How to Respond Better to the Next Pandemic

Remedying Institutional Failures

Allen Buchanan
with commentaries by
Cécile Fabre
Paul Tucker

Foreword by
Mark Matheson

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The Challenge of Incentives-Values Compatibility in International Cooperation

PAUL TUCKER

Allen Buchanan's Tanner Lectures address how political-ethical issues bear on policy choices and the design of institutions for avoiding and containing pandemics, understood as epidemics that rapidly spread across borders, showing no respect for the territorial organisation of political communities. Some will be roused to reasoned fury by the position he takes on the policies adopted during COVID-19 by many Western nations, and on the performance of various U.S. agencies. Others may applaud. I do not engage with that, partly because many of Buchanan's views on recent events are, to my mind, orthogonal to the important questions he raises about how to think about crisis management practices and institutions. Better justifications were needed for domestic emergency policies, he says, and institutional reform is needed both at home and internationally. Both are hard to quarrel with.

   More important, I agree with Buchanan that it is useful to frame the issues in terms of legitimacy and legitimation. But if my observations have a common theme, it is that the pre-political morality deployed by Buchanan—the language of general moral duties of justice—is not

necessary to reach conclusions similar to his. That matters because, if so, it means it might be useful to frame some of the arguments in terms more likely to make sense to the concerns and circumstances of those—policymakers and citizens—who need to be persuaded for any meaningful reforms to stand a chance. The point is not that morality does not matter but that there is value in exploring, in the spirit of Bernard Williams's late-in-life political philosophy, whether it can be found within the practices and circumstances of politics itself, viewed as collective actions aimed at achieving and sustaining basic order and conditions for cooperation without excessive coercion and conflict.[1] Seen thus, Buchanan's prescriptions for a new international health regime face another hurdle: geopolitics.[2]

JUSTIFICATION OF CRISIS MANAGEMENT
AS CENTRAL TO LEGITIMACY

Buchanan argues that the authorities should have done more to justify their pandemic responses given they entailed restricting people's liberties. They were under a moral obligation to provide such a justification given the respect each person is due by virtue of their being moral equals.[3]

Buchanan is surely right in pinpointing the vital importance of justification. Where the response to a disaster is dramatic, power holders need to explain themselves for a whole gamut of reasons. Crises almost by definition violate a political community's sense of how things should be and of how things should be done (the good and the right). They damage perceptions of the competence and, sometimes, the decency of government. Where a disaster exposes serious inadequacies in government, authorities need to explain why the failings are not pathological to the system of government, and how they can be remedied in ways that do not add to the problem by violating norms for how things should be done. Crises and crisis measures accordingly put pressure on any demand for legitimation.

We can, however, explain that general demand without levering off a pre-political moral principle. As Williams argued, any attempt to achieve and sustain order poses a Basic Legitimation Demand (BLD): that those exercising a formal monopoly over means of coercion—or, it should

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1. Bernard Williams, *In the Beginning Was the Deed: Realism and Moralism in Political Argument,* selected, edited, and with an introduction by Geoffrey Hawthorne (Princeton: Princeton University Press, 2005).

2. As such, this short commentary extends the applications of the framework in my *Global Discord: Values and Power in a Fractured World Order* (Princeton: Princeton University Press, 2022).

3. See Chapter One, page 15, and pages 21–23, this volume.

be added, any type of formalised hierarchical authority—need to offer an account of why it should be accepted (given reasonably available alternatives). As he puts it, otherwise the solution becomes part of the problem.[4]

What Williams did not go on to address is why, other than for the kind of pre-political moral reasons he was trying to avoid, rulers would in practice choose to offer any such justification. The obvious answer is that otherwise resistance, or the prospect of resistance, active or passive, threatens to reduce their (risk-adjusted) returns from ruling. Legitimation norms arise and persist where Williams's demand for legitimation reaches an equilibrium with the Basic Legitimation Supply I am positing.[5]

Any such functional account of legitimation does not preclude, and indeed is fortified by, actors coming to internalise legitimation as having intrinsic value. But the moral value accorded to legitimation (and its normative outputs) does not need to be rooted in some unique deeper value (say, a pre-political moral right to equal political respect). It can be enough to excavate its (and their) functional purpose, to find that that purpose withstands critical scrutiny, and to reflect that the practice serves a number of moral purposes for the political community, including helping to hold it together during trials and tribulations. On that account, as much as with Buchanan's, crisis managers, great or small, ex ante and ex post, are always partly stewards of political order.

