

REAL FREEDOM AND DISTRIBUTIVE JUSTICE

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Here is a picture of a society that one might suppose to be ideally just in its distributive practices: All members of the society are equally free to live in any way that they might choose, and institutions are arranged so that the equal freedom available to all is at the highest feasible level. What, if anything, is wrong with this picture? One might object against the insistence on equal freedom for all and propose that freedom should instead be maximinned, or leximinized, or maximized, or distributed according to some alternative norm. In this essay I wish to set aside the choice of distributive norm. The question for this essay is whether freedom in any sense is the aspect of people's condition that is the right basis of interpersonal comparison for a theory of distributive justice. I approach this question by analyzing some rival conceptions of freedom.

NEGATIVE AND POSITIVE FREEDOM

The concepts of freedom are notoriously various and tricky. The distinction between negative and positive freedom has been drawn in many different ways. Here I intend simply to pick out a distinction in this region that will help us to understand contemporary writers on distributive justice who take principles of freedom to be primary and foundational for their subject. Philippe Van Parijs contrasts what he calls "real

freedom" with nongenuine varieties and urges that a just society is concerned above all with the distribution of real freedom (Van Parijs, 1995). Real, substantive, or positive freedom is to be contrasted with formal or negative freedom. Let us say I am formally free to travel to the South Pole if no law forbids me and no one will interfere in certain ways if I attempt to go there. Interfering "in certain ways" covers two types of intervention: my freedom to travel to the South Pole is reduced by interference if someone wrongfully violates my rights in ways that either prevent me from making the trip or menace my travel plans. On the other hand, my freedom to travel to the South Pole is also reduced by interference if you prevent me from even making a significant attempt but without violating my rights. If I am imprisoned after a fair trial, I am not formally free to travel to the South Pole, but neither have my rights been violated. I can be free in the negative sense to do something even though I lack the ability to do that thing or the means needed to do it. I can be free in the negative sense to travel to the South Pole even though I cannot actually get there because I lack the ability to swim there and the means to charter any other mode of transport that would get me there. In contrast, whatever I have the positive freedom to do I can do if I choose to try. My abilities and talents and the resources at my disposal affect the extent of my positive freedom but not the extent of my negative freedom. Generally, if I am positively free to X I am also negatively free to X, but not always. If someone tries to coerce me or places obstacles in my path, but the obstacles are not completely effective, so that I can still get X if I try to get X, then I am positively free with respect to X but not completely negatively free.

FREEDOM AS HAVING CHOICES

Consider what I will call the simple notion of positive freedom--namely, that to be free is to have a choice, and the more choices one has, the more free one is. A choice is an opportunity to choose; if I have a choice between A and B, then if I choose A, I get A, and if I choose B, I get B.¹

In order to have a choice, there must be at least two items in my choice set. If the choice set consists just of A, then I get A whatever I choose, so I am forced to get A. Of course it is still true in the latter case that if I choose A, I get A, so isn't there some choice available to the agent in this case after all? I would say No, which indicates that the opportunity to choose must be more fully characterized: if I have the opportunity to choose among the items in a set, then if I choose any item in that set, I get it because I choose it, where this last clause implies that if I did not choose it, I would not get it. When confronted by a one-item choice set, I do not have the opportunity to choose as just described, and in the absence of genuine opportunity to choose there is no freedom (from here on I usually will omit the qualifiers "positive" and "positively"). According to the simple view, having more choices means more freedom whether the choices are goods or evils. A person who has to choose a physical hell of flames, a hell in which the pain consists of psychological torture, or a hell in which the pain is absence of spiritual satisfaction is more free than another person who must choose among just two of these hells. Furthermore, the simple view holds that a person who must choose from a very small set of options has very little freedom even if one of the options, the one she actually chooses, is very attractive. If I have just two choices, one that yields misery and one that provides ecstatic bliss, I have hardly any freedom of choice. We can readily imagine a person who ranks option sets just by comparing the top-ranked option in each set and

ranks as best the set with the single best option regardless of the number or qualitative characteristics of the less than best options. Such a person does not place any value on freedom according to its simple construal.

According to the simple notion, if one person's choice set dominates another's, because the first set contains everything in the second set, plus more, then the person facing the dominating choice set has more freedom than a person facing the dominated choice set. A powerful though controversial intuition supports the view that at least in this special case, more choice means more freedom. The dominance condition is a strong one, however. If adding an extra option alters the character of some previously existing options, then the new choice set does not dominate the old choice set, because if one subtracts the extra option from the new set, the two sets are not identical and the first set does not contain everything in the second set, plus more.

Where no choice set in a comparison class is dominant, the simple view still identifies the extent of a person's freedom with the number of choices she has: the more choices, the more freedom. Where the application of the simple view yields the judgment that a choice set that one person faces is larger than the choice set another faces, a strong assumption is being made that one can nonarbitrarily count options. If this assumption did not hold, the judgment that the set A contains more choices than the set B could always be reversed by redescribing some of the options in B so that the count of choices is changed and the number of choices in B exceeds the number in A.

One might well query whether nonarbitrary counting of options is really possible. But the simple view is vulnerable to a strong challenge even if the possibility of nonarbitrary counting is taken for granted.

Suppose that Smith has a choice among three options that she regards as highly desirable and Jones has a choice among three options that she regards as worthless. The simple view says that they enjoy equal freedom. An alternative view holds that the extent to which an option enhances its possessor's freedom depends on its valuation. Amartya Sen's illuminating writings on freedom elaborate and defend this alternate view. He writes that "we find it absurd to dissociate the extent of our freedom from our preferences over the alternatives. A set of three alternatives that we see as "bad," "awful" and "dismal" cannot, we think, give us as much real freedom as a set of three others that we prefer a great deal more and see as "great," "terrific" and "wonderful" (Sen, 1990, p. 469). There are at least two significantly different conceptions of freedom in competition here, and the contrast is worth exploration.

Notice first of all that some examples can challenge Sen's intuition. Suppose that freedom of religion is severely limited in a society. Only Buddhism and Islam may be practiced. Smith, a Buddhist, finds he is free to practice his chosen religion, whereas Jones, a Christian, is not. Surely in an unproblematic sense both have equal religious freedom though they benefit very unequally from it.²

If we are wondering whether the extent of one's freedom varies with the valuation of the choices in one's opportunity set, we should distinguish the judgment on the choices that is made by (a) the consensus valuation (if any exists) of the agent's society, (b) the valuation that "we," outside observers, make, (c) the valuation of the agent herself whose freedom is in question, and (d) the true valuation that would be made by an ideal observer. We most confidently suppose that valuation affects freedom when valuations (a) through (d) coincide--or when we think this is so. But the components should be

examined separately. Regarding (a), one may wonder why the valuations of persons other than the agent in question should be thought to have a bearing on the amount of freedom enjoyed by that agent. The agent's valuations may be idiosyncratic, different from the consensus of society. If the consensus of society valuation affects the amount of freedom the agent possesses, then all of Smith's circumstances can stay exactly the same, yet if enough people change their valuation of Smith's choices to alter the consensus, we must say that Smith's freedom has increased or decreased even though nothing whatsoever has altered except the opinions of people other than Smith. Why should the extent of Smith's freedom depend on alterations of cultural fashions in which she does not share? Note also that Smith's evaluation might be reasonable, while the consensus valuation is unreasonable. This same objection applies to the claim that the (b) valuation is the determiner of an agent's freedom in a situation, unless we blur the distinction between (b) and (d).

No doubt evaluation (d), would be nice to have, but some might doubt its availability. Others might suppose that even if (d) is accessible to those charged with deciding on social policy, the extent of a person's freedom varies with her own valuation of her options, not the true valuation (which may have no bearing on her choice among options).

Consider the perfectionist proposal that the measure of an individual's real freedom is the extent to which the options available to her provide opportunities for living in ways that are truly valuable. Suppose that Fred's present options constitute a rich array of opportunities for living in ways that are truly valuable, but which Fred happens to despise without good reason. He would much prefer an option that is not

currently available to him--the way of life consisting of eating potato chips, lying on the sofa and watching mindless television programs. Adding this low-life option to his set of available options increases his real freedom not at all according to the perfectionist measure, but surely this indicates that this measure is defective. Adding the option that he strongly desires and values, however misguidedly, significantly expands Fred's freedom.

