Custom and Rules

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I

Introduction

Custom is what we are used to. We like what we are used to. Thus, custom is one of J. S. Mill’s “two determining agencies” of economic affairs. Schlicht examines why we like what we are used to and why it matters for economics. The latter is the important part; a clever theory of custom that yields no applied economics would be of little interest to us. It would be a bit like a performance of the world-record-holder in standing on one leg: one cannot help admiring the performance, but it remains only a curiosity. Admirably, Schlicht is no leg-stander. He applies his theory to real questions of property, law, organization, and the division of labor. It is therefore worth considering the theoretical structure supporting his applied economics.

Schlicht’s discussion of piece rates is a good example of his applied work. Typical piece rates seem too low; by the logic of standard theory, they are set at suboptimal levels. Standard economics implies that the rate offered per piece will equal the marginal revenue product of a piece. Any contractual provisions governing the time to produce each piece are at best superfluous. In reality, piece rates are less than marginal revenue product, and they are complemented by standards of productivity. The worker is expected to meet a benchmark number of pieces per period. Schlicht shows that the seeming suboptimality in piece rates probably reflects the operation of custom in the economy and, crucially, in the minds of economic agents. Actually existing piece rates, with their accompanying standard productivity levels, are set to be “fair.” They serve thereby to establish the perceived rights and obligations of worker and employer. If they serve their function
properly, workers will strive to be productive. The point is not the money, but satisfying the legitimate obligations and meeting the legitimate standards created by the piece-rate system. A virtuous circle may emerge in which rising average productivity invites mutual emulation among workers, whose improved efforts push average productivity up further, which leads to more energetic emulation, and so on. The piece rate system as actually practiced produces desirable customs in the workplace.

Schlicht’s explanation of piece rates is good applied economics and solves an existing puzzle in the economics literature. It explains a contractual practice within firms and both prices and outputs in parts of the labor market. It also illustrates the potential that a well-crafted theory of custom may have for the conduct of “real” economics. Thus, as I have said, it is worth considering the theory supporting such applied work. As is the commentator’s right, I will restrict myself to a few points of criticism and will not attempt an overall assessment. Nor will I provide an outline of the theory, as that would be unnecessary in this symposium. My points of criticism do not identify any crucial flaws that would, supposedly, bring down the whole edifice. The search for such flaws is a silly business and very unpleasant. My criticisms are offered, instead, in the hope that they might help us get even more fruit from Schlicht’s ideas than we already have reason to hope for.

II

Rules are Objective

The twin notions of rules and rule preference are pillars of Schlicht’s system: Chapter 7 is devoted to “Rules and Schemata”, while Chapter 8 is devoted to “Rule Preference.” It is not surprising that this should be the case. Rule following is the leading candidate to replace utility maximization. Besides, if custom is what we are used to, an economics informed by custom would have to represent agents as acting within old grooves. Thus, we expect an economics with custom to be an economics of rule-following agents.

The notion of rule preference is natural, too. Why do we stick to the old grooves? One answer is bounded rationality: we are not clever
enough to forsake habit. Another is rule preference: we like the old grooves because they are the old grooves. Although Schlicht gives the second answer, he views rule preference as “a manifestation of a desire for clarity” (118). Thus, it seems fair to say that Schlicht (rightly, I believe) combines the two answers. Because Nature gave us a bounded rationality, she wisely endowed us with a preference for the old grooves.

I am happy with the notion that rules are important, but I think I may complain about Schlicht’s treatment of them. Schlicht makes the presence of a rule an entirely psychological affair. He correctly notes that his psychological view does not imply that rules lack objectivity. “Rules may, indeed, be conceived as entirely objective in the sense of being brought about by universal human tendencies” (193). I fully accept the logic of this remark. But he says explicitly, “rules cannot be defined in any ‘objective’ sense, if ‘objective’ is held to imply independence from cognitive processes” (193). I think there is a way to identify a rule that is “objective” in the relevant sense.

We may speak of a “rule” when we have an object exhibiting (if only potentially) different behaviors in different contexts, i.e., under different states of some larger system or environment. The object follows a rule if its behavior exhibits invariance across some states but variance across others. It follows a rule if only a subset of variables determining the larger system influence the behavior of the object. Rules economize on information. The rule-bound object processes less information than it otherwise would. Similarly, the observer needs to process less information when predicting the behavior of the rule-bound object than the object unbound by any rule. Let me try to refine these somewhat loose notions.

An object that is not responding to its environment is not following a rule. If the object is always in the same state, knowing the state of the object will not reduce the information content of a message relating the state of the larger system. Knowing the (invariant) state of the object does not make any state of the larger system seem less probable or more probable. Now assume the object may be in any of several states, but that the chance of the object being in a given state does not depend on the state of the larger system. The object behaves randomly. It is not responding to its environment. Here too, knowing the
state of the object conveys no information about the state of the larger system. In the vocabulary of information theory, there is no mutual information between the object and its environment.¹

If the object is responding to its environment, we might say that it is following a rule. But this is a very expansive notion of “rule.” A rule makes things simple, or at least simpler. Before saying that the object is following a rule, we should be able to show that its reactions to the larger system are in some sense “simple.” Roughly, they are “simple” if the object’s behavior is invariant across some states of the environment. Let us consider the matter a little more carefully.

Our description of the larger environment will have several dimensions. A rule may allow us to ignore some of them. Denote the number of dimensions by \( m \), where \( m \) is the cardinality of some index set \( M \). Each dimension will have several possible states. Denote each of those numbers by \( n_i \), where \( i \in M \) and \( n_i \) is the cardinality of some index set \( N_i \). The environment, then, can be in any of \( S \) states, where,

\[
S = \prod_{i \in M} n_i.
\]

The object is following a rule if there exists a strict subset \( M' \) of \( M \) such that the object’s behavior is invariant within the equivalence classes implied by the subset \( M' \), that is, if knowing only the value of certain dimensions of the environment is sufficient to allow one to infer the state of the object. This is not the only way for the object to follow a rule. It might be necessary, for instance, to know something about each of the \( m \) dimensions, but the knowledge required of each dimension might be relatively modest. The object is following a rule if there exists a set of strict subsets \( N'_i \) of the \( N_i \) such that the object’s behavior is invariant across the equivalence classes implied by the Cartesian product of the \( N'_i \). Finally, the object is following a rule if its behavior is invariant across the equivalence classes implied by some combination of strict subsets of \( M \) and of the relevant \( N_i \).

If the object’s behavior depends on a fraction of the information available on the environment, then the object is following a rule. This is a perfectly “objective” criterion. It does not depend on the psychology of the observer, but upon the manner in which the object’s behavior varies with states of its environment. This view of rule following,
however, may not allow us to say how much reduction of complexity is enough to make a rule a rule. If so, I do not entirely regret an element of arbitrary choice in deciding what a rule is; it would reflect the fact that objects are rule-governed in differing degrees. Night and day are different, but there is no clear dividing line between them. Similarly, there may be a continuous movement from a simple rule to a complicated rule to a rule so complicated that it no longer qualifies as a rule. (In some economic contexts such as monetary policy, the super-complicated rule is labeled “discretion.”)

In some models it may be possible to find relatively sharp distinctions between simple rules, complicated rules, and no rules. If an object’s behavior can be measured and classified as “orderly,” “complex,” or “chaotic,” then the word “rule” can be reserved for objects whose behavior keeps them in the orderly or complex range. This neat division is possible only when the situation can be modeled mathematically, and then only for some mathematical models. Thus, sharp divisions can be found only some of the time.

III
It Matters That Rules are Objective

I think it matters that rules are objective and not purely psychological. Schlicht’s psychological view leads him to expect simplicity of rules and to view rules as consciously known.

If my earlier argument was roughly correct, rules do simplify. However, they may be complex. Schlicht seems to underestimate the complexity of many rules. Consider his example of honesty: “The rule ‘Never tell a lie’ is preferable to the rule ‘Never tell a lie if it can be detected; otherwise select the best alternative’” (158–159). I agree. But the rule of honesty we really follow is far more complex than “Never tell a lie.” When asked “How are you?” we often lie, and rightly so. Nor do we excuse ourselves from the telephone by saying “You’re insufferable; I’m hanging up.” Quite properly we say “Someone is at the door; I’d better get that.” The seemingly simple rule of honesty has many exceptions, which themselves have exceptions, and so on. The exceptional cases and the conforming cases intermesh very much like flesh and blood. Because of the complexity of the rule we do not mea-
sure a person’s honesty by simplistic measures such as the ratio of lies to statements uttered; we speak instead of a person’s character. The rules of common law simplify, but they are complex and context-dependent. Their complexity is so great that a class of persons, called jurists, specialize in their interpretation.

Schlicht seems to think of customary rules as explicit and consciously known. “Any custom,” he argues, “refers to regularities that must be perceived, learnt, memorized, and passed on” (28). This view would seem to deny the possibility of learning a language without acquiring an explicit knowledge of its grammar. Children, however, do learn their native tongues long before they memorize grammatical rules. Our knowledge of grammar is largely tacit. A part of this tacit knowledge seems to be biologically programmed in the form of Chomsky’s “language acquisition device.” Similarly, the rules of courtesy or of elevator etiquette are largely tacit. If the rules governing social life are often complex, then they cannot be known in the fully explicit manner Schlicht seems to imagine. This point may be an important one. The complexity of rules governing social life helps to explain the difficulty of rational economic planning under socialism. It is worth noting that animals are rule followers. We do not ascribe to animals an explicit knowledge of the rules they follow. Animals also learn. Thus, only a portion of the rules they follow can be dismissed as “instinct.” If humans are animals, we too are capable of following rules we cannot state.

If my view of rules is generally accurate, Schlicht’s criticism of Hayek (200–202) is probably mistaken. Schlicht objects that Hayek’s non-psychological notion of a rule is largely empty. “[A]ny rule that is inefficient in one instance can be superceded by another rule that is identical to the former one, but treats the particular case in a preferable way” (201). But such supersession could occur only if the rule were consciously known and followed. Schlicht also objects to the “emphasis laid on human irrationality” in Hayek’s work. He objects that Hayek “neglects all aspects of insight, clarity, and coherence that are evidently pervasive characteristics in law-making” (201). However, these supposedly neglected aspects of law making are present in the actions of judges, lawyers, and (occasionally) legislators, all of whom are specialists in the law. How do we account for the high degree of
conformity to the law in the actions of non-specialists? They act in unthinking conformity to customs (including industry practices) that they know by habit, but whose rules they cannot state.

IV

Conclusion

I HAVE CRITICIZED Schlicht’s psychological treatment of rules. I do not wish to suggest, however, that there is no room for the sorts of issues he raises. On the contrary, I think Schlicht is right to ask how the universal structures of human psychology help to determine the characteristics of customary rules. Schlicht has convinced me that “clarity” an important candidate for such a property-influencing custom. And I think he is right to see clarity judgments as “basically culture-invariant” and “ultimately ‘hard-wired’” (77). Indeed, I hope that scholars will in the future bring Schlicht’s analysis into closer contact with the literature on evolutionary psychology. (Barkow, Cosmides, and Tooby 1992 is a manifesto and useful introduction.) My comments on rules are not meant to disparage Schlicht’s psychological dispositions, but if Schlicht is indeed mistaken to deny that rule following can be defined objectively, then some particulars of his theory would seem to require amendment.

Note

1. This statement is a little loose. Mutual information is defined when there are two random variables with a common index.

Reference