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Evolving Preferences and Policy Advice in Democratic Society

by

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Evolving Preferences and Policy Advice in Democratic Society*

by

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1. Introduction

Beyond its explanatory ambitions as positive science, economics has always had its normative or applied branch that aims at providing advice about how man's socio-economic condition might be improved. Under the name *welfare economics* the discipline's normative branch has been formalized, in the spirit of Benthamite utilitarianism, as an attempt to generalize the notion of rational, maximizing choice from the individual to the societal level by aggregating individual preferences into a compound measure of social welfare. The theoretical consistency and practical applicability of this aggregationist approach has long been the subject of controversy, and in response to objections welfare economics underwent various modifications and reformulations. A more recent challenge has come from an evolutionary outlook at economic processes, in particular from arguments that focus on the fact that the individual preferences on which the welfare theoretical calculus is based are themselves subject to evolutionary change, raising the question of how "social welfare" can serve to evaluate policies if the very measuring rod that it employs changes over time. This challenge has stimulated attempts to develop an "evolutionary welfare economics" that seeks to reconcile the ambitions of the discipline's traditional applied branch with the recognition that we live in an evolving world in which human preferences co-evolve with the policies that are supposed to serve them.

The purpose of this paper is twofold. It will, firstly, take a closer look at the discussion on the need and feasibility of an evolutionary welfare economics, in particular on proposals for how to deal with the evolving-preferences-issue advanced by three authors, Carl Christian von Weizsäcker, Ulrich Witt (in part together with Christian Schubert) and Robert Sugden. And it will, secondly, seek to show that the research program of constitutional economics can deal with this issue in a more coherent and consistent way than approaches that remain within the mind-frame of traditional welfare economics.

* Prepared for the workshop on "New Frontiers in Normative Economics and Policy Advice," jointly organized by the Max Planck Institut of Economics and the Walter Eucken Institut, held in Freiburg, December 10-12, 2009.

2. Evolving Preferences, Social Welfare and Normative Individualism

In their pioneering work *An Evolutionary Theory of Economic Change* (1982) Richard R. Nelson and Sidney G. Winter note that recognizing the evolutionary dynamics of economic reality, "in which preferences, resources, and technologies are changing over time in a way that is not fully predictable" (ibid.: 360), does not only call for replacing the neoclassical orthodoxy by an evolutionary paradigm but also points to the need for an "evolutionary welfare economics" (ibid.: 369). The specific issue that is of main interest in the present context, namely the challenge that evolving preferences pose for traditional welfare economics, has notably been addressed by Carl Christian von Weizsäcker in a series of papers, starting with his 1971 article "Notes on Endogenous Change of Tastes". In this article von Weizsäcker raised the issue of "the welfare implications" (ibid.: 346) of "endogenously changing tastes" (ibid.), arguing that in "a world with changing tastes … it may become necessary to change the conceptual framework of our theory" (ibid.). The project that he embarked on, and to which I will return below (section 6), he described in a later contribution on *The Welfare Economics of Adaptive Preferences* as follows: "I try to overcome a particular obstacle to the introduction of endogenously changing preferences into economic theory. The obstacle is the lack of an answer to the question: how can you do welfare economics if preferences change endogenously? After all, preferences of individual agents are the basic measuring rod of economic welfare, of the performance generated in an economic system. How can we evaluate an economic system with a measuring rod that itself changes with the system?"[1]

The issue of the welfare implications of changing preferences has also been discussed, although from a somewhat different angle, by Ulrich Witt who, in a number of papers, has pointed out that with evolving preferences "the basis for normative judgments may change" (2003: 89), charging that the implications for "economic policy making in the presence of changing individual preferences have not been investigated" (ibid.: 91). Robert Sugden, the third author to be considered here, has looked from still another perspective at the "significant normative issues if the agent's preferences cannot be assumed to be constant over time" (2007: 665). "The standard methods of welfare economics," so Sugden (2004: 1016) notes, "hold individuals' preferences constant across the relevant social states, treat those constant preferences as measures of well-being, and ask how far they are satisfied in each state. Such analysis is not possible if individuals' preferences shift."

[1] Von Weizsäcker (2005: 2). Von Weizsäcker adds that he considers his paper "only to be a beginning for a much more extensive research program about the possibility of welfare economics with endogenously determined tastes" (ibid.). – See also von Weizsäcker (2002: 426).

The solutions to the problem of "normative judgments on economic policy making in the presence of changing individual preferences" that the three quoted authors propose will be discussed in more detail in later sections. The issue that I want to address first concerns the interpretation of the normative premise that is behind the charge that evolving individual preferences pose a problem for traditional welfare economics, namely the premise that individual preferences constitute the measuring rod in terms of which social welfare is to be assessed. My purpose is to contrast two fundamentally different interpretations of this premise, two interpretations that, as I shall argue, are at the heart of the difference between the standard paradigm of welfare economics on the one side and the research program of constitutional economics on the other.

There is and has been in the past an essential agreement among economists that individual preferences provide the normative standard against which social states are to be evaluated,[2] a perspective that can be labeled *normative individualism* (von Weizsäcker 2002: 420). Yet, there exist, as von Weizsäcker (ibid.: 425) notes, different versions that he broadly classifies into a "Kantian line" (Rawls, Sen, Buchanan) and a "utilitarian line" (Bergson, Samuelson, Arrow, Musgrave, Mirrlees), according to the different ways they answer the question of how to "move from the level of the individual to the level of the community" (ibid.). The related but distinct contrast that I want to focus on is between, what I propose to call, a *utility individualism* and a *choice individualism* (Vanberg 2005: 33f.). The difference between the two varieties of normative individualism can be illustrated by looking at the subtle shift of meaning that occurs when the notion that "individual preferences are to count" is substituted, as is standard practice in welfare economics, by the notion that "individual utilities are to count".[3]

The term "preference" has an inherent connection to human choice, the act of choosing among alternatives. Preferences can only be expressed by a choosing agent, and they have no separate existence apart from an agent's choice. This is what the term "choice-individualism" is meant to emphasize, namely that individual preferences expressed in choice are the source from which evaluations of social matters are to be derived. Utilities, by contrast, have no such inherent connection to human choice. They are, per se, not about choosing among alternatives but about value-relations between persons and items that may

[2] D.M. Hausman and M.S. McPherson (1996: 69): "Economists typically evaluate outcomes in only one way – in terms of individual welfare. … Since the evaluation of outcomes rests exclusively on their consequences for individual welfare, the theory of individual welfare is crucial to normative economics."

