views is taken *prior* to the working of either the democratic or the market process, also inevitably means that we are giving ground to an authoritarian exclusion mechanism that may easily go out of hand. As J.S. Mill noted, this authoritarian mechanism could be either a top-down government exclusion policy or a form of mob pressure. Who does the exclusion? In practice, it may turn out to be simply the loudest and the most easily offended group of extremists, be they religious fundamentalists shutting down a Marilyn Manson concert or left-wing fundamentalists shutting down a talk by Charles Murray. What

institutional mechanism could reliably keep the mechanism of exclusion within the realm of a “reasonable” *general consensus*, rather than being captured by overly-easily offended extremists? What prevents its use for purely political partisan purposes, for instance classifying as “bigotry” some conservative religious views progressives disagree with?

This debate mimics the tension between economics and moral philosophy, with the economist taking preferences as given, including preferences about how society as a whole should be organized, while the moral philosopher is evaluating which social preferences can be “justified” within one normative system or another. In a sense, which we challenge to some extent later, the economist’s concept of “efficiency” is proudly amoral, as it simply means that everyone should get as much as possible of what they themselves want, regardless of what they happen to want.⁴ As such, the focus of the economist, and especially of the classical liberal economist, switches from judging which views are acceptable to institutional design: which forms of social organization, which democratic procedures, and which conflict resolution mechanisms diminish conflicts and allow for the peaceful coexistence of heterogeneous views (Aligica, 2013; Aligica & Tarko, 2013; Kukathas, 2003; Ostrom, 1997). As noted by Gordon Tullock (2005, p. 5), because conflicts are inherently socially wasteful, “[s]ocial contrivances for reducing such investment are, on the whole, desirable.” From such a point of view, progress results from the gradual adoption of more inclusive political and economic institutions, which diminish the waste associated with societal conflicts.

The liberal political program is focused on *institutional* reform, while the progressive program is focused on the *cultural delegitimization* of the “wrong” values within the existing institutions (or coupled with relatively minor institutional reform). While liberals think that bad outcomes are caused by flawed institutions, progressives think that they are caused by bad people taking advantage of essentially good institutions. The progressive worry is that the liberal refusal to judge values, under a pretense of tolerance, and insistence that no one can legitimately be excluded, gives cover to bigotry. The economic concept of Pareto improvement, according to which the best policies are those that harm literally no one, for example, by giving sufficient financial compensation to those who would otherwise oppose the policies, clearly seems to invite everyone to the negotiation table, no matter how reprehensible their views might be. On one hand, the concept of Pareto efficiency prevents bigots from harming minorities, as members of all minorities are given a veto, but, on the other hand, it also requires compromise with even the most bigoted members of society. The classical liberals tend to emphasize the first, while the modern progressives the second.

Accusations of hypocrisy are easily made from either direction. Do liberals really care about minorities or are they just using the rhetoric of freedom of association as an excuse for giving bigots a break, perhaps because many of them are actually bigots themselves in their own personal lives? If classical liberals really cared about minorities why weren’t they more prominent during the civil rights struggle in the United States or why do they always seem to care

more about economic matters than about civil rights matters? However, do progressives really care about minorities or are they just using a pretend concern for minorities as an excuse for a partisan powerplay under the belief (delusion?) that they currently have enough political clout to force their views upon society as a whole? If progressives really cared about minorities why aren't they more interested in understanding the details and subtleties of institutional reform, such as understanding the negative effects of public teachers unions, of zoning laws, of minimum wage laws,⁵ or of the general over-regulation of the economy,⁶ rather than just posturing and "virtue signaling"?

In what follows we, first, try to explain the classical liberal position with respect to how to deal with evil beliefs and evil people, as seen from the lens of the economic emphasis on Pareto improvements, and highlight some possible misunderstandings of liberalism. The most important fact is that the classical liberal view of democracy, strongly grounded in the freedom of association ideal, actually does allow a society to marginalize bigotry and other forms of evil. There is no need to supplement the democratic process with non-democratic exclusion mechanisms, such as targeted mob attacks, in the attempt to save the classical liberal view of democracy from itself. This, however, is not an attempt to convince progressives (or conservatives) to become liberals, but more of an attempt at clarification. As we shall see, some important trade-offs are involved, and one may legitimately disagree with the liberal position on these trade-offs.

To make the matter as clear as possible, and avoid our own needless moralizing, we reformulate the issue in economic terms, following James Buchanan's (1994) economic approach to ethics, according to which moral views can be understood as preferences about other people's behaviors. Related to this, we discuss two types of market failures associated with freedom of association: the negative externalities that some groups create upon others and the Schelling-type emergent segregation. We show that the classical liberal position is fully equipped to deal with the negative externalities problems, but does not have a ready-made answer to the Schelling-type emergent segregation problem.

The progressive view that certain preferences should be taken off the table can be reinterpreted from the perspective of economic efficiency as an attempted solution to both the externalities and the emergent segregation market failures. This is not how progressives themselves usually interpret their position, but, in our view, this is the strongest argument that can be made in favor of their position, which also has the virtue of providing a common language or conceptual framework for a rational discussion among people with strongly conflicting social and political views, be they progressives, conservatives, or liberals. At first glance, taking some preferences off the table, that is, refusing to allow compromises with people who hold certain views and rejecting any appeasement strategies for dealing with them, seems contrary to the very concept of economic efficiency, but, in principle, this may help curtail the market failures generated by freedom of association. Following this, we discuss the political economy problems associated with such a progressive solution in what we dub the social justice slippery slope problem. In other words, the progressive solution might work

in principle, but in practice it will be rife with serious issues of its own. In conclusion, whether someone adopting the economic mindset of Pareto efficiency finds the classical liberal position on freedom of association acceptable depends (1) on their assessment of inter-group negative externalities (how much of a negative spillover effect does the presence of bigoted associations have) and (2) on their assessment of the trade-off between the costs of emergent segregation and the costs of social justice slippery slopes. Reasonable people can disagree about these two points, but it is worth pointing out that, although difficult to ascertain objectively, they are, nonetheless, empirical matters, rather than value conflicts.