Whatever the routes to that banal conclusion, it opens a door to elaborating on Buchanan's thoughts on what within-crisis explanations and justifications look like in ways that might test some of his verdicts on the handling of COVID-19.

EXPLAINING AND JUSTIFYING CRISIS MEASURES

Good policy is almost always conditional. Broadly, it has the following structure: given the policymaker's current epistemic understanding of the problem (E) and its objective (O), the chosen response is XYZ.

The epistemic diagnosis itself has three components. The first is an understanding of the nature of the shock (whether, say, a virus or bacteria is causing sickness); call that Es. Second is the understanding of how the shock will be propagated through the relevant domain (does the virus spread via the air or touch, how deadly is it, etc.), designated Ep. And the

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4. Williams, "Realism and Moralism in Political Theory," in *In The Beginning Was the Deed*, 5.

5. Argued more fully in Paul Tucker, "Basic Legitimation Supply and Bernard Williams' Political Theory" (forthcoming).

third epistemic element is the policymakers' (and others') understanding of the efficacy of their instruments for containing or offsetting the propagation of the shock, and how those effects are transmitted through the system, Ei. A policymaker could have a firm epistemic grip on one of those but not the others.

To make sense to the public, the structure of crisis-management communications needs to track that decision-making structure: viz, "our understanding of this problem is E and our goal is O, so we are responding with XYZ." There might need to be changes in the policy response (XYZ) as the crisis manager's diagnosis (E) develops. Crudely, there is a need for something akin to Bayesian updating.

This simple schema helps bring out what is going on when, during a drawn-out crisis, such as the recent pandemic, the policy response alters. The most problematic kind of course change is made when O and E (in all three dimensions) are (truly) unchanged. Is interest-group politics the reason? Properly conditional statements of policy at the outset might help expose that, and so deter it.[6]

A second type of evolving public communication holds Es and Ep constant but changes O and therefore XYZ; i.e., the wrong conclusions, at every level, had previously been reached from the diagnosis of the shock and its propagation. That is clearly a U-turn of a special kind. Putting flawed reasoning to one side, it is most likely explained by policymakers changing their view on what their policy instruments can realistically achieve (Ei); perhaps they were turning out to be weaker (or stronger) than thought, or came on stream faster or slower than expected, and so the goalposts had to be moved.

A third type of communications shift—frequent in real crises—is that E has changed, and so XYZ must change to pursue a maintained objective. This is not a U-turn, but will often look like it unless the conditionality of the initial and ongoing response was reasonably clear to begin with. This third hazard is especially important when policymakers' initial understanding is limited but includes a notion of what the maximum plausible damage might be, together with certainty that they do not have a ready solution to hand; for example, it is a deadly virus, they do not know how deadly, but they know for sure a vaccine or cure will take many months or years. In those circumstances, if the maximum plausible damage is grossly

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6. Complete openness might, however, be perverse if it would compromise national security or prompt panic.

severe, one possible response is to take dramatic action that attempts to freeze the propagation of the problem. That can help make sense of an early lockdown in a pandemic, just as it explains F. D. Roosevelt's bank holiday—effectively shutting down the U.S. economy, other than via barter—during the 1930s banking crisis. Time is bought to think about what to do. When the policymaker introduces new measures, they need to explain them in terms of their better understanding of the underlying problem(s) and/or the effectiveness of their instruments. By revealing the structure of the argument, this sheds light on how to debate Buchanan's criticisms of policy on lockdowns and vaccines.

Those parables point to another precept. Throughout a crisis, policymakers need to convey the degree of uncertainty they have about their understanding of what is going on, glossed with explanations of whether they view the risks around their (for the time being) central view as symmetric or asymmetric. *Pace* Buchanan,[7] sensible policymakers and technical advisors (called "experts" in the main lecture) avoid claiming to know more than they do. Professed ignorance with credible explanations of likely severity might sometimes help warrant dramatic actions policymakers take (at least initially).

INTERNATIONAL COOPERATION AND REFORM

Away from domestic policy, Buchanan holds that that well-resourced states have moral Duties of Justice to help poorer and weaker states cope with pandemics; and that the vehicle should be a regime, framed by an international treaty and administered by an international organisation, that turns those moral duties into concrete positive-law obligations and rights. In making his case, Buchanan starts by arguing against both an inward-looking (illiberal) nationalism, and also a philosophical cosmopolitanism centred on individuals as individuals, abstracted from any kind of local community. There are sometimes moral duties to help outsiders but they can sometimes be trumped by duties at home. Again, I want to argue, we can get there without summoning a pre-political morality.

