

# SYMPOSIUM ON AMARTYA SEN'S PHILOSOPHY: 1 CAPABILITY AND FREEDOM: A DEFENCE OF SEN

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## INTRODUCTION

In a recent discussion of Amartya Sen's concept of the capabilities of people for functioning in their society – and the idea of targeting people's functioning capabilities in evaluating the society – G. A. Cohen accuses Sen of espousing an inappropriate, 'athletic' image of the person (Cohen, 1993, pp. 24–5). The idea is that if Sen's formulations are to be taken at face value, then life is valuable only so far as people actively choose most facets of their existence: if they fare well in the material stakes, for example, they must fare well as a result of active choice and effort, not because anyone else looks after them. 'That', says Cohen, 'overestimates the place of freedom and activity in well-being' (p. 25).

I think that if it were accurate, then Cohen's criticism would be damaging. It amounts to the charge that just as a theorist like Hannah Arendt (1958) may be said to have an overactive image of democracy – an image under which democratic life involves a relentless rondo of meetings and debates – so Amartya Sen suggests an overactive image of social flourishing more generally. People will flourish according to Sen's formula, so the charge goes, only if they maintain an unyielding control of their affairs and their fortunes. Like health-conscious holidaymakers, they will maintain a stern regime of early rising, hard walking, and brisk swimming; they won't ever lounge or bask.

As against this accusation, however, I believe that Sen (1993, pp. 43–4) is quite right when he says: 'athleticism was never intended,

despite the fact that Cohen has obviously been misled by my use of such words as “capability” and “achieving”. Nothing in his position entails the athleticism of which he is accused. On the contrary, a proper appreciation and elaboration of that position shows how his invocation of capabilities in the evaluation of social life is consistent with a realistic, decidedly non-athletic picture of flourishing. I try to outline such an account of Sen’s position in this paper and then to use that account to undermine the athleticism charge.

My paper is in three sections. First, I go back to the way of thinking about freedom that Sen defended in commentaries on his ‘Liberal Paradox’ and I sketch the salient points of that theory, developing them in a somewhat distinctive way. Then in the second section I explain Sen’s emphasis on the importance of functioning capability in the light of his theory of freedom. And, finally, in the third section I show where Cohen goes wrong in thinking that Sen’s approach implies athleticism. The paper concludes with a comment on the close relationship between Sen’s theory of freedom and capabilities and the conception of freedom as non-domination that I see as republican in character and provenance (Pettit, 1997; Skinner, 1997).

## 1. SEN ON FREEDOM

### Liberty as decisive preference

Sen’s ‘Liberal Paradox’, first published in 1970 (Sen, 1970a and b), purports to show that no satisfactory rule for aggregating individual preferences into a social preference – no satisfactory social decision function – can simultaneously satisfy certain attractive conditions. Specifically, a social decision function cannot guarantee a consistent, complete ordering of relevant social states and meet these three constraints: first, work for any profile of preferences among individuals; second, ensure that if everyone prefers a social state  $x$  to a social state  $y$ , then  $x$  will be chosen over  $y$ ; and third, guarantee that liberalism, even liberalism in a minimal sense, will prevail. The minimal liberal condition is that there are at least two persons in the society – not necessarily all – who are decisive in relation to issues in their ‘recognised personal sphere’ (Sen, 1983, p. 7).

One question raised in the discussion of Sen’s impossibility result was how the notion of decisiveness should be understood in the statement of the liberal condition (Nozick, 1974; Gaerdenfors, 1981; Sugden, 1981; Sen, 1983). Two readings are possible, as that literature made clear. One would say that a person is decisive in relation to whether  $A$  or  $B$  just in case they can choose between  $A$  and  $B$ . The other would say that the person is decisive just in case a weaker condition is fulfilled: they can choose whether  $A$  or  $B$  or what they would have

chosen, did they have a choice, determines whether A or B. On the first reading, decisiveness requires direct control or direct freedom; the exercise of choice determines what happens. On the second, it requires only indirect control or indirect freedom; if the exercise of choice does not determine what happens, how the person would have chosen does.