THE ECONOMIC THEORY OF ETHICS

Efficiency as a Meta-normative Position

Buchanan (1994, pp. 61–62) notes that we can think of three distinct “economic origins” for individual rules of conduct, which he labels *self-control*, *contracts*, and *ethical norms*. First, “[t]he individual, in isolation, may find it advantageous, in his or her long-term best interest, to impose binding constraints on his or her own behavior, quite apart from the actions of others.” For example, one may impose a rule of moderate drinking or of not over-indulging in video games not necessarily out of concern of others, but just for oneself. Second: “the individual may find it rational to agree to the adoption of conventions or norms that will constrain his or her own actions *in exchange* for like constraints on the actions of others. (emphasis in the original).” For example, spouses agree not to cheat on each other as a typical contractual element of marriage. Third, ethical norms refer to “the individual’s desire for constraints on the behavior of others.” This accounts for the fact that one may rationally both support the existence of such norms (as one prefers other people’s behavior to be constrained) while at the same time sometimes trying to evade them. Although Buchanan’s concern in “*Ethics and Economic Progress*” is focused on ethical norms that affect economic growth, such as work ethic, the idea has much more general applicability. Buchanan uses the metaphor of “paying the preacher” to promote such ethical norms, that is, each member of society may find it in their interest for such ethical norms to be prevalent in society, because if they are prevalent we need to spend less resources on the formal enforcement of laws, while at the same time society suffers from a typical free-rider problem with respect to the creation of this public good (as everyone shirks to some extent in “paying the preacher”) (Fig. 1).

We can now build upon and go beyond Buchanan’s account by also introducing a concern with a rent-seeking-like phenomenon in the realm of the production of ethical norms. Who is in fact going to “pay the preacher”? Because of the aforementioned free-riding problem, only the most heavily invested emotionally are going to do it. Who is going to actually protest a Marilyn Manson concert? Not the regular person who finds his nihilism and sexism distasteful, but the fundamentalist Christian activist, who thinks he is literally ruining America. Who is going to actually protest Charles Murray when he visits a

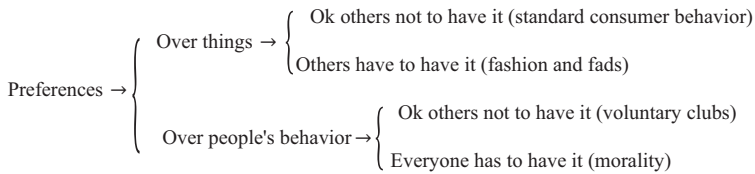


Fig. 1. Types of Preferences.

college campus? Not the regular student who might not even be familiar with his books, but the extreme leftist prone to label everyone else a “Nazi.”

This is a very general issue. Because we don’t have an actual social mechanism for avoiding this free-riding problem in the promotion of ethical norms, the “preacher” will generally respond and reflect mainly the most extreme views. This is why all our ethical norms are extreme versions of otherwise reasonable social concerns, and why virtually everyone is, to some extent, an ethical hypocrite. This is a natural consequence of these rent-seeking-like origins of all ethical norms — of the fact that only the most emotionally invested members of society are going to “pay the preacher,” while everyone else is going to free ride. With respect to most values, everyone is apathetic or complacent and not willing to invest the time and money to enforce or promote a “reasonable” version of ethics. As such, we are left with the most extreme versions of all values as *the* values.

This leads to a well-known conceptual problem in ethics, namely, that our sense of morality has no inherent way of dealing with trade-offs between values. Conflicts between economic concerns and moral concerns are, hence, unavoidable. For instance, if pollution is bad, we cannot talk in moral terms about the optimal level of pollution (a basic economic concern). Similarly, if racism is bad, we cannot talk in moral terms about the optimal methods of reducing racism — the optimal amount of resources spent on this task will unavoidably allow some residual racism to persist. The economic theory of crime leads to morally awkward statements like “the socially optimal number of murders is not zero,” meaning that it would be too costly to reduce the number of murders to literally zero because to do so would, for example, require unacceptable levels of surveillance. The cost-benefit approach of economics is in inherent conflict with our moral intuitions, but it is the cost-benefit analysis that is the correct perspective, while ethics provides a very rough and all-too-often deceptive and extreme guideline.

If we view moral values as preferences about other people’s behavior, and we adopt the economist motto of “*de gustibus non est disputandum*,” we, as objective analysts, cannot condemn another person’s moral views, regardless of how abhorrent we may find them.⁷ Neutrality of the analyst with respect to the content of peoples’ preferences is the hallmark of positive economic analysis and a crucial step if we are to pose the problem in economic terms. This, however, does not imply that all preferences have the same welfare consequences — “wealth”

itself understood from the subjective points of view of the different people in society. Certain preferences about other people's behavior, and the institutional structures that emerge out of these preferences, can lead to different levels of economic efficiency – that is, to different aggregate levels of preference satisfaction. As such, even a bigot may agree that, objectively speaking, organizing society along the institutions entailed by bigotry would be *inefficient*, that is, that other forms of organization would allow a greater number of people to better realize their own subjective preferences, while still, nonetheless, *preferring* their own bigotry to the more efficient organizations.

The point we are making here is somewhat subtle: On the one hand, efficiency is a meta-normative position, in that it does not adopt any *one* arbitrary person's subjective moral views in order to impose them on everyone else, but instead refers to which institutional and social organization allows the greatest number of people to satisfy their own preferences, whatever these may be. On the other hand, it would be a mistake to see efficiency as an entirely amoral, "objective" point of view. As mentioned above, a bigot, or anyone else for that matter, may recognize the difference between the social-institutional forms entailed by their own point of view and the more efficient social-institutional forms, and, still, advocate for their own social preference in full knowledge that this would involve harm to many others. As noted by Tyler Cowen (2013), adopting the efficiency benchmark of economics does involve adopting a particular moral position, namely, adopting a deeply egalitarian point of view, according to which one's own preferences cannot count more than anyone else's – or, to put it differently, the preferences of no group in society can be privileged over the preferences of others (see also Cowen, 1998; D. M. Levy & Peart, 2005).

The typical progressive, in arguing that freedom of association is just a cover for bigotry, clearly abdicates from this deep egalitarian ethos. However, they may see this as a feature if it is bigots who are harmed by the adoption of progressive institutions. By contrast, we want to explore here the extent to which progressive concerns can be taken into consideration *without* abdicating from this economic egalitarian ethos. As such, if efficiency is the benchmark, the only way for advocating regulating freedom of association is to show that it may lead to some market failures. We consider here in this chapter two distinct market failures: negative externalities and emergent segregation. But before that, we want to address the problem of defining the range of legitimate views.

The Political Economy of "Social Justice" Slippery Slopes

The key problem faced by the progressive strategy of dismissing some social preferences, labeled "bigotry," is how to define what counts as bigotry versus what is merely an acceptable preference or belief disagreement.

The liberal position doesn't have this problem as it doesn't aim at deliberate top-down eradication of certain points of view. For the liberal, the fact that different people define "bigotry" differently, and have different views about what is utterly unacceptable, poses no special political or institutional problem. Freedom of association simply takes care of this diversity of views

automatically. If one considers certain points of view completely beyond the pale, one is free to refuse to associate with those people – and, also, to use one’s freedom of speech to engage in various types of social pressure campaigns in order to influence the attitudes of others – “pay the preacher” as Buchanan’s metaphor goes.