What then of (c), the agent's own valuation? This can also yield counterintuitive judgments. The members of society may have sacrificed much to provide Smith with a wide range of options, but if the true measure of Smith's freedom is the extent to which he values these options on being confronted with this particular array of them, then nothing in Smith's circumstances need shift except that he swings erratically from one ill-informed and unreasoned valuation of his options to another that is just as unreflective, yet the conclusion must be that Smith's freedom has greatly increased or decreased just by virtue of his change of opinion. This point could perhaps be met by the stipulation that the more stable and fixed the agent's valuations, the more it is the case that adding options that are currently highly valued by the agent increases his freedom.

A greater difficulty perhaps is that Smith might assess her options on the basis of an evaluative perspective that prereflectively we would judge to be averse to freedom. Suppose that Smith prefers to follow commands issued by others when she is deciding how to live her own life, and prefers fewer options to more because choice among options fills her with nameless dread. Smith then values at naught the many rich options that are open to her in a modern city in a democratic and tolerant society and prefers the simple uncluttered life of a patriarchal village with a council of elders rigidly

constraining her options by coercive fiat. If "the idea of effective freedom cannot be dissociated from our preferences" as Sen asserts, then Smith's few options in the patriarchal village give her more freedom than the many options at her disposal in the tolerant city. An alternative view would be that in this example Smith's valuations and preferences indicate that she places a low valuation on having freedom and do not provide a good measure of the amount of freedom she actually would enjoy in city and village.

The objection here is not that Smith might espouse an idiosyncratically low (or high) valuation on freedom as opposed to other goods. If this were the objection, it could be met by stipulation that the extent of an agent's freedom is determined by the valuation of her options that would be made on the average by persons in her society. At least this latter valuation would not be idiosyncratic. Or one could insist that in principle the extent of a person's freedom is determined by the true value of the choices available to her, whether or not anyone is actually in a position to know this true value. This true valuation, if we could gain access to it, would also not be vulnerable to the objection that it is arbitrary or idiosyncratic.

The objection might also be construed in this way: It is natural to suppose that the question "What is freedom?" is distinct from the question "What value does freedom have?". The value of freedom might well fluctuate with changing circumstances and be different for different individuals with distinctive and reasonable evaluative perspectives. If my preferences change, the value of the options open to me shifts, but if nothing changes except my preferences, and the situation is otherwise unchanged, it is odd to say that prior to my preference change I was more free than at present. Freedom as

understood in the positive freedom tradition is inter alia a benefit that society confers on individuals. The nature of the good that is conferred does not change just because the recipient's valuation of it changes, any more than the nature of the purple shirt my mother gave me for my birthday changes if I suddenly develop an intense liking for the color purple or intense loathing of it.

So construed, the objection is not decisive. According to the evaluative conception of freedom, how free one is depends inter alia on the value of the options among which one is free to choose. The objection just flatly denies what the evaluative conception assumes.

The preliminary considerations canvassed in this section indicate that we need to explore further.

INELIGIBLE OPTIONS

Peter Jones and Robert Sugden (1982) have proposed what is in effect a way of responding to Sen's argument for the evaluative conception that does not reaffirm the simple view.

Imagine that Freda now has the option of traveling by train or car, and to this option set is added the option of crawling about on one's belly with broken legs. Consider the position that the expanded option set contains no more real freedom than the original set. One might defend this position by taking Sen's line that "we cannot dissociate the idea of effective freedom from our preferences." On this view it is the presumption that Freda will never desire this third option nor choose it that supports the conviction that the crawling option does not increase her real freedom. An alternative suggested by Jones and Sugden is that it is not the fact that Freda herself has no desire to

travel by crawling with broken legs, but rather the fact that no reasonable set of desires that anyone might have would value that extra option. They write:

"Suppose that this person's preferences are not known, but that from a general knowledge of human nature it is possible to say something about the sort of preferences that a person in his position might have. More precisely, it is possible to draw up a list of preference orderings, any one of which he might reasonably have. Then an option x can be said to be eligible in relation to a choice set S (where S contains x) if and only if x might reasonably be chosen from S (Jones and Sugden, 1982, p. 56).

On the Jones and Sugden view, if one has a choice between a hell of fire and a hell of spiritual torment and is then offered the third option of a hell of ice, this extra option increases the agent's freedom, not in virtue of his own preferences with respect to it, because there are noncrazy preference orderings that someone in his situation might have, according to which hell-ice would be preferred to the other options. But if one had a choice between a green valley heaven and a tall skyscrapers heaven, and a hell of ice option was added to this choice set, it would not expand the agent's freedom, because it would not reasonably be chosen by anyone. And since any reasonable preference ordering a person might have would favor the option set with a great, a terrific, and a wonderful option to an alternative set with a dismal, an awful, and a bad option, the former set offers more freedom than the latter on their view. They see the extent of freedom provided by an option set as partially determined by evaluation, but not the agent's evaluation of the options in the set.

They note quickly that the fact that someone might reasonably choose an option provided to an agent does not suffice to determine that the addition of the option expands

the agent's freedom. Consider a choice set consisting of two identical cans of beans, which is then augmented by the addition of a third identical can of beans. One might reasonably pick the third option. But this is so because anyone with a noncrazy preference ordering will be indifferent between the three bean can options. Besides being eligible, an option must be distinguishable from others in the set, if its addition can be taken to augment the agent's freedom.

The Jones and Sugden response to Sen fails for a reason that does not vindicate the Sen approach they are criticizing. Return to the Freda example. Adding an option such as crawling about on one's belly with broken legs is not eligible (as Jones and Sugden interpret eligibility), but might significantly increase Freda's freedom nonetheless, provided that she strongly desires to exercise this option, even though her desire is unreasonable. She may have bizarre and unreasonable beliefs that lead her to the conclusion that crawling about in this way is the most appropriate response to her circumstances. I believe this point holds whatever the nature of her unreasonableness. She might hold unreasonable beliefs about morality or about what sort of life is choiceworthy or valuable for her. She might also be ignorant or in error about matters of fact in circumstances that would mislead no reasonable person. But freedom surely includes freedom to make one's own mistakes and act on unreasonable beliefs and convictions. I conclude that augmenting one's choice set by an ineligible option can increase an agent's freedom provided she desires it.

SIGNIFICANTLY DIFFERENT ALTERNATIVES

As stated, the simple view is implausible quite aside from the issue whether or not the extent to which having an option contributes to an agent's freedom depends on the

valuation of the option. The simple view holds that the more choices one has, the more freedom one has. But not all choices are created equal. If Smith is free to choose among twelve nearly identical brands of toothpaste (we can stipulate that each brand is valuable, choiceworthy) whereas Jones is free to choose among one brand of toothpaste, dental floss, eggs, beer, chocolate candy, and salad greens, it is counterintuitive to hold that Smith has more freedom with respect to consumer choice than Jones on the ground that Smith has more choices, because the alternatives among which can choose are only trivially different. Adding trivially different options to one's opportunity set only trivially expands one's freedom. The simple view must be amended to say that to be free is to have a choice, and the more options one has, and the more these options are significantly different, the more free one is. A more precise statement of the amended simple view would have to specify the comparative weight to be assigned the two factors of "more choice" and "more significantly different choice" in determining how free an individual is.

The suspicion may arise that talk of "significant differences among options" reintroduces by the back door the acknowledgement that the value of options affects the extent to which they contribute to freedom that I had resisted at the front door. But at least in many cases the two ideas are readily distinguishable. I might regard a set of options as very close to one another in their value for me, whether this value is high or low, negative or positive, and yet be sure that these options are very different from one another. My vacation options might include sunbathing on the beach at the Pacific Ocean and climbing mountains in the Canadian Rockies, I might hold these vacation options to be just about equally attractive, yet they impress me as significantly different.

The same point holds in the other direction: I might regard a set of occupational options as very similar in character even though just one of them happens to suit me and elicit my high valuation. An individual's similarity metric and her valuation metric will not in fact coincide. Being similar and being valuable are different. But things are similar to one another, and fail to be similar, in many different respects, and it is unclear either that there is just one sort of similarity involved in assessments of a person's freedom or what the relevant dimensions of similarity are.

