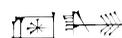


Anthony de Jasay

Social Contract, Free Ride

A Study of the
Public-Goods Problem

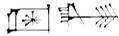
Anthony de Jasay



Liberty Fund

Indianapolis

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written appearance of the word “freedom” (*amagi*), or
“liberty.” It is taken from a clay document written about
2300 B.C. in the Sumerian city-state of Lagash.

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First published in 1989 by Oxford University Press

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C 10 9 8 7 6 5 4 3 2 1

P 10 9 8 7 6 5 4 3 2 1

Library of Congress Cataloging-in-Publication Data

De Jasay, Anthony, 1925–

Social contract, free ride : a study of the public-goods problem/Anthony de Jasay.
p. cm.

Originally published: Oxford [England]: Clarendon Press ; New York: Oxford
University Press, 1989.

Includes bibliographical references and index.

ISBN 978-0-86597-737-2 (hardcover: alk. paper)—ISBN 978-0-86597-701-3
(pbk.: alk. paper) 1. Public goods. 2. Social contract. 1. Title

HB846.5.D4 2008

320.1'1—dc22

2007036321

LIBERTY FUND, INC.

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Indianapolis, Indiana 46250-1684

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Introduction

“You get what you pay for.” As often as not, however, you do not. If you did, the world would be a simpler place. It would be wholly ruled by exchange relations. All would bear the full consequences of their actions and nobody would suffer or profit from “spillovers” he¹ did not cause. Politics would be a redundant activity, and as a subject of study it would be swallowed up by economics. All social co-operation would be regulated by contracts, none by commands. Individuals would be sovereign, each deciding all matters for himself.

Yet it is of the essence of social coexistence that a person can get more than he pays for, and also that he can be made to pay for more than he gets. When this is the case, the advantage of mutually agreeable exchanges fails to explain fully why co-operation takes the forms it does. Certain acts and forbearances, goods and services are bought and sold; others are “provided.” It is believed that there are goods, such as national defense, traffic lights, clean air, or union bargaining, whose intrinsic characteristics predestine them to be collectively provided, for they cannot be doled out in dribbles to individuals willing to buy them nor be withheld from those who will not pay for them. However, the dividing-line between public provision and private exchange does not run according to the textbook distinction between public and private goods. Intrinsically private goods, like health care and education, are in large part publicly provided in most societies that are regarded as democratic, and in some that are not. Both individual exchange and collective provision require contributions of resources, efforts, good conduct, and good sense. Contributions give rise to benefits to be enjoyed. But the relation governing how contributions are transformed into benefits is different between “exchange”

1. Wherever I say “he” or “man,” I really mean “she” or “woman.”

and “provision.” In the realm of exchanges, value is received for value rendered; some firm nexus links any single individual’s benefit to his own contribution. He gets a good if he pays its price. In the realm of public provision, however, the individual nexus is relaxed or uncoupled altogether; only aggregates remain firmly linked. For the group, the town, or the nation, total contributions match total benefits. Within such communities any individual can be a free rider as long as at least one other will be a sucker. Only by sheer accident does one’s contribution “fairly” match one’s benefit and it is not the purpose of public provision that it should. If anything is intended it is the contrary, for non-market provision is as much an exercise in making selected goods and services freely available as in helping some members of a “public” at the expense of others. The uncoupling of individual benefit from contribution which is intrinsic in “publicness” designates it as the redistributive engine *par excellence*—an engine that keeps churning away unstoppably, impervious to sporadic attempts to throttle it back.

Social anthropology is in two minds about the institution of private property and the historical evidence, such as it is, of “what came first” (or mattered more)—exchange and giving in the firm expectation of receiving a due return, or provision according to some principle of sharing. The balance at any time between the two ways of going about getting what one wants determines the character of a society in more ways and probably more decisively than anything else in the political culture. It suffices to conjure up the ideal image of the classical liberal market order at one Platonic extreme and full communism at the other, to size up the potential effect of the balance shifting one way or the other, as it appears to have done from time to time since our earliest days. It is a curious and imperfectly understood feature of modern societies, however, that when the balance does shift it now shifts only one way, towards wider and more diverse collective provision by central and local governments and quasi-voluntary associations, leaving a shrinking relative role to private exchanges. This tendency, discernible for at least the last century or so, is one no political regime of any persuasion has yet reversed, though more than one have proclaimed the vital need to try. One of the puzzles

the present book seeks to unravel is why contemporary societies end up with “more government” both when they seem to want more and when they claim to prefer less.