The progressive strategy, by contrast, requires a universal definition of “bigotry,” a definition that would provide the basis for *legitimate* top-down state actions. One needs to distinguish a genuinely progressive top-down policy for combating genuine bigotry from an authoritarian top-down policy trying to illegitimately oppress certain groups in society, while perhaps masquerading as a progressive policy. This difficulty has always plagued the progressive program. Indeed, historically, progressives have in fact supported a variety of policies, such as eugenics, that strike modern progressives as atrocious (Leonard, 2017; D. M. Levy & Peart, 2005). But when progressives like G. Bernard Shaw, the Webbs or Maynard Keynes were supporting eugenicist policies, such as involuntary sterilization, they did not interpret these policies as simply government oppression of certain targeted groups. By contrast, classical liberals like Friedrich Hayek, Karl Popper, and Ludwig von Mises, as well as conservatives like G.K. Chesterton, clearly saw these policies for what they in fact were. Indeed, it was precisely the “analytic egalitarian” perspective of their liberalism, that is, the emphasis on the egalitarianism embedded in the concept of Pareto efficiency, that led them to oppose these policies.⁸ By dismissing as illegitimate *any* top-down policies that target specific groups, the liberals may seem to be weak on combating bigotry, but they also don’t run the risk of supporting atrocious policies like eugenics that may sound superficially “scientific” at a particular moment in time (Ridley, 2006, chap. 21, “Eugenics”).

Can the contemporary progressives avoid repeating the same type of error that early twentieth-century progressives clearly did not? As far as we can tell, there is really no objective method by which this can be reliably guaranteed. But a further problem is that, even if they will not support new kinds of atrocities, the progressive definition of “bigotry” is unlikely to fit what the *general population* considers reasonable. The definition of “bigotry” can be seen as subjected to a typical problem of concentrated benefits and dispersed costs, and because the policy maker does not bear the full social costs of over-expanding the definition of bigotry, it will tend to be expanded beyond the socially efficient level, leading to unnecessary social conflicts.

FEDERALISM AND THE DIVERSITY OF SOCIAL VALUES

Negative Inter-jurisdictional Externalities

Freedom of association entails that when people have differing preferences about how a society should be organized, these people should be free to form several different societies, each of which would be built in accordance with divergent social preferences (Kukathas, 2003; J. T. Levy, 2015, 2017). For example, people in one county can decide to be a “dry” county and not permit the

sale of alcohol on Sunday, while people in a different county can decide to allow it. Furthermore, if one disagrees with one law or another, one can move to their preferred county. The problem, of course, is that one county might cause a negative (subjective) externality upon the other. For instance, if the “dry” county is surrounded by “wet” counties, the Sunday alcohol prohibition may be de facto annulled — as the alcohol-loving minority of the “dry” county may still get alcohol on Sunday thanks to a short drive across the county border. This counts as a market failure as one group is effectively prevented from organizing according to their own social preferences.

The theory of federalism is built around such concerns, and the effect of such inter-jurisdictional externalities is usually to require a higher level of organization (Buchanan & Tullock, 1962; Ostrom, Tiebout, & Warren, 1961, chap. 8; Bish, 2014; Ostrom, 1987, 1991; Wagner, 2005). In effect, the jurisdictions need to engage in a process of Coasian bargaining and set up compromise solutions and possible compensations and side-payments. For instance, the “wet” counties surrounding the “dry” county may agree to increase the alcohol tax to some extent. When compromises are not reached, and especially if the inter-jurisdictional externalities are large, such spillovers can lead to very divisive and contentious relations. Ideally, from a Pareto efficiency point of view, such conflicts would end in compromise solutions. In practice, it may often take too long to reach such compromises so people give up even trying.

To illustrate, consider the issue of abortion. Given the very large cost, spanning over a long period of time, of having an unwanted child, it is very difficult to set up large-enough costs to effectively curtail abortion — if that is one’s social preference. For example, if a woman needs to travel a few hundred miles to reach a medical clinic that performs abortions, as it is indeed the case in some areas of the US, that cost would still be very small compared to the cost of having an unwanted child. As such, abortion cannot be a local or even a state-level policy, as local communities do not have the means of preventing the inter-jurisdictional externalities caused by permissive policies in other jurisdictions. The side effect of this is that a national-level policy is required, but, given the level of contention this issue attracts, such a policy will also have large subjective costs, regardless of whether it ends up as a pro-life or a pro-choice policy. There is little, if anything, that can be done about this, considering how little desire to reach compromise solutions exists.⁹

Continuing with the examples above, we may also infer that certain types of preferences are more likely to lead to the necessity of collective action. Preferences characterized by large negative spillovers of hatred would lead to high enough transaction costs (i.e., difficulty of reliably convincing bigots to renounce their ways) that collective action against bigotry and bigots is warranted. (As we discuss later, the key question here, of course, is what counts as “bigotry”?) These preferences can either be merely stated (exist in the minds of rational actors) or be the realized outcome of the free association of those who have these preferences, as may happen with segregation. Thus, to the extent that bigotry and racism generate negative externalities upon society at large, be they subjective or objective externalities, they are justifiably (from an economic

efficiency, meta-normative perspective) the target of collective action. In other words, the concept of freedom of association does not give cover to bigotry — on the contrary, it specifies quite rigorously under what conditions larger-scale policies to combat bigotry are justified. The key point here is that freedom of association most definitely does *not* entail the freedom to cause negative spillovers. As such, when such negative spillovers occur, the concept of freedom of association entails the need for broader compromise or, if compromise is impossible, it entails the unavoidability of harms, and, if bigots are in the minority, it entails that they should be the harmed parties. What is the nature of the harm? If compromise is impossible, one needs to decide whether the harms of imposing a single, larger-scale policy are greater or smaller than the harms of allowing negative inter-jurisdictional spillovers in a decentralized system. In other words, if bigots cause only minor negative spillovers upon the rest of society, it may not be worth it to have society-wide anti-bigotry policies. By contrast, if they cause large spillovers, such policies are justified. This is the first crucial *empirical matter* that needs to be assessed when evaluating and comparing different top-down anti-bigotry policies.

