Freedom and Opportunity

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The article discusses recent attempts in rational choice theory to take account of the opportunity aspect of freedom, i.e., the value of alternatives, in measuring freedom. It is argued that each of these approaches (in terms of fixed preferences, of possible future preferences and of the preferences of reasonable persons) fails to solve important conceptual problems. Furthermore, we argue that differences between measures of opportunity freedom reflect different moral standards for the quality of alternatives, not different conceptions of freedom as such. Hence, we propose to separate discussions about the meaning of the concept of freedom from the issue of determining the value of opportunity sets.

Does our increased knowledge of genetic engineering enlarge our freedom? Would we be more free in a place with less religious freedom and less traffic but more traffic lights than in, say, Amsterdam, London or New York? Does video observation of shoppers in a store increase or decrease our freedom? Issues like these are relevant both to the political theorist and the empirical political scientist. An answer to any of these or similar questions requires *measurement* of freedom, and although political theorists continually refer to notions of 'more' and 'less' freedom, they are also notoriously vague when it comes to the operationalization of conceptions of freedom.[1] It is at this point that one may hope to find succour in new circles: those of welfare economics and rational choice theory. Here, discussions over the last twenty-odd years on the introduction of what is called 'non-utility information in assessments of social states' have mostly focused on freedom or liberty as the kind of information *par excellence* to be included. Central to these debates was Amartya Sen's famous theorem on the impossibility of the Paretian liberal, according to which the demand for Pareto optimality would be incompatible with a very limited degree of individual liberty.[2] In recent years, the concept of freedom of choice has been

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[1] I. Carter, 'The independent value of freedom', *Ethics*, 105 (1995), 819–45.

[2] A. K. Sen, *Collective Choice and Social Welfare* (San Francisco, Holden-Day, 1970). Sen formulated his theorem in terms of social choice theory. For alternative approaches, see P. Gärdenfors, 'Rights, games and social choice', *Noûs*, 15 (1981), 341–56; W. Gaertner, P. K. Pattanaik and K. Suzumura, 'Individual rights revisited', *Economica*, 59 (1992), 161–77; M. van Hees, *Rights and Decisions. Formal Models of Law and Liberalism* (Dordrecht, Kluwer, 1995).

subjected to much scrutiny. Two different approaches can be distinguished. First, several authors have proposed to analyse freedom of choice in terms of the cardinality of the sets offered for choice: one has more freedom of choice the more alternatives one has to choose from.[3] Again inspired by Sen, this purely cardinal approach has been challenged for not taking account of the *quality* of the alternatives offered.[4] Whereas the cardinality-based approaches may be suitable for assessing the *process aspect* of freedom of choice, that is, the understanding of freedom as 'having the levers of control in one's own hand',[5] it neglects, according to Sen, the *opportunity aspect* of this kind of freedom. To illustrate this with one of Sen's own examples: enlarging a set by including a very unattractive alternative, say being beheaded at dawn, does not seem to increase our freedom of choice, even though the number of alternatives that can be chosen has increased. This critique has resulted in a series of ever more sophisticated formulations and formalizations of the qualitative aspect of individual liberty. In this second line of research, a prominent role is assigned to individual preferences in determining the value of distinct liberties. Intuitively, the reason why the extra option of being decapitated at dawn does not seem to increase our freedom is that most persons would not prefer that option. The question then seemed to be: which preferences should be taken into account? Here, the process of sophistication started. Beginning with a person's particular preferences, the notion of uncertainty regarding one's future preferences was introduced, as was a restriction to the preferences any *reasonable* person may possibly have.[6]

To distinguish the notion of freedom of choice measured in cardinal terms from the one in which the quality of the alternatives is emphasized, we shall use the term *opportunity freedom* for the latter. In this conception:

> freedom gives us the opportunity to achieve our objectives – things that we have reason to value. The opportunity aspect of freedom is, thus, concerned with our actual capability to achieve. It relates to the real opportunities we have of distinguishing things that we can and do value (no matter what the process is through which that achievement comes about).[7]

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[3] P. K. Pattanaik and Y. Xu, 'On ranking opportunity sets in terms of freedom of choice', *Recherches Economiques de Louvain*, 56 (1990), 383–90; M. Klemish-Ahlert, 'Freedom of choice. A comparison of different rankings of opportunity sets', *Social Choice and Welfare*, 10 (1993), 189–207; M. van Hees, 'On the analysis of negative freedom', *Theory and Decision*, forthcoming.

[4] A. K. Sen, 'Welfare, freedom and social choice. A reply', *Recherches Economiques de Louvain*, 56 (1990), 451–85; A. K. Sen, 'Welfare, preference and freedom', *Journal of Econometrics*, 50 (1991), 15–29; C. Puppe, 'An axiomatic approach to "Preferences for freedom of choice"' *Journal of Economic Theory*, 68 (1996), 174–99; P. K. Pattanaik and Y. Xu, 'On preference and freedom' *Theory and Decision*, forthcoming.

[5] A. K. Sen, 'Markets and freedoms: Achievements and limitations of the market mechanism in promoting individual freedoms', *Oxford Economic Papers*, 45 (1993), 519–54, p. 522.