Harder to unravel, though of the same design, is the puzzle of why groups of interdependent persons seem unable to attain certain outcomes that are perfectly within their reach and that each member of the group would prefer. Public provision has long been held to be such an outcome. The diagnosis dates back at least to Hobbes, who taught us that it is impossible to assure civil order by way of voluntarily agreed mutual respect for life and property, for covenants to keep the peace would be but “vain breath” in the absence of an all-powerful, sole contract-enforcer. All would like civil peace, but each would like it better still that all others should keep it while he remained free to breach it. Hence, none could have civil peace unless all laid down their arms and submitted to the threat of public coercion in the enforcement of agreements. Their willingness to submit—essentially, their acceptance of the social contract—is the direct consequence of their want of a good that can be provided out of mandatory contributions or not at all.

What Hobbes deduced from the preference for a single good—civil order—later theorists have extended to any good from which an individual can benefit without contributing to the cost of producing or maintaining it. The implied incentive structure gives rise to a dilemma in that contribution is both advantageous and irrational. Contributing to public goods is interpreted as a particular case of the notoriously destructive “prisoners’ dilemma,” in which the pursuit of self-interest is an insurmountable obstacle to its own success, and rational conduct leads to needlessly poor and wasteful outcomes. If so, people would naturally rather be forced into individually unappealing conduct permitting better outcomes than accept the inferior ones that would perversely result from their free choices. On this reasoning is founded the legitimacy of the social contract and the related proposition that, generally, without mandatory contributions there can be no publicly provided goods (or, in a variant of the proposition, only inefficiently small supplies).

It is by taking this proposition as self-evidently true that public

goods theorists from Wicksell and Lindahl to Samuelson have felt free to treat the Hobbesian problem of the unenforceable covenant as one that could be dealt with in terms of optimum taxation and optimum allocation of state expenditures. In their hands, a conundrum of political philosophy became a technical question of welfare economics. There is, of course, no call to object to this reduction on the ground that it is “reductionist.” It is by successful reduction of problems that, with luck, we solve them. This particular reduction, however, is not successful, depending as it does on an underlying interpretation of the alternatives confronting men in the state of nature that does not stand up to scrutiny. The point of this book is to demonstrate that there is no public-goods dilemma in Hobbes’s fatal sense—a sense adopted by subsequent thought in law, politics, and economics (impoverishing each)—for voluntary contribution to shared benefits can be fully consistent with the successful pursuit of narrow self-interest. Willing surrender of free choice in the matter, as social contract theory would have us do, cannot be accounted for by our desire to attain purportedly better states of affairs than our uncoerced self-seeking could bring about.

The antithesis between building social co-operation on free contracts and on obedience to legitimate commands lies at the base of the cleavage between individual and social choice. It is only when his benefit is matched by his contribution and he “pays for what he gets and gets what he pays for” that an individual’s choice is solely, or at least predominantly, his own business and no proper concern of others. When, in co-operative situations, his benefit exceeds or falls short of his contribution he plays a *de facto* free-rider or sucker role, bound up with either the tolerance or the pressing encouragement of others who, by right or force, get a say in the matter. Unless they are fatuous (a redundant adding together of identical wishes), collective decisions involve the will, preference, or interest of one part of a collectivity overruling those of the rest. Who overrules whom depends on the decision rule or constitution. By being more or less democratic, plutocratic, aristocratic, or whatever, or simply by virtue of its more or less agile or sluggish nature, a given kind of constitution is predisposed to produce a corresponding kind of social decision, biased in favor of an identifiable interest. This is conspicuously the case in matters

