THE RELATION BETWEEN COMPETITION AND COOPERATION

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Jules Coleman's *Risks and Wrongs*[1] covers much ground in topic and treatment. Central to the book is the construction of a rational choice contractarian account of justification and its application to legal and political rules and institutions. This account is an exercise in contractarian legal and political theory. In part, Coleman seeks to provide a conceptual framework and principles to rationally reconstruct current Anglo-American law and political institutions. He employs a rational choice contractarianism principally to determine when risks are assigned by contract and when they are assigned by tort. More generally, Coleman seeks to account for the exchange-facilitating effect of contract law. With respect to many components of tort law, he offers an account of corrective justice—an account independent of rational choice contractarianism. Coleman advertises his rational choice contractarianism as an improvement over competing deontological and consequentialist interpretations of current legal practice.[2]

Coleman's enterprise raises a number of foundational questions. His insistence notwithstanding, does the notion of choice do any justificatory work that could not be done by welfarist notions? Is the notion of collective rationality, in addition to the notion of individual rationality, necessary? Why assume that current legal and political practice provides any basis upon which to construct a rational choice contractarian moral or political theory?

This article does not address these questions. Instead, it concentrates on another foundational matter: the relation between cooperation and competition in Coleman's rational choice contractarianism. Coleman presents some wonderfully perverse arguments to establish that cooperation is importantly prior to competition. I shall argue that the relation between cooperation and competition is even weaker than the weak relation

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1. JULES L. COLEMAN, RISKS AND WRONGS (forthcoming 1992) (manuscript dated July 1991, on file with author; pages cited to manuscript).

2. *See id.* at iv-v.

Coleman posits. My argument begins with a construction of Coleman's argument and ends with some doubts. The doubts concern the usefulness of treating competition or cooperation as the more basic type of interaction. If interaction is by rational choice, there is no reason to assume *a priori* that it paradigmatically operates in any important sense through selection of competitive or cooperative strategies. There is no more or less reason to privilege rational cooperation than there is to privilege rational competition. I doubt that posing the issue as one of priority is helpful.

I.

Competition consists in an individual acting on individually utility-maximizing strategies, given the strategic choices of other individuals. Cooperation requires abandoning individual utility-maximizing motivations in favor of joint strategies.[3] Because competition and cooperation both concern the selection of strategies, both involve rational choice. They differ, however, as to the type of choice made. Cooperation requires the adoption of joint strategies and thus typically[4] requires three items: a choice of strategy (coordination), a division of the gains from cooperation (division), and an assurance that the joint strategy will be selected (compliance). Competition, however, requires only the selection of individual strategies, and therefore there is no need to secure coordination, division, or compliance. Competition seemingly requires no cooperation.

At least four sorts of relations between competition and cooperation exist. The first is *analytic*: Competition and cooperation may have conceptual relations or relations of entailment or presupposition. The second relation is *causal*: Competition and cooperation may produce causal consequences on one another such that one or the other is causally primary. The third relation is *normative*: Competition (cooperation) may be morally superior to, or have more morally attractive features than, cooperation (competition). The fourth relation is *research strategic*: Seeking to identify competition (cooperation) may be a preferred research strategy because it is more effective in explaining or justifying rules and institutions. To say that competition

3. *See id.* at 55.

4. "Typically" because division and compliance are not problems in pure coordination games having multiple equilibria with the same payoffs.

is "prior" to cooperation may mean that competition bears any or all of the above four relations to cooperation. Coleman's arguments seek to establish that cooperation is analytically, causally, and research-strategically prior to competition.