[6] The present discussion reflects many points made earlier in political theory. For a forceful defence of a non-preference based conception of freedom, see J. P. Day, 'On liberty and the real will', *Philosophy*, 45 (1970), 177–92. Specific cardinal measurements were proposed by H. Steiner 'How Free. Computing Personal Liberty', in A. Phillips Griffiths (ed.), *Of Liberty* (Cambridge University Press, 1983), pp. 73–89 and I. Carter, 'The measurement of pure negative freedom', *Political Studies*, 40 (1992), 38–50. The idea that the preferences of reasonable persons should count can be found in S. I. Benn and W. L. Weinstein, 'Being free to act, and being a free man', *Mind*, 80 (1971), 194–211 and J. Rawls, *A Theory of Justice* (Oxford University Press, 1971).

[7] Sen, 'Markets and freedoms: achievements and limitations of the market mechanism in promoting individual freedoms', p. 522.

In this paper we want to discuss and assess some proposed measurements of opportunity freedom and re-examine existing perceptions of the distinction between the qualitative and quantitative aspects of freedom of choice. In Section 2 we present a brief summary of three possible approaches to opportunity freedom: in terms of fixed preferences, in terms of possible future preferences, and in terms of the preferences of reasonable persons. It is argued that the first two approaches are not really satisfactory because they do not seem to be able to account for what authors indicate as making up the intrinsic worth of freedom of choice. We discuss the reasonable preference approach, which is supposed to perform better in this respect, in the remainder of the paper. In Section 3 we first argue that on this view, individual freedom must be 'situationally defined'. In Section 4, we examine and reject the presumed possibility of intra- or inter-personal assessments of 'situationally defined' freedom. The analysis suggests that any conception of opportunity freedom must ultimately find recourse in some moral or ethical standard. This conjecture is confirmed in Section 5, where we discuss the notion of reasonableness. The reasonable preference approach thus fails to live up to its promises: it cannot account for the intrinsic value of freedom. In Section 6 we conclude that the problems associated with the reasonable preference approach, and more generally, with the measurement of opportunity freedom itself, are inherent to the notion of opportunity freedom. Opportunity freedom is about the worth of sets of alternatives from which an individual can choose, judgements which can only be made on the basis of some particular moral standard or ethical code. Differences between measures of opportunity freedom reflect different views on moral standards for the quality of alternatives rather than different conceptions of freedom as such. In our view, process freedom *is* freedom of choice, whereas opportunity freedom refers to the *value* of freedom – not to a different type of freedom of choice. We therefore propose to separate discussions about the meaning of the concept of freedom of choice from the issue of determining the value of opportunity sets.

Conceptions of Freedom

One way of describing the development of the notion of opportunity freedom is to begin with its counterpart, the cardinal approach as described in Prasanta Pattanaik and Yongsheng Xu's seminal article.[8] Let X, with elements $x, y, z, \ldots$, be a finite set of alternatives and let Z be the set of nonempty subsets of X (the 'opportunity sets'). The contents of X are left unspecified but could be inter-preted as referring to bundles of goods, actions, social states, etc. The object is to compare the opportunity sets in terms of the amount of freedom they provide. For this purpose, three conditions that a measure for freedom should satisfy are introduced.

Let $\geqslant$ be a transitive and reflexive relation over Z to be interpreted as 'gives at least as much freedom of choice as' (with $\approx$ and $>$ defined as, respectively, its symmetric ('gives the same amount of freedom as') and asymmetric part ('gives strictly more freedom than')). The relation satisfies:

Indifference between No-Choice Situations (INS):

$$\text{iff for all } x, y \in X, \{x\} \approx \{y\}$$

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[8] Pattanaik and Xu, 'On ranking opportunity sets in terms of freedom of choice'.

Strict Monotonicity (SM):

$$\text{iff for all distinct } x, y \in X, \{x, y\} > \{x\}$$

Independence (IND):

$$\text{iff for all } A, B \in Z, \text{ and } \forall x \in X - (A \cup B), [A \geqslant B \text{ iff } A \cup \{x\} \geqslant B \cup \{x\}]$$

Pattanaik and Xu then show that these axioms characterize a purely cardinal freedom measurement: opportunity set A gives at least as much freedom as B if and only if A contains at least as many elements as B. Thus if we assume that in situations of no choice each alternative gives the same 'degree' of liberty (INS), i.e., none at all, that having an extra option always gives more freedom (SM) and that adding a new element to two feasible sets makes no difference for the liberty the sets offer relative to one another (IND), then an agent's total freedom of choice can be established by simply counting the number of options the agent has. The authors call this a rather trivial as well as implausible result. In their view, the fault lies in the independence axiom. Intuitively speaking, {train} may offer the same liberty as {blue car}, while {train, red car} can be better in terms of liberty than {blue car, red car} – but this violates IND. Hence, the authors conclude, IND should be rejected.

Opportunity Freedom and Fixed Preferences

In his comments on Pattanaik and Xu's paper,[9] as well as in several other texts, Amartya Sen discusses similar examples and problems.[10] Sen argues that even though Pattanaik and Xu rightly criticize the axiom of independence, the basic fault lies elsewhere. A fundamental shortcoming of Pattanaik and Xu's model is, according to Sen, that it neglects the opportunity aspect of freedom. Freedom is more than just having a choice between alternatives; what matters equally is whether we have the opportunity 'to live the way we would like, do the things we would choose to do, achieve the things we would prefer to achieve'.[11] In Sen's view, a sensible analysis of liberty cannot disregard the preferences of the individuals or groups to whom liberties are assigned, since it would be preferences that determine whether one liberty is actually worth more than another.[12]

Elsewhere, Sen describes some conditions for measuring the opportunity freedom of a particular individual.[13] Assuming that there exists no uncertainty with respect to an individual's present and future preferences, the opportunity freedom offered by the elements of a set of alternatives depends on their ranking

[9] Sen, 'Welfare, freedom and social choice. A reply'.