An important condition guiding the above logic was “if bigots are in the minority.” Could this condition be what explains the relative paucity of classical liberal voices during the Civil Rights battles of the 1950s and 1960s in the US? Considering that bigoted and racist views were much more widespread in that era, the concept of Pareto efficiency provides weaker support for going against them in a top-down fashion. This may sound plausible, but it does not explain why, earlier, classical liberals and economists were among the most prominent voices arguing for the abolition of slavery (D. M. Levy & Peart, 2005) as well as among the first feminists. We speculate that the intellectual sociology of the Cold War is at fault here, as the fusionist conservative-liberal alliance against socialism determined the classical liberals to be quieter about issues that would upset and endanger the fusionist strategy. In other words, the classical liberals deemed the international fight against socialism to be more important than the domestic fight against racism and bigotry. As the saying goes, “make a pact with the devil until you cross the bridge.” Much of the present-day negative judgements regarding the relatively timid actions taken by American classical liberals in the 1950s and 1960s miss this broader Cold War background and the fact that they viewed the threat of socialism as a true existential threat to democracy, freedom and prosperity, and the concern with this perceived threat took precedence over other issues.

Unwanted Emergent Segregation

A second type of failure that may warrant limitations on freedom of association is emergent segregation. In his landmark work, Schelling (1971) demonstrated how segregation might emerge at a societal level even from mild homophily. In contrast with the hate spillovers generated by close-knit associations of racists and bigots who associate precisely *because* of their racism and bigotry, the preference structure leading to suboptimality here is less obviously bigoted. The

problem here is precisely that the aggregate emergent result is at odds with people's own views about the desired social structure. A group of people that *wants* to build a desegregated society nonetheless ends up building a highly segregated one because each person in the group has a mild preference for not being a minority in their own neighborhood.¹⁰ The solutions to this suboptimal arrangement are varied but they all would in one way or another need to limit freedom of association.

Schelling's highly idealized model employed only interactions on a regular lattice, but subsequent work found that his results are robust (Zhang, 2004a). Segregation may even emerge from a strict preference for integration (Pancs & Vriend, 2007), or from preferences for equal representation of two types in any given category (Zhang, 2004b). Fagiolo, Valente, and Vriend (2007, 2009) show that segregation arises for other social network structures, besides a regular lattice, which are more apt to represent a school system, or a social neighborhood. The basic theoretical argument here is that segregation may warrant policy action despite its relatively benign cause if, as Zhang (2011) shows, people get stuck in a more segregated state than they would prefer. Zhang and Zheng (2015) attempt to estimate the size of this negative externality by assessing individuals' willingness to pay to live in a less segregated neighborhood using a migration model and census data, concluding that:

for a one percentage point reduction in the dissimilarity index, the estimated marginal willingness to pay of blacks is \$436 (in 1999 dollars) in 2000. Among whites, this marginal willingness to pay is \$301.

Understanding emergent segregation is important because it counteracts a common view that the mere observation that the distribution of individuals along some category is segregated is itself strong evidence of pervasive underlining bigotry. This is important for policy as the "elimination of discrimination may not be sufficient to achieve desegregation" (Zhang, 2004a, p. 165). For example, the Fair Housing Act of 1968 prohibited racial discrimination in public housing, but this failed to eliminate segregation. As a result, some counties then tried to establish explicit racial quotas for public housing to engineer desegregation more directly, but these were struck down by courts as such measures were prohibited by the Fair Housing Act itself (Bagdon, 1985).

Importantly, emergent segregation can have additional negative consequences (1) by reinforcing bigoted stereotypes and (2) by creating real obstacles to disadvantaged groups, what's sometimes called "structural racism." For example, racial segregation emerging from mild homophily (not even necessarily racial homophily) can, by extension, also create segregation along other dimensions, which are currently statistically associated with race, such as income, hence reinforcing bigoted stereotypes of race and poverty. This effect can be even stronger in the context of a country that has become less culturally and institutionally racist – fewer formal racist obstacles leading to the perception that the bigoted stereotype now has stronger "evidence." Understanding that this is bad evidence requires one to understand the somewhat subtle mechanism of Schelling segregation. Second, emergent racial segregation can also become

associated with differential opportunities due to other existing institutions, such as public school districts. This creates real obstacles to social mobility by, for example, providing lower quality education. There are minimum group sizes and economies of scale to carrying out certain activities, such as setting up a viable school district, which may themselves generate negative effects. Consequently, emergent segregation is bad not just because in itself it may be an unwanted distribution but also because it has additional collateral costs, which can be very large.

Emergent segregation thus has non-trivial social costs. Let us now consider the social costs of trying to rectify this problem by limiting freedom of association. Schelling (1971) painstakingly shows that, given an initial distribution of people along any given category (gender, race, ethnicity, income, etc.), it may not be mathematically possible to achieve any given final “just” distribution that we may imagine. Not all desirable policies are achievable. One cost is thus due to policy errors, as a successful regulatory scheme must avoid unintended consequences in a highly complex and dynamic environment. As the example of the Fair Housing Act shows, this is often far from trivial.

A second way that integrationist policy can create social costs is if wolves (genuine bigots) hide among the sheep (homophily). Suppose segregation in some social setting is mainly caused by mild homophily, but some individuals in society are also bigots and racists. As emergent segregation arises due to homophily, bigots move to the segregated neighborhoods. As such, their views are diluted, and social pressure against expressions of bigotry will still be present. This is better than bigots coming together in deliberately organized bigoted communities that would generate the previously discussed spillovers of hate. If integrationist policies that target emergent segregation succeed in increasing diversity, racists and bigots that were formerly content will no longer be, and, as a result, they may engage in a variety of activities designed to *promote* bigotry. Thus, emergent segregation may provide islands where bigots may be content enough to keep their bigotry private, which presumably will contribute to the gradual decline in prejudice.

Once again, the correct policy for reducing prejudice is up for debate, and it depends on relatively hard to answer empirical questions. The most unintuitive result is that if a supporter of diversity judges the spillovers of hate from bigotry to be large, that implies that they should be relatively cautious about policies that diminish emergent segregation. However, they may still support such policies if they judge the side effects of emergent segregation to be large enough, for example, if they assess that the effects on social mobility are significant.

LEGITIMACY AND MARGINALIZATION

How Should Societies Decide Who Doesn't Count?

There is a clear difference between how societies *should* decide whose views don't count (as far as public policies are concerned), and how societies, including advanced democracies like the US, *in fact* decide who doesn't count (or counts

for less). Paying attention to the *reality* of who counts less is vitally important for understanding how and why well-meaning progressive policies could badly backfire (as many have indeed backfired).

The classical liberal answer to the *normative* question has been laid out in the classic *Calculus of Consent* by James Buchanan and Gordon Tullock (1962), particularly chapters 6–8. There are two elements to this answer: First, the *Calculus* lays out how freedom of association creates a path for diverse communities to form in a bottom-up fashion, creating a complex federal system (see also Buchanan, 1987). Second, the *Calculus* uses a veil-of-ignorance approach which further delegitimizes some possible rules, in particular discriminatory rules.