Rational choice theory by itself is neutral with respect to priority between competition and cooperation. This is because it is not committed to a rational choice contractarianism, as Coleman acknowledges.[5] Rational choice theory simply provides the set of conditions under which parties select institutions and practices in which allocative decisions are made. Parties may or may not realize joint gains by allocating resources and risks by agreement. They may try to secure gains from interaction by selecting other non-market institutions and practices. A variety of empirical variables, ranging from geographic dispersion to commonality in values, will determine which institutions and practices parties select. Rational choice theory is only committed to a particular criterion of justification, not to any specific type of institutional embodiment of decisionmaking. Depending on empirical conditions, markets or politics can satisfy the requirements of rational choice. Apparently, Coleman agrees with this much.[6]

Coleman goes on to make different and stronger claims concerning the relation between cooperation and competition. He does so in outlining and rejecting what he calls "the market paradigm." The market paradigm consists of two assumptions: (1) Institutions and practices are justified if and only if they are rational, and (2) Rational cooperation emerges and is justified only when competition fails, given that individual and collective rationality coincide in a perfectly competitive market. According to Coleman, cooperation is analytically prior to competition because competition presupposes a scheme of property rights and prohibitions on force and fraud.[7] Such schemes are them-

5. *See* COLEMAN, *supra* note 1, at 29.

6. *See id.* at 62-63, 67.

7. *See id.* at 57. *But compare id.* at 62 ("If what I have said about the analytic relationship between competition and cooperation is correct, then we have no a priori grounds for treating one as any more basic than the other") *with id.* at 63 ("Rational cooperation may be pragmatically more basic than rational competition"). For variants on Coleman's position here, see Frank Michelman, *Ethics, Economics, and the Law of Property*, *in* 25 NOMOS: ETHICS, ECONOMICS AND THE LAW 3, 30-31 (1982); James Buchanan, *The Gauthier Enterprise*, 5 SOC. PHIL. & POL'Y 75, 89 (1988); Daniel M. Hausman, *Are Markets Morally Free Zones?*, 18 PHIL. & PUB. AFFS. 317, 319-20 (1989); David Gauthier, *Moral Artifice*, 18 CAN. J. PHIL. 385, 412-13 (1988).

selves the result of cooperation. Coleman asserts that cooperation is causally prior to competition because failed cooperation "gives rise" to competition.[8] Finally, cooperation is research-strategically prior to competition because it guides the question of how we do and ought to interact with each other.[9] Each of Coleman's arguments is questionable. I will consider them in turn.

II.

Begin with a standard statement of the conditions individually necessary and jointly sufficient for a perfectly competitive market: A sufficiently large number of buyers and sellers ensures that none can affect prices; no transaction costs or nonpecuniary externalities exist; a stable scheme of holdings exists; and prohibitions on force and fraud prevail. The presence of a scheme of holdings and the absence of force and fraud constitute instances of prohibitions. Prohibitions are the result of cooperation in the provision of a public good. Hence, Coleman concludes that a perfectly competitive market presupposes at least an element of cooperation.

But this argument is too quick. True, a stable scheme of holdings is required, as is the absence of force and fraud. But it is not necessary that they take the form of prohibitions. Nor is it necessary that, even as prohibitions, such strictures be backed by force. A number of alternative possibilities exist. First, market participants may not desire to engage in predatory behavior. Second, the participants may have independently and coincidentally internalized a norm against predation. Finally, predation may be technologically infeasible. Given these possibilities, a market participant maximizes her own utility relative to a set of prices and her initial holdings. A perfectly competitive market requires that those holdings remain unimpaired. It does not require that initial holdings remain unimpaired as a result of prohibitions—as a result of cooperation. An *absence* of predation, not its *prohibition*, alone is needed.

The substitutes for prohibitions mentioned are, of course, bare logical possibilities. Actual competitive markets require

8. *See* COLEMAN, *supra* note 1, at 57.
9. *See id.* at 63, 118.

enforced prohibitions on force and fraud, as well as well-defined holdings. And prohibitions backed by force are needed to sustain such markets. But both admissions are harmless here. For here the argument concerns the notion of a perfectly competitive market, not actual markets. Hence a perfectly competitive market does not require the same conditions as actual markets. Bare logical possibility is appropriate in the former market but not in the latter. Furthermore, the introduction of necessary conditions for *sustaining* a competitive market is beside the point, for the point has nothing to do with the conditions that make for the *longevity* of markets. The necessary conditions for a perfectly competitive market are the only issue here. Nothing in the notion of a perfectly competitive market requires prohibitions against force and fraud. Hence, the notion of perfect competition does not presuppose cooperation in the form of prohibitions on predation. Coleman's argument for the analytic priority of cooperation over competition is therefore unconvincing.