[10] A. K. Sen, 'Freedom of choice. Concept and content', *European Economic Review* 32 (1988), 269–94; A. K. Sen, 'Welfare, preference and freedom'; A. K. Sen, 'Markets and freedoms: achievements and limitations of the market mechanism in promoting individual freedoms'; A. K. Sen, 'Rationality and social choice', *American Economic Review*, 85 (1995), 1–24.

[11] Sen, 'Welfare, freedom and social choice. A reply', p. 471; Cf. J. Raz, *The Morality of Freedom* (Oxford, Clarendon, 1986); K. Dowding, 'Choice: its increase and its value', *British Journal of Political Science*, 22 (1992), 301–14 and Th. M. Scanlon, 'The significance of choice', in S. M. McMurrin (ed.), *The Tanner Lectures on Human Values VIII* (University of Utah Press, 1988), pp. 151–216 for alternative accounts of freedom and the value of freedom.

[12] Sen, 'Welfare, freedom and social choice. A reply', p. 470.

[13] Sen, 'Welfare, preference and freedom'.

in terms of the individual's preferences. Sen proposed the following axiom (where P denotes the strict preference relation of the individual):

   Axiom A1: For all x, y in X: if xPy, then $\{x\} > \{y\}$[14]

Obviously, any model in which individuals have strict preferences and which is based on this axiom will contradict others based on the alternative axiom that $\{x\} \approx \{y\}$ – Pattanaik and Xu's axiom INS. In other words, the opportunity aspect of freedom does indeed lead to a different freedom ranking. Although axiom A1 is in terms of singleton sets only, it can readily be extended to sets containing more than one element. To do so, let D^s designate the relation of strict preference dominance, i.e. AD^sB if there is a one-to-one correspondence between some subset A^* of set A and the other set B such that every element of set A^* is strictly preferred to the corresponding element of set B.

   Axiom A2: For all A, $B \in Z$: if AD^sB, then $A > B$

   The axioms A1 and A2 describe sufficiency conditions: they specify specific circumstances under which we can say that an opportunity set offers strictly more freedom than another. The following axiom states a necessary condition:[15]

   Axiom A3: For all A, $B \in Z$: if $A > B$, then there exists an $x \in A$ such that xPy for all $y \in B$

In particular, adding a particular alternative to a choice set can only lead to an increase in the agent's opportunity freedom if the agent strictly prefers the new alternative over all elements of the original choice set. Since the condition is necessary but not sufficient, it does not imply that adding a more preferred alternative necessarily leads to an enhancement of freedom; even if an agent's greatest desire were to be decapitated at dawn, her freedom would probably diminish and at least remain the same, no matter to which set such an alternative were added. On the other hand, under axiom A2 such a conclusion would be inevitable.

Opportunity Freedom and Uncertainty

One disadvantage of Sen's conception of opportunity freedom, as he himself observed,[16] was that it did not allow for uncertainty regarding one's future preferences. One would expect a viable conception of opportunity freedom to allow flexibility, i.e., a chance to choose a course of life that minimizes the risk of not having one's future preferences satisfied. An interesting alternative approach was proposed by Clemens Puppe.[17] He introduces the following axiom:

   Axiom A4: For all $A \in Z$: there exists $x \in A$ such that $A > A \setminus \{x\}$

According to this axiom, each opportunity set contains at least one element, the availability of which increases the freedom of the individual. In Puppe's words, such an alternative is an *essential* element of the opportunity set. Furthermore,

   [14] Sen, 'Welfare, preference and freedom', p. 24.
   [15] Sen, 'Markets and freedoms: Achievements and limitations of the market mechanism in promoting individual freedoms'.
   [16] Sen, 'Markets and freedoms: Achievements and limitations of the market mechanism in promoting individual freedoms', p. 529.
   [17] Puppe, 'An axiomatic approach to "Preferences for freedom of choice"'.

given a freedom relation $\geqslant$, a set A is said to *dominate* B if, and only if, A gives at least as much freedom as the union of A and B: $A \geqslant A \cup B$. Puppe then shows that Axiom A4 together with a monotonicity requirement and a regularity condition imply that a set A dominates another set B if and only if all essential elements of $A \cup B$ are elements of A.[18]

Axiom A4 is compatible with the cardinality-based notion of freedom of choice as described by Pattanaik and Xu: on the latter view, any element of any set A is essential.[19] However, Puppe also shows that his model is compatible with the preference-based approach of Sen; a link between freedom and preference is maintained. In terms of uncertainty, Puppe offers the following interpretation of opportunity freedom. Assuming that the individual knows for sure that her future strict preferences will coincide with her present strict preferences but that she is uncertain whether her present indifferences will remain the same in the future, and, furthermore, assuming that an individual weakly prefers an alternative x to y if, and only if, x is essential in $\{x, y\}$, then opportunity freedom coincides with the notion of 'preference for flexibility' as introduced by Kreps.[20]

Despite the ingenuity of this approach, one cannot help feeling slightly uncomfortable about the *ad hoc* character of the assumption that there is only uncertainty about the indifferences of an individual. Suppose that I presently strictly prefer being an agnostic to being a Roman Catholic. Would it not be possible that my preferences are, at some later point of time in my life, reversed and that I convert myself to the Catholic religion? If so, the proposed changes in Sen's model are not sufficient to take account of our uncertainty with respect to future preferences. If uncertainty is allowed, then it is not clear why it should be restricted to our future preferences regarding alternatives about which we are at present indifferent.