[3] A typical example for the shift between "preferences" and "utilities" can be seen in J.C. Harsanyi's (1982: 54) statement: "The utilitarian theory I have proposed defines social utility in terms of individual utilities, and defines each person's utility function in terms of his personal preferences. Thus, in the end, social utility is defined in terms of people's preferences. This approach may be called *preference utilitarianism*."

become the object of choice. Conceptually, utilities can be identified independent of any real act of choice.[4] Most importantly, and this is what the term "utility individualism" is meant to emphasize, once "measured" individual utilities can be separated from their individual source and be aggregated (and traded-off) into a compound measure of social welfare. By contrast, such aggregation is not conceivable for preferences as they are expressed in real choices. Preferences cannot be added up (or traded-off) across individuals.

Utility-individualism is interested in individual persons only as "metering-points" from which utility values are collected, then to be processed in a social welfare calculus. The person as a sovereign chooser is lost out of sight.[5] As A. Sen and B. Williams (1982: 4) put it: "Essentially, utilitarianism sees persons as locations of their respective utilities … . Once note has been taken of the person's utility, utilitarianism has no further direct interest in any information about him. … Persons do not count as individuals in this any more than individual petrol tanks do in the analysis of the national consumption of petroleum."[6] By contrast, choice-individualism looks at individuals as the ultimate sovereigns in social affairs whose *voluntary* and *informed* (the significance of these attributes will be discussed later) choices are the only source from which the observing economist can derive conclusions about social welfare.

In discussions on issues of welfare economics the critical difference between the two versions of normative individualism is too easily hidden behind an ambiguous language that obfuscates the fundamental difference between counting individual utilities and allowing individual choices to shape social outcomes.[7] Such ambiguity is present, for instance, when Harsanyi (1982: 55) emphasizes that his version of "preference utilitarianism" is "consistent with the important philosophical principle of preference autonomy" on which he comments:

[4] The recognition that utilities can only be measured in ordinal and not in cardinal terms is a concession to difficulties of measuring such value-relations but does not mean that individuals as choosers are brought into focus.

[5] Buchanan (1979: 25f.): "If the utility function of the choosing agent is fully defined in advance, choice becomes purely mechanical. No 'decision,' as such, is required; there is no weighing of alternatives. … If I know what I want, a computer can make all of my choices for me. If I do not know what I want, no possible computer can derive my utility function since it does not really exist." – The issue raised by Buchanan is referred to by von Weizsäcker (2002: 442) when he notes that the preferences that govern choices may not be fully formed in advance, that individuals may not care to form preferences for hypothetical choice situations, as long as they not actually confront them.

[6] Sugden (2004: 1017): "It is a folk saying in the discipline that, as far as theory is concerned, an individual *is* a preference ordering: everything the theorist needs to know about a person is contained in that person's preference." – As I have documented elsewhere (Vanberg 2008: 606) this outlook at individuals as utility functions can be traced back to Leon Walras whose successor on the Lausanne chair, Vilfredo Pareto, stated that once we have obtained "a photograph of his tastes … the individual can disappear."

[7] Sen and Williams (1982: 12) refer to this ambiguity when they note: "There is by now a well-established tradition in modern economics of defining utility in terms of choice, and at the same time insisting that it must also have a particular content in terms of what is maximised. … The ambiguity of the term 'preference' facilitates this dual picture of utility, since linguistic convention seems to permit the treatment of 'preferring' as choosing as well as taking what a person (really) 'prefers' as what would make him better off."

"By this I mean the principle that, in deciding what is good and what is bad for a given individual, the ultimate criterion con only be his own wants and his own preferences" (ibid.). The term "autonomy" would seem to imply that the individual is recognized as a sovereign chooser, but what it means in Harsanyi's construction is that his utility will be included in the social welfare calculus, eliminating the individual as sovereign chooser once his utility values are determined.[8] After all, for Harsanyi (1982: 40) social utility is "defined either as the sum, or the arithmetic mean, of the utility levels of all individuals in the society."[9]

A similar ambiguous shift of meaning between recognizing individuals' autonomy and taking account of their preferences occurs when von Weizsäcker (2008: 8) argues: "The way economists or social philosophers model free actions … is by reference to the preferences of the agent. But then, maximization of freedom means maximization of the influence of preferences on the social outcome of actions."[10] Maximizing the influence of individual preferences on social outcomes can either refer to the influence of individuals' choices on political decision making, as might be read into von Weizsäcker's statement that outcomes should be maximally dependent on the wishes of the individual involved (ibid.: 215). Or it may refer to the counting of individual utilities in a social preference function, as von Weizsäcker appears to imply when he argues that individuals freedom of choice is represented in economic modeling by the preferences that determine individual action (ibid.: 212).[11] The tension, present in both Harsanyi's and von Weizsäcker's arguments, between the notion that individual utilities are to count as entries in a social welfare function and the notion that individuals should be able to shape by their own choices the social world in which they live marks the essential difference between welfare economics and constitutional economics, a difference that is the subject of the following section.

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[8] Sen and Williams (1982: 13) comment on Harsanyi's concept of preference autonomy: "The derivation of importance of the thing chosen from the fact of choice must not be confused with regarding the ability of people to choose as important in itself. 'Autonomy' as a value is concerned with the latter, but it belongs to an approach altogether different from utilitarianism, and is concerned with valuing the *capability to choose* rather than valuing *the thing chosen*. Valuing autonomy works directly in favour of supporting choice."

[9] Harsanyi (1998: 290): "As I tried to show in earlier publications …, the impartially considered welfare of society as a whole at any given time can be measured by its social utility function, defined as the arithmetic mean of all individuals' utility functions in this society. … Under this definition, our social utility function would be defined in terms of all individuals' utility functions."

[10] Von Weizsäcker (2009: 215): "Das Ergebnis der sozialen Interaktion freier Menschen soll Spiegelbild des Willens dieser Menschen sein, soll also möglichst weitgehend davon abhängen, was der konkrete Wille dieser Menschen ist."

[11] Von Weizsäcker (2009: 214): "Für …das was wir vielleicht auch normative Ökonomik nennen können, ist … im herkömmlichen Ansatz der Begriff der Präferenzen von zentraler Bedeutung. Die Präferenzen sind hier Platzhalter für den Begriff der Freiheit." – See also (ibid.: 212): "Freiheit ist für das Individuum dann und insoweit gegeben, als es Wahlalternativen hat … . Der betrachtende Wirtschaftstheoretiker, der das Handeln des Individuums beschreiben, also 'modellieren' möchte, setzt an dieser Stelle die Präferenzen als Bestimmungsfaktor des tatsächlichen Handelns des Individuums ein ."