Establishing and maintaining basic order, even locally, is a challenge. Doing so in ways that people can go along with, and so involving legitimate authority of some kind, is an achievement—a political achievement. It is best not to take that for granted, and to have some kind of handle on what it involves in particular concrete circumstances. The legitimation

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7. See Chapter One, pages 12–14, this volume.

justifications that we receive, reflect on, and in turn offer to each other are, in most cases, partly a product of history: they are path dependent as social scientists would say, or for "now and around here" in the words of Bernard Williams.[8] If something like that is a fact of the world, and if achieving order, safety, protection, and some degree of intracommunal trust provides conditions for cooperation on more ambitious collective endeavours—meeting shared problems and threats, securing opportunities—we need to recognise that that is no small matter, which is why Williams dubbed it the First Political Question. Among other things, it implies that a political community should be careful not to jeopardise local order and legitimacy when contemplating whether or how to help (or intervene in the life of) a separate community. Concretely, taking Britain as an example, during the COVID-19 pandemic it would have been reckless for any UK government to provide help overseas if that plausibly would have led to the National Health Service (NHS) falling apart. That is because, since World War II, the NHS has been an important part of whatever holds Britain together.

Instrumental Reasons to Cooperate with Other States on Pandemics

It matters whether that middling approach[9]—entailing a presumptive respect for other states, and degrees of amity varying with how far their own legitimation norms include something like our notion of the most basic rights—can find reasons to cooperate on preventing and containing pandemics without resorting to pre-political moral duties. Without at all wanting to argue that only instrumental reasons matter, it is obvious that rich states do have instrumental reasons to cooperate (if they can). Three will suffice, in no particular order.

First, if a virus is left unconstrained abroad, we are more likely to import mutations even when we have neutralised its primary form. Bluntly, short of attempted autarky, we are hardly safe from plague if it rampages elsewhere.

Second, uncontrolled disease in poor states might prompt massive numbers of people to flee, leaving richer countries struggling to cope. This seems like an unpleasant thought, even one motivated by the option of leaving others to die in order to preserve our way of life, but that is not its substance or spirit. Helping the people of other states to survive means

8. Williams, "Realism and Moralism," 8.

9. It might be cast as moderate cosmopolitanism or as a liberal nationalism, or somewhere in-between.

helping them to survive as political communities, recognising the value to both them and us of their own achievement of local order with their own ways of life.

That relates to the third reason to help. With today's superpowers embarked upon what is likely to be a decades-long contest, we, the rich liberal democracies of the world, need all the friends we can find, and certainly cannot afford to alienate poorer peoples by leaving them to collapse from curable disease. The geopolitical predicament of the superpowers gives them each incentives to compete to help less well-off societies.[10]

There is nothing here, note, about helping others in order to preserve foreign markets for our businesses. Even so, there is not much morally admirable about those three arguments, other than their sensitivity to the precious achievement by other states of legitimate local political order. But moral virtue is not the point here. The point is that we do not need to posit a general duty of justice to (try to) do good in the world in the face of pandemic risks. We have reason enough to do so. The greater question, on this line of argument, is not whether we should seek to cooperate but, rather, whether there is much hope of being able to cooperate.

Institutions as Commitment Devices: Incentive Compatibility

Having reasons to act in a certain way and sticking to them are often different things. Actors' preferences might not be stable, or there might be reasons to depart from plans even with unchanged objectives (a time-inconsistency problem, in the jargon of social scientists). Formalised institutions seek to mitigate such commitment problems by making promises overt, public, detailed, and (sometimes) consequential.

Analytically, there is nothing new about this. Whereas for modern Hobbesians promises merely relocate a collective-action problem, Hume showed long ago that they can help to change the stakes. Even if A and B are choosing whether to cooperate on something that has no material externalities, so that others don't care about the outcome as such, the rest of us might care greatly if we discover that A does not abide by a formal promise (a pact) because, in quite different situations, we might care whether A keeps promises.[11]

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10. Of course, if the competition gets out of control, with each side spending far more than needed to make or keep friends, the possibility of cooperation reenters as they have reason to coordinate on spending less. A broad analogy would be the Soviets and the U.S. eventually trying to curb their arms race during the old Cold War.

11. David Hume, *A Treatise of Human Nature*, ed. L. A. Selby-Bigge and P. H. Nidditch, 2nd edition (Oxford: Oxford University Press, 1978 [1739]), Book III.