Kenneth Arrow[21] has presented a measurement of opportunity freedom under the assumption that a probability distribution can be specified over the set of possible preference relations. More specifically, each individual is assumed to have a probability distribution over possible utility functions. The proposed measurement of freedom proceeds in three steps. First, for each utility function U, it is examined which element of opportunity set A maximizes utility; we call [max $U(x)|x \in A$] the pay-off of opportunity set A. Since different probabilities have been assigned to the various utility functions, we then calculate for each opportunity set the expected value of its pay-off. Finally, we rank the opportunity sets in terms of these expected values: the higher the expected value of an opportunity set, the more freedom the opportunity set provides.

In Arrow's probabilistic approach the freedom ranking is based entirely on the 'indirect utility' the opportunity sets provide. The consequentialist character of Arrow's type of measurement of freedom, and implicitly also of Sen's model, has been criticized by Pattanaik and Xu in a recent paper[22] for failing to take

[18] Puppe, 'An axiomatic approach to "Preferences for freedom of choice"', p. 182.

[19] Puppe, 'An axiomatic approach to "Preferences for freedom of choice"', p. 180.

[20] D. M. Kreps, 'A Representation theorem for "preference for flexibility"', *Econometrica*, 47 (1979), 565–77.

[21] K. J. Arrow, 'A Note on Freedom and Flexibility', in K. Basu, P. Pattanaik and K. Suzuruma (eds), *Choice, Welfare and Development. A Festschrift in Honour of Amartya K. Sen*, (Oxford, Clarendon, 1995).

[22] Pattanaik and Xu, 'On preference and freedom'.

account of what they call the *intrinsic value* of freedom. As they point out, on these accounts of opportunity freedom, the removal of a specific alternative, say the right for women to join the army, an alternative that a certain female agent *i* would not dream of as ever being desirable for her, would not reduce her freedom. Referring to the idea that freedom has intrinsic value, the authors object that this is a counter-intuitive conclusion, since 'a large number of people would feel that such a ban would reduce the woman's freedom'.[23]

Opportunity Freedom and Reasonable Preferences

Continuing their analysis of the Ban On Women example, Pattanaik and Xu observe that what makes the ban on women despicable is the fact that:

> given the woman's situation, she could have reasonably chosen to join the army ... even though she actually does not do so and even though she attaches zero probability to her wanting to do so.[24]

Pattanaik and Xu now claim that the intrinsic value of freedom lies in having choices between *meaningful* alternatives, not in having choices as such. Not every extension of a choice set, they argue, should necessarily count as an increase in individual freedom, nor every reduction as a decrease, since not every new choice is equally valuable: an extra option of being beheaded at dawn would not normally be seen as an expansion of the agent's freedom. The reason for this is that no reasonable person would, in the circumstances of the agent, decide to choose being beheaded at dawn. The preferences that matter in evaluating opportunity freedom are not the preferences that an agent may have but the preferences a reasonable person in the agent's situation may possibly have.[25]

Pattanaik and Xu do not say much on what exactly they mean by reasonable preferences and intrinsic value; they only work out the consequences of what largely remain implicit notions. In the next sections, we shall first analyse the notion of reasonable preferences and try to elucidate the hidden assumptions behind it. This will ultimately take us one step further in the analysis of opportunity freedom, to wit, from reasonable preferences to independent moral standards for the value of opportunities. In the last section, we then ask if this new measure, or any of the measures proposed, can actually tell us something about the *intrinsic* value of freedom of choice. This will bring us to our final recommendation, namely to make a sharp distinction between the value of sets of opportunities on the one hand and the intrinsic value of freedom of choice on the other.

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[23] Pattanaik and Xu, 'On preference and freedom', p. 5. The reader might suggest that objections to the Ban On Women could well be inspired by a feeling that the Ban is unjust, unfair, undeserved or an unjustifiable case of unequal treatment. The reader would be right. Be that as it may, among the reasons one might have to oppose the Ban, the sense that individual liberty is violated here may still play a major role independent of any considerations of justice.

[24] Pattanaik and Xu, 'On preference and freedom', p. 6.

[25] Pattanaik and Xu, 'On preference and freedom', p. 7. Their approach is strongly influenced by P. Jones and R. Sugden, 'Evaluating choice', *International Review of Law and Economics*, 2 (1982), 47–65. See also R. Sugden, 'The metric of opportunity', *Economics and Philosophy*, forthcoming.

Freedom Situationally Defined

Briefly recapitulating, we have seen two important themes play a role in the literature on opportunity freedom. One is the general acceptance in some form or other of linking opportunity freedom with individual preferences, i.e., the idea that it sometimes is the quality of the alternatives that matters, not the quantity. Another theme was a development in the *kind* of preferences taken into account in freedom evaluations, viz., from (i) the actual preferences of an individual agent, via (ii) the uncertain future preferences of an agent, to (iii) the current and future preferences that a reasonable person in the agent's situation may possibly have. The first two approaches proved to be unsatisfactory.