3. Welfare Economics, Constitutional Economics and Policy Advice

Utility-individualism is the paradigmatic foundation of welfare economics as a research enterprise that takes its departure from measures of individual utility in order to derive measures of social welfare on which policy recommendations can be based. Choice-individualism is the paradigmatic foundation of constitutional economics as a research enterprise that takes its departure from the premise that individuals are the ultimate sovereigns in social matters and that, in light of this premise, seeks to arrive at conjectures about policy measures, in particular choices of rules, that promise mutual gains for all parties involved and that, therefore, can be agreed upon by sovereign individuals.

It is because of the different versions of normative individualism on which they are based that welfare economics and constitutional economics give categorically different answers to the question of how to "move from the level of the individual to the level of the community" (Weizsäcker 2002: 425). James Buchanan has characterized the two different answers as *maximization paradigm* on the one side and *gains-from-trade paradigm* on the other.[12] Welfare economics, so Buchanan argues, seeks to bridge the gap between the individual level and the community level by generalizing the notion of *rational choice*, understood as *utility maximizing choice*, from the level of individual action to the policy level. Just as the rationality of individual action is identified with choosing that which maximizes the individual's utility, so "rational politics" is identified with choosing what maximizes the community's welfare or utility.[13] By contrast, the constitutional economics approach that Buchanan advocates bridges this gap by generalizing the notion of *mutual gains from voluntary trade* from the level market interaction, where it is traditionally applied, to the level of collective-political choice. Just as at the level of ordinary market exchange the economist's presumption of "social goodness" or efficiency is not derived from some aggregation of utilities across the trading parties, but is ultimately based on no other grounds than that the transaction in question is the result of voluntary choice of the parties involved, so the efficiency or "social goodness" of policy measures must, from the perspective of constitutional economics, ultimately be judged in terms of whether they reflect the voluntary choices of the individuals involved, and cannot be measured by aggregating individual utilities.

[12] As Buchanan charges (1979: 150ff.), by bridging the individual-community gap in this way welfare economics falls victim to "methodological confusion" because, in violation of the methodological individualism that otherwise is considered the trade-mark of economic analysis, it treats a community composed of individuals as if it were a single actor with its own scale of values.

[13] Buchanan's arguments that are only briefly summarized here are discussed in more detail in Vanberg (2005: 26ff., 33ff.).

The different paradigms that welfare economics and constitutional economics employ in bridging the individual-community gap guide their respective research efforts into systematically different directions. The maximization paradigm focuses the research ambitions of welfare economics essentially on two questions, namely, first, how individual utility values can be assessed, and, second, how these individual values can be compounded into an aggregate measure of social welfare.[14] The various discussions – be they about the measurability of utility, the compensation issue or other matters – that have surrounded the history of welfare economics have all been concerned with one or the other of these two questions. By contrast, the gains-from-trade paradigm directs the attention of constitutional economics to the question of how, by which institutional arrangements, sovereign individuals can best be enabled to realize mutual gains, be it through ordinary market exchange, be it through the more complex "trading arrangements" that they engage in when they organize for collective action, including politics. Instead of looking at individual utilities as inputs into a social utility function constitutional economics looks at individual choices as inputs into social processes, whether in markets or in politics, asking how these processes may be organized so as to improve the prospects for mutual gains. In other words, while the maximization paradigm focuses the attention of welfare economics on the evaluation of *social outcomes*, the gains-from-trade paradigm focuses the attention of constitutional economics on the nature of the *processes* from which social outcomes result. Constitutional economics insists that, just as in the case of market exchange "efficiency" is an attribute that cannot be directly read from exchange-outcomes but is concluded from the voluntary nature of the transaction, the efficiency of social outcomes generally, be they market outcomes or outcomes of political processes, cannot be judged in terms of outcome-characteristics per se but only in terms of the nature of the processes from which they result, specifically in terms of the extent to which these processes can be presumed to reflect voluntary and informed choices of the persons involved.[15]

The fundamental differences between welfare economics and constitutional economics come into an even sharper focus when one takes a closer look at the advisory role that they

[14] As K.J. Arrow (1971: 2) has put it, the concern of welfare economics is with the "procedure for passing from a set of known individual tastes to a pattern of social decision making."

[15] It is worth quoting what J.A. Mirrlees (1982: 82f.) as an advocate of utilitarian welfare economics notes on the contrast between an outcome-oriented and a process-oriented perspective: "This line of argument goes some way to meet the claim that … 'Utilitarianism is concerned only to evaluate outcomes, whereas in considering, e.g., the determination of economic policies, we should also be concerned about the process of choice.' … It must be agreed that a utility-maximizing government may not be the best kind to try to have … . It may be better to have a constitution-constrained government, in part controlled also by conventions that it should consult all concerned groups on issues, and not discriminate against particular groups. … Utilitarianism does not give an instant to the question what kind of constitution, bill of rights, or government is optimal."

can be expected to play in democratic politics. Advice that an empirical science like economics can give can only come in the form of what philosophers call *hypothetical imperative*s, i.e. statements that tell an addressee what, on prudential grounds, he should do if he wants to achieve his supposed goals. Such hypothetical imperatives are, by contrast to categorical imperatives, not genuine *value judgments* – the passing of which would be beyond the proper scope of an empirical science – but refutable conjectures about what are suitable means to achieve presumed purposes. If welfare economists do not want to claim the authority to issue categorical imperatives they must regard their policy recommendations as hypothetical imperatives, and that means they must have an addressee in mind whom their recommendations are supposed to assist in the pursuit of his aims. It is in regard to the question of its addressee that welfare economics has been notoriously ambiguous.