The idea at the core of the *Calculus* is as follows. Any collective decision, which is imposed upon the entire group, will have some costs – as not everyone subjected to it will agree with it. For instance, if the group decides to implement effective anti-racism policies, racists will suffer a cost. In post-desegregation US, their children had to share classrooms with some black children, which racists resented and tried their best to prevent. In principle, the losers of a policy could be compensated. This is partly how Great Britain abolished slavery – by compensating the slave owners. As economist John Nye (2009) put it, many such transitions away from evil involve “the privileged betraying their class interest” as “the current generation of elites – or a critical subset thereof – stands to gain at the expense of [their] future generations.” In other words, giving some present-day benefits to bigots can induce them to accept structural changes they otherwise wouldn’t, which over the longer term, undermine the perpetuation of their own views. To put it differently, pay racists today to have them agree to dismantle *structural* racism.

This approach adopts the standard Coasian bargaining perspective (Coase, 1960), and would in principle work for bringing about Pareto improvements, as long as the transaction costs are low enough. But, of course, the larger the group and the deeper the conflicts over social values, the larger such transaction costs become. *Actually* setting up a system of compensation, and agreeing on what the compensation would be, can take a lot of time and resources. The *Calculus* includes these transaction costs into the analysis under the name of “decision-making costs.” As such, when such decision-making costs are too large, it is indeed socially efficient to just ignore the interests of some subgroups. This is true as long as their losses are lower than the transaction costs involved in creating broad-based agreement and setting up the complete Coasian compensation schemes.

We can also describe this logic in marginalist terms. A consensus group about an issue grows, structured by the nature of these agreement costs, and, when the marginal costs of further increasing consensus become larger than the marginal social costs suffered by those who still disagree, it is no longer worth it to bother creating a larger consensus. Those left out – and, importantly, who are *not* compensated – are the group of people whose views can be ignored. Indeed, trying to *include* them would actually be a waste of resources as far as economic efficiency is concerned.

Consequently, the calculus of consent logic does *not* imply that societies should allow racists and bigots to veto societal policies. But it might imply, however, that *if* it is possible to allow racists and bigots to separate themselves from the rest of society, that should also be allowed, provided that the negative externalities of their views are contained to low levels. Progressives, by contrast, seem to object to this as a matter of social justice principle. According to the calculus of consent logic presented so far, one needs to account for the unavoidable externalities that the existence of such bigoted communities might impose upon the rest of society. If such racist communities generate large-enough spillovers of hate, it becomes justified for the outside world to restrict them.

This logic of consent and freedom of association depends crucially on whether communities can design their internal affairs according to their own views *without* interfering too much with others – and causing conflicts with them. If such spillovers are unavoidable, the problem rises at a larger scale and depends on conflict resolution mechanisms at that larger scale. For example, allowing the Amish to organize internally according to their own views poses little problems. Although these views are very far from the average views in the broader society, the Amish way of life does not generate large negative externalities upon others. By contrast, this may not be said about would-be racist communities, and, hence, that problem is of more general concern.

For the liberal, what matters is not the strangeness of one's beliefs, but whether one can live by those beliefs without perturbing those who do not share them. The most *institutionally robust* way for achieving a tolerant society, that is, the method which does not depend on too many pieces falling into the right place, is *not* to try to indoctrinate everyone into a narrow view of what tolerance and enlightenment means, but to make it possible for them to live as they like while being largely *indifferent* of what others prefer. When negative externalities between groups with fundamentally divergent values are minimized, social conflicts are minimized, which leads to “tolerance” as a side effect.

This being said, the *Calculus* introduces a second restriction of the set of legitimate rules by appealing to a Rawlsian veil-of-ignorance approach. Rules are legitimate not only if the communities set by them cause few negative spillovers but *also* only if these rules can be agreed upon by people who don't know the specifics of their own positions and privileges. William Hutt (1966) expanded upon this provision in the context of the US civil rights movement and noted that:

all who really understand the argument [of the *Calculus*] must, we feel, accept the principle that collective decisions should be non-discriminatory, except with the prior consent of those discriminated against. Unless this condition is fulfilled, laws of any kind which, directly or indirectly, discriminate in favour of or against any particular group (whether on the grounds of race, colour, ancestry, creed, sex, occupation, district, property or income) should be ruled unconstitutional and void.

Hutt was a South African economist and prominent critic of apartheid who was brought by Buchanan as a visiting professor to Virginia in 1965 and who lectured there about the similarities between South African apartheid and racial

segregation in the US (Magness, 2017a). Hutt had an interesting take on the connection between the *Calculus of Consent* and the issue of minority rights. He noted that a crucial dilemma exists about how to prevent the tyranny of the majority from trampling upon minorities (of any kind), and the opposite concern with rent-seeking, which allows some minorities (that can organize) to “merely demanding privileges for themselves” at the expense of the majority. In Hutt’s (1966) view, the *Calculus* solves this problem by moving the issue at the constitutional level: “the constitutional protection of minorities should be sought via rules for making rules which invalidate all discriminatory law rather than by continuous minority concurrence.” This means large-scale agreement about anti-discrimination can only be achieved at a reasonably abstract level:

Amendment of the non-discrimination principle alone, we suggest, should be subject to approval by large percentage majorities or the explicit approval of defined minority groups which have been granted special constitutional safe-guards.

Interestingly, he includes here “defined minority groups which have been granted special constitutional safe-guards,” which is indeed the approach of some European states.

The Wisdom of Appeasing Evil

The above calculus of consent *normative* logic should be contrasted with William Riker’s *descriptive* theory of the “minimal winning coalition” (Riker, 1984). The Buchanan and Tullock level of optimal consent – how inclusive a society should be when deciding various issues – describes what should *in principle* happen, but, in practice, smaller coalitions can get the upper hand and actually impose inefficient policies.¹¹ Such policies will not gather a large-enough consensus to reach the point of socially efficient inclusivity. To put it differently, the calculus of consent is built on an *egalitarian* assumption regarding power. But, of course, in practice, power is not equally shared throughout society. This gives more weight to the bribing mechanism for social change emphasized by John Nye and others. The group that needs to be bribed to give up their support for their preferred policies may be small – and, from the point of view of the calculus of consent social efficiency, safely ignored – but, from the point of view of actual power, they may still have great influence. As such, in practice, in order to actually achieve social justice, one may require to appease relatively small groups of evil people. In practice, one must consider not only the decision-making costs in a hypothetical egalitarian social contract (the Buchanan and Tullock calculus of consent scenario) but also real-world transition costs.