Moreover, whether options strike us as saliently different or similar sometimes does depend on our interests and values. Not being an aficionado of fly fishing, one tied lure looks about the same to me as any other, whereas the differences among them may appear enormous to a knowledgeable expert. What strikes the knowledgeable expert as a salient difference is a difference that matters to those who are participants in the activity.

The upshot of this discussion is that the degree to which options are similarly valuable and the degree to which options are similar are distinct issues. But the issues are connected. To an extent, what counts as a significant difference is relative to our interests.

SEN'S COUNTERFACTUAL ANALYSIS

The amended simple proposal is that the more options an individual has, and the more significantly different from each other these options are, the more freedom he possesses. This proposal is challenged by the thought that the value of the options that are accessible to an individual significantly affects the extent to which having the options increases her freedom. This thought is part of the rationale of Amartya Sen's view that whether or not the addition of an option to one's choice set increases one's freedom

depends on the answer to the further question, if one had the choice to have this extra option or not, would one choose to have it? According to Sen (1992), if the answer to the further question is affirmative, the option enhances one's freedom, if negative, then having the extra option decreases one's freedom. Consider a disadvantageous option, having which makes its possessor worse off because when faced with the option one must spend time and energy deciding how to respond to it. For example, a consumer who already is free to choose among several brands of toothpaste now is faced with an expanded choice set that includes the option of an additional brand of toothpaste. Sen notes that such an amplification of one's choice set is accompanied by the "loss of option of leading a peaceful and unbothered life." Sen adds, "It is easy to think of circumstances when given the choice of having to make these particular choices, one would have good reason to say no. This indicates that the expansion of those particular obligations and choices need not be seen as a valued expansion of freedom" (Sen, 1992, p. 63). But the question is not whether the extra option is a valued increase in freedom but whether it increases one's freedom. The question at issue is supposed to be whether having more freedom can be disadvantageous to its possessor. Sen prefers to see the example as indicating that there are different types of freedom and that more of one type (expansion of trivial choices) may mean less of another type (freedom to live as one would like).

We should distinguish between a case in which gaining an extra option is accompanied by the loss of formerly available options--this will diminish freedom according to the simple view--and a case in which gaining an extra option alters the character of some formerly available alternatives, perhaps for the worse, without reducing their number. In the latter case, there is an overall increase of options, hence an

expansion of freedom. Sen's counterfactual test suggests an alternative way of thinking about the measurement of freedom. The test is that in moving from one set of circumstances to another, whether the move increases or decreases the freedom of an individual affected by it depends on whether or not the person would choose the old or the new circumstances if she were presented with this choice. However, the test does not capture the intuitive idea of an increase compared to a decrease in someone's freedom. To see this, it suffices to note that the counterfactual test will register an increase in freedom when someone prefers to live with less rather than more freedom and if offered the choice between circumstances giving more freedom and circumstances giving less, would choose the latter circumstances precisely because they provide less freedom. This individual might fear that with more available choices, she will choose badly, to her detriment, whereas a restricted choice set will facilitate better choice, perhaps by deleting tempting but disadvantageous options. Or the individual might simply have a basic preference for choice among fewer options over choice among more options. The counterfactual test would be a good test for deciding under which among several alternative sets of circumstances an individual would have more freedom if the test were restricted so that the individual would be choosing with the aim of increasing her freedom. But of course in that restricted form the test presupposes a prior understanding of what constitutes more and less freedom and cannot be understood as determining what constitutes more and less freedom. The point is that what I would choose depends on my goals, and what I would choose indicates which choice gives more freedom only if my goal is more freedom. I borrow this last point from (Cohen, 1995).

This line of thought might seem flatly to beg the question as to whether Sen's counterfactual test analysis is adequate. If Sen is correct, what I would choose conceptually determines which choice offers more freedom, so there is no conceptual room for wondering, given that I would choose X over Y if offered either set of circumstances, would X or Y yield more freedom for me? My choice tells the answer, according to Sen. But at least I have identified a significant cost of accepting Sen's analysis. Prior to analysis of the concept of freedom, most of us would (I claim) suppose that it is coherent to suppose that an individual or a society might want to have less freedom rather than more. Sen's counterfactual test collapses the distinction, which we might well wish to retain, between believing that a condition best allows us to achieve our goals (so we would choose it over other conditions if offered a choice) and believing that a condition offers us the most freedom.

Sen's counterfactual test merits further exploration. Consider his helpful distinction between agency freedom and well-being freedom, illustrated by his example of the picknicker enjoying a lunch by a riverbank. As it happens, a man is drowning far away, but if the man were instead to be about to drown in the river near the picknicker, her agency freedom would be enhanced (she can save the drowning man's life) while her well-being freedom would be decreased (whatever she would choose to do, her picnic would be spoiled). According to Sen, a "person's `agency freedom' refers to what the person is free to do and achieve in pursuit of whatever goals or values he or she regards as important" (Sen, 1995, p. 203). We might say the person's agency freedom is greater, the greater is the contribution to her all-things-considered goals that would be made by the act available to her that is best in this respect. In contrast, a person's well-being

freedom is greater, the greater the well-being she would reach in the condition, among those she could attain, that would give her most well-being. Sen notes that if it is the case that if the picnicker could choose between having the opportunity to save the drowning man and being able to finish one's picnic lunch without interruption or distraction, then shifting to the former condition would increase one's agency freedom. But since the opportunity to eat one's lunch in peace is more valuable than the opportunity to save a drowning man from the standpoint of one's own self-interest, in this example well-being freedom decreases when agency freedom increases.

The counterfactual test can also be shown to be flawed in this application. Consider a variant of the picnic example. In the actual setting, the man has ten options, any of which would make positive contributions to his agency goals if exercised. But if the option set was drastically reduced to two options, it would become more likely that the man would choose the option that would make the greatest contribution to his agency goals. Accordingly if he were presented with a choice between the wider and the narrower option set, if he were choosing to maximize the fulfillment of his agency goals he would pick the narrower option set. The Sen counterfactual test then yields the result that the person's agency freedom is increased if the narrower rather than the wider option set is made available to him. But how can narrowing one's options increase one's freedom, especially when the wider set contains all of the options in the narrower set, plus more? Here the counterfactual test yields what is intuitively the wrong result because the choice of circumstances that one would make in order to maximize the satisfaction of one's agency goals may not be the same as the choice one would make in order to attain the greatest extent of agency freedom.

MILL ON CHOICE-RESTRICTING EXPANSIONS OF FREEDOM

The issue that Sen engages--whether less choice can simultaneously be more freedom--is linked to an issue that puzzled Mill in *On Liberty*. Mill is arguing in a different context, so a bit of stage-setting is needed. His immediate concern is whether acceptance of the principle of liberty would be compatible with refusal by the state to enforce a fully voluntary contract by which a person sells himself into slavery. The principle of liberty holds that the only good reason to interfere by way of coercion or compulsion with a person's voluntary act is to prevent harm to others (who do not voluntarily consent to share its costs and benefits). If a person's voluntary act is to sign away his future liberty, what then? Mill writes: "The principle of freedom cannot require that he should be free not to be free. It is not freedom to be allowed to alienate his freedom" (Mill, 1978).

Leave aside the complex question, irrelevant for our purposes, whether Mill's liberty principle allows or forbids nonenforcement of voluntary slavery contracts. (To my mind it forbids nonenforcement.) Consider the claim that "it is not freedom to be allowed to alienate his freedom." From the perspective of the amended simple view, the example suggests two different ways of calculating a person's freedom over the course of her life. First, notice that a person's freedom at her moment of choice is greater if besides all the other options among which she is free to choose, she also has an additional option, namely the option to alienate her future freedom by voluntary contract. The opportunity set that includes the option of contractual renunciation of future liberty dominates the option set that is identical except that it lacks that option. In this sense one does have more freedom if one is allowed to alienate her freedom, Mill to the contrary

notwithstanding. But a further question arises: Over the course of the person's life, does she have more freedom if she (a) lacks the slavery option and chooses some nonslave mode of life or (b) chooses her mode of life from an expanded option set that includes the slavery option, and in fact chooses the slavery option? The answer is: it depends on how one is calculating freedom over the course of an individual's life. One might calculate an individual's freedom over the course of her life by counting the weighted sum of the number of options she faces and the degree to which they are significantly different at each moment in her life, and by summing the total. On the *total view*, the amount of freedom the individual has over the course of her life is the sum of her freedom scores at each moment of her life. On this way of counting, choices the individual makes that restrict her freedom from then on reduce her freedom over the course of her life. In contrast, on the *global view*, one counts all the options that an individual would face in all of the different lives that she might choose, and sums the total of the possible choices to which she has had access over the course of her life. On the global view, whatever life options an individual has, if to that set of options one adds another possible mode of life, the life of a slave, that extra option increases the total set of possible choices the individual might have made and hence her freedom over the course of her life, however the individual chooses. Mill's comment that "it is not freedom to be allowed to alienate his freedom," is correct if interpreted in this way: An individual's overall freedom in her life as a whole, on the total view (but not on the global view), is doubtless larger if she is denied the freedom-renouncing choice to be a slave than if she is allowed this option and exercise it by choosing slavery, thus reducing her actual freedom available from then on.