Perhaps the last option, chosen by Pattanaik and Xu, will perform better. In their view, freedom is to be understood as a situationally defined concept:

> (I)n assessing the intrinsic value of freedom of choice as reflected in an agent's opportunity set, in many ways, the preferences that are crucial are not the preference ordering that the agent may actually have but the preferences that a reasonable person in the agent's situation may possibly have.[26]

As this quote indicates, the shift from a person's own preferences to those of reasonable persons implies that individual opportunity freedom is measured situationally ('... the preferences that are crucial are ... the preferences that a reasonable person *in the agent's situation* may possibly have'). However, if individual opportunity freedom is measured *in situ*, there will be a freedom ranking for each imaginable situation, each distinct context in which rights or bundles of goods etc. are possessed, exchanged or distributed. Since there are (obviously) many different contexts, there will also be many freedom rankings. In these rankings, individuals will undoubtedly have attached different freedom values to *the very same goods*. On this view, the right for women to join the army, for example, could give a young and physically fit woman more freedom than an elderly man in a wheelchair.

The situational definition of freedom is not without consequences for the model adopted. We saw that underlying the notion of opportunity freedom is the basic assumption that the quality of alternatives should be taken into account: there are at least some alternatives which do not increase a person's freedom when added to an opportunity set. A weaker formulation of this assumption is:

Axiom A5: There are $x, y \in X$ such that $\{x\} \geqslant \{x, y\}$

In Pattanaik and Xu's reasonable preference approach this assumption would amount to saying that there are at least some $x, y \in X$ such that no reasonable person would ever prefer y to x. However, the problem with this assumption is that, given the right choice of the circumstances in which the agent makes his choices, it is apparently always possible to find circumstances under which some reasonable person *would* prefer y to x. Imagine, for instance, that x is $1,000,000 and y decapitation at dawn. One might think that no individual imaginable would ever prefer y to x. Hence, it seems, adding y to an agent's choice set will never enhance that agent's opportunity freedom. Unfortunately, we can always

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[26] Pattanaik and Xu, 'On preference and freedom', p. 7.

imagine an agent living in circumstances that would actually make y preferable to x: let the agent, for instance, be someone who suffers from a most horrid and painful, incurable but non-fatal disease.[27]

There is no need to dwell too long on examples. The point here is that, as long as the alternatives between which an agent can choose do not fully specify the agent's situation, it will always be possible to adjust the circumstances in such a way as to 'fit' a preference ordering. The description of an agent's circumstances can always be adapted to make the seemingly 'unreasonable' preference 'reasonable'.

The Impossibility of Interpersonal Measurements

Even if one is prepared to accept a situationally defined conception of freedom, further problems will arise. In evaluating opportunity freedom, one has to take account of the agent's preferences regarding the course of his or her future life. Since we are by definition uncertain of the future and often also about our own future preferences, a freedom measure should reflect this uncertainty in particular. As already observed in Section 2, giving equal relevance to all possible future preference orderings will not do, nor will the Arrovian solution of attaching probability ratings to one's possible future preference profiles. Pattanaik and Xu's suggestion to limit the range of possible preferences to those that are *reasonable* can, in principle, be interpreted in at least two ways:

(1) consider only those preferences that the individual agent thinks are reasonable for him or her;
(2) consider only those preferences that at least one reasonable person would have in the agent's circumstances.

To illustrate these two possibilities, consider once more the Ban On Women. In determining whether giving the woman in question the right to join the army would add to her opportunity freedom, we could (1) ask her if she thinks joining the army could ever be a reasonable option for her. Since there is a thin line between the set of preferences that a person thinks are reasonable and the actual set of possible future preferences of that person, it is not surprising that this first interpretation is dismissed for the same reason as the Arrovian approach. In the example, the woman does not think that joining the army could ever be a reasonable option – but, as the authors argued, one nevertheless feels that the absence of the right in question diminishes her freedom. They therefore submit that an agent's degree of freedom should instead be (2) a function of the preferences of any reasonable person in the agent's position. Only if there is no reasonable person for whom the right to join the army would make a positive difference does its inclusion in the woman's choice set not enhance her opportunity freedom.

Before we proceed to the question whether a different person can be put into a person's situation, say i's, let us ask whether it is *possible* at all to picture the same person in the same situation, only with different preferences. It would seem that to do so requires a lot more than just a vivid imagination. For one thing, to end up in i's position, i herself had to make choices in the past that

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[27] And as one of the referees pointed out to us, Thomas More did prefer decapitation at dawn to becoming a Protestant, a choice which he felt to be reasonable given his circumstances.

shaped her life, circumstances and preferences as they are today. Those choices again depended on her earlier preferences, experiences and circumstances, which in turn ... etc. If, and that is a big if, it is possible at all for i to imagine whom she herself would have been had she made other choices in the past, she might find that she could not possibly have ended up in the situation she is in now. No one except the i we actually know could ever end up in this particular state of affairs; the mere fact that i's biography itself had changed would make the situation non-reproducible. Furthermore, even if there are counterfactually possible courses of life that she might have followed and that would actually have put her in a similar position, the question arises whether this person would still be the same person as our original i – has not her alternative life perhaps changed her personality along with her preferences to such a degree that she is no longer the i we knew?

Now since it already seems impossible to make intrapersonal comparisons *qua* possible preferences without violating the condition that one imagines oneself to be in the 'same' position, it will be at least as difficult to put someone else in i's situation. In fact, this would require that we actually change the other person into i – complete with her whole biography.[28]

Moreover, it is unclear whether the agent whose freedom is to be judged should herself be reasonable: can unreasonable persons be said to be free or not, or do we limit the concept of opportunity freedom to reasonable persons only? If we take the first route, it becomes unclear how this person's freedom should be measured. By definition, a reasonable person cannot be put in the same situation. To save the idea that opportunity freedom is a function of any reasonable person's preferences in given circumstances, we will be forced to accept the amendment that any alternative choice situation in which a reasonable person would be placed should resemble j's choice situation as closely as possible, rather than be perfectly congruent. But this takes us way down a very dangerous slippery slope: without clear criteria for what constitutes a 'good enough', a 'reasonable' copy of the situation, any preference ordering may be considered reasonable. The only way to prevent this is by constructing 'relevantly similar' situations that will *ensure* that a reasonable agent will, say, find it reasonable to join the army. But this would turn things upside down: we would then already assume that joining the army could be reasonable in j's circumstances and subsequently adapt our description of a nearly congruent situation to fit the desired result.

Another possibility would be to deny that – despite the intuition described above – the notion of opportunity freedom has any meaning for persons like j: reasonableness is a necessary condition for being free or unfree. But again, there is a danger of ending up on a slippery slope. What would happen if j's unreasonableness were not a permanent state of his mental condition? If j were unreasonable in the mornings only – would we still say that the notion of freedom cannot be applied to him? If so, what happens if the state of unreasonableness occurs once a week, or once a month, or only once a year? Alternatively, one might say that although the notion of freedom can be applied during some periods in a person's life, it need not necessarily be applied during

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[28] If an individual's position is indeed unique and non-reproducible, the amount of freedom enjoyed depends not only on the exact situation but also on the particular individual; freedom would not be just determined 'situationally' but even purely subjectively.

all. On this view, j would be 'beyond' freedom in the morning but free or unfree in the afternoon. It is, however, unclear whether such a view is compatible with the situational character of this preference-based conception of freedom. Since a person's life experiences form an essential part during any period of one's life, it is still not possible to find a *reasonable* person who will resemble j as he is in the afternoon.

The conclusions that must be drawn from all this are that (1) it is highly unlikely that one person can meaningfully think of herself (read: her *self*) as having a different biography and preferences yet ending up in the exact same circumstances; that (2) a meaningful comparison between the preferences of distinct persons in the same situation is even less imaginable; that (3) the range of application of the concept of opportunity freedom becomes fuzzy. What these points suggest is that the reasonable preference approach presupposes the existence of a standard on the basis of which we can not only judge situations to be similar or not but can also determine beforehand what the range of application of opportunity freedom is. In other words, they suggest that successful application of the notion of opportunity freedom is possible only on the basis of some particular moral or ethical standard. The examination of the next set of problems that beset the concept of opportunity freedom confirms this suspicion.

Reasonableness

Let us now assume that we not only accept the idea of a situationally determined conception of opportunity freedom, but also know how to make the necessary intersubjective comparisons of the situations of individuals. Even then we detect additional problems in Pattanaik and Xu's suggestion of restricting the set of relevant preferences to reasonable ones.

First of all, the introduction of the category of the reasonable does not seem to be helpful in clarifying what exactly the *intrinsic* value of freedom would be. In a most helpful discussion of the value of freedom, Ian Carter has recently proposed a strict categorization of terms like intrinsic value, making intrinsic value one conception among four of the 'independent' values of freedom, all of which are opposed to the instrumental value of freedom to a further purpose.[29] If we compare these four conceptions with the interpretation Pattanaik and Xu give to intrinsic value, we observe that none of them really fit; hence, even if we use the term intrinsic value as a synonym for independent value, Pattanaik and Xu's conception of it is quite unorthodox. The first of these four is unconditional value: freedom is unconditionally valuable if it has value regardless of the consequences of exercising any liberties. In other words, the freedom offered by a choice set is unconditionally valuable if it should always be considered as valuable regardless of the elements of the set, and if it is the only relevant value. Unconditional value is a particular form of intrinsic value, Carter's second type of independent value. By intrinsic value he understands the value of freedom that is distinct from the value of the elements of the choice set in question. It differs from unconditional value in so far as it need not always be seen as the only relevant value. One can thus understand the freedom given by a choice set as intrinsically valuable, without equating the value of the set with its intrinsic value. Neither one of these descriptions suits Pattanaik and Xu's conception of

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[29] Carter, 'The independent value of freedom'.

opportunity freedom. In their framework, the freedom given by an opportunity set depends on the set of all possible preferences of reasonable persons. These preferences are defined over the set of feasible alternatives of which the opportunity set in question is a subset. Hence, the freedom given by this opportunity set is determined, in the end, by its elements, viz. through the preferences of the reasonable persons. Thus, they equate intrinsic value with the value of the elements of a choice set, not with a 'surplus value' next to or regardless of the value of those elements. Carter's third conception of independent value, nonspecific instrumental value, refers to human fallibility as a reason why it would be good to have more choices rather than less, regardless of the value we attach to the composition of the choice set. This is not what Pattanaik and Xu consider relevant. Finally, freedom can have constitutive value, that is, as an essential component of something else that is (independently) valuable – the example Carter uses is human agency. Again, Pattanaik and Xu are interested in the *quality* of choices rather than in simply *having* choices. Hence, the least we can conclude is that the conventional understanding of intrinsic value, or in a more broad sense independent value, deviates considerably from Pattanaik and Xu's.