From a moral point of view, this undoubtedly sounds appalling. It involves giving benefits to the very people one considers evil. It involves providing benefits to those one might think should be *punished*. Perhaps the starkest version of this dilemma is discussed by Peter Boettke and Chris Coyne (2007) in what they refer to as “the political economy of forgiveness.” Their example involves transitions from dictatorships. The dictators and their ruling class are often responsible for various atrocities during their time in power. And, yet, sometimes, for

example, in most Eastern European transitions from communism, they are offered immunity and more. For instance, the military personnel in Eastern Europe receive “special pensions,” much larger than the average person’s pension, despite the fact that, especially the higher ranking ones, were the very tools of oppression for decades. Instead of punishment, they are bribed.¹² The political economy logic here is that, without such immunity and benefits, they would have clung to power much more strongly and desperately. A revolution happens when the regime loses the support of the military — but how could one possibly gain the support of the military by promising them punishments for their past deeds? Similarly, the dictator and many in the authoritarian ruling class may agree to leave without a fight, as indeed has often happened, *if* they are given credible promises of immunity. Looking forward towards a more just future, and greatly easing the transition, may very well be worth the cost of giving up the satisfaction of revenge.

The same kind of logic applies to other contexts in which one feels one is fighting against evil. Consider the fight against racism from 1950s onward in the US and in particular the quest to racially desegregate schools.¹³ Should the racists be ignored or even appeased as a way of lowering their opposition to reforms that would effectively address structural racism? It sure looks like this was the position of classical liberals at the time. For example, James Buchanan and G. Warren Nutter noted in their 1959 paper on universal education: “We believe every individual should be free to associate with persons of his own choosing. We therefore disapprove of both involuntary (or coercive) segregation and involuntary integration.” [Buchanan & Nutter \(1959\)](#) notice that, while this is a rejection of the institution of segregation, it is also a rejection of the attempts to impose progressive values on racists. It is, hence, a compromise proposal in which the racists give up the institution of mandated segregation and, in exchange, they are potentially allowed to retain their own bubbles of bigotry. This is in many ways the very uncomfortable tension between the more idealistic and moralistic outlook of the progressive, who judges certain preferences and values as beyond the pale and in need of immediate eradication by means of state power, and the more cynical and economic outlook of the liberal, who believes that “there are no solutions, only tradeoffs” as Thomas Sowell put it, and that “from the crooked timber of humanity nothing straight was ever built” as Kant put it. It is also a source of great possible misunderstandings, as someone who looks like they are appeasing racists surely looks at least a bit suspicious. The liberal outlook is to think that focusing too much on specific people and some of their abhorrent beliefs is actually a distraction from the task of institutional reform. However, consider this: What if the liberal is actually mistaken in their cynical calculation? If that is the case, they *are* in fact unnecessarily giving cover to racists. Buchanan and Nutter might not have been racists themselves,¹⁴ but, from a progressive point of view, their appeasement strategy still looks dubious.

The Case of School Vouchers

A prominent policy controversy related to this topic is concerned with the effects of a voucher system. Prominent classical liberals like Milton Friedman (1955, 1962) and Friedrich Hayek (1960, chaps. 24, “Education and Research”) have argued that a system of education vouchers would provide higher-quality education by forcing public schools to compete with private schools. Buchanan and Nutter (1959) have also argued that a voucher system would be more economically efficient than the existing organization of public schools, although, in Buchanan’s characteristic fashion, they refused to actually offer policy advice, noting that other political, social, and moral considerations might very well be more important than the economic ones and that they are no more qualified than anyone else to express an opinion on non-economic matters:

In our professional or academic capacity, we have not participated in the public discussion of fundamental ethical questions involved in the school crisis, because we do not feel that our academic or professional status, of itself, bestows special authority or competence to speak on these issues. Each citizen speaks for himself on such matters, and each citizen’s opinion weighs as heavily as any other’s, no matter his position in society — whether farmer, lawyer, educator, or minister.

One could hardly find a better expression of the idea that everyone’s preferences and values matter the same. But aren’t we giving racists equal voice here? This is indeed the progressive charge against the liberal so-called tolerance and egalitarianism.

The idea behind the economic support for vouchers is as follows. Without the vouchers, private schools may be too expensive for many parents, but the voucher provides them with an additional subsidy (which parents can only spend on schools), hence making previously out of reach schools affordable. Consequently, the public schools would have to increase the quality of their educational offers in order to keep the students from moving to the, now affordable, private schools. As Hayek (1960, p. 504) noted, educational vouchers could even be pushed toward complete school privatization, as they make it:

possible to leave the organization and management of education entirely to private efforts, with the government providing merely the basic finance and ensuring a minimum standard for all schools where the vouchers could be spent. Another great advantage of this plan is that parents would no longer be faced with the alternative of having to accept whatever education the government provides or of paying the entire cost of a different and slightly more expensive education themselves; and if they should choose a school out of the common run, they would be required to pay only the additional cost.

Even if one accepts the economic argument for vouchers, the question still remains whether the system would not only allow poor people to access richer schools but also allow racists to keep their schools white. As the argument goes, when racists see black children accepted at their schools, they will pull their children out and choose some other, more bigoted schools. The voucher system makes such a switch cheaper, and, hence, enables it. As noted by Phil Magness (2017b), this might seem like a strange argument against the voucher system. What is wrong after all with having one less racist parent influencing the

school board? But this may be a problem if the aggregate result is not only the emergence of more tolerant schools but also of concentrated clusters of hate. As noted earlier, such clusters might have great negative externalities upon society as a whole, so the concern is not entirely illegitimate.

Interestingly, Buchanan and Nutter seem to have shared this concern. In a republished version of the 1959 article, in 1964, they have added the provision that “private schools that exclude pupils on the basis of race” should not be eligible for the voucher system (Magness, 2018). Furthermore, Buchanan refused to contribute to a volume on the topic of school vouchers, and he wrote in May 1984 to Arthur Sheldon, who was editing the volume:¹⁵

As for my own views on education, [...] we need to distinguish between practice and ideals. Given the state monopoly as it exists, I surely support the introduction of vouchers. And I do support state *financing* of vouchers from general tax revenues. However, although I know the evils of state monopoly, I also would want, somehow, to avoid the evils of race-class-cultural segregation that an unregulated voucher scheme might introduce. In principle, there is, after all, much in the “melting pot” notion of America. And there is also some merit in the notion that the education of all children should be a commonly shared experience in terms of basic curriculum, etc. [...] *Ideally, and in principle, it should be possible to secure the beneficial effects of competition, in providing education, via voucher support, and at the same time, to secure the potential benefits of commonly shared experiences, including exposure to other races, classes, and cultures. In practice, we may not be able to accomplish the latter at all.* But my main point is, I guess, to warn against dismissing the comprehensive school arguments out of hand and too readily. (emphasis added)