DOES THE AGENT'S EVALUATIVE PERSPECTIVE AFFECT THE EXTENT OF HER FREEDOM?

More needs to be said about the issue whether or not the amount of real freedom a person enjoys is determinable apart from that very person's evaluative perspective. On one side, the idea that how free you are depends on how much you want the options you have appears to have the troublesome implication that you can increase your freedom by learning to like the options you have even though your external circumstances do not change. This is the familiar "contented slave" problem. It is resolved in the approach of Jones and Sugden by taking the amount of freedom one enjoys to be determined by the set of preference orderings that anyone reasonably might have in one's position. No special weight is given to the agent's own particular preferences and evaluations.

But as we have seen in discussing the problem of measuring the diversity of an option set, the agent's evaluative perspective tends to sneak back into the account. The problem with the Jones and Sugden approach is that the idea of reasonable preference ordering needs further clarification. Some constraint must be imposed on what counts as a reasonable preference ordering, but what sort of constraint? One natural idea is to fix the notion of what it would be reasonable for someone to want to the agent's situation, with the agent's evaluative perspective included as part of her situation. A preference ordering would then be more reasonable, the more it is likely that it might become the preference ordering of the agent (or perhaps, is likely it would become the preference ordering of the agent if she was to engage in careful reflection on the matter). On this way of elaborating the idea of a reasonable preference ordering, the limit case of an unreasonable preference ordering is one such that there is nil probability it will ever

become the agent's (or would after careful reflection). Moreover, the agent's actual preference ordering has a special status; the preference ordering I am overwhelmingly most likely to have in the next moment is the one I now have. This construal of the idea is not in the spirit of the Jones and Sugden proposal.

So let's explore the idea of a reasonable preference ordering that someone in the agent's position might have, construed without any privileging of that very agent's evaluative perspective. Giving me the option of having a large iron sword within arm's reach leaves me cold, but this option would be highly valued by Genghis Khan. Some of us might balk at the idea that Genghis's evaluative perspective on the options that I might face is relevant to the measurement of the extent of my freedom. This resistance seems to stem from the thought that the agent's own perspective has special weight for the determination of the agent's own freedom. If Genghis were placed in the position of a middle-class college professor, he would look for opportunities to display fierce warrior virtues. But his psychological type is so different from mine that what it would be reasonable for him to prefer, in my position, strikes us as irrelevant to the assessment of my freedom. We might then offer a “friendly” amendment to the Jones and Sugden approach: it is the preferences that a reasonable person might have in my position whose psychological type is the same as mine that determines the extent to which the options I have or might have would affect the extent of my freedom. But this friendly amendment turns out to be unfriendly. We might start with a broad classification of types, but we seem to be on a slippery slope: If someone proposes that a more fine-grained individuation of psychological types would yield a more fine-grained identification of possible reasonable persons whose preferences would determine the extent of my

freedom, it would be arbitrary to resist an ever more fine-grained specification, and the limit of this process is to individuate types so finely that one person exemplifies each type. Either we allow the reasonable preferences of any type of person, however alien from me, to count in determining the value for freedom of the options I face, which is unacceptable, or we hold that it is the reasonable preferences of persons of my type in my position that determine the freedom value of the options I face, which is to give up the Jones and Sugden approach.

To motivate the thought that the preferences that a reasonable person in my position might have, rather than my own actual preferences, are the ones that determine whether the addition of an option to my choice set would render me more free, Pattanaik and Xu consider the example of a woman who knows with certainty that she will never wish to join the armed forces, but regards herself as significantly more free if women are allowed to enter the armed forces. What explains this judgment is supposed to be the thought that a reasonable person in her position, even if not she, might prefer above all to embark on a military career (Pattanaik and Xu, 1997).

The example can be interpreted differently. Having an option available can influence the process of preference and value formation in a desirable way, a way that the agent desires. This can be so whether or not there is any chance that this option will ever be the top-ranked option of the agent. The woman in the example might know in advance she will never choose the life of a soldier, but nonetheless worry that her career and life goal choices are selected from a too narrow set of culturally approved options, and that the actual availability of unconventional options might liberate her imagination in ways she desires and judges valuable. Choosing from a wider option set might

improve preference selection even if the added options are not selected and this is known in advance. In other words, one might desire to have an option without desiring to exercise it. One might think that just reflecting in thought about the possibility of becoming a soldier should suffice to improve the quality of one's reflection about choiceworthy careers whether or not that option is available in fact. But this might or might not be so. Maybe for some of us with respect to some types of choices, actual availability of the option improves the quality of our deliberation concerning it.

The question also arises, what counts as a position in this measurement endeavor. One might suppose that valuations of options that would not be reasonable or at least likely in one's exact circumstances might become reasonable or likely if one's circumstances were perturbed somewhat, and that the valuation of an option from this altered position can be relevant to the impact of the option on the extent of one's freedom. Jones and Sugden present as an example of an insignificant option (which would not increase one's freedom if added to one's choice set) the choice of size 10 shoes offered to someone who has size 8 feet and already has the option of shoes that fit. But if one's foot were to become enlarged by disease, the size 8 person would choose a size 10 shoe, and if wearing oversized shoes became as immensely fashionable as wearing oversized trousers has in certain communities in the U.S. in the 1990s, then again the size 8 individual might well choose a size 10 shoe. These alterations in one's circumstances are possible but extremely improbable.

The measurement of the extent of an agent's freedom by reference to the preferences regarding the options in her choice set that any reasonable person in her position might have thus strikes me as unsatisfactory.

OPTIONS AND VALUE

So far I have mainly been trying to offer a very limited defence of the amended simple conception of positive freedom by discrediting some attacks on it. Leaving behind the amended simple conception, I turn now to explore the other branch of this fork in the road, namely, the evaluative conception--the idea that the contribution of an option to our freedom depends on its value.

I don't believe that conceptions of political concepts such as freedom can be literally correct or incorrect. A proposed conception may be revisionary with respect to ordinary usage, and this must be reckoned a cost. But whether the cost is worth paying depends on what it is we wish to do with a conception, what role it is to play in our theories. Since we are considering the use of some notion of freedom as the fundamental basis of interpersonal comparison in a theory of distributive justice, the merits and weaknesses of proposed notions must be weighed with this project in mind.

One central component of the reasons we care about the extent of the freedom our circumstances provide us is that freedom is a tool for satisfying our important goals over the course of our lives in a world of uncertainty. To the extent that I can be confident that the goals I affirm now I will continue to affirm in the future, I am still often ignorant of future contingencies that will determine what in the future will enable me to reach my goals to the greatest possible extent. If I know I will want a dinner tomorrow that gives me pleasure, but I don't now know whether fish or chicken will taste best at dinner tomorrow, I am well advised to ensure that I will have a choice then between fish and chicken. To the extent that my preferences and values, and hence my goals, may change in the future and I am confident that I will identify with these future values and want

them to be satisfied, to that extent it is reasonable for me to act now to ensure that in the future I will be able to choose among options that will enable me to satisfy my future desires, whatever they might be (Kreps, 1979).