A further problem haunting this conception of opportunity freedom relates to its interpersonal character. Without having to dwell upon other moral questions involved, we can make some superficial observations with regard to the notion of reasonableness. One, already made, is that reasonableness refers to having good factual or moral reasons for, in our case, one's preference ordering. Another is that the grounds for demanding reasonableness of admissible preference orderings lie in the important role it plays in conceptions of liberty. Reasonableness makes the difference between a person having a plan of life or at least living under her own authority, autonomously, free, and her being unfree, susceptible to or even the product of outside forces, fancies and accident.[30] In other words, its being reasonable is what makes a person's preference ordering over alternatives an expression of her freedom. In the conception of opportunity freedom at hand, however, we have shifted from freedom as 'the opportunity to achieve our objectives – things that we have reason to value', as Sen defined it, to 'the opportunity to achieve our objectives – things that reasonable persons value'. No argument for this extension of the electorate other than an appeal to intuition was given, but in this case as so often, intuitions collide. Note that the consequence of an interpersonal measurement of freedom in a case like the Ban On Women is that *i*'s freedom becomes a function of what another person judges to be a reasonable and attractive option. She could never imagine herself wanting to join the army, yet she must judge that the Ban limits her *personal* freedom because *others* might want to join. Both intuitively and with reference to the idea that the reasonableness of my preferences is what makes me autonomous, this is an absurd conclusion.

The last problem has to do with the demarcation and implications of reasonableness. In defining reasonableness, it is impossible to opt for a purely formal understanding of the concept in terms of, for instance, the coherence of beliefs.

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[30] For a more comprehensive treatment of the reasonable, see J. Rawls, *A Theory of Justice*, pp. 56–8, and B. Barry, *Justice as Impartiality. A Treatise on Social Justice Volume II* (Oxford, Clarendon, 1995), p. 69; traces of this idea can also be found in Robert Nozick's *Anarchy, State and Utopia* (New York, Basic, 1974), pp. 48–51.

Perverse preferences like those for y, a world of torture, over x, a world of bliss, can be perfectly coherent and consistent. Formal definitions of reasonableness do not necessarily exclude particular preference orderings.[31] Moreover, when we say that a person's avoidance of dairy products is reasonable given her milk allergy, we do not (just) mean that her abstention is logically consistent. The term reasonable refers rather to having good *material* reasons for not consuming butter, milk and cheese. Reasonableness is not only a formal concept but also a substantive one and should be treated as such, that is, as delineating the goals that are *worth* pursuing.

Without having to enter into tedious disputes on 'the' ethical code or plan of life that deserves the epithet 'reasonable', on the justifiability of paternalistic censureship of moral standards or on the compatibility of paternalism and autonomy, there is one observation that can readily be made as regards a type of code that *cannot* be admitted, viz., codes in which somehow value is attached to opportunities. Admitting these would lead to either circularity or redundancy of the notion of opportunity freedom. Remember that we set out to evaluate a situationally determined concept of opportunity freedom: whether choices, alternatives, opportunities or whatever are worth anything and actually contribute to a person's opportunity freedom depends at least partly on the preferences of reasonable individuals. Now if we were to admit the preferences of an individual k who prefers one alternative x over another y because of the opportunity freedom that x would offer, then the notion of opportunity freedom would become self-referential. After all, k's preferences force us to understand opportunity freedom in her terms, and k in turn understands opportunity freedom in our terms, only our concept of opportunity freedom is defined by k's, which is again defined by ours, etc. To put the point in more general terms, if we were to say that the reasonableness of a person depends on her preferences, and if her preferences are preferences for opportunity freedom, we end up in a circle.[32] To understand opportunity freedom, we have to know what reasonableness is, but to know who is reasonable we have to know what opportunity freedom is. If, on the other hand, we adopt an ethical code not related to the notion of individual opportunity freedom, then the quest for the intrinsic value of freedom as having meaningful choices has failed. We cannot find recourse in freedom considerations now since it would no longer be the opportunity itself that mattered but the substantive result to which using an opportunity might lead. Paradoxically, our understanding of liberty would therefore have to censure and discard as non-relevant all plans of life based on the value of opportunities, including its source of inspiration, liberalism itself.

To summarize, we saw that what matters in assessing opportunity freedom are not the actual preferences of individuals, but reasonable preferences, not the reasonable preferences that they actually have but those they might have, and not their own potential reasonable preferences but those of others. We set out to give body and substance to the idea that one of the things that matter about freedom is 'the opportunity to achieve our objectives – things that we have

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[31] They might, of course, exclude preference relations that are not orderings.

[32] Carter ('The independent value of freedom', p. 844) points out that a similar argumentative loop sometimes occurs in political philosophy when claims are made about the superior degree of freedom that a theory of justice would guarantee, when freedom has first been defined in terms of that same conception of justice.

reason to value'. Our attempts to do this in terms of preferences finally led us past many dead ends to a conception in which individual preferences are implicitly replaced by the 'right' *im*personal preferences – if the term preferences can still be applied to these.