In a democratic polity as, in John Rawls's (1971: 84) terms, a "cooperative venture for mutual advantage" the citizens are the principals in whose common interest the collective enterprise is to be operated. They are the natural ultimate addressees of policy advice while the politicians to whom the citizens-principals have delegated decision making authority are the proximate addressees. It is not at all obvious why either of these two potential addressees should be interested in the kind of advice that welfare economics provides, namely how to maximize social welfare. Public choice theory is well known for having accused welfare economics for its unrealistic outlook at politics, for disregarding the fact that the arena of politics – not different from markets – is populated by self-interested agents who wish to know how they can effectively promote their own political careers but have little interest in being told how they can maximize social welfare, especially if this gets in the way of their personal goals. And as far as the ultimate addressees, the citizens, are concerned it is equally doubtful that they are interested in recommendations for how social welfare can be promoted, except these recommendations can also be shown to promote their own well-being. If, however, the recommendations that welfare economists provide have no identifiable addressee to whose own interest they can appeal, it is unclear which role welfare economics is meant to play in advising democratic politics. Without an addressee whom they inform about suitable means to pursue his own aims the hypothetical imperatives that welfare economics produces are "hanging in the air".

By contrast, there is no ambiguity at all about to whom constitutional economists address their advice. According to the very logic of the gains-from-trade paradigm the only meaningful addressee are the individuals for whom the constitutional economist's hypothetical imperatives promise mutual gains. As an applied science constitutional

economics aims at informing the members of the group in question, in case of a democratic polity its citizens, about policy measures, in particular institutional reforms, that promise gains for all parties involved. The recommendations that constitutional economists provide are, accordingly, subject to the requirement of being able to show, why each individual member of the respective group can expect to benefit from the recommended measure. As far as politicians, in their role as the agents of the citizens-principals, are the proximate addressees of advice, constitutional economics distinguishes categorically between, on the one side, recommendations that inform politicians about measures that promise to benefit the citizenry at large and, on the other side, recommendation that inform them about measures that promise to promote their own political careers. The principal interest of constitutional economists is in offering the first kind of recommendations, even if they recognize that politicians will have an interest in heeding them only to the extent that promoting the citizenry's common welfare at the same time serves their career prospects. In an ideally organized polity the rules of politics would perfectly align the career interests of politicians with the common interests of the citizenry. Real world polities can, however, not be expected to be so ideally organized. Where a systematic discrepancy exists between measures that serve citizens common interests and measures that serve politicians career interests, constitutional economics diagnoses a deficiency in the capacity of the institutional framework of politics to make policy choices responsive to common citizens' interests. Such diagnosis gives reason to inquire into the possibility of appropriate institutional reforms.

Figuratively speaking, the constitutional economist must consider himself in the role of an adviser addressing a general assembly to whose members he must provide arguments for why the measures he proposes are capable of making everybody better off. The *common good* must, from the perspective of constitutional economics, be strictly understood as that which is in the *common interest* of all members of the respective group.[16] There is, within this research program, no logical foundation for requiring individual members of a group to accept personal sacrifice for the common good of the group, except the willingness to accept such sacrifice is required by rules that all members have agreed upon because their general application is to their common benefit. Constitutional economics insists that there can be no other ultimate test of common interest and mutual gains than voluntary agreement among all persons involved.

[16] It is interesting to note that Harsanyi (1982: 43) describes his utilitarian approach to ethics as "a theory of rational behavior in the service of the common interests of society as a whole." His test for the presence of *common interests* must, of course, be different from the agreement test of constitutional economics.

In light of the above comments on the paradigmatic differences between the utility individualism of welfare economics and the choice individualism of constitutional economics I will take, in the following sections, a closer look at the respective solutions that von Weizsäcker, Sugden and Witt propose for the challenge that evolving preferences pose for economic policy advice.

4. C.C. von Weizsäcker's Welfare Economics of Endogenous Preferences

Carl Christian von Weizsäcker's ambition is to meet the challenge of changing preferences *within* the paradigmatic framework of traditional welfare economics, maintaining its utility-individualism.[17] Yet, as I shall seek to show, as far as they are concerned with actual policy advice his arguments appear, in fact, to be much closer to the choice individualism of constitutional economics than the utilitarian-welfarist perspective that he wishes to maintain.

The traditional question of welfare economics, namely "How do we get from individual preferences to policy choices?" (Weizsäcker 2002: 426) finds, so von Weizsäcker argues, no longer a straightforward answer if the simplifying assumption of exogenously given, fixed preferences is replaced by the recognition that individual preferences co-evolve with the social states for which they are supposed to provide the measuring rod. As he (Weizsäcker 2005: 5) puts it, under the assumption of fixed preferences "the utility function provides a complete pre-ordering of the commodity space," such that a change from social state A to state B can be judged to represent an improvement or "progress" if it "can be identified with rising (ordinal) utility" (ibid.). Yet, so he notes, such "pre-ordering of the commodity space" is no longer possible with endogenously changing preferences, raising the question of whether we can "maintain a similar 'utilitarian' approach" (ibid.) in evaluating policy measures that aim at replacing a social state A by state B.

Von Weizsäcker's (2005: 2) answer to this question is that, while welfare economics in the traditional meaning of this concept would obviously be impossible if preferences were to change in an *arbitrary* manner, a "similar 'utilitarian' approach" may well be maintained if "some 'laws of motion' of preferences" (ibid.) can be identified according to which preferences change along non-circular "improvement paths" (ibid.: 4). Preferences that change in such manner he calls "adaptive preferences," and he states as his "main theorem" that with "adaptive preferences" the "possibility of defining 'improvement' through time even

[17] C.C. von Weizsäcker (2002: 425f.): "Es ist dann zur leichteren Verständlichkeit und Verständigung sinnvoll zu sagen, dass ich mich selbst dem Mainstream zugehörig fühle. Ich werde also im Folgenden auch dem Jargon der ‚Welfare Economics' folgen. … Mein Beitrag soll darin bestehen, … einen Vorschlag zu unterbreiten, wie man auch bei endogenen Präferenzen im Sinne des normativen Individualismus Welfare Economics … betreiben kann."

with endogenous preferences" (ibid.) is maintained such that "again a pre-ordering of the commodity space can be constructed which is related to the concept of improvement" (ibid.: 5). Such conceptual modification can, according to von Weizsäcker, provide the theoretical foundation for an evolutionary welfare economics that extends the traditional welfare calculus from exogenously given, fixed preferences to endogenously evolving, adaptive preferences.