Both my present uncertainty about my future circumstances and my uncertainty about my future goals and preferences render it reasonable for me to ensure that I have wide freedom in the future. But from this standpoint, not all options are created equal. To the extent that I am simply trying to predict what values I will embrace in the future, and thus to predict what options will enable me to fulfill these values, it is usually overwhelmingly more likely that I will come to embrace values that are commonly affirmed by other members of my society, especially those whom I regard as wise and knowledgeable about the good life and its requisites. Moreover, my own present values are likely to resemble the values I will come to affirm in the future, especially if my present considered identification with my values is strong. So the agent's own valuation of options now available and the valuation of options by the consensus of the agent's society are both good indicators of the sorts of options that one would be well advised to ensure are available to the agent in the future because they are likely to be reasonably deemed choiceworthy by her in the future. In short, given what freedom is for, the estimation of the contribution of options to an agent's freedom in terms of their value makes good sense.

Now consider uncertainty of another sort. Suppose I want my life to be oriented to the successful pursuit of correct values, but at present I recognize I am woefully ignorant of what those values are. I have beliefs about values, but I affirm them weakly, because I suspect they are based on ignorance, lack of relevant experience of the ways of

the world, emotional immaturity, lack of adequate reflection, and my inherent cognitive limitations. My doubts about my present values do not per se provide me with guidance as to the sorts of options I should ensure I will be free to choose among in the future, given my overriding aim to achieve correct values. But a third party acting on my behalf now would be well advised to provide me with options in the future that will enable me to achieve correct values. Of course, nothing guarantees I will in fact happen upon correct values in the future, but if truly valuable options are made available to me, at least it is the case that if I come to affirm better values, I will be able to satisfy them.

Moreover, freedom may act as a desirable preference and value formation mechanism. Having the option to achieve X may help me to come to appreciate the value of X, which I would never notice if X were entirely beyond my reach. This train of thought also supports the idea that we should rank the contribution of options to a person's freedom by their value to that person. Here the relevant notion of valuation is objective: we want to provide options to Smith that are genuinely valuable, in part because the valuable options will be most beneficial to Smith in the event he does come to affirm them, and in part because having options available to an agent may be conducive to desirable value and preference formation, so making good options available leads to good options embraced and genuine values achieved.³

For the purposes of distributive justice, freedom may also be thought to be desirable in view of its interaction with responsibility. That is, if we believe in individual responsibility, we should not aim to arrange matters so as to guarantee that individuals achieve any particular level of well-being. The idea of individual responsibility in play here is that to some degree each individual is able to exercise choice and act in ways that

partially determine the quality of her life, and to this same degree the individual should be responsible for the outcome of her choices of how to live in the sense that society is not obligated to make good any deficits in individual well-being that were avoidable through reasonable individual choice. On the personal responsibility view, if the options society has provided an individual are good enough (and if the individual is capable of acting responsibly), then if the individual comes to a bad end as a result of unfortunate choices or poor implementation of her choices, this state of affairs is the responsibility of the individual, not the responsibility of society.

A large family of principles of distributive justice agree in holding that society is responsible for providing options to the individual that ensure that she has the real freedom to achieve a good life, a life that includes a fair share of the good that society can make available to persons (see Arneson, 1989, and Cohen, 1989; and for criticism, Fleurbaey, 1995). Obviously from the standpoint of theories of justice of this type, it does not suffice that the society provide wide freedom as the amended simple view conceives of it. For I can have a lot of freedom on the amended simple view without having any prospect whatsoever of leading a good, rich, satisfying life. I may be blessed with numerous and significantly different options, but none that is choiceworthy. Having freedom of this sort does not suffice for distributive justice. Having wide freedom renders it plausible to hold that I am responsible for the subsequent quality of my life only if I have not just many options, but good, valuable options. A plausible division of responsibility between individual and society assigns society the responsibility for providing each individual wide freedom to lead a kind of life that she has reason to value. The freedom that is owed the individual on distributive justice views that accept as

fundamental this division of responsibility is freedom according to the evaluative conception.

MIXED VIEWS

The simple view and the evaluative view can be combined in an attempt to avoid the implausible implications of both of these positions. For example, one mixed position consists of the following stipulations:

1. No choice, no freedom. If an agent is confronted with a choice set containing just a single option, which she cannot reject, she has no freedom, however attractive or unattractive the single option might be.⁴
2. The more choice, the more freedom. Other things being equal, one has more freedom if one faces a choice set with more rather than fewer options.
3. The more diverse the choices, the more freedom. Other things being equal, one has more freedom if one faces a choice set that contains options that are more rather than less significantly different from one another.
4. The more valuable the choices, the more freedom. Other things being equal, one has more freedom to the degree that the options one faces are valuable. Options that have nil value or less still increase one's freedom, but to a lesser extent than more valuable options.
5. The more desired-by-the-agent are the choices, the more freedom. Other things being equal, one has more freedom to the degree that the options one faces are desired by oneself. (Note: Other things are not equal if the choice set is a singleton.)

The *ceteris paribus* clause in each stipulation incorporates other factors asserted to be significant in the other stipulations. Nothing else renders things unequal.

Stipulation four determines that if Smith faces three worthy options and Jones faces three worthless options, Smith is more free (unless Jones's options are more diverse). Stipulation one determines that if Smith and Jones each face just one option, neither has any freedom, no matter how much more valuable Smith's option is than Jones's. If Smith faces more options than Jones, but Jones's options are more valuable or more diverse or both, then Jones may or may not be more free than Smith. This would depend on the comparative weight that is attached to the value, diversity, and number of options in the agent's choice set.

The most I would claim for the mixed view is that it accommodates the various criticisms made of various interpretations of the idea of positive freedom canvassed in this essay. Whether it is satisfactory all things considered is a topic I do not claim to address. And one difficulty already considered may still press against the mixed view. Recall the worry that according to the evaluative view, Smith and Jones, each enjoying the same religious options in a society that does not allow full freedom of religion, might be free to different degrees depending on whether or not the options allowed happen to coincide with their religious preferences. And according to the evaluative view, Smith can become more free or less free even though nothing significant in his circumstances alters and all that changes is his own assessment of the options available to him. I make no attempt to resolve this puzzle. I suspect its source is that genuinely different political ideals have marched under the single banner of "freedom" as understood in the positive freedom tradition. No single proposal will encompass all of these.

The mixed view aims to reconcile two apparently incompatible claims about the nature of positive freedom. One claim is that being given a more valuable option

augments one's freedom to a greater degree than being given a less valuable option. The counterclaim is that the valuation of an option cannot be the measure of the amount of freedom its availability creates, because an option might have negative value, yet more choice is always more freedom, not less. I acknowledge that my response has an ad hoc flavor. My suggestion is that we simply stipulate that in the positive range, a more valuable option increases freedom more than a less valuable option, but any addition of an option increases freedom, even the addition of a negatively valued option. This is the heart of the mixed view as so far presented.

Leaving aside its ad hoc quality, I fear the response offered so far is inadequate for a more fundamental reason. If we compare disparate choice sets A and B, we may evaluate the options in A as better precisely because they are fewer. Going-to-church-on-Sunday-in-the-presence-of-few-alternative-options, which A offers, might be deemed more valuable than going-to-church-on-Sunday-in-the-presence-of-many-alternative-options, which B offers. In the same vein, someone might prefer the choices in choice set A precisely because they are more alike, less significantly different than the choices in set B. Valuing circumstances A over circumstances B on the ground that there is less freedom in A than in B can hardly establish that there is more freedom in A than in B. Perhaps another ad hoc response will suffice. Let us say that options that are valued on the ground that they are few in number or on the ground that they are not significantly different from one another are valued because they are restricted. We then amend the mixed view by adding a sixth stipulation:

6. Options that are valued because restricted do not augment freedom. To whatever degree options are valuable or desired because they are restricted, to that degree these options do not increase the freedom of an agent to whom they are made available.

The rationale of stipulation six is that we wish to respect two claims that might seem to be in tension but which are in fact compatible. On the one hand, we wish to allow with the evaluative view that if, for example, one has a choice of any one of three steaks, and steak is better than hamburger, the three-steaks choice set provides more freedom than the three-hamburgers choice set, provided the set of steaks is just as diverse as the set of hamburgers. On the other hand, against the evaluative view, we wish to deny that if, for example, one has a choice of any one of three steaks, all choiceworthy, and this choice set is then augmented by adding the option of a less desirable hamburger, the larger choice set might offer less freedom than the smaller and dominated choice set, if it is the case that the agent fears that she might choose hamburger against her better interests and places a negative value on the hamburger choice and a lower value overall on the three-steaks-plus-hamburger choice set than on the three-steaks choice set. Of course, recalling the lesson of the Mill discussion, we should add that if one has the metachoice of choosing either the three-steaks choice set or the three-hamburgers-plus-steak choice set, one has more freedom in that metachoice than one would if the three-steaks choice were not an option. Other things being equal, a more highly valued option increases one's freedom to a greater extent than a less highly valued option unless the preferred option is valued more highly because it offers less choice or less diverse choice.

CAPABILITIES

One powerful interpretation of freedom as a norm of distributive justice is the capabilities approach developed by Amartya Sen. This approach begins with the idea of a "functioning," explained as follows: "Living may be seen as consisting of a set of interrelated 'functionings,' consisting of beings and doings. A person's achievement in this respect can be seen as the vector of his or her functionings. The relevant functionings can vary from such elementary things as being adequately nourished, being in good health, avoiding escapable morbidity and premature mortality, etc., to more complex achievements such as being happy, having self-respect, taking part in the life of the community, and so on (Sen, 1992, p. 39). A person's capability to function consists of "the various combinations of functionings (beings and doings) that the person can achieve. Capability is, thus, a set of vectors of functionings, reflecting the person's freedom to lead one type of life or another" (Sen, 1992, p. 40). Sen argues that we should conceive of well-being, the good for a person, as constituted by the functionings that the person attains over the course of her life, and well-being freedom as the capability for functionings that the person has (Sen, 1985, p. 203).

The chief rivals to the functionings and capability approach to well-being singled out for attack in Sen's analysis are (1) resources or means to freedom and (2) utility understood as pleasure or desire satisfaction or some other mental state. At issue here is the appropriate basis of interpersonal comparison for the theory of distributive justice. Against each of the rival measures of interpersonal comparison Sen has an elegant and simple argument.

The resources alternative is elaborated in the writings of John Rawls (1971).⁵The core of the idea is that social justice should be concerned with the distribution of general

purpose resources such as fundamental liberties and money, goods that will be useful for implementing any of a wide range of plans of life, hence resources that a rational person who recognizes that her present goals and values might shift over the course of her life and wishes to preserve her ability to fulfill her important goals over the course of her life will want to have. The core of Sen's objection against this proposal is that individuals differ in their capacities to transform resources into desirable achievements. But people's native talents and traits are doled out in arbitrary lotteries of genetic inheritance and early childhood socialization. The same level of resource may well provide two different individuals very different levels of real freedom to lead lives they have reason to find valuable. Hence at the fundamental level principles of justice should rate people's condition in terms of what they are actually able to be and do with the resources they have.

The utility approach to interpersonal comparison as Sen conceives it takes some aspect of an individual's mental state such as pleasure or desire satisfaction to be the appropriate basis of interpersonal comparison for purposes of deciding our fundamental moral obligations to one another. Sen's objection to these subjectivist welfare conceptions of well-being is that individuals may adapt to adverse and oppressive conditions by adjusting their aspirations and by refining their abilities to savor little benefits. The person may then suffer from deprivations that are not registered in measurements of the individual's desire satisfaction level. Perhaps this objection does not apply to the interpretation of well-being as pleasure or enjoyment. But the hedonistic proposal excludes as irrelevant to the good life much that we take to be important. Sen

urges that there is more to leading a fulfilling life than being happy, which may count as one valuable functioning, but surely is not the only one that matters.

Sen's objection against a resource conception of well-being is decisive, in my judgment. The objections against the interpretation of well-being as utility require comment. One objection is that there is more to leading a good life than being in any type of mental state. Notice that a desire satisfaction measure of well-being accommodates this point. People standardly desire not simply to have certain beliefs or feelings but that the world should meet certain specifications. The desire to write a good novel or to have a faithful spouse is not satisfied by experiencing a perfect illusion of writing a good novel or having a faithful spouse. The desires are satisfied only if one actually does write a novel and it is good, and only if one actually has a spouse who is faithful. But Sen's central and more powerful objection appeals to the widely shared intuition that the good life must include achievement of a number of distinct goods (e.g., love, friendship, intense and various enjoyments, cultural and work achievement, success in carrying out plans reasonably regarded as significant by oneself and by others, etc.) and that if one somehow comes not to desire these goods, their loss is still a significant deprivation even though it would not register as lack of desire satisfaction.

Sen's objection against subjectivist conceptions of well-being does not show that functionings and capabilities in general are the right way to measure well-being. The appeal is to the judgment that some particular doings and beings are important for well-being. This is an argument against a subjectivist conception of well-being and for an "objective list" conception of well-being (Parfit, 1984). Any individual's capabilities for functioning at a time are legion in number, and a great many of them will be absolutely

trivial and unimportant (e.g., my capability to touch my nose any number of times in an infinite array of slightly different ways). Still other functionings available to an individual at a time will be important to her, but will not plausibly be regarded as functionings the achievement of which advances her well-being. It may be very important to Smith that she have the capability to give a sizeable sum of money, constituting her entire material wealth, to Oxfam. This capability is an important part of her present ability to achieve goals she regards as important, but not an important part of her ability to enhance her own well-being. Although Sen explicitly identifies functionings and capability with well-being and well-being freedom, the general characterization he gives does not in fact provide a way of picking that subset of the things I can do and be that constitutes my well-being capability. If he did provide a convincing test for distinguishing well-being functionings from others, he would have succeeded in specifying an objective criterion of human welfare or well-being.

Sen himself stresses the diversity of conceptions of human good. Part of the attraction of the functionings and capability account is that its generality and abstractness provide a way of thinking about the good that proponents of different views of the good can use without denying or ignoring their differences. Moreover, the objection against hedonistic and desire-satisfaction accounts of the good does not presuppose full knowledge of the human good. The objection appeals rather to a partial knowledge: Human good, whatever it might be, includes more than happiness or desire satisfaction among its important elements. Sen's account is epistemically modest and does not presuppose more agreement about what is choiceworthy than exists in fact.

But if Sen's objection is sound, it's not enough for him to claim that there is more to the good life than pleasure or desire satisfaction. He must claim that the other aspects left out of the subjectivist reckonings are important, so that we can plausibly claim to know that an impoverished peasant who lacks basic civil liberties and cannot feed or house his family even by backbreaking hard work year in and year out is not leading a good life no matter what heights his enjoyment and desire satisfaction levels reach. If we accept Sen's objection, we are committed to claiming some knowledge of what components of the good life are most important for fulfillment--or at any rate, important enough to take lexical priority over happiness and desire satisfaction. And if we are to take the functionings and capability approach as Sen wishes us to take it, as providing the most defensible answer to the question "Equality of what?", then we have to know when people's functioning achievements overall are the same; and likewise for their capability freedoms. Sen suggests that we can often make reasonable comparative judgments about individuals' well-being in capability terms by an "intersection approach" to measurement. The intersection method says that if everyone agrees within a certain range on the numerical importance of functionings, then we can make quantitative judgments within the range. For example, if everyone accepts that functioning A is worth between two and four units on a scale on which functioning B is worth five to nine units, then other things being equal, if Smith has A and Jones has B, Jones is better off. But the fact that everyone agrees that the importance of a functioning falls within a certain range gives us reason to use this range for purposes of quantitative assessment of well-being only if we accept that the true value of the functioning lies within the range of people's judgments. Otherwise what people happen to think is inconsequential.

I have argued that Sen's objection against the use of subjectivist measures of well-being in distributive justice theory is an argument for an objective measure of well-being as a basis for interpersonal comparison. The basis of interpersonal comparison is not functionings and capabilities, but truly valuable functionings and capabilities. Sen is coy on the question whether or not one can credibly claim objectivity in judgments of well-being, but if we cannot, the proposal to use functionings and capabilities as interpersonal measures collapses.

If the interpretation of well-being as functionings is the same as an objective list conception of well-being, the question still remains whether having (1) a life of value or (2) freedom to have a life of value should be the basis of interpersonal comparison for distributive justice.

STATUS OF FREEDOM IN THE THEORY OF DISTRIBUTIVE JUSTICE

What role do the various conceptions of positive freedom so far canvassed play in the theory of distributive justice? Is some version of positive freedom fit to be a foundational value, so that a society is just in its distributional practices just in case the distribution of freedom is fair? My answer is that freedom is an instrumental, not a fundamental value.