Concluding Remarks

In our discussion of Pattanaik and Xu's alternative approach to the measurement of opportunity freedom, based on the notion of the preferences of reasonable persons, we noticed, first of all, that such a conception implies a situationally defined understanding of freedom. We further argued that the possibility of performing the interpersonal comparisons which this type of measurement presupposes is highly questionable. Finally, we argued that the reasonable preference approach is, ultimately, based on a specific moral standard or ethical code. However, if we derive a conception of freedom from other normative considerations, for instance standards of impartiality or equality, then we lose what Pattanaik and Xu were looking for, i.e., the intrinsic value of freedom of choice.

If the restriction to reasonable preferences should ultimately be translated in terms of independent moral standards or ethical codes, then the same goes for the restriction to a fixed preference ordering (Sen) or the restriction to possible future preference orderings (Arrow, Puppe). In other words, a discussion about the proper measurement of opportunity freedom ultimately becomes a debate about the proper moral standard; the idea that the notion of opportunity freedom can help us understand the intrinsic value of freedom should be abandoned.

This is not a drawback however. Quite the contrary: the conclusion that moral standards underlie conceptions of opportunity freedom, and that opportunity freedom is not a conventional conception of intrinsic value, clarifies matters considerably. To see how, we propose to separate the discussion about the meaning of the concept of freedom of choice from the issue of determining the value of opportunity sets. In other words, we propose to give up the idea that the process and opportunity aspects of freedom are two competing (or at least diverging) interpretations of the overarching concept of freedom of choice. In our view, process freedom coincides with freedom of choice. Opportunity freedom is an evaluative concept: it refers to the *value* of the freedom of choice that individuals have and is not a particular *conception* of freedom of choice.

The formal characterizations of different notions of opportunity freedom can then be seen as formalizations of different moral standards in which freedom of choice does or does not play an important role. With respect to the relation between preferences and freedom three positions come to mind. First of all, one can think of moral standards in which the ranking of opportunity sets depends primarily on the freedom of choice they provide, as in cardinality-based rankings of opportunity sets. The ranking of opportunity sets would then completely coincide with the freedom of choice they offer. Secondly, one can think of a freedom of choice conception in which both this idea and the value of opportunities play a role. Both Sen's model and to some extent Puppe's can be interpreted in this way. A third position is one in which only opportunity freedom plays a role. The later model Pattanaik and Xu proposed can probably

be interpreted in this way, as can Arrow's indirect utility approach. The latter is based on a moral standard representing an individualized form of utilitarianism: when comparing two opportunity sets one values the one which provides the individual the highest indirect utility. Freedom of choice plays no role in such a standard.[33]

Separating the formal analysis of freedom from the formal analysis of moral standards in which freedom of choice may or may not play a role would be beneficial for both types of analysis. It makes clear that some important questions are still unresolved with respect to the analysis of freedom of choice. We saw in our discussion of the axiom of independence, for example, that the cardinality-based approaches to freedom of choice are subject to the criticism that they do not take sufficient account of differences between alternatives. Alternatives like train and car were treated as somehow equally valuable, whereas in fact cars may offer more freedom of movement and trains more freedom in other respects. These alternatives seem to be composites of separate and perhaps better comparable 'basic acts'. The question how to individuate alternatives and take account of the differences between them was not pursued since most of the subsequent research shifted attention to the characterization of what was called opportunity freedom and what we here called moral standards.[34] Only when this all but simple problem has been solved can the non-moral judgement that one social state offers 'more' freedom of choice than another be verifiable.

By making clear from the outset that one is analysing moral standards for the value of freedom rather than conceptions of freedom themselves, we make it easier to incorporate results from political philosophy and thereby to either circumvent or support the always hazardous direct appeal to supposedly shared intuitions. For instance, the problems underlying Pattanaik and Xu's reasonable preference approach can then be elucidated by turning to existing attempts to find a moral standard that avoids the two extremes of being preference-based and of totally disregarding the individual's likes, dislikes and plans. It is here that moral and political philosophy have contributed to breaking the deadlock between moral absolutism and moral relativism.[35] Inspired by John Rawls' notion of a reflective equilibrium[36] between conditions safeguarding impartiality and our 'considered' moral intuitions about those conditions, political theorists have over the last 25 years shown that there may well be ways of moving towards a balance between the two extremes. At least in this respect, it

[33] Let C denote the set consisting of all feasible alternatives which maximize utility in at least one utility function with positive probability. Under Arrow's conception of freedom, an agent derives as much freedom from C as from the set of all feasible alternatives X. Thus, in the most extreme case in which there is a utility function with probability one, the singleton set consisting of the most preferred alternative, say $\{x\}$, yields as much freedom as X: a government-enforced allocation of only and exactly the one thing x that an individual most wants will give as much opportunity freedom as being able to choose any feasible alternative from a set that includes other elements next to x.

[34] For further discussion of the individuation issue see Steiner, 'How Free. Computing Personal Liberty'; Dowding, 'Choice: its increase and its value'.

[35] Cf. M. L. J. Wissenburg, *Justice from a Distance. An Outline of a Liberal Theory of Social Justice*, (University of Nijmegen, PhD thesis, 1994; Revised edition forthcoming with UCL Press, London), p. 65.

[36] Rawls, *A Theory of Justice*, p. 48.

may then be possible to make more sense of 'the preferences of reasonable persons in an agent's situation'.

As long as freedom of choice and the value of freedom are confused, we will keep moving in circles and not come any closer to a metric of freedom. Only if we separate the two discussions can formal theory contribute to precision in normative theory and empirical research, and can political theorists contribute ideas about the 'right' moral standard to the formal analysis of the *value* of freedom.