My concern here is not with the issue of how successful von Weizsäcker's "hypothesis of adaptive preferences" (ibid.: 26) is in consistently integrating evolving preferences into the framework of utilitarian welfare economics. My concern is exclusively with the question of how, in what ways, von Weizsäcker's proposed solution, even if it succeeds in the sense noted, can serve to advise economic policy in a democratic society as a "cooperative venture for mutual advantage." As argued above, policy recommendations – as hypothetical imperatives – must be addressed to someone whose interests they supposedly serve. And in a democratic polity the citizens are the ultimate addressees while their political representatives the proximate addressees of advice. Neither of the two potential addressees, so I argued above, can be assumed to be interested in the advice of traditional welfare economics for how to promote aggregate social welfare, if such advice does not promise them to be in line with their own interests. And there is no reason why they should be any more interested in the information that an evolutionary welfare economics can provide about how "adaptive preferences" may be aggregated in a social welfare calculus. Indeed, in his own comments on matters of policy choice C.C. von Weizsäcker appears to make little use of the welfare theoretical construct that his "hypothesis of adaptive preferences" is supposed to support. Instead, his arguments are phrased in terms of individual freedom, compossible individual rights and the choice among alternative rule-regimes, in terms, that is, that fit quite naturally into the conceptual framework of constitutional economics.

When von Weizsäcker (2002: 429) speaks of the individual's concrete acts of choice ("die konkrete Willensäußerung des Individuums") which theorists of democracy and normative economists respect as expressions of personal autonomy ("Ausdruck seiner Autonomie als Person") this is surely more in the spirit of a choice-individualism that looks at individuals as sovereign choosers than in the spirit of a utility-individualism that reduces individuals to carriers of utility values. The same can be said when von Weizsäcker associates a polity's responsiveness to citizens' preferences with the country's liberty,[18] and when he discusses the "principle of maximal influence of preferences on social matters" in terms of an effective system of compatible or – in reference to Steiner (1977) – "compossible" individual

[18] Von Weizsäcker (2009: 215): "Je freier ein Land ist, desto mehr sollen die Zustände dieses Landes Ausdruck der Präferenzen seiner Bürger sein."

rights (von Weizsäcker 2009: 215f.).[19] And it can furthermore be said when von Weizsäcker, from discussing responsiveness to preferences in terms of rights that protect individual freedom, proceeds to discussing the issue of "efficiency" in economic policy in terms of a comparison between alternative systems of rights or "regimes."[20] Such comparison appears to be much more in line with the rule- and process-oriented perspective of constitutional economics than with the outcome-oriented approach of traditional welfare economics.

While von Weizsäcker's arguments on regime choice take their departure from a conventional welfare theoretical concept of efficiency, they end with an explicit reference to a contractarian perspective. A policy measure, so von Weizsäcker argues in the terminology of utility-individualism, can be called efficient if the monetary value of the utility of the beneficiaries exceeds the monetary value of the harm suffered by those who are negatively affected (von Weizsäcker 1998: 265). In reference to the discussion on the compensation issue he notes that, while theoretically possible for efficient projects, compensation is practically impossible because of insurmountable information- and incentive-problems (ibid.: 266) As his own proposal for how to approach the compensation issue he then suggests to look at it as a matter of regime choice, shifting the focus from the level of single projects to the level of institutional regimes. With this shift in perspective the relevant question becomes whether a regime is efficient in the sense that it creates overall, i.e. in the sum of projects that are carried out within its framework, sufficient benefits for compensating the participants for losses they may incur in particular instances, even though their losses go uncompensated in these instances. The point of the shift in perspective that he suggests is, as von Weizsäcker (1984: 128ff.; 1998: 279f.) explains, to replace the notion of single-case-compensation with the concept of *general compensation*, a concept that, in the end, he recommends in contractarian terms rather than in the language of a social welfare calculus. The idea of general compensation can, so he argues, be understood in analogy to Hobbes' social contract (von Weizsäcker 1984: 131; 1998: 279f.). Just as the members of society have reasons to agree to the Hobbesian contract because of the benefits they can expect from their joint submission to the state's monopoly of coercion, so, according to von Weizsäcker, the

[19] Von Weizsäcker (2009: 216): "Eine Theorie der freien Gesellschaft muss damit die Grenzen der Freiheit des Einzelnen modellieren. Der Zustand der Gesellschaft kann nicht *nur* Spiegelbild der Präferenzen der Individuen sein. Er muss zugleich auch die Rechte abbilden, die den einzelnen Handelnden zustehen und die miteinander kompatibel, also vereinbar sein müssen." – See also (ibid.: 241): "Präferenzen repräsentieren … das Ziel der normativen ökonomischen Theorie, das in einer funktionsfähigen freiheitlichen Gesellschaft liegt. Diese aber muss sich einen Rahmen von Rechten setzen, die dem Prinzip der bedingten Vereinbarkeit von Individualrechten folgen."

[20] Commenting on how a normative economics with its concern for "a functioning free society" looks at the relation between "liberty and efficiency" on Weizsäcker (2009: 241) notes: "Der Effizienzgedanke ist hier unabweisbar in der Abwägung zwischen unterschiedlichen 'Freiheiten'."

members of society have reasons to agree to a regime from which they can expect to benefit overall in ways that outweigh the losses that it may require them to accept.

While von Weizsäcker expressly sees himself with his theoretical proposals in the tradition of conventional welfare economics, his reference to the social contract notion amounts, in my view, in effect to no less than a tacit shift from a welfare theoretical to constitutional economics outlook, from an outlook that is focused on the aggregation of individual utilities to an outlook that seeks to inform sovereign individuals about contractual arrangements that promise mutual gains. Approaching the task of policy advice in a democratic society from a social contract perspective naturally requires one to support policy recommendations by arguments that can convince citizens why the recommended measures promise to serve their interests. And inquiring into such arguments is an entirely different task than solving the welfare economic puzzle of how alternative policies measure up in terms of aggregated individual utilities. In this sense the research project that von Weizsäcker's reference to the social contract analogy points to has little in common with the welfare theoretical project that he wishes to maintain.

5. Robert Sugden: Preference Instability and Consumer Sovereignty

While C.C. von Weizsäcker's declared ambition is to account for evolving preferences within the utility-individualist framework of traditional welfare economics, Robert Sudgen's response to the challenge that changing preferences pose for welfare economics aims in a quite different direction. He explicitly proposes a paradigmatic shift to a choice-individualist perspective, even if he does not use this particular label.