When Sen speaks of things turning out as the agent would have chosen in a counterfactual case, I assume that how the agent would have chosen in the counterfactual case is a function of how he or she is now configured in the actual world: that is, that it expresses an actual disposition to choose after a certain pattern in that imagined case (a pattern that may differ from how the agent is actually disposed to choose in the actual case). This assumption is entirely plausible. Measures that make an agent's counterfactual choices decisive will give a degree of power to that agent, as he or she actually is, only if those counterfactual choices express something about the agent's actual nature.

This means that whereas it is the exercise of choice that has to be determinative of results under the narrower conception of freedom, it is the agent's disposition to choose – for short, his or her preference<sup>1</sup> – that must be determinative under the broader; this disposition determines whether A or B, either on a direct or on an indirect basis. Under the narrower reading, then, freedom consists in the enjoyment of decisive choice; under the broader it consists in the enjoyment of decisive preference.

Sen points out that his impossibility theorem holds under either of the two readings of freedom but acknowledges that social choice theory represents freedom as requiring only indirect power. 'The social-choice characterization of liberty compares what emerges with what a person *would have chosen*, whether or not he actually does the choosing' (Sen, 1983, p. 20). More than that, however, Sen defends the broader conception under which freedom on a given issue consists in enjoying decisive

<sup>1</sup> Notice that a person's preference in relation to an issue between A and B will be made decisive, not when their preference in the actual case on hand is made decisive for all possible cases where the issue arises, but when their actual preference for any possible case where that issue arises dictates what happens in that case. The fact that the agent prefers A to B in the actual case on hand, for example – say, a case where others are not involved – does not mean that in all possible cases, including those involving others as well, A will prevail; for some such cases, in particular for cases where others want the agent to ensure that B, the agent's actual preference may be that B should prevail there. This observation is important, because it explains why there is no inconsistency between saying that a person's preference is decisive under Sen's conception of liberty and agreeing with him that choice may sometimes be dictated by the preferences of others and sometimes not; what this means is that the agent's meta-preference to respect such preferences may be relevant in some cases – some choices between A and B – and not in others (Sen, 1982, Essays 1–4).

preference, and not necessarily decisive choice, in relation to that issue. He considers the example of a person whose preference in regard to medical treatment is respected, even when they are unconscious. The person's preference for avoiding a certain treatment guides the doctors, although they think that this will reduce the chances of his or her recovery. Believing that the person's liberty – indirect liberty – is well served in such a case, Sen draws a conclusion in favour of the broader conception. 'To see liberty exclusively in terms of who is exercising control is inadequate', he says, where by 'control' he means direct choice-mediated control. (Sen, 1983, p. 19).

I agree with Sen that it is better to think of freedom on various issues as requiring decisive preference, not necessarily decisive choice. But it is important to recognize that decisive preference requires more than just the satisfaction of preference. I do not enjoy decisive preference in regard to certain alternatives just so far as my preference happens to be satisfied, even routinely satisfied. It must be that my preference is satisfied because it is my preference, and not for any other reason. It must be that my preference is in control, so that what I get is robustly connected, not just connected by chance, with what I prefer.

This is worth noting, in particular, because Sen has been accused of describing situations in which my preference just happens to be satisfied as ones where I enjoy decisive preference and indirect freedom (Cohen, 1994). I do not try to defend him against that accusation. But I do note that the requirement may be satisfied in a number of quite different scenarios. Those who act under the control of my preference, and with the effect of generally satisfying it, may act out of any of a large variety of prompts.

They may monitor and take their guidance from my current avowals of preference or my past instructions. Or they may act on their own presumption about my preference but under threat of being dismissed should they fail to track it properly. Or they may act so as to satisfy the preference of someone like me – a proxy – where I acquiesce in that arrangement, with or without their knowledge, only because it promises to deliver satisfaction of my own preference. Or, to generalize this scenario, they may act under any constraints that ensure or probabilify the satisfaction of my preference, where I acquiesce in the arrangement, with or without their knowledge, only because that is so. Under arrangements of the kind that fit with this scenario, my preference will not actively control what happens but it will control what happens in a virtual manner (Pettit, 1995). Should what happens in relevant cases cease to conform to my preference then the arrangement will be reviewed – this, under the active influence of my preference – and suitable revisions will be introduced. Thus, what happens will robustly track the direction of my preference.

