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Review of Robert Sugden's *The Community of Advantage: A Behavioural Economist's Defence of the Market*. Oxford: Oxford University Press, 2019, 352 pp.

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Robert Sugden's latest book provides exactly what it says on the cover: a behavioral economist's defense of the market, conceived—in the words of John Stuart Mill—as a 'community of advantage'. Such a defense is intriguing because we are familiar with the insights from cognitive psychology that seek to invalidate the assumptions of '(neo)classical' welfare economics (7). These neoclassical models' simplified assumptions about people's preferences do not match the empirical evidence (as preferences are not stable, context-independent, consistent, and integrated). Whereas some behavioral economists have taken this as a reason to be normatively *less* enthusiastic about the market, Sugden believes that—if we indeed take people as they are, and not as stylized, ideal-type decision makers specified by some model—the market is what best serves their interests.

More precisely, Sugden's defense of the market is based on a *contractarian* model and the book is therefore meant to *persuade* us, the potential contractees, that the market serves our interests. This, in and of itself, is already significant. Sugden, for example, does not argue for a specific conception of wellbeing (welfare), or some other value or good that he wants to defend (and that the market would, or would not, promote). He believes that this should be determined by the people involved. Hence the book is not written from the perspective of some benevolent *social planner* (the 'benevolent autocrat') who seeks to implement her ideas about human welfare or value. Instead, a defense of the market on contractarian grounds should be based on the voluntary agreement of all contractees, and Sugden sees himself as the *mediator* of this process (31–33), showing us the deal, explaining the contract, and how we could all benefit from it (83).

It should come as no surprise then that what Sugden is arguing against is the type of 'libertarian paternalism', as envisioned and popularized by Cass Sunstein and Richard Thaler in their book *Nudge* (2008).

They are indeed the main and recurring villains in Sugden's story (especially in the first five chapters) because paternalism, no matter how seemingly soft or benign, has no place in his contractarianism. *Nudge* starts with the insight that we are Humans and not Econs. We have limited information, limited cognitive abilities, and limited willpower and, as a result, we often fail to do what we have most reason to do. We fall victim to all kinds of biases that keep us from reaching our goals "as judged by ourselves" (55). Therefore, these processes and mechanisms interfere with genuine preference satisfaction. According to Sugden, however, this assumes an "inner rational agent" (chapter 4) that is somehow hindered by a vulnerable psychological shell (65). What authors such as Sunstein and Thaler try to do, he says, is further the interests of the people as they "would have revealed if not subject to reasoning imperfections" (61). This is a sneaky way of re-introducing the perfect rational decision-maker of the neo-classical model into present-day behavioral economics (66). These authors can retain preference satisfaction as a normative criterion, if only these preferences are adequately *purified* in order to reveal the 'real' goals of the subject 'as judged by themselves'. But, according to Sugden, there is no way of identifying these assumedly pure and context-independent preferences, and therefore no way of setting up the nudge to serve those interests.

Sugden's argument is ingenious. Suppose there is a person called "Joe" who is sensitive to the lay-out of a cafeteria: having a choice between cake and fruit he chooses whatever is on display at the front of the counter. Now imagine a re-engineered version of Joe, who is called "SuperReasoner" (72), who is in every respect the same as Joe, with the caveat that he has "no limitations of information, attention, cognitive abilities, or self-control" (72). His choice, according to Sunstein and Thaler, would reveal the purified preference needed to justify the (direction of) the nudge. But Joe, in choosing either fruit or cake (depending on the choice architecture), does not make any reasoning mistake either way. When cake is at the front, Joe just feels like having cake. When fruit comes first, he feels like having fruit. SuperReasoner, although not prone to any human cognitive or informational mistakes, would make the same decision (74).

What Sugden tries to do, I believe, is force a dilemma on Sunstein and Thaler. Decisions or choices are not (at least not always, or not completely) determined by all the factors in which SuperReasoner is supposed to excel (the purifying properties in terms of information, cognitive abilities, et cetera). A person's decision is always relative to the person making the decision, that is, 'who' she is apart from the propositional content about the choice itself. So either we should admit that SuperReasoner would make the same choice as Joe would make in the cafeteria, or we admit that the ascription of latent preferences to Joe (e.g. healthy fruit over unhealthy cake) must betray the subjective element of libertarian paternalism (specified in the as-judged-by-themselves clause). Here, at least, one cannot have one's cake and eat it too . . .

Personally, I am not convinced that Sugden's argument is successful—SuperReasoner making the same choice(s) as Joe should perhaps be reason to acknowledge that he may be nudged in *either* direction, as both are compatible with his reasons. But it is very powerful in laying bare the underlying structure of argumentation in both nudge enthusiasts and their opponents. Both seem to assume some form of pristine autonomy or agency that is untainted by all the psychological flaws that we know of, and that they somehow seek to recover.

So, Sugden does not want preferences to be laundered or purified for the purposes of some paternalist program and in order to make that fully clear he chooses 'opportunity', rather than preference satisfaction, as his basic notion (chapter 5). On the one hand, preference satisfaction fits the neutral non-paternalist bill of Sugden's defense quite nicely (arguing against philosophers like Pettit who believe that preference does not necessarily track value; plainly put: we might get what we want, but not what we need); but, on the other hand, when we acknowledge that our preferences are liable to *change*, then having more opportunities is surely better than having less (97).

In chapter 6, Sugden develops a formal proof that the market—by the mechanism of the Invisible Hand—is what best promotes each individual's opportunity set. So, the market is conducive to the good that he deems essential, namely: "each consumer is able to get whatever he wants and is able to pay for, when he wants it and is willing to pay for it" (137). Traders and consumers will seek out opportunities for mutual benefit. Importantly, however, Sugden does not believe that economies in the real-world should be unregulated (chapter 7). We should avoid monopolies, and correct externalities, and we should prevent prices from being obfuscated, making it difficult or impossible for consumers to know the actual cost of some commodity or to compare prices between suppliers. But Sugden also anticipates some important objections to his opportunity-through-the-market approach. First, there is the contention that we might have good reason to restrict options in order to avoid "choice overload" (143). Sugden is unimpressed by the available evidence for this phenomenon, and even when it seems that people do prefer to limit their options (for example, fine dining in a restaurant with a very small number of dishes), such limitation is only valued as a choice among many, many others. Secondly, he is equally unimpressed by the phenomenon of self-constraint: people's interest in limiting the options of their 'future' selves (for example, smokers throwing away their packs of cigarettes). Indeed, we could easily imagine some Joe (the real Joe, not some assumed inner rational agent) who wants his future self to be nudged toward the healthy fruit instead of the cake. But, if Joe still takes the cake, then who is to say that he makes a mistake (81–82)? Shouldn't we rather say that he has changed his mind (or, at least, *allow* for the possibility that he can change his mind)?

In chapter 8, Sugden compares his theory with some prominent rival models of fair distribution. He discusses Ronald Dworkin's famous hypothetical scenario of the clam shell auction under the assumption of a fair baseline (equality of resources), and the possibility of transforming brute bad luck into option luck by the use of an insurance market. Sugden sees this as a central line of argumentation in the models of justice by John Rawls, John Roemer, and Michael Sandel: that a just society should mirror a fair handicap race; and that reward should be granted on the basis of what is earned (effort, for example), yet 'equalized' in terms of what is not earned (talent, for example). According to Sugden, the all-knowing foresight that is necessary to drive such a model is implausible if not impossible (cf. Hayek's attack on the planned economy, 180). With economic transaction inevitably comes the risk of brute bad luck, and, in light of such realism, the best we can do is to rely on a real market (not some hypothetical starting position). Real-world markets yield opportunities for people to take out partial insurance against various risks or to opt for a system of taxation that, under the uncertainty that befalls us all, would be mutually beneficial for all (203).

Chapters 9 and 10 discuss the empirical evidence for various altruistic or pro-social attitudes that seem to challenge the self-interested agent assumed by neoclassical economic models. If this image is correct, then marketization could be said to erode such intrinsic or virtuous motivation (211). In the oft-discussed Trust Game,[1] for example, we see a type of reciprocity that is hard to square with the assumption of human beings as rational gain-seekers. However, such reciprocity, Sugden suggests, is not some response to human kindness (person *A* giving person *B* money, to which *B* is responding by returning some money to *A*), but should rather be understood as a *joint* action. The players in the game understand that they are both involved "in a mutually beneficial cooperative scheme" (230). This is also crucial in chapter 10, when Sugden discusses "cooperative intentions" (232). People can reason as a team and assess the consequences for them as team members *together*, engaged in cooperative action. That way, we can understand that people in a Trust Game are not altruists, giving out of the sheer goodness of their selfless hearts, but neither are they myopically self-interested maximizers. These players, according to Sugden, take a different perspective. They are engaged in a social practice that, knowing what they can expect from each other, is to their *mutual advantage*. It is on this ground, and with this whole model in place, that Sugden wants to persuade us, as potential contractees, to become members of a community of advantage (chapter 11).

This book, the author reminds us, has been long in the making. It draws from many papers and projects that were published and developed within a span of almost twenty years. The result is a work that is both fundamental and wide-ranging. It starts from one underlying, basic idea (the contractarian core) which it then further develops and refines by confronting various alternatives and objections. Along the way, it touches upon some of the hardest problems and themes in economics, (philosophical) psychology, and ethics. Robert Sugden proves to be an excellent guide, bringing clarity and depth to discussions which often lack either of these qualities (or both). This is not to say, however, that his insights will remain undisputed. Given the amount of ground that he seeks to cover, I think that he could be stopped or at least slowed down by some pertinent criticisms at different points. And perhaps some other worries, *not* discussed in the book, will have to be taken up as well.

[1] In a Trust Game, Player *A* has some good—let's say money—and, in a first move, chooses to hold on to that sum, or to send it to Player *B*. If she chooses to hold, the game ends (no gains for both players). If she chooses to send, then this amount will be multiplied by a factor of five. Then Player *B* has two options: keep or return. If she keeps the money, then *A* loses her investment, and *B* reaps the rewards (that is, five times the amount of money that was sent). If *B* chooses to return, then *A* gets her investment back, and both *A* and *B* split the remaining four units equally (214–215).

(What's the role of *politics* in this? Is this *all* there is to economics?) But there is no doubt that this is essential reading for those even remotely interested in behavioral economics, and for all interested in the question of how we should live together.

REFERENCES

Thaler, Richard H., and Cass R. Sunstein. 2008. *Nudge: Improving Decisions About Health, Wealth, and Happiness*. New Haven, CT: Yale University Press.

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