Perhaps Coleman has another notion of analytical priority in mind. Perhaps the operative notion of priority concerns the role of competition and cooperation in the beliefs of rational actors. A commonplace is that the identity of a belief depends on its location in a pattern of other beliefs.[10] This commonplace is an instance of belief holism—roughly, the thesis that a particular belief derives from a system of beliefs. Finding a scheme of interaction to be "market exchanges" presupposes an indefinite number of further findings: There are sellers and buyers, there are exchanges, the participants are behaving voluntarily, and there is a set of prevailing prices at which goods exchange. Coleman's point might be that such a scheme also presupposes a further finding, an absence of cooperation in the form of selection of joint strategies by buyers and sellers. Cooperation might therefore be analytically more basic than competition. Competition derives from a system of beliefs that includes beliefs concerning cooperation.

Cooperation lacks priority over competition even as re-characterized, however. Two considerations demonstrate this fact.

10. *See* DONALD DAVIDSON, INQUIRIES INTO TRUTH AND INTERPRETATION 168 (1984); *Rational Animals*, *in* ACTIONS AND EVENTS: PERSPECTIVES ON THE PHILOSOPHY OF DONALD DAVIDSON 473, 475 (Ernest LePore & Brian P. McLaughlin eds., 1985); *Judging Interpersonal Interests*, *in* FOUNDATIONS OF SOCIAL CHOICE THEORY 195, 203 (Jon Elster & Aanund Hylland eds., 1986).

First, the same argument can be used to show that competition is more basic than cooperation. Finding that a scheme of interaction constitutes cooperation also presupposes an indefinite number of findings: Participants select joint strategies, this selection is voluntary, and there is an absence of selection of noncooperative strategies. Hence, presupposed beliefs are insufficient to establish priority. At most the argument establishes that competition and cooperation are on par in the pattern of rational actors' beliefs. This conclusion is not surprising. Belief holism does not favor beliefs concerning cooperation any more than it privileges any other belief.

Second, the notion of analytical priority at work here is inapposite, because its application is irrelevant. The question is not whether notions of competition or cooperation are more basic to the *beliefs* of rational actors. That question perhaps is important in interpreting their behavior. The question here is which of the notions analytically is the more basic, actors' beliefs aside. Nothing follows as to analytic priority from the role of competition and cooperation in beliefs. Again, Coleman's argument is unsuccessful.

Nor is Coleman's argument by itself important. For suppose that I am wrong here and that competition is analytically dependent on the notion of cooperation. This fact would concern conceptual connections holdings between notions of competition and cooperation. It would indicate nothing about the causal, normative, and research-strategic priority of competition over cooperation. Nothing would follow the causal primacy of markets, the morally attractive features of competitive schemes, or the preferred strategy for explaining and justifying institutions and practices. Because Coleman's rational choice contractarianism concerns these matters, not conceptual matters, the other sorts of priority are central. Coleman undoubtedly would agree.

III.

Consider next Coleman's argument for the causal priority of cooperation over competition.[11] Competition, according to the argument, is the causal consequence of a failure of cooperation among producers. Each producer would prefer that all produ-

11. *See* COLEMAN, *supra* note 1, at 57.

cers sell at prices above marginal cost. Each producer, however, also seeks to sell at a price equal to marginal cost, regardless of the price at which other producers are selling. Because the structure of producers' preferences is that of a Prisoners' Dilemma, fixing prices above marginal cost requires the selection of a cooperative strategy. Failure to fix prices necessitates the selection of a dominant non-cooperative strategy, a unilaterally revenue-maximizing strategy. The failure to select a cooperative strategy results in competitive prices prevailing. As Coleman puts the point: "Thus, competition is the consequence of failed cooperation and can be explained accordingly. It is as plausible to reconstruct competition as a response to failed collective or cooperative action as it is to view cooperation as a response to market failure."[12] Coleman here assigns causal priority to failed cooperation.

This argument does not work. For failed cooperation is either being cited as a rudimentary causal explanation or as a mere causal condition. Both invocations of cooperation render the explanatory statements of which they are a part defective. Suppose a rudimentary causal explanation of the presence of a competitive market is being offered. Causal explanations require reference to causally relevant items or features of items.[13] Resorting to causally potent items is necessary. For example, the fact that products are traded at competitive prices requires explanation by reference to, among other things, sellers setting prices equal to marginal cost. The fact that sellers set prices at marginal cost is a result of an event—their price-setting behavior. A failure to cooperate, however, is not an event or a property of an event. It is not by itself a causal antecedent of the seller's pricing behavior. That sellers do not set prices above marginal cost may be true. But the fact that sellers are not in Paris or that sellers are not wearing red shirts is also true. Such truths are *causally inert*. They do not refer to or describe features of sellers' behavior that produce competitive prices. Hence, a failure to cooperate is not a causally relevant feature of that which causes competition. Reconstructing competition as resulting from failed cooperation is thus implausible.

12. *Id.*; *see also* Jules L. Coleman, *Competition and Cooperation*, 98 ETHICS 76, 83 (1987).

13. The use of the term "item" is purposely left imprecise because neither Coleman nor I need take a position on the ontology of causation. Thus, for present purposes, the term can range over facts, dispositions, objects, and events.

Alternatively, suppose failed cooperation is offered as a mere causal condition. As offered, the failure of price-fixing among sellers is a necessary condition for the emergence of competitive pricing. This proposal has two problems. First, other necessary causal conditions must obtain as well. For instance, the number of sellers must be sufficient to ensure that an individual seller's allocative decisions do not affect the prevailing price. Hence, the proposal must offer some criterion for determining which conditions are causally more important than others. This difficulty is familiar. A second problem is more serious. It is that the *absence*, not the *failure*, of price-fixing among sellers is a necessary condition for the emergence of competitive pricing. Competitive pricing occurs only if sellers either do not attempt to set prices above marginal cost or, if they attempt to do so, cooperative action fails. Describing the pertinent causal condition as failed cooperation is accurate only in the latter case. The *absence* of cooperation alone is the pertinent necessary causal condition, because nothing *a priori* requires sellers to attempt to select a cooperative strategy of price-fixing. It is clearly true that the lack of cooperation is a causal condition of competition. The converse, however, is also true: The absence of competition is a causal condition of cooperation. The absence of competition thus cannot be privileged as a causally necessary condition. Again, treating cooperation as causally prior to competition is implausible.

Coleman might object at this point. He might deny that failed competition is offered as causally prior to competition. Instead, failed competition is being offered as part of a rational reconstruction of competition: Competition is being treated as the result of a causal process that *could have occurred*.[14] Competitive pricing, rationally reconstructed, could have resulted from failed price-fixing cooperative strategies. But this move is not of much help. For it is of course possible that competitive pricing, rationally reconstructed, could have resulted from individual profit-maximizing, non-cooperative strategies as well. The latter does not even require the failed attempt to select a cooperative strategy. Deciding which construction is the more plau-

14. *Cf.* ROBERT NOZICK, ANARCHY, STATE, AND UTOPIA 6-9 (1974) (discussing fact-defective and process-defective potential explanations); EDNA ULLMANN-MARGALIT, THE EMERGENCE OF NORMS 1-5 (1977) (discussing rational reconstruction of the creation of norms).

sible depends, in part, on whether participants are more likely to select cooperative or non-cooperative strategies. This decision in turn depends on empirical factors such as the size of reputation effects, the probability of repeated transactions among sellers, and the reasoning of sellers.[15] Therefore, Coleman cannot conclude that, rationally reconstructed, treating competition as resulting from cooperation is as plausible as the converse. Comparative plausibility is at least partly a matter of empirical fact.

IV.

This brings me to the claim concerning the research strategic priority of cooperation over competition. Such a priority has two components: explanatory and normative. Coleman believes that explanatory and normative theories should treat rational cooperation as a primitive.[16] Both types of theory should proceed by accounting for social institutions and practices as forms of cooperation. Social science, broadly construed, is unified by use of rational cooperation as an explanatory and justificatory variable.

The prospects of such a research-strategic priority can be questioned. To begin with, on the explanatory side, there is no justification for constraining the theoretical primitive to rational cooperation. Rational agents choose strategies that maximize some maximand, selecting cooperative strategies only when they will do better by cooperating. Cooperation is not always a rational strategy for all actors. Predation may be a rational strategy for some actors, as Coleman acknowledges.[17] Cooperative strategies, when selected, are the outcome of rational choice. Thus, the explanatory primitive is rational choice, not rational cooperation. Only the methodological stricture to begin with rational choice is justified.

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15. *Cf.* Ariel Rubinstein, *Comments on the Interpretation of Game Theory*, 59 ECONOMETRICA 909 (1991) (arguing that game theoretical modelling should take into account reasoning processes of players); Ken Binmore, *Modeling Rational Players: Part I*, 3 ECON. & PHIL. 179 (1987).

16. *See* COLEMAN, *supra* note 1, at 63.

17. *See id.* at 52; *cf.* Hilary Putnam, *Philosophers and Human Understanding*, *in* 3 PHILOSOPHICAL PAPERS: REALISM AND REASON 181, 201 (1983) ("There are powerful universal laws obeyed by all instances of gold, which is what makes it possible to describe gold as the stuff that will turn out to obey these laws when we know them; but what are the chances that we can find powerful universal generalizations obeyed by all instances of rationally justified beliefs?").

Furthermore, as a descriptive matter, beginning with rational cooperation is questionable. For historical anecdote is consistent with institutions being the result of rational choice, not rational cooperation. Marx's observation that "[i]n actual history it is notorious that conquest, enslavement, robbery, murder, briefly force, play the great part," is one of the few statements in Part VIII of *Capital* that has never been criticized.[18] Predation, the result of non-cooperative rational choice, may be the more prevalent form of interaction.

Moreover, participants in an ongoing institution or practice may cooperate in either of two senses. Participants may adopt cooperative strategies because they consider the outcome to be fair or at least legitimate. Alternatively, participants may cooperate, not because they consider the outcome to be fair or legitimate, but simply because they consider the outcome of a non-cooperative alternative to be worse. In the latter case, treating market and non-market institutions as expressions of a communal identity—as a commitment to cooperate—is odd.[19] Rational participants are just doing the best they can in the circumstances. Cooperation here is borne of convenience, not a sense of community. Again, rational choice, not rational cooperation, is the research-strategically-preferred explanatory primitive.

On the normative side, matters are even less clear. Coleman urges beginning with rational cooperation. At a minimum, this approach requires that institutions and practices are legitimate only if rational agents would or could choose them. Specifying the circumstances in which rational agents would or could select particular institutions and practices is difficult, however. The problem is well-recognized: Either constraints are placed on the conception of rational choosers and choice environment or no constraints are imposed. In the former case principles other than rational choice or cooperation are doing the justificatory work—for example, making the practices or institutions seem fair or impartial. Rational choice or cooperation therefore appears as a dispensable or secondary premise. It does not enter as a normative primitive.

Where no constraints are placed on either the conception of rational choosers or choice environment, rational choice may result in the selection of a cooperative strategy, but the out-

18. 1 KARL MARX, CAPITAL 668 (Ben Fowkes trans., 1977) (1883).
19. *Cf.* COLEMAN, *supra* note 1, at 62, 63, 72 n.23.

come is not legitimate. Coleman allows for the former possibility: constraining the chooser and choice environment.[20] By stipulation, parties may be moved by a sense of fairness or the prospect of repeated interaction with each other. The stipulation undermines treating rational cooperation as a normative primitive and, therefore, assigning a research strategic priority to cooperation over competition.

V.

In sum, Coleman argues that cooperation is analytically, causally, and research-strategically prior to competition. This claim is attractively weak because it does not privilege any particular institutional embodiment of cooperation. Markets are not treated as importantly prior to non-market institutions in any sense. If I am correct, however, the relation between cooperation and competition is even weaker than Coleman asserts. Cooperation and competition bear no relation to each other analytically, causally, or research-strategically. Rational choice theory therefore is wholly neutral between the two sorts of interaction.

At stake are alternative characterizations of interaction. Coleman characterizes social institutions as forms of rational cooperation.[21] He treats politics, moral practices, and markets as different institutional designs selected by rational cooperators to structure their interaction. Such designs are different mechanisms for allocating resources of various sorts. Even markets, institutions in which competition is the allocative mechanism, are cooperative schemes. We cooperate with one another by choosing an *institution* in which a range of allocative decisions are made through competition. According to Coleman's characterization, a sense of community is expressed in a variety of institutional forms, all of which involve cooperation.

There is an alternative characterization of interaction. This characterization treats some social institutions as the result of rational cooperation and others as the result of non-cooperative rational choice. According to this characterization, institutions are selected on the basis of an answer to the following question: Given that interaction is inevitable, what set of ar-

20. *See id.* at 53.
21. *See id.* at 63, 74 n.23; Coleman, *supra* note 12, at 87.

rangements would rational actors choose to maximize the net surplus gained from their interaction? As stated, the question is silent as to whether cooperative strategies will be chosen by rational actors. This is because rational choice, not rational cooperation, is primary. The question also is silent as to whether institutions are selected directly or result indirectly from individual choice behavior. Social institutions, conceived of as arrangements, can emerge from either uncoordinated or agreed-upon rational choice. Interacting parties sometimes select individual, non-cooperative strategies as the basis of an institutional arrangement. It therefore cannot be concluded that joint strategies have been selected simply because interaction is orderly. Thus, concluding that joint strategies have been selected simply because interaction is orderly is invalid.[22]

Nor can it be concluded that rational actors cooperate by selecting individual, non-cooperative strategies. The present characterization only requires that parties select institutional arrangements within which to interact. It does not mandate that they cooperate simply by selecting such arrangements. Coleman's characterization assumes that social institutions result from the selection of joint strategies. So characterized, any choice of institutional design is cooperative. The present approach assumes something less: that social institutions are instances of interaction that may be selected individually or cooperatively. Finally, institutional arrangements do not by themselves define a community, because only rational choice is primary. They do not even by themselves provide any evidence of community. The present characterization therefore takes no position on the sense of community expressed by institutions.

What Coleman terms the "market paradigm" invokes the selection of individual, non-cooperative strategies. Its defect is to privilege a particular sort of rational choice, as Coleman rightly notes. The defect appears when cooperation is taken to be justified only when competition yields collectively irrational outcomes. Coleman's "cooperative paradigm" privileges another sort of rational choice at the level of institutional design: the choice of joint strategies. The characterization of interaction

22. *See generally* ANDREW SCHOTTER, AN ECONOMIC THEORY OF SOCIAL INSTITUTIONS (1981); Martin Shubik, *Game Theory, Behavior, and the Paradox of the Prisoners' Dilemma: Three Solutions*, 14 J. CONFLICT RESOL. 181 (1970); MICHAEL TAYLOR, THE POSSIBILITY OF COOPERATION chs. 3-4 (1987).

given above privileges only rational choice, not any particular sort of rational choice. Whether Coleman's or the present characterization of interaction is preferable depends on which is truer to the moral and non-moral facts.