### **Preference that is decisive, independently of content**

What exactly is involved, however, in an agent's preference being decisive on a certain issue? For a person to have a decisive preference in an issue between A and B it is required, first of all, that their preference is decisive regardless of its content: regardless of whether the preference is for A or for B. I am free in relation to A or B only if, depending on how my preference may go, I get A or I get B. Thus it will not be enough for freedom that I get A if my preference is for A, when it is not the case that I get B if my preference is for B. Freedom requires that my preference is empowered in a content-independent way; it is decisive, regardless of which of the relevant options is preferred.

The best argument for this first claim is that if we reject it, we must say that a person can make themselves free just by adapting their preferences appropriately (Berlin, 1969, p. xxxviii). Suppose that I prefer B in a choice between A and B but that I will get what I prefer only if I prefer A. Well then, if the claim is false, it appears that I can make myself free just by adapting my preferences so that I do indeed prefer A (Sen, 1985b, p. 191). Having A may mean being in prison, having B being at large. I can come to be freely in prison, it seems, just by adapting my preferences so that I desire to be inside rather than outside the jail walls.

It may be that under common usage I can be properly said to get A freely, when my preference for A is content-dependently decisive. But this should not tempt us to say, as theorists, that such content-dependent decisiveness is sufficient for freedom. The problem is that the decisiveness of my preference is too circumscribed and contingent to deserve the name of freedom.

Sen explicitly endorses the claim, as I am putting it, that freedom on a given issue requires the agent's preference between options to be decisive in a content-independent way. He notes that in standard consumer theory, 'the contribution of a set of feasible choices is judged exclusively by the value of the best element available' and that 'the removal of all the elements of a feasible set (e.g. of a "budget set") other than the chosen best element is seen, in that theory, as no real loss' (Sen, 1993, p. 39). He argues that if we see freedom in his sense as important, then we must reject any such approach. We must recognize that it is important, not just that a person get what they are disposed to choose from among a given set of alternatives – say, option A – but also that this does not depend on their being lucky enough to want that particular alternative, A. They must be assured of getting whatever they are or might be disposed to choose; their choice-disposition – their preference – must be content-independently decisive.<sup>2</sup>

<sup>2</sup> The points made here are consistent with the claim made by Sen (1993, pp. 34–5) that how

### **Preference that is decisive, independently of context**

There is a second aspect to enjoying suitably decisive preferences, however, and while this is not explicitly marked by Sen, it is intuitively as important as the first. Not only is it possible for preference to be just content-dependently decisive and so insufficient for freedom. It is also possible for preference to be just context-dependently decisive and so insufficient, on analogous grounds, for freedom. In particular it is possible for preference, as I shall put it, to be just favour-dependently decisive: to be decisive only so far as the person enjoys the gratuitous favour of certain others – the sort of favour that can be bestowed or withdrawn at the pleasure of the giver.

Imagine that you have a disposition to choose between A and B that is content-independently decisive but that your enjoyment of such decisive preference depends on the goodwill of those around you. You are not powerful enough in relation to them to be sure of your preference's being decisive regardless of their wishes. You have a decisive preference only so far as you enjoy the grace and favour of those others. You can get A or you can get B, depending on your preference, but that this is so is due to their allowing it to be so. Whatever you obtain as a result of your preferences, then, you obtain by virtue of your good fortune in having masters or betters who look kindly on you; by virtue of your success in securing their complacency; or by virtue of your cunning in managing to avoid their notice. You may be said to have decisive preferences but their decisiveness is favour-dependent.