If, so Sugden (2007: 665) argues, agents' preferences cannot be assumed to be constant over time a welfare economics that wants "to make normative comparisons between very different social states" (2004: 1016) faces obvious difficulties,[21] raising the question of how a "measure of well-being" (ibid.: 1015) may be conceptualized that would allow for such comparisons notwithstanding unstable preferences. For Sugden (ibid.: 1017) answering this question "requires a fundamental shift in normative thinking," namely a shift away "from the principle that preference satisfaction is a measure of wellbeing." By contrast to the traditional welfare theoretical practice of representing individuals as utility- or preference-functions he asserts that "we need some other way of representing the individual person as a continuing agent" (ibid.). The alternative he suggests is to look at a person as "a continuing locus of

[21] As an example Sugden (2004: 1016) mentions the comparison "between a future in which international trade is subject to tariffs and one in which it is not."

responsibility – for short, a *responsible agent*" (ibid.: 1018),[22] a perspective that is meant to "allow a sequence of actions to be understood as the composition of the deliberate choices of a single continuing agent, even if those choices cannot be rationalized by a single preference ordering over outcomes" (2007: 671).

The concept of a person as "a locus of responsibility" (ibid.: 672) that Sugden proposes reflects, as he notes, a normative intuition that "underlies the familiar concept of consumer sovereignty" (2004: 1016), namely that "it is good that each person is free to get what she wants, in so far as this is possible within the constraints imposed by other people's being free to get what they want" (ibid.). While "retaining the principle of consumer sovereignty that has been central to the mainstream tradition of welfare economics" (ibid.: 1014), Sugden wishes, though, "to reformulate the idea of consumer sovereignty," namely, by contrast to its standard interpretation "in terms of the satisfaction of coherent preferences," as the principle "that it is good for an individual to have a wide range of alternative options from which to choose" (ibid.: 1016). His reformulation he describes as "a robust interpretation of the principle of consumer sovereignty, attaching value to an agent's opportunities to act as she chooses, whether or not her preferences are stable" (2007: 266).[23]

If the juxtaposition of utility-individualism and choice-individualism reflects, as I suppose it does, the paradigmatic divide between traditional welfare economics and constitutional economics, Robert Sugden's "robust interpretation of the principle of consumer sovereignty" would seem to put him squarely on the side of constitutional economics. In fact, however, the version of choice-individualism that he advocates appears to be in conflict with the emphasis on "the reason of rules" (Brennan and Buchanan 1985) that is the very trademark of constitutional economics. In the way he specifies it, Sudgen's normative intuition "that it is good for an individual to be free to choose" seems to ignore the constitutional dimension of individual sovereignty to which the constitutionalist perspective seeks to draw attention, namely the insight that individuals may have good reasons to choose to impose, individually and jointly, rule-constraints on their future conduct because by doing so they can hope to realize benefits that otherwise would be unattainable.

Sugden's arguments on this matter seem to suggest that one reason for his failure to acknowledge the constitutional dimension of individual sovereignty may be an insufficient

[22] Sugden (2004: 1018): "My alternative proposal is to represent agency in terms of a normative disposition: *responsiblility*. The continuing agency of a person across time is to be understood as the continued existence of a self-acknowledged locus of responsibility." – Sugden (2007: 671): "This concept of the continuing agent can be expressed in terms of responsibility."

[23] Sugden (2004: 1014): "The normative intuition on which my approach is based (is) that, for each individual, opportunities to choose between alternative options have value, irrespective of whether or not those choices can be rationalized in terms of stable preferences."

separation of the problem of *commitment* from the problem of *paternalism*. The "robust interpretation of the principle of consumer sovereignty" that he advocates Sugden (2007: 666) expressly describes as an "anti-paternalistic perspective," emphasizing his disagreement with advocates of a "libertarian paternalism" who argue "that opportunities can have negative value when individuals act on unstable and unconsidered preferences" (ibid.).[24] Noting that his proposed perspective may not appeal to everyone he states: "But I hope I will find favour with those readers whose inclinations, like mine, are to value the freedom of the individual to choose how to live his own life without interference from others, to change his mind as and when he sees fit, and to make his own mistakes and live with the consequences" (ibid.: 680). In this statement and in related comments Sugden implicitly identifies two quite different notions with each other, namely, on the one side, the notion that "interference from others" is in conflict with the normative principle of individual sovereignty and, on the other side, the notion that to "value the freedom of the individual to choose how to live his own life" is in conflict with "commitment and self-control."[25] There is, however, surely a difference between a paternalism that lacks respect for the choice-autonomy of sovereign individuals[26] and an approach that emphasizes the role of commitment, both in organizing one's personal life as well as in social organizational matters.

One may well argue, as Sugden (2004: 1018) does, that "if an individual is understood as a continuing locus of responsibility, any increase in that individual's lifetime opportunity is good for her in an unambiguous sense." Yet, from a constitutional economics perspective this statement needs to be qualified by the recognition that taking advantage of the constitutional level of choice is an important way of "increasing an individual's lifetime opportunity." The central message of constitutional economics is that individuals can, individually and jointly, make choices not only *within* constraints, at a sub-constitutional level, but can also, to some extent, choose, at a constitutional level, the very constraints within which they act, and that such constitutional choice of constraints is a most important means for individuals, separately and jointly, to achieve their self-chosen goals. To assert, as Sudgen (ibid.) does, that a "person who identifies with her future actions will not want to impose external constraints on her future choices as a way of forcing those choices to match her current conceptions of what is good for her" simply rules out the possibility that a sovereign persons may want, for good

[24] Of his proposed outlook Sugden (2007: 680) says that it "reflects a way of thinking about opportunity and agency which is robustly anti-paternalistic."

[25] In a footnote Sugden (2007: 680) contrasts his own approach to a study that supposes agents to have a "preference for commitment and self-control" arguing: "An agent who is 'responsible' in the sense in which I use the term has a preference for *not* committing his choices in advance."

[26] The issue of whether the literature on "libertarian paternalism" that Sugden refers to is in fact guilty of lacking such respect can be left aside here.

reasons, to exercise her choice-autonomy at the constitutional level, in order to improve the prospects for her to become the kind of person she wishes to be, and it does not consider the possibility that a group of persons may, again for good reasons, want to jointly submit to constitutional constraints that would allow them to play a "better game" than they can in the absence of these constraints. Recognizing the "reason of rules" requires one to acknowledge that it is not necessarily good for a person "that, at each moment, she is free to satisfy whatever preferences she then has" (Sugden 2004: 1018), but that a sovereign person may well choose for prudential reasons to submit to limiting constitutional constraints.

6. Ulrich Witt's More Objective Utilitarian Approach

By contrast to Robert Sugden' defense of a "robust interpretation of the principle of consumer sovereignty," for Ulrich Witt the challenge that preference change poses provides a reason to question the "radical preference subjectivism" (Witt 2003: 90) that is behind the concept of consumer sovereignty.[27] According to Witt, in the presence of changing individual preferences "radical preference subjectivism and it's more practical relatives, consumer sovereignty or, for that matter, voter sovereignty, may … no longer provide the relevant measuring rod" (ibid.) for policy making. As an alternative to a purely subjectivist outlook at preferences he proposes to adopt a "more objective utilitarian approach" that, as he puts it, incorporates "a theory about how preferences are formed and how, and under what conditions, they change over time," a theory that would allow one "to assess the implications for the development over time of the well being of individuals and, hence, the common good" (ibid.).

From Witt's arguments, presented in a number of papers on the subject, it is not perfectly obvious with which of the two alternative paradigms that I have contrasted here, the utility-individualism of welfare economics and the choice-individualism of constitutional economics, he wishes to associate the "more objective utilitarian approach" that he proposes. In other words, there seems to be some ambiguity as to whether his approach is meant as a proposal for how to improve a utility-individualism that seeks to derive policy recommendations from assumptions about individual preferences, or as a proposal for how to improve a choice-individualism that focuses on the procedures by which sovereign individuals can be enabled to realize mutual gains. The label "more objective utilitarian approach" that he adopts for the perspective he advocates would seem to imply a closer

[27] Commenting on "radical preference subjectivism" Witt (2003: 90, fn. 12) notes: "On its basis the common good problem appears as a problem of aggregating autonomous individual preferences in a properly chosen (set of) variable(s) and of identifying maxima, or at least improvements … if alternative states or policies are compared. Such a comparative statics exercise is manageable as long as individual preferences do not change."

association with the utility-individualism of welfare economics, even it, as Witt (2003: 91) puts it, in a "non-standard utilitarian framework."[28] Yet, Witt has also discussed the welfare implications of changing preferences in terms, namely as a matter of regime-choice, that appear closer to the choice-individualism of constitutional economics.[29] And in a recent joint paper with Christian Schubert (Witt and Schubert 2008) he explicitly approaches the issue of innovation-policy in reference to a constitutional political economy perspective.

Witt's particular concern is with the issue of how the welfare consequences of innovations that typically produce a mix of favorable and unfavorable consequences can be assessed from an evolutionary perspective, a perspective that not only recognizes that "the future balance of benefits and (social) costs of innovativeness cannot be anticipated" but also recognizes that "the standard utilitarian framework of unchanging preferences" (Witt 2003: 90) is untenable in an evolving world. Recognizing these facts, so Witt argues, poses a challenge for normative judgments on which economic policy towards innovations may be based, because with changing preferences individuals' *present desires* can no longer considered the adequate criterion for judging policy measure. The remedy that his "more objective utilitarian approach" is supposed to provide is to assess different policies, such as alternative innovation regimes, not "exclusively according to the current state of our preferences" but in terms of "educated guesses … about how we would assess the likely outcomes in the light of the probable future state of preferences" (ibid.: 91).

The question that is of interest in the present context is what function Witt wishes "educated guesses about future preferences" to serve in matters of policy advice, whether they are meant to provide, in the utility-individualist spirit of welfare economics, the individual utility values from which an aggregate measure of social welfare is to be constructed, or whether they are supposed, in the choice-individualist spirit of constitutional economics, to provide sovereign individuals with information that allows them to make better choices. In its utility-individualist interpretation Witt's "more objective utilitarian approach" would obviously be subject to the same objections that have been raised above against the traditional welfare economic approach to policy advice, namely that neither of the two meaningful addressees of advice in democratic polities, neither the citizens as the ultimate sovereigns nor their political representatives, are likely to be interested in the kind of information that welfare economic calculations may provide. I shall, therefore, confine my further comments

[28] Under this assumption I have discussed Witt's arguments in Vanberg 2006.
[29] A brief discussion of the choice of policy regimes from "a contractarian point of view" can be found in Witt's 1996 paper (Witt 1996: 120).

on the alternative, choice-individualist interpretation of Witt's proposal, asking what role the "educated guesses about future preferences" of which he speaks may serve in its context.

The choice-individualist interpretation is, so one must surely assume, the interpretation from which Ulrich Witt and Christian Schubert argue in their joint paper in which they contrast Witt's "more objective utilitarian approach" – they speak of a "somewhat more 'objective' (behavioral) approach" (Witt and Schubert 2008: 204) – with the subjectivist normative individualism of constitutional economics. Their principal charge in this paper is that its "radical subjectivist stance … considerably weakens the operational power of Constitutional Political Economy," preventing "practically relevant and normatively plausible (conjectural) policy conclusions" (ibid.). In order to correct for this deficiency, so they suppose, "additional behavioral hypotheses are needed" that can enlarge "the informational base of the contractarian approach to welfare" (ibid.).

The example that Witt and Schubert use to argue their case is the policy towards innovations, an issue that is, as noted above, Witt's particular concern. Their focus is on the choice among alternative innovation regimes, understood as "the rules stipulated in the social contract concerning innovativeness" (ibid.: 211). Such regimes differ in the ways in which they deal with the problem, inherent in their very nature, that innovations tend to produce not only beneficial effects but regularly also impose harmful pecuniary and technological externalities on participants in the market game (ibid.: 212; Witt 2003: 91). They may, as Witt and Schubert (ibid.: 211) note, "allow more or less innovativeness and … invoke more or less, and different forms of regulations on innovativeness." As extreme types they contrast a "laissez faire" regime that does not impose restrictions on innovative endeavors at all with a "Pareto" regime that requires unanimous approval of all parties affected (ibid.: 215f.; Witt 1996: 117ff.), noting that, of course, all kinds of more complex, intermediate regimes are conceivable.