If freedom is having more choice, a rational person seeking her own advantage will not always prefer more choice to less. The example of the amplification of a person's freedom by provision to her of access to thousands of nearly identical tubes of toothpaste illustrates that more freedom can be valueless to the person who gains it (Dworkin, 1988, pp. 62-81). But even when other things being equal one would prefer more freedom to less, other things are usually not equal. In particular, the provision of a

larger rather than a smaller menu of options from which to choose is costly, and the resources devoted to provision of more options might instead be devoted to enhancing the value of the most preferred option that is anyway going to be chosen. As we saw, there need be nothing irrational in ranking sets of options solely in terms of the value of the best option in each set. But when a person evaluates sets of options in this way, then any resources expended on increasing the variety of options and the attractiveness of options that are less than best are wasted resources if the goal of resource provision is to help the rational person attain her goals. Health care policy provides examples of social choice that involves tradeoffs between providing more options for individuals and providing fewer but better options.

Of course, there is also nothing intrinsically irrational in valuing more choice for its own sake. One might simply prefer choosing from a rich array of options rather than from a more cramped set quite independently of any further gains that might be achieved from enjoyment of wider freedom. When more freedom is preferred all things considered by some members of society, and less freedom is preferred all things considered by others, the problem of choosing a just policy that is fair to all parties can be complicated and delicate. Often positive freedom has the marks of a public good; once it is made available to some, it is then available, or can be made available at slight extra cost, to many others, and in some cases, once a quantity of positive freedom has been made available to some members of a group, that same quantity is automatically provided to all group members, so that one level of the good must be selected for the entire group. But in this sort of case, in which freedom enters as a constituent of people's final welfare and is variously a great good, a small good, or no good at all for different individuals, no

challenge is posed to an outcome-oriented principle that ranks the condition of individuals for purposes of deciding fair distribution entirely in terms of the welfare levels they actually reach.

Positive freedom also has value as a preference formation mechanism (as mentioned above). In *On Liberty* John Stuart Mill suggests that the same reasons that justify freedom of expression also "require that men should be free to act upon their opinions" (Mill, 1978, p. 53). Mill's idea is that just as exposure to free discussion improves one's beliefs and desires, exposure to a wide variety of experiments in living can do the same. Both the individual's own freedom to try out experiments in living and the opportunity to observe and learn from the experiments undertaken by others contribute to rational preference formation.

Positive freedom is also a hedge against uncertainty and against the unavailability now of information that will be relevant to determining what course of action it will be reasonable to follow later.

A society that accepts an obligation to help people achieve good lives will accept an obligation to cater to each individual's rationally prudent preferences for the course of her life, which will include provision of positive freedom. But none of this gainsays the simple point that freedom is a means to well-being as well as a means to the achievement of non-well-being goals that individuals have reason to value. Often it is a vital means, but sometimes efficient action to assist individuals in reaching their goals bypasses freedom for other means, and in some contexts freedom is an obstacle to goal realization. The theory of justice should prize freedom but not make a fetish of it.

Moreover, the ideal theory of justice for human beings as they are will reflect the limited cognitive abilities of individuals and the wide variation in cognitive abilities across persons. A theory of justice in the "real freedom" tradition which endorses special assistance to those with lesser talents is already working at a level of abstraction at which the limited cognitive abilities and different cognitive abilities among persons must be addressed. Individuals vary in their ability to gather information that is relevant to their decisions about how they wish to live. Individuals also vary in their ability to make good use of the information they have when making such decisions. Finally, besides varying in cognitive abilities, individuals vary in their possession of native "will power" talent that enables one to carry through on what one has decided is best to do. The lack of this talent is sometimes denoted "weakness of will." A theory of justice must treat with respect and fairness all individuals, not merely those who are most competent at decision-making and decision-implementation. Whether freedom is understood according to the amended simple construal, the evaluative conception, or some mixed variation, freedom will be differentially valuable to persons depending on their differing abilities to make good decisions. The correct theory of distributive justice must appropriately balance the well-being of the less competent and the well-being of the more competent. If the fundamental basis of interpersonal comparison is "real freedom" in any of the ways it has been interpreted in this essay, this conflict of interests between better choosers and worse choosers is resolved one-sidedly in favor of the good choosers. More freedom will always help me achieve my goals if I choose well and never am confused by additional options, and if my cognitive abilities are such that facing a richer array of options never strains my decisionmaking ability in a way I dislike. If my decisionmaking abilities are

limited, more freedom is usually a benefit, and sometimes a great benefit, but is sometimes inimical to my life prospects. Hence freedom is an important secondary value, but not suitable for the role of fundamental basis of interpersonal comparison for the purposes of determining fair treatment of persons.

FREEDOM AND INDIVIDUAL RESPONSIBILITY

A widespread and entrenched moral opinion in contemporary societies holds that individual adults by their voluntary choices assume personal responsibility for the quality of their own lives in so far as their choices affect their lives. The idea that society has a responsibility to help its citizens gain good lives probably makes no sense if all claims of personal responsibility are abjured. For the responsibility of society in this regard must surely decompose into the responsibility of individual members of society to act in ways that steer institutions and practices toward the obligatory helping behavior. At any rate, I have no quarrel with this claim: *The obligation of society to help its individual members attain good lives is limited by the personal responsibility of each individual to help herself in this respect.*

If society has given Smith a fair share of help, and Smith squanders the resources available to her and ends up living badly, Smith's unfortunate plight does not trigger further obligations on the part of society. The obligations of society specified by justice will be, on anyone's account, limited. It might seem an easy step from this assertion, which I do not challenge, to the further claim that what society owes the individual is to be specified in terms of some notion of positive freedom, resources, or opportunities. Society, following principles of justice, does not guarantee that individuals will reach any particular outcomes such as a minimal acceptable level of well-being. Society in order to

fulfill requirements of justice must guarantee individuals resources that suffice to provide every individual the freedom or opportunity to lead a life of value.

In fact it is a mistake to infer from the premise (a) that the obligations of society to help the individual lead a good life are limited to the conclusion (b) that the obligation of society is to provide freedom. To say that an obligation is limited in the demands it places on the persons who are obligated is not to say that the content of the obligation is to provide opportunities to the persons to whom the obligation is owed. The limited strength or stringency of the obligations of justice to help individuals attain the good is compatible with those obligations being resolutely outcome-oriented. Suppose one maintains that what matters morally is well-being and how it is distributed. Freedoms matter not for their own sakes but for the contributions they make to promoting well-being and its fair distribution. Indeed, if provision of real freedom or opportunities to individuals was the fundamental aim mandated by justice, then provision of opportunities would still be mandated even in a special situation in which it is known for certain that the provision of opportunities has no prospect of increasing anyone's well-being. If I know for certain that provision of opportunities would be pointless or counter-productive, then any moral obligation I might be under to provide those opportunities lapses. This means that even in the normal case where provision of opportunities raises the expectation that the beneficiary will put the opportunities to good use, the opportunities and resultant freedoms are properly regarded as means to a further goal, morally significant not for their own sakes but as means to individual good.

The limitation of social obligation by personal responsibility can be accommodated in a theory of justice without making positive freedom the fundamental

basis of interpersonal comparison. For example, one might regard failures of individuals to behave responsibly as decreasing their deservingness, and hold that the goal of social justice is to maximin (or maximize, or leximin, or equalize, or whatever) the well-being of the individuals who are most deserving, with lesser priority being assigned to helping the less deserving as well as to helping those who already are well off.

Another possibility is to argue from the assumed great value of real freedom to the necessity of letting stand the outcome that is reached by the free and voluntary choices of many individuals, even if that outcome departs from a socially preferred distribution of value across individuals. If we are going to provide genuine, real freedom to individuals, these individuals will then have the power to make foolish or wise choices, and we cannot undo the distributions that result from the exercise of free choice by many individuals without curtailing their freedom.

But from the fact that freedom has great value, meaning that it contributes significantly to individuals' prospects for well-being, nothing follows about giving primacy to individual responsibility as described above. Freedom is a good that is characterized by this fact: If one provides freedom to people, this results in some dispersion of well-being among individuals (who exercise their freedom in ways that are better and worse for their well-being). This characteristic does not belong uniquely to freedom. It quite likely applies to other constituents of the good life as well. If one tries to make the good of appreciation of culture available to individuals, this may result in some dispersion of well-being across persons, because persons differ in their ability to appreciate culture and in their tastes for exercising such ability as they have. In the same way, if society tries to increase the degree to which individuals gain the great good of

romantic love (say by providing privacy to young persons), this also may increase the dispersion of well-being among persons, as the privacy will be differentially useful to persons depending on their physical attractiveness. All that these examples show is that with respect to many important human goods, principles of justice must balance the goals of increasing their aggregate incidence and improving their distribution across persons, so that the less well off become better off. In this respect at least there is nothing special about freedom.