of public goods production, taxation, property, and other minority² rights. Hence, no non-fatuous constitution can be adopted without in advance overruling those whose interest would have been, on the average, predictably better served by a different one. The social contract is a hypothetical agreement which no sane person would have good reason to reject; it is legitimate because it overrules no one. The point of a “constitution” or decision rule, by contrast, is precisely to overrule dissent and produce choices in the face of non-unanimity. Unlike the social contract “upstream” of it, the very nature of a social decision rule contradicts the requirement that no one should have a justifiable reason to reject it. It cannot derive legitimacy from unanimity, since the choices it is biased or “programmed” to produce “downstream” are themselves neither unanimous nor randomly unpredictable. At best, such a rule can be legitimate on the ground of acquiescence—a logically different and ethically questionable if not downright inferior status.

Hence, anything that expands the domain of social choice *ipso facto* enlarges both the scope for free riding and the call for commands of contestable legitimacy to cope with it. The passage from exchange to public provision, taking both in a wide sense, is by the same token a passage from contracts to commands, whether the latter are intended to force some to accept unpalatable sucker roles, or to suppress the free riding in which others would be tempted to indulge.

Both these intentions are misconceived. It is part of the central thesis presented in this book that most of the commands of social choice are redundant to their ostensible purpose. They are not necessary for realizing the advantages of public provision by compelling people to contribute the required efforts and resources. Nor do they create a regime of fairness by suppressing free riding. What they accomplish is the replacement of what would be willingly adopted social roles—some accepting to act as suckers on a prudential calculation of the alternatives, and others taking the risk of free riding in the

2. A property right is a minority right of a particularly vulnerable type, since it is in its nature that there is generally a potential majority coalition that would benefit by depriving the holder of the right. Other minority rights do not necessarily entail the adversarial interest of a majority. For further discussion, see Appendix to ch. 5.

expectation that there will be enough suckers to carry them—by centrally assigned taxpayer and tax-beneficiary roles. Instead of self-selected subsets of free riders and suckers, they divide the public into “socially” designated subsets fulfilling analogous functions. The quest for fairness that inspires this substitution of the conscript for the volunteer may or may not be held to bring greater fairness, but it is certain to bring what it does by greater constraint and reduced autonomy. In retrospect, the bargain is hardly one reasonable men could *not* refuse.

Nevertheless, they might easily have blundered into it by a series of perhaps avoidable, but certainly tempting, errors of foresight and judgment. Wanting firm assurances that “essential” public goods will be available (for, as Hobbes has it, the mere lack of certainty of peace is war), going for tidy certainties where probabilities would serve nearly as well in some ways and better in others, might be the original sin, the fruit of the tree of knowledge that is the social contract. Suspicion of the sin keeps raising its head in our probings into subjects as diverse as contract enforcement, civil peace in the state of nature, motives for contributing to public provision, and the selection of goods to be provided.

Around the supposed public-goods dilemma there is a genuine, but altogether non-fatal, public-goods problem. In sorting out the purported from the practical, one goes to the heart of the antagonism of the great rival principles of liberalism and democracy. If, after the grotesque mid-Atlantic misuse the word has long been subjected to, liberalism still means anything, it means a broad presumption in favor of deciding individually any matter whose structure lends itself, with roughly comparable convenience, to both individual and collective choice. There are, to be sure, indivisible matters of common concern which no one can decide for himself without also deciding them for others, and which it would be arbitrary to entrust to any one individual's will or subject to his veto. Fluoridation of water, noise at night, billboards, or speed limits are some of the more prosaic cases in point, public worship a more exalted one. Other matters are divisible. They can be equally well arranged so that each individual can decide them for himself without his decision greatly affecting others (as is the case, for example, when everybody in the office buys his own lunch), or so

that a whole group of people is jointly concerned and should seek to deal with them collectively (as would be the case if a free lunch with a set menu of dishes not all liked equally were served to all in the office cafeteria). How the latter sort of inherently divisible matter is in effect divided up into small bits or gathered into large lumps, being as a consequence assigned either to individuals or to groups for decision, is a question of social institutions. Liberal institutions tend to give rise to divisions where each individual is able to choose for himself, with the consequences of his choice accruing mostly to him and only minimally to others (unless the latter are willing to be compensated for effects that impinge on them).