The 1950s Virginia racists were also conflicted about the voucher system. Although some of them thought it was a worthy compromise, many others were concerned it was a trap in the long-term (Magness et al., 2017). Indeed, if vouchers help poor people access richer schools, what would prevent poor black parents from using the system for sending their children to rich, and previously white-only, schools? Furthermore, what would prevent schools – especially private schools – from accepting them? After all, private enterprises are entrepreneurial and constantly looking for new untapped opportunities. They would more than welcome the reputational and financial benefits of having future successful alumni and, hence, compete to tap a previously unavailable source of good students. There are indeed many brilliant black students who don’t get the chance of attending good schools purely due to financial reasons – but the voucher system washes away this financial constraint. This takes off the table one of the main reasons that private schools have for rejecting black students – the ability to pay full tuition. One can thus see many black students having their opportunities restricted by the relative poverty of their parents and the voucher system as a way to provide them with an immediate escape. Racial segregation problems may not be *entirely* due to such class disparities, but to the extent that they are, the voucher system addresses this directly.¹⁶ The second-order effects are also important. Good educational opportunities provide students with higher future incomes, hence accelerating the reduction of the racial poverty gap. As noted by Buchanan and Nutter (1959):

[e]ducation cannot be denied to those who lack means, not only because social interests dictate that they should be informed citizens, but even more importantly because education is the most effective measure at our disposal for rectifying the inequalities of opportunity suffered by the less fortunate members of our society.

One can see, however, why this pro-voucher argument might not be entirely appealing to progressives. It takes a long time for the beneficial effects to manifest themselves. Indeed, we are talking about at least two generations, but almost certainly longer, and education is only one of many elements of structural racism. By contrast, in the short-term, we might have seen racists getting around desegregation policies using the voucher system to move their children to bigoted schools. After all, as long noted by Mises, markets are morally agnostic – where there is a demand, there will be a supply, even if the demand is for bigoted schools.

Interestingly, there would have been a possible liberal solution to this. As Hayek noted in the quote given above, the government would still be “ensuring a minimum standard for all schools where the vouchers could be spent.” The same idea was also emphasized in [Buchanan & Nutter’s \(1959\)](#) chapter on educational vouchers, where they noted that:

governments need not run schools in order to set minimum standards of education. Standards may be set in several ways: by certifying teachers, by accrediting schools and basic curriculums, by examining pupils, and so on.

Such a “minimum standard” could have very well included an anti-racist condition, as indeed Buchanan and Nutter proposed in the 1964 version of their paper. How lax such standards would have been can be seen as different degrees of “appeasing evil.” One can easily imagine an entire (currently non-existent) progressive literature concerned with what should or shouldn’t be included in these “minimum standards.” For example, one could even imagine affirmative action quotas included here, such that only schools that are diverse are eligible for benefiting from the voucher financing.

Given that basically any progressive concerns could be addressed in such a fashion, we are struggling to explain the progressive opposition to vouchers as anything but the inherent desire to have the government run the schools. While, from a progressive point of view, Buchanan and Nutter appear as useful idiots for the racist camp, from a liberal point of view, the opponents of vouchers appear as useful idiots for corrupt teachers’ unions interests, which have long opposed a wide-range of attempts to increase the quality of education in public schools (such as firing obviously incompetent or even abusive teachers).

The 1950s and 1960s progressives chose the short-term satisfaction of causing immediate grief to racists at the expense of adopting policies, such as the voucher system, that would have more robustly addressed long-term structural racism. One can only imagine the satisfaction one must have felt seeing the racist Byrd machine defeated in Virginia. But, at the same time, one cannot look at the performance of public schooling in the US and not accept that the original progressive goals have not been achieved. The reality is that the policies have not been *robust*. The progressive policies for reducing segregation have worked

for about 25 years, from mid-1960s to late-1980s, but, because they were dependent on politics, they were reversible, and have indeed been reversed. According to the UCLA's Civil Rights Project, "the South [...] has lost all of the additional progress made after 1967", although it "is still the least segregated region for black students." Similarly, "[t]he growth of segregation has been most dramatic for Latino students, particularly in the West, where there was substantial integration in the 1960s, and segregation has soared."

It is still a matter of debate exactly what happened, but one of the policies that seems responsible for this dramatic backsliding is the drastic centralization of evaluation practices. By submitting everyone to the same one-size-fits-all policy, one hampers the use of diverse strategies for helping students. Consequently, instead of making it possible to adopt diverse educational strategies *within* each school, one-size-fits-all policies forced the diversification to occur only *between* schools, that is, they spurred re-segregation. When all schools are forced to be "teaching to the test", the schools end up competing with each other mainly by trying to select the student body. By contrast, abolishing pseudo-objective, top-down evaluation practices, and, by extension, eliminating the need to "teach to the test," each individual school can focus more on providing education to a diverse student body and reap benefits from having a diverse student body.

Educational evaluation began to be centralized under Ronald Reagan and continued under both Bill Clinton and George W. Bush. As such, one may indeed make the partisan point that this policy hardly looks like a progressive policy. Our point, however, is that even if the details were not progressive, the policy was enabled by the previous policies of centralization. It was the centralization that made the policy fragile.

CONCLUSION

The economic perspective on social justice problems can provide a broad conceptual umbrella to both progressives and classical liberals. But their dispute about the right approach to addressing bigotry doesn't have an objective economic answer. It crucially depends on how one assesses certain hard-to-measure costs.

First, how large would the negative externalities of bigoted communities upon the broader society be? The larger one thinks these are, the more likely one is to support top-down progressive policies aimed at explicitly fighting bigotry. In this sense, bigotry is like a form of pollution. In the same way as air pollution cannot be too decentralized, social justice policies also cannot be overly decentralized *if* one considers the negative externalities of bigoted communities to be significant.

Second, even if one agrees that policies should be put in place to address social justice issues, significant disputes persist about *which specific policies* would actually be effective. The example of school vouchers is perhaps the most salient. On one hand, classical liberals like Milton Friedman and F.A. Hayek have assumed that the logic of the market process, as revealed by Gary Becker's

economic theory of discrimination, will gradually undermine bigotry. School vouchers creates a cost to bigots and a profit opportunity for non-bigots. Hence, the long-term equilibrium effect is to undermine bigotry. On the other hand, one may still legitimately worry, alongside Buchanan, that this is overly idealized. Perhaps it will work like this in a fully competitive market for education, but that is unlikely to be the case in the real world. As such, racist preferences may still end up determining the equilibrium. Furthermore, the logic of Schelling's agent-based model of emergent segregation shows that the equilibrium may actually be far worse than people themselves want. The equilibrium may be full segregation, even if the people involved have only mild homophily. In other words, the outcome may not reflect their actual preferences, but be worse, according to their own preferences.