AGENCY FREEDOM, WELL-BEING FREEDOM, AND JUSTICE

Sen is noncommittal on the question, should principles of justice use a measure of freedom or outcomes (or both) as the fundamental basis of interpersonal comparisons. But he is adamant that principles of justice must attend to both the agency and well-being aspects of persons: Neither can be reduced to the other; neither can be ignored. If outcomes are fundamental, then both agency and well-being outcomes are fundamental; if freedoms are fundamental, then both agency and well-being freedoms are fundamental. So says Sen. The insistence on the moral importance of both agency and well-being is part of Sen's emphasis on the need to accept plural sources of information for moral judgment.

If one accepts that agency and well-being characterizations of an individual's condition are both important for deciding what constitutes fair treatment of the person, this might well be taken as a reason for holding that the freedom to choose between agency and well-being pursuits should be a fundamental concern of justice. One is pushed along the path from the acceptance to the conclusion by the further thought that within broad limits it is morally optional whether one pursues well-being goals or agency goals not

concerned with well-being. An important way that individuals give shape to their lives is by picking a mix of these two types of aspirations, so having the freedom to select one's own mix is important, and society owes each individual wide freedom of choice in this respect.

I doubt that the agency aspect of persons should be a fundamental basis of interpersonal comparison for principles of distributive justice. I also reject the idea that the freedom to choose between well-being pursuits and agency pursuits not aimed at well-being should be a fundamental distributive justice concern.

"A person's agency achievement refers to the realization of goals and values she has reasons to pursue, whether or not they are connected with her own well-being," writes Sen (1992, p. 56). An important further distinction is drawn between what he calls "realized agency success" and "instrumental agency success." The latter refers to the extent to which the goals an agent has reason to promote are achieved by her own acts directed toward those goals. The former refers to the extent to which the goals an agent wishes to achieve are in fact achieved, regardless of whether this is done through this agent's acts or in some other way. (In passing, I wonder whether the achievement of goals I wish to achieve that comes about through no doings of my own should count as part of my agency achievement. If I form the wish that cancer shall be cured and medical researchers in China find a successful cure for cancer even though I have not in fact had occasion to lift a finger toward this goal and none of my activities has contributed in the slightest to the achievement of the goal, is this cure to be counted part of my agency success on the ground that I would have helped if I could have helped?)

Consider the totality of my considered goals other than those that are part of my well-being. Call these the pure agency goals, just to have a label for them. Let us further divide these pure agency goals into the morally required and the morally optional. If Smith is pursuing a morally required pure agency goal, the reasons that render this pursuit morally required may apply to others or apply to Smith alone. If there are strong moral reasons for others to pursue the goal, it is these reasons, I submit, not the extra fact that Smith happens to be following them, that may indicate that the others should provide resources to further the achievement of the goal. The point is to achieve X because X is morally required, not because Smith wants the morally required X.

Sen's example of an individual who finds her agency freedom increased when she can interrupt her picnic to save a drowning person illustrates the point. If others should help Smith in this situation, they should do so because it is morally important that the drowning person be saved. Enhancing Smith's agency freedom or agency achievement is beside the point. If instead we suppose that Smith's reasons are what is called agent-relative, and render pursuit of the goal morally required for Smith and not others, again it is unclear why respect for Smith's agency requires that others should provide resources to help Smith achieve the goal. Smith will be required to pursue the goal to the extent that it lies within her power to achieve it, and if others fail to supply resources to boost Smith's pursuit, this fact does not reflect badly on the quality of Smith's will, which may be oriented correctly toward the morally required agent-relative goals whatever the others do. In this case also it does not seem that social justice requires the members of society to devote resources to helping Smith achieve his pure agency goals.

Consider now the other fork of the disjunct: the pure agency goal X that Smith pursues is not morally required. If its pursuit is optional for Smith, but morally required for others, the reasons for the others to devote resources to it surely do not involve the consideration of Smith's agency. If its pursuit is morally optional for Smith and for others, once again it is far from obvious that others are bound in justice to make sacrifices to aid Smith in satisfying this goal. Suppose Smith wants to save the snail darter and that this is a morally optional pure agency goal. Here there is if anything less reason for others to help Smith than in the case where Smith is pursuing a goal that is morally required for him but not for the others. And insofar as there is reason for others to assist Smith in seeking his goal, the reason derives from the desirability of preserving the snail darter, not from the additional fact that Smith happens to be interested in this project.

Next, consider the possibility that Smith's aim is an agency goal in a strict sense, that his aim is not that X be achieved but rather that X be achieved through his agency. In Sen's terminology, Smith is seeking an instrumental agency aim not merely a realized agency aim. Let's suppose that if Smith were to be seeking X, in the realized agency mode, X would be a pure agency aim. The achievement of X does not advance Smith's achievement of well-being. The question now arises whether social justice should incorporate a concern for Smith's instrumental agency success in cases of this sort. There are three cases to consider. One is that Smith's instrumental agency aim is in fact best construed as a well-being aim. A second possibility is that Smith's instrumental agency aim is an agent-relative aim generated by agent-relative reasons that apply to Smith and not to others. A third possibility is that Smith's aim is an agent-relative aim generated by

reasons that are agent-neutral, applying to everyone. To illustrate the differences, suppose that Smith's aim is that his child prosper through his activity on behalf of his child. This might be an element of Smith's well-being: His own flourishing requires that he act effectively as a parent. Or it might be the case that there are moral reasons that apply to each parent and only each parent, instructing that very parent to bring about her child's prosperity by her efforts. The third possibility is that it might be deemed good in general that children should prosper through the agency of their parents. In the first case, the agent's self-interested aim does generate a reason for society (all of us regarded collectively) to help the agent satisfy the aim. A well-being oriented theory of justice must balance the interest of the parent in being a successful parent and the interests of the child, which may in some cases conflict with parental self-interest. (In many cases, an individual's instrumental agency aim that figures in her well-being aspirations will be an expensive preference.) In the second and third cases, the point made previously applies again. If the agent's reasons to act are moral reasons, the proper weight that these reasons should have in the decisionmaking of others depends entirely on their moral force, not the fact that they happen to apply to the agent. In the third case, where there are agent-neutral moral reasons to bring it about that parents help their children, society will have moral reason to help Smith (and all other parents) be a successful parent. In the second case, again it would seem that if there are moral reasons that apply to the agent and not to others, it is not the responsibility of the others to bring it about that the agent can fulfill the moral demand.

Here there may be a difference between negative and positive freedom. If your strong conscientious belief is that you as parent should bring about the flourishing of

your child, your conscientious belief per se does not oblige me to provide you the means you may need to follow your conscience. But in many cases it does seem wrongful to violate your negative liberty in this respect: to block you from acting on your conscientious belief. Whether what seems so here is really so is a topic for another occasion.

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¹ . The idea of measuring freedom by counting the number of choices available to the agent is discussed and criticized in (Pattanaik and Xu, 1990).

² . Van Parijs explicates this unproblematic sense as follows: An individual enjoys freedom to the extent that she has the "opportunity to do whatever she might want to do" (Van Parijs, 1992, p. 467). The idea is that freedom is understood so that the amount of it I have is independent of my desires, preferences, and values—my conception of the good.

³ . Notice that it is an empirical conjecture that providing valuable options is a better influence on preference formation than provision of other options. If a person was countersuggestible, and tended to form preferences and tended to form preferences and values opposed to those that society suggests are worthwhile by making available to him even at some cost, then for this person provision of worthless options would be a better preference formation mechanism.

⁴ . This assumption is made in (Pattanaik and Xu, 1990) and attacked in (Sen, 1990).

⁵ . See also Dworkin (1981). But since Dworkin incorporates personal talents into the calculation of a person's resource share in a complex way, the Sen objection against primary goods is not obviously decisive against Dworkin's conception of resources. See also Van Parijs (1990).