It is this distinction which, to my mind, is the best rationalization of the inarticulate (and contested) belief that privacy, private property, and freedom of contract are the essential determinants of the "liberalness" or otherwise of a society, in that they help set up alternatives for choice in properly subdivided structures suitable for individual decisions, and minimize occasions for collective ones. Contrary to likewise inarticulate beliefs, this does not suffice to make liberalism a good thing; more extensive support is needed for that judgment. But the defects of social choice provide something of a base for it.

On the face of it, democracy is a characteristic that defines a class of collective decision rules (constitutions). As such, it seems irrelevant to the question of liberalism, which is logically prior to it, concerning as it does the drawing of the frontier between the individual and the collective domain. The individual domain, exempt from collective decisions, may be staked out generously ("liberally") or not. Within it, each individual agrees with himself and needs no decision rule, democratic or otherwise, to do it. It is only on the collective side of the frontier that decision rules can be democratic or not. In reality, however, there is no fixed frontier and no prior and posterior question. Democracy in the strict sense, as in "a democratic political system," is an attribute of a procedure and not of the outcome reached by it. However, like other procedures, it is visibly predisposed to produce one kind of outcome, "democracy" in the loose sense, as in "a democratic society" and in "economic democracy." Democratically reached collective decisions usually aim at eroding privilege, levelling out rewards, and making the more widely accepted notions of fairness

prevail over less popular principles in the distribution of burdens and benefits. Under a democratic decision rule, all those who count count equally in the common decision, regardless of their different possessions, abilities, and concerns. Each can better his chances of attaining his preferred state of affairs by using collective decisions for committing the resources and energies of others to the uses he prefers; yet none can afford to let others do this to him without trying to do it to them.

Whether the result is sheer inconclusive churning or whether a majority succeeds to bend collective outcomes in its own favor, the attempt by each either to reap free-rider gains or to protect himself from the like attempts of others acts to broaden the scope of collective resource allocation. A democratic social-choice rule consequently tends to produce decisions that enlarge its own domain, breaking down the domain restrictions that liberal institutions erect. Its bias is to reduce the relative role of exchange, where each gets what he pays for, and to increase that of public provision, where some can get more than they contribute. Beneath the many *ad hoc* reasons that apply to particular cases, this bias is a constant in each, helping to explain the works canteen serving a free lunch, state and communal schools providing free tuition, diverse entitlements unrelated to contributions, unfunded pension schemes, all manner of services sold at less than their cost, and, last but not least, endemic budget deficits. In each such case, the uncoupling of individual benefit from contribution creates *de facto* “public goods” as a matter of explicit or implicit social choice, transferring the relevant resource allocation decision from the private to the public domain.

Contrary to the orthodox theory which sees the root causes of publicness in the intrinsic logistics of supplying particular goods (can a lighthouse be run for profit? can justice be bought and sold? can passers-by be charged for looking at the statue in the square? can the market hold up a “social safety net?”), we discover a more potent and extensive principle: it is the public that decides what shall be a public good. In doing so, it creates indivisibilities. It requires that contributions to a good and the benefits it can yield should come in critical-sized aggregate lumps fitting their relevant public. Large indivisible units come about even if there is no technical obstacle to divisibility,

small doses, private exchange, and hence to the operation of liberal institutions.

If it were true that there is a fatal public-goods dilemma such that voluntary contribution to shared benefits is irrational and self-interest is condemned to be self-defeating, little would be left to say. At best, we could restate, with some gain in conciseness, why a self-sustaining sequence with a steadily expanding role of public provision, marked by the advance of democracy and the retreat of liberalism, must be held to be the best, and ethically least objectionable path for social evolution to take. Political science and economics could each go its own increasingly dreary way, pursuing technicalities of dubious import, as few or no large questions would be worth asking.

Since, however, strong arguments suggesting that the public-goods dilemma is false can be found, at the very least there is some hope for the revival of non-dreary political philosophy and political economy. Beyond that, there is the more sanguine hope that the future need be no drearier than the past.