Third, even if one accepts Gary Becker's logic, and accepts that in the long-run bigotry would be waning under market forces, one may still consider that this just takes too long. What about the transitional generations that suffer from discrimination? It is still a grave injustice to them. One may thus want to find and adopt various top-down policies that accelerate the process. And these policies may actually be similar or identical to the ones supported by those who believe Shelling's emergent segregation equilibrium to be more likely than Becker's progressive equilibrium.

Fourth, once such top-down policies are considered, the possibility of slippery slopes needs to be taken seriously. The logic of concentrated benefits and dispersed costs applies to this situation and, hence, leads to the conclusion that social justice policies and the definition of "bigotry" will be overextended beyond (possibly far beyond) what the average person considers legitimate. Depending on the likelihood that one attaches to the occurrence of such slippery slopes, one is more or less likely to be weary of the top-down social justice policies, even if one would think that, narrowly understood, they are properly chosen to reach their goals. In other words, one may still be weary of workable top-down anti-bigotry policies, if those putting such policies in place will begin a hard to stop slippery slope of over-expanding the meaning of "bigotry." By contrast, more cynical progressives may actually see such a slippery slope as a feature rather than a bug: a policy that can be adopted for a widely accepted (and non-partisan) social purpose of reducing bigotry, but which also has partisan side effects in favor of a broader progressive agenda, can be seen as a doubly attractive policy. By contrast, a liberal who is committed to the Pareto efficiency desideratum and takes seriously the subjectivity of preferences, including of social preferences and moral intuitions, cannot follow the progressive there. For the liberal, the possibility of such partisan slippery slopes counts as a definite social cost, rather than a benefit – even if one might *personally* agree with those progressive social preferences.

As it should be clear, none of these four issues are easily evaluated, although, in principle, they are empirical matters. Even if, in principle, we could attempt an objective evaluation of those costs and probabilities, motivated reasoning with respect to such deeply emotional matters is hard to avoid. Nonetheless, in the interest of improved communication, we think it is still useful to understand

and identify these possible reasons for disagreement between progressives and classical liberals. This could provide a basis for a more interesting and fruitful discussion across a political divide, as opposed to the more or less recent attraction of utterly uninformed far-left conspiracy theories about the supposed dark influence of classical liberals upon policy.

NOTES

1. As such, theoretical results, like Arrow's impossibility theorem, and empirical issues, such as voters widespread ignorance, become particularly important for the liberal (Achen & Bartels, 2016; Caplan, 2008; Riker, 1982; Somin, 2013).

2. In the United States, the advocacy of non-democratic political stances, including full-blown fascism, is constitutionally protected by the First Amendment, but this is not the case in many European countries.

3. This has recently become more salient thanks to the realization that many prominent members of the "alt-right" in the United States have previously been part of the libertarian movement and cite as inspiration prominent libertarian thinkers like Murray Rothbard (Ganz 2017a, 2017b; Lewis 2017; Wilkinson 2017).

4. For a good discussion of this, emphasizing the amoral nature of efficiency particularly clearly, see Mises (1949, chap. 4, "A First Analysis of the Category of Action") and Mises (1957, Part One, "Value").

5. Contrary to a widespread belief, there is a relative consensus within the economics profession that minimum wage laws tend to harm low-skilled people and minorities. When a group of economists was asked about why they supported an increase in minimum wage laws, they generally answered that sending a *symbolic signal* of caring about the issue of poverty was more important than the *actual harm* caused to poor people by the increase in the minimum wage (Klein & Dompe, 2007).

6. For a classical liberal economist's perspectives on these matters, see Williams (1982, 2011).

7. On a personal level, the analyst can, of course, act upon their preferences, by either choosing not to associate with those having horrendous views and by "paying the preacher" to "preach" against such views.

8. Interestingly, not all classical liberals at the time rejected eugenics, but, as noted by Levy and Peart (2005), when Hayek set up the Mont Pelerin Society (MPS), he seems to have deliberately excluded those who favored eugenics. This included some of the most prominent pro-market American supporters at the time, which, partly due to their exclusion from MPS, are today far less well-known. This is a good example of liberal freedom of association in action, and how it operates against views that one considers beyond the acceptable.

9. One possible compromise solution is to allow legal abortion, but enact other complementary policies that would effectively reduce the actual number of abortions, for example, enacting policies that reduce the cost of adoptions. Given the high risk and costs involved in being pregnant, one would probably need to provide financial compensation to women who have unwanted pregnancies, in order to persuade them not to have abortions, and such compensation could naturally be provided by the would-be adoptive parents (Brennan & Jaworski, 2015, p. 181; Landes & Posner, 1978). Every time one of us suggested such a compromise policy to either pro-choice progressives or pro-life conservatives, we were accused of supporting "baby selling." Promoting economic efficiency is an uphill battle.

10. Even if one still considers this a form of racism, it is clearly a less malignant one.

11. This is also discussed in the *Calculus of Consent* itself, see especially part 4. After setting up the normative benchmark, Buchanan and Tullock themselves move on to discussing more realistic situations in later chapters.

12. This point was first made to us by Laurentiu Gheorge, a professor of moral philosophy at Bucharest University.

13. What follows is based on the brilliant archival efforts by Phil Magness. See especially Magness, Carden, and Geloso (2017).

14. There is indeed ample evidence that Buchanan and the Thomas Jefferson Center he was running were not passive at the height of the civil rights movement debates. He encouraged students to apply public choice theory to understand racism; he collaborated with the anti-segregation Virginia newspaper *Richmond Times-Dispatch* (where the Buchanan and Nutter education article was published); he invited numerous speakers to talk about anti-segregation and democracy, such as his former professor, Frank Knight, and the well-known political theorist, Robert Dahl; he invited famous South African anti-apartheid economist William Hutt and prolonged his visit after Hutt noticed the structural similarities between apartheid and the situation in the US and started giving lectures about it.

15. The letter is at the Hoover Institute in the Institute of Economic Affairs archive, Box 162.2, and available online at http://people.duke.edu/%7Eegsv5/Buchanan_Seldon2.pdf. It was discovered by Jeremy Shearmur of Australian National University and made public by Georg Vanberg of Duke University (see Bernstein, 2017).

16. The UCLA's Civil Rights Project 2014 report notes that, to this day, "Black and Latino students tend to be in schools with a substantial majority of poor children, but white and Asian students are typically in middle-class schools." (Orfield & Frankenberg, 2014)

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