Because from a subjectivist contractarian perspective individuals' common constitutional interests "are not materially specified" but are "defined in an endogenous, procedural way" (Witt and Schubert 2008: 204), constitutional economics is unable, so Witt and Schubert (ibid.: 223) charge, to make any substantive normative statements when it comes to assess the normative quality of alternative innovation-regimes, and of the irreducible trade-offs that they involve, between protecting against negative external effects and allowing for potentially welfare-improving innovations (Witt 1996: 126).[30] In order to be more specific about the content of the innovation regime that people may agree on in their constitutional

[30] Witt and Schubert (2008: 211). "In order to reach more concrete (hypothetical) statements as to the normative quality of constitutional rules, the traditional radical subjectivism on individual interests is not helpful."

contract it is necessary, as they claim, "to enrich the contractarian model with material hypotheses about human behavior" (ibid.: 210), in particular with hypotheses about human attitudes towards risk.[31] Drawing on such "hypotheses about individuals' attitudes and the systematic changes in them over an individual's life-span" (ibid.: 204) Witt and Schubert come to the conclusion that, as far as the problem of pecuniary externalities is concerned, individuals can "be argued to opt for a regime that is supplemented by a social security net" (ibid.: 224), and that, with regard to technological externalities, they can be expected "to favor a limited liability rule supplemented by publicly funded regulatory agencies" (ibid.).[32]

The details of Witt's and Schubert's hypotheses about risk attitudes[33] and of the arguments that lead them to their conclusions about favored regimes need not concern us here. Of interest in the present context is the question of how exactly Witt's "more objective (utilitarian or behavioral) approach" may improve, as is the authors' claim, the analytical potential of constitutional economics. In other words: What can the "more objective approach" contribute to the project of constitutional political economy, beyond what it is able to achieve with its traditional "radical preference subjectivism"? This question cannot be answered without drawing some important distinctions.

First, we need to distinguish between the role that constitutional economics is to play in policy advice and the purely empirical, explanatory and predictive, project of coming up with conjectures about the factual content of social contracts that individuals actually conclude in specific real world settings. With regard to the latter project the kinds of contributions that a "more objective (behavioral) approach" in Witt's and Schubert's sense can make are obviously of great relevance, and one must surely admit that a "radical subjectivism" that were to abstain from making substantive assumptions about individuals' preferences would not be of much help in this project. However, since my concern in this paper is with the challenge that evolving preferences pose for policy advice, my interest is more in the role that constitutional economics is to play in this regard. What can the "more objective approach" contribute to this project?

When seeking to identify the contribution that the "more objective approach" can be expected to make to policy advice two questions must be distinguished, namely, first, what

[31] Witt and Schubert (2008: 211): "How the social contract is specified in this respect cannot be decided without making some assumptions about the citizens' risk attitudes. Hence, the need for more specific hypotheses about these attitudes."

[32] With regard to technological externalities Witt and Schubert (2008: 219) compare three types of innovation regimes, a 'no liability' regime corresponding to the 'laissez faire' regime, a 'strict liability' regime corresponding to the 'Pareto' regime, and a 'limited liability' regime as intermediate solution.

[33] They emphasize, in particular, that risk attitudes "show a significant inter-personal variance between individuals" and that "risk preferences systematically change over time with increasing age" (Witt and Schubert 2008: 212).

legitimizes policy choices and who is entitled to make these choices, and, second, what considerations and arguments should inform policy choices. The constitutional economics approach that I described above (section 3) gives a clear answer to the first question, namely, that the individual citizens as the ultimate sovereigns of a democratic polity are the ones who are entitled to make policy choices – and to delegate their decision-making authority to representatives – and that their voluntary agreement is the ultimate source from which legitimacy in policy matters must be derived. And it gives an equally clear answer to the second question, namely, that whatever considerations or arguments can help citizens or their representatives to make better informed choices should find entry into the political decision making process. These answers have implications for the role that the "more objective approach" may play. As far as the legitimacy issue is concerned, the information that this approach may provide can surely not provide arguments against the right of the ultimate sovereigns, the citizens, to decide policy matters according to their own subjective preferences. To respect the citizens as sovereign choosers in policy matters cannot but mean to allow their own subjective preferences to decide these matters. As far as the considerations and arguments are concerned that should inform policy choices, the information that the "more objective approach" may provide has surely its role to play in the political decision making process, but its proper addressees must be the citizens – respectively their representatives – whom it may help to make better informed choices.

I should add that how one conceives of the role that constitutional economics is to play in policy advice critically depends of course on one's understanding of the nature of the "social contract" that provides the reference point for normative judgment. The important distinction here is between an approach that sees to the source of legitimacy in the *factual contracts* that actual persons conclude, and an approach that argues in terms of "hypothetical contracts." Witt and Schubert (ibid.: 207) note that "modern contractarians use the social contract device in a *hypothetical* sense," as a device for deriving hypotheses about "how individual agents would decide within some artificially specified constitutional situation, the 'original position'" (ibid.). The version of constitutional economics that I advocate, and that I have described above, argues in terms of factual social contracts and is, in this sense, not part of what Witt and Schubert describe as "modern contractarianism." And, in fact, a contractarianism that argues in terms of hypothetical contracts would surely be of little service in performing the task that I have described above as the main task that constitutional economics sees for itself in a democratic polity, namely to assist sovereign citizens with

information that help them to realize mutual gains and to advance their common interests.[34] A contractarian enterprise that produces hypotheses about what would be in citizens' common interests if they were in some artificially specified original position is, as far as its contribution to policy advice is concerned, subject to exactly the same objections that have been raised above against traditional welfare economics. In a democratic polity it has no addressees for its hypothetical imperatives. Neither the citizens nor their representatives can be assumed to be interested in information about what would be attractive contracts in a hypothetical original position. They are interested in advice that tells them how they can advance the interests that they actually harbor, here and now.

7. Conclusion

Evolving preferences pose problems for a welfare economics that reduces individuals to utility functions and for any approach that – in the spirit of a utility-individualism – seeks to directly derive normative judgments on policy issues from assumptions about individual preferences. And, as I have argued in this paper, whatever solutions for these problems may be conceived, as long as they remain within the paradigmatic framework of a utility-individualism they have little to contribute to effective policy advice in a democratic polity. By contrast, evolving preferences are easy to cope with for a constitutional economics that, in the spirit of a choice-individualism, respects individuals as sovereign choosers and sees its task in providing information to these sovereign choosers for how they may better advance their common interests. Neither the undeniable fact that individuals' preferences may change, nor the fact that their current preferences may be an unsuitable standard for judging how they will feel about policy choices once their consequences emerge, or the fact that their present preferences may be short-sighted and ill-informed, can, from a constitutional economics perspective, provide a justification for questioning the sovereignty of individuals as consumers and as voters. These facts can only be reasons for providing sovereign individuals with arguments that enable them to have a more realistic understanding of their likely future preferences and to see that their preferences are less myopic and better informed. But the preferences that inform the choices of sovereign individuals cannot be any other than their *present preferences*.

[34] In this interpretation of constitutional economics I see myself in agreement with J.M. Buchanan (1987: 313) who states: "Normatively, the task of the constitutional political economist is to assist individuals, as citizens who ultimately control their own social order, in their continuing search for those rules of the political game that will best serve their purposes, whatever these might be."

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