Raising the stakes in that broad way is the purpose of many international organisations. Whether they work—in the sense of establishing practices that persist in equilibrium—depends on whether they are incentive-compatible for all the key actors.[12] Incentive-compatible things happen. Incentive-incompatible things do not. That makes the design of any institution demanding. Stigma and repeat interactions help, but might not always suffice.

This is illustrated by the vital question raised by Cécile Fabre's parallel commentary on Buchanan's lecture: if and when a state fails to make its agreed contribution to a cooperative pandemic (or other such) scheme, should the others somehow enforce compliance, or instead contribute more themselves? Fabre's acute question exposes how difficult it is to keep (some variant of) realism at bay when thinking about international regimes, which another of Hume's penetrating insights will underline.

International Cooperation When Hume's Knaves are Competing Giants

Hume's "sensible knave" free rides on the collective efforts of others when confident that they will not follow suit.[13] After arguing that reason alone will not move the knave (anticipating basic rationalist game theory), Hume says the only remedy is social condemnation—a kind of ostracism that seeks to generate shame, or at least deter others. As already argued, the force of the sanction likely depends on most people in the community having internalised the values that some practice or institution supposedly exists to serve (or instantiate).

But things are more complicated in an international setting. Political communities interact with each other in unfriendly as well as friendly ways, and so the problem of order rears its head among communities as well as within them. Any solution to what is, in effect, the First *International* Political Question brings its own legitimation problem.[14] That being so, there is obviously scope for tension between vertical local legitimation norms and the horizontal international legitimation norms that have emerged from and help underpin an international order. When an

12. I pressed that at Buchanan's Tanner Lecture, and I am glad he makes more of it here. For a formally rigorous account of institutions, see Roger B. Myerson, "Fundamental Theory of Institutions: A Lecture in Honor of Leo Hurwicz," The Hurwicz Lecture, presented at the North American Meetings of the Econometric Society, University of Minnesota, June 22, 2006. See https://home.uchicago.edu/~rmyerson/research/hurwicz.pdf.

13. David Hume, *An Enquiry Concerning the Principles of Morals*, ed. J. B. Schneewind (Indianapolis: Hackett, 1983 [1751]), IX.22, 81.

14. Tucker, *Global Discord*, 299–307.

order has been long-lived, whether via a balance of power or hegemonic leadership, some kind of equilibrium reconciling norms, interests, and power will have been reached. But the rise of a new power perturbs the equilibrium.

Hume's parable accordingly becomes less useful because it implicitly assumes all the actors are roughly the same size (in terms of social position, influence, or power); in international relations, that is not so. There are a few giants, and the calculus works differently if they act, in effect, as giant knaves. In today's world, we see that Russia, a major nuclear power, simply does not care about moral or social sanction from the "international community."

But the People's Republic of China and the United States provide more important cases, as illustrated by a story about the World Health Organization (WHO). In 2002–2003 the Beijing government omitted to inform the WHO about the SARS outbreak in its territory. Trying to learn lessons, in 2007 the WHO strengthened its rules, requiring reporting within twenty-four hours of any events that constitute a health emergency of international concern. But in late 2019 and early 2020, Beijing failed to alert the WHO to the outbreak of COVID. The new rule made no difference.

There is a parallel here with the interesting idea that any pact to address climate change could be enforced via the trade regime. Roughly, if a state failed to comply with its climate obligations, other states would be free to impose trade barriers (which are usually barred other than for reasons of national security). In the jargon of game theory, this would embed the climate regime within the trade regime. The problem is that, today, the trade game is embedded in the security game. That is to say that those deciding whether or not to impose tariffs would have to weigh, seriously and carefully, whether doing so might exacerbate the tense security environment, even provoking aggressive action of some kind. It matters, further, that unlike Moscow and Washington during the old Cold War, today's two all-purpose superpowers have not agreed upon de-escalation protocols.

SUMMING UP

Buchanan makes a strong case for international cooperation to combat pandemics. I have argued that the case for such cooperation does not have to mobilise a deontic general Duty of Justice. We have strong local reasons to offer help. How easy it will be to do so in cooperation during geopolitical stress is open to doubt. The international social norms that,

in the background, do a lot of work in oiling the wheels of international organisations are themselves now contested among the very powers vital for peaceful coexistence. That does not vanquish the case for helping, but it complicates it.

It is important and intriguing, finally, to note that pre-political moral reasons to help poorer and weaker states might matter more when trials and tribulations visited upon other, especially distant peoples are extremely unlikely to spill over to us in any way. That might need something closer to a purely moral argument, but it would still need to be one that made sense to the citizens of rich democracies in their particular political circumstances.