The main argument against associating content-dependently decisive preference with freedom was that it would enable a person to attain freedom just by adapting their preferences appropriately. A similar argument suggests that favour-dependently decisive preference, in the sense just illustrated, is not sufficient for freedom either. Imagine someone whose preferences mean that they stay on the wrong side of their masters or betters and so that their preferences are systematically non-decisive; they suffer serious interference in their lives and affairs. If favour-dependence does not matter then such a person can make their preferences decisive, and secure freedom, just by adapting their preferences so that their relations to their superiors improve. Suppose that they learn to like those masters, and secure reciprocal favour; or that they come to tolerate having to humour or flatter or appease them; or that they reduce their distaste for having to hide their true intentions and their actual doings from them. By developing an acceptance of such self-

good it is to be free in respect of a choice between A and B depends on how one values A and B. Sen (1996, pp. 108–12) argues this point forcibly in response to a criticism by Ian Carter (1996).

abasement, ingratiation and duplicity they would be able, it appears, to make themselves free. And that flies in the face of our intuitions as to when it is appropriate to say that a person enjoys freedom.

The point can be reinforced by considering the implication of saying that my preference is decisive on a certain issue, say one involving alternatives A and B. We would not say that my preference was decisive, as already noted, if a preference for A would lead to A but a preference for B would not lead to B: that is, if my preference was only content-dependently decisive. But equally we would not say that my preference was decisive, if it was not sufficient in itself to determine whether A or B ensued; if it could only do this, provided that I won the favour of some powerful figure or figures: that is, if my preference was only context-dependently decisive.

I noted earlier that a person who gets A in the presence of a content-dependently decisive preference for A may be said to get A freely but that the decisiveness of the preference is too circumscribed and contingent to constitute anything we would happily describe as freedom. I suggest now that we would have to say the same about preference that was, in the sense just illustrated, only favour-dependently decisive. We may be able to say in this case, by parallel with the other, that the person who gets A in the presence of a favour-dependently decisive preference for A gets A freely; no block or difficulty hinders them and indeed no block or difficulty would be put in their way if they happened to prefer B instead. But still, the decisiveness of the preference is too circumscribed and contingent to deserve the name of freedom. The enjoyment of favour-dependently decisive preference is quite consistent with the person's living in a position of total subjugation to another, being available just so far as the other happens to be a kindly or gullible or evadable master. Let the master withdraw favour on a capricious basis, or let the agent become more careless or less competent in retaining that favour, and the decisiveness of the preference is immediately undermined. This sort of fragility is too great, I suggest, to allow us to think of favour-dependently decisive preference as sufficient for freedom. We would not be happy to speak of freedom from hunger or disease or ignorance, as Sen regularly does, if the freedom amounted only to the sort of fragile good fortune envisaged.

I make this point without explicitly taking into account the fact that favour-independence may come in degrees, depending on how difficult it is for others to impose their will on a person. That is not a serious disanalogy with content-dependence, for this may also come in degrees, depending on the relative ease of the agent's access to different options. It will be a matter of judgement or stipulation as to what degree of dependency on content or context means that the agent does not enjoy freedom.

### Conclusion

I have been arguing that the broad conception of freedom endorsed, with what I think is good reason, by Amartya Sen should be seen as having two sides. It associates freedom with decisive preference and the two words used in its characterization mark the two sides involved. On the one hand, as Sen explicitly notes, it is a conception that engages preference rather than choice, allowing that a person may enjoy freedom by courtesy of the efforts of others, not just by dint of his or her own. And on the other, it is a conception that insists on the need to make preference decisive. It requires the preference of the free agent to be decisive independently of content and, under my reading, independently of context. Sen commits himself explicitly to the need for content-independent decisiveness but I believe that his argument equally supports the need for context-independent decisiveness. As decisive preference does not intuitively mean preference that is satisfied provided the content is such and such, so it cannot plausibly mean preference that is satisfied provided that the powers-that-be in the agent's context are willing to let it be decisive.

## 2. WHY FUNCTIONING CAPABILITY MATTERS

### Functioning level and capability

Independently of his work on freedom – this is pursued mainly in social-choice discussions – Sen has developed an approach to the evaluation of societies and lives that invokes the concept of functioning capabilities. He does relate that evaluational approach to his theory of freedom but perhaps not sufficiently to reveal just how tight the connection is. I believe that we need to go to his theory of freedom in order to understand why functioning capabilities are of the first importance for him.

Functioning in any society, as Sen thinks of it, requires a multitude of specific functionings. In our society, for example, it requires patterns of being and patterns of doing such as: being fed, being healthy, being housed, being linked with family or friends, communicating with others, following what happens in public life, and tracking the opportunities for work and related activities. 'Functionings represent parts of the state of a person – in particular the various things that he or she manages to do or be in leading a life' (Sen, 1993, p. 31).

Sen believes that how well people function and may expect to continue to function is of great importance to how well off they are; he assigns great importance to people's functioning prospects, as we may put it. But he does not make functioning prospects the main yardstick for evaluating a society: say, for determining how equal the society is, or

how much poverty it allows, or what the overall quality of life is like (Sen, 1993, pp. 49–50). Instead he gives that role to what he describes as functioning capabilities.

Someone might have a good functioning prospect despite their preferences in the matter being entirely non-decisive; they might, for example, have that prospect of functioning thrust upon them. In such a case the person will not enjoy the capability of functioning, only good functioning fortune. To have the prospect of attaining a certain level of functioning is one thing, to have the capability of attaining those functionings is quite another. And for Sen it is the latter that is the primary criterion of evaluation: ‘quality of life is to be assessed in terms of the capability to achieve valuable functionings’ (Sen, 1993, p. 31; Nussbaum, 1992; Sen, 1985a).

Increasing people’s functioning capabilities will certainly involve improving their functioning prospects, Sen (1993, 1996) supposes, so that focusing on capability does not involve neglecting prospect. But there are other ways of improving functioning prospects apart from increasing functioning capabilities and the position he adopts is that capability is the only route to functioning that we can wholeheartedly embrace. Although he does not address the matter in these terms, he may think that capability is lexically prior to prospect in the sense that, while it is better to have higher rather than lower prospects, capabilities should never – or perhaps never in ordinary circumstances – be sacrificed for the sake of improving prospects.

### **The freedom argument for capability**

Why does Sen assign such importance to functioning capability? He suggests himself that the answer lies in the independent importance that he gives to freedom, for he equates the capability of functioning in this or that manner with the freedom to function in this or that manner. ‘The freedom to lead different types of life is reflected in the person’s capability set’ (Sen, 1993, p. 33). More specifically, he suggests, first, that while the other forms of well-being that a person achieves in his or her life are important, the freedom that they enjoy is important too; and secondly, that the other forms of well-being the person achieves will be the better for being freely achieved (Sen, 1993, pp. 39, 43).

But why is freedom so important that functioning capability rather than functioning prospect is the primary standard in the evaluation of lives and societies? This question is pressing, because trying to ensure people’s functioning capabilities may have costs for the prospects of functioning thereby promoted. At the least, it will certainly mean that those who fail to function properly as a result of the freedom given – those who starve, when they could have eaten; those who go homeless,

when they could have had shelter; those who miss out on medical care, when they could have been in hospital – will not function as well as they might have done.

### The first version of that argument

Using our analysis of freedom in the last section, we can see that there are two sorts of consideration that we can produce in answer to this question. First, we might argue that it is important, not just that people function well, but also that their preference in the matter not be content-dependent. Consider the functionings associated with communicating with others, following what happens in public life and tracking employment opportunities. It is important, so the line would go, that a person not be forced to pursue these activities: that they be able not to function well in these regards, if such should be their preference. Or consider the functionings associated with being fed, being healthy or being housed. It is equally important, so the line would go, that a person not be forced to enjoy these goods: that they be able to starve or freeze or generally neglect themselves, if such should be their wish.

Richard Arneson (1999, p. 19) assumes, in criticising the approach, that this is precisely the sort of answer that defenders of the capability focus will adopt. 'Perhaps the best interpretation of the norm that society owes its members capability for flourishing rather than flourishing itself is to hold that each person has a right of autonomy or personal sovereignty in self-regarding matters. One has the right to lead one's life as one chooses within moral constraints even if it can be ascertained with certainty that one will lead one's life in an inferior way'.<sup>3</sup>

This line of argument is not without importance, since there is something appalling about the idea that we should force people to function in any of these respects, rather than making it possible for them to function or not, depending on what their preference is. But the argument is not likely to carry much weight with critics like Arneson. They will point out that the functioning is of fundamental importance and that allowing people to be able not to function must look like a luxury, if the cost of doing so is that the level of functioning has to suffer overall.

Such critics will also argue that the reason this luxury may seem important is that improving functioning prospects in many areas will inevitably mean increasing functioning capabilities – or at least pro-

<sup>3</sup> Arneson's assumption, as the quotation makes clear, is that according to Sen a person's preference should be content-independently decisive and, specifically, should be decisive through the person being able to exercise choice; thus, his position is similar to Cohen's, as that is described in the next section. I ignore the more specific aspect of Arneson's views in the present context.

viding for content-independently decisive preferences. Consider someone who is given, as we say, freedom from hunger or disease or homelessness or danger. Such a person will not just achieve the functioning in question. Under most scenarios, they will also achieve the capability of functioning in that way. Depending on their preference, they will be able to eat or starve, live or die, enjoy shelter or suffer exposure, enjoy safety or put themselves at risk. But the institutional fact that it is hard to increase these functioning prospects without giving people content-independently decisive preferences in the matter does not show, critics will say, that the enjoyment of such decisive preference is an important good in itself. In particular, it does not show that content-independently decisive preference is of such importance that we should be willing to forgo certain losses in prospects of functioning in order to ensure it.

### **The second, more persuasive version**

But the analysis of the last section suggests that there is also a second way in which we might defend Sen's emphasis on freedom and on the need to take functioning capabilities, not functioning prospects, as the principal yardstick for evaluating lives or societies. We can argue that capability is required in order to ensure not just content-independently decisive preference over whether one functions or not, but also favour-independently decisive preference in the matter.

Consider a society where an oil-rich potentate decides, perhaps out of idle whim, to use his enormous annual income in order to raise the level of functioning among the very poor subjects of his regime. Imagine, to make the case vivid, that he does this so successfully that the people flourish. There are extremely generous centres of food supply, excellent teachers are hired in from outside to raise levels of youth and adult literacy, there are heavily subsidized helicopters provided for the use of the public in travelling within the country, those who are seriously ill are flown to the best international facilities for treatment, and so on.

Will the people in this society enjoy good prospects of functioning? Yes, they will, at least so far as the probabilities of the potentate's continuing to be generous look pretty good. And we may hypothesize that they are good: good unconditionally, or good conditionally on the people's showing an appreciation of the generosity – more on this in a moment. But no matter how good the scenario is in terms of people's functioning prospects, it is clear that it does not give them functioning capabilities. It leaves them without the sort of decisive preference in respect of functioning that freedom and capability require.

The problem is not that the people's preferences in the matter of

functioning are only content-dependently decisive; as a matter of fact, they may not be conditioned in that way, for the potentate may be quite happy for people to choose not to use his facilities. The problem is rather that their preferences are only context-dependently decisive. The people enjoy decisive preference over whether to function or not only because one person happens to be of a mind to provide them with this power. They have that power only by the grace and favour of someone who is in no way bound to continue with his largesse, however probable it may be that he will.

I think it is obvious that while the imagined society, and the lives of people within that society, are much better off than prior to the potentate's largesse, still there is much room for improvement on the capability front. The case provides compelling reason for holding that Sen is right to emphasize the importance of functioning capabilities, independently of functioning prospects. And indeed it also gives us reason to think that capabilities should not be readily sacrificed for the sake of increased prospects.

We can make this last point salient by considering a slight variation on the scenario. Imagine that people have the opportunity to increase their functioning prospects even further, or to keep them at their current level, by adopting an ingratiating attitude towards the potentate and towards his family and favourites. They have only to humour and placate the individuals involved, fawning and toadying appropriately, and all will be well. Let them keep the potentate and his coterie sweet – let them adopt suitable postures of abasement and ingratiation – and they can give their future a very bright, functioning complexion. They can expect to find that all the benefits currently on offer will continue to be in place as the years roll by.

This scenario is repellent to ordinary sensibility, for while the people may function at a decent level in the situation envisaged, they do so by stealth and cunning and discretion, and at a serious cost to their very status as persons. It may be better for them to make that sacrifice, of course, than to starve and die. But most of us are going to think that under more normal circumstances – under the circumstances of justice, as Rawls (1971) calls them – such a one-eyed pursuit of functioning prospects will never be justified. The scenario shows how plausible it is to go along with Sen in his insistence on the importance of functioning capability. It may make it plausible even to think that in normal circumstances functioning capabilities have a lexical priority over functioning prospects, so that they should never be sacrificed for an increase in such prospects.

Unlike the previous argument, I think that this argument for focusing on functioning capability is very hard to rebut. Sen's own critics sometimes appear to overlook the importance of enjoying favour-

independently decisive preference in matters of functioning. Thus G. A. Cohen supports the idea that what is important is not functioning capability but access to functioning or, as he himself says, to advantage. And he suggests that it does not matter by his lights that this access is dependent on the whim of someone like our potentate. He says: 'anything which a person actually has counts as something to which he has access, no matter how he came to have it, and hence, even if his coming to have it involved no exploitation of access in the ordinary sense (nor, therefore, any exercise of capability)' (Cohen, 1993, p. 28). But I think that this attitude is more likely to reflect a neglect of the lesson taught by the potentate scenario than a rejection of it. Few can be prepared to argue that dependence on the grace and favour of a figure like the potentate does not detract seriously from the capacity of the benefits he provides to raise the quality of people's lives.

#### **A query put aside**

One last query. I have argued that the more persuasive argument for focusing on functioning capability is that only by doing so can we register the importance of making people's functioning context-independent: in particular, favour-independent. But does that not mean that something less than capability in the full sense might do: something that guaranteed this form of decisiveness to preference without guaranteeing the content-independent decisiveness that capability and freedom require? Does it not mean that what really matters is functioning assurance rather than functioning capability?

I think not, for the following reason. A scenario in which people are forced to function well without being allowed to opt out is, under most plausible assumptions, a scenario in which there is some agency that has the power that stops them from opting out. But a power that can stop them from opting out is presumably also a power that can stop them from opting in and that must be kept sweet; it is hard to see how the two could come apart. Thus the only sure way of providing for a regime where people have context-independently decisive preferences in the domain of functioning is to provide for a regime where they also have content-independently decisive preferences in that area.

### **3. CAPABILITY WITHOUT ATHLETICS**

#### **Cohen's midfare perspective**

The argument in the last section provides a reason for why Sen is right to give importance to functioning capability. But why be concerned with functioning at all? Why not take the yardstick for evaluating lives and societies to be the goods at people's disposal, or the levels of utility that they manage to enjoy?

Sen provides a now famous argument in response to this challenge (Sen, 1982, Essay 16). According to that argument what matters is something in between goods and utility-levels, of the kind associated with functioning: something that G. A. Cohen calls 'midfare' in order to mark this in-between status. 'Midfare is constituted of states of the person produced by goods, states in virtue of which utility levels take the values they do. It is "posterior" to "having goods" and "prior" to "having utility"' (Cohen, 1993, p. 18). The reason that functioning or midfare should be our focus in evaluation, according to Sen, is that it is not subject to the same contingencies as goods or utility-levels in the way it connects with how well, intuitively, a person's life goes. The same goods may do a lot for one person's life and very little for another's, for example, because that other is disabled and cannot do much with the goods provided. And the same utility-levels may stem from lives that intuitively are of a very different quality, because those with expensive tastes may require very special consideration in order to be brought to the same level as more moderate folks.

### The athleticism charge

This argument in favour of concentrating on midfare, however, provides Cohen with the point of departure for the charge that Sen is moved by an athletic image of human flourishing. In this third section I want to show why that charge fails.

Cohen constructs his charge on the basis of a number of distinct claims (Cohen, 1993, pp. 16–26):

1. Midfare includes prospects of functioning as well as functioning capabilities, since both are produced by goods and both serve in turn to produce utility-levels.
2. In using the midfare argument to support his capability focus, Sen employs 'capability' to denote 'the entire midfare dimension between goods and utility' (p. 24).
3. But in construing the implications of the argument, Sen uses the word in its narrower sense, so that capability implies freedom.
4. In doing this, what Sen takes the argument wrongly to support is a life of choice of the kind associated with 'the Marxist idea of a person fulfilling his potential through activity, which is to be contrasted with the idea of a person finding his *summum bonum* in passive consumption' (p. 24).

One subsidiary charge in this argument is that only a pun on the word 'capability' sees Sen to the conclusion that it is functioning capability that primarily matters. But whether or not Sen is guilty of trading in that way on ambiguity, it is clear from the foregoing that there is a further argument available to him – the argument derived from the

theory of freedom – to justify the specific, capability focus. I propose, therefore, to ignore this charge.

But is Cohen right in his main charge – expressed in the fourth proposition – that in privileging the freedom-related ideal of functioning capability, Sen shows himself to be attached to a hyper-active ideal of human life? ‘Sen intends capability to have an athletic character’ (Cohen, 1993, p. 24). In making this charge Cohen is guilty, I believe, of a double failure. His first is a misinterpretation: he mistakenly takes Sen to value capability because of valuing active, athletic choice. And the second is an oversight: he fails to notice the true reason why capability in the non-athletic sense intended by Sen should be found attractive.

#### **Cohen’s misinterpretation**

The misinterpretation comes of the fact that Cohen thinks it is choice that matters in Sen’s ideal of freedom, and in particular in his ideal of functioning capability. But we know from the discussion in the previous sections that Sen values freedom and capability in a sense in which it entails decisive preference, not necessarily decisive choice. In his work on the social-choice characterization of freedom Sen had already stressed the sort of point ignored by Cohen. ‘The relevance of *indirect* liberty seems quite substantial in modern society. Police action in preventing crime in the streets may serve my liberty well – since I do not want to be mugged or roughed up – but the control here is exercised not by me, but by the police’ (Sen, 1983, p. 19). He puts it equally forcibly in his own reply to Cohen. ‘Being free to live the way one would like may be enormously helped by the choice of others, and it would be a mistake to think of achievements only in terms of active *choice by oneself*. A person’s ability to achieve various valuable functionings may be greatly enhanced by public action and policy, and these expansions of capability are not unimportant for freedom for that reason’ (Sen, 1993, p. 44).

But Cohen (1994) suggests elsewhere, as mentioned earlier, that Sen often alleges the presence of indirect freedom – decisive preference, in our terminology – when all that we really find is the accidental satisfaction of preference. Does the police example illustrate decisive preference or just satisfied preference? Importantly, it illustrates a variety of decisive preference. Or at least it does so under the assumption that my preference in the matter is of a kind with the preferences of citizens generally – it is a common avowable interest – and that the police act to prevent street crime because that is the case. Were the police not to answer to my preferences in their chosen mode of behaviour, then they would not answer to the preferences of citizens generally. So at least we are assuming. And did they not answer to the preferences of citizens generally then they would be forced to change their ways.

### The oversight

So much for Cohen's misinterpretation of Sen: his mistake in thinking that it is an athletic image of the good life that explains why Sen values freedom and capability. His oversight amounts to a failure to see what is truly attractive about Sen's ideal of freedom as decisive preference. This, to return to the themes of the first section, is that it gives the agent a sort of power over what happens in their life that is independent both of how their preference happens to go and of whether they happen to enjoy the favour of the powerful. It does not require much thought to see why that power is attractive and why we should take it into account in estimating the quality of lives and societies. Sen clearly thinks it is attractive and is prepared, for that reason, to celebrate the passive empowerment that he thinks is provided by many of the institutions found in modern democracies; in this respect his picture of the good polity is very different from the activist picture associated with writers like Hannah Arendt.

Think of how democratic government is passively forced to respect what are assumed to be my preferences or the preferences that we in a certain group – perhaps the citizenry as a whole – share. One way in which government may be forced to do this is based in the fact that if it does otherwise on certain matters then it will face an unwelcome reaction of some kind from us; while we do not exercise choice in determining what it does, we control what it does so far as it is afraid of eliciting that reaction. Another way in which government may be forced to respect our preferences involves, not the fear of our reaction, but a response to the efforts of those activists who represent us in some way: those who are consumers like us and active in the consumer movement; those who are women like us and active in the women's movement; those who may not be prisoners like us but who have espoused and identified with the cause of the imprisoned; and so on. Or at least that will be so if we acquiesce in this sort of representation, because of how it serves our preferences. And a third way in which government may be forced to respect our preferences involves, not reaction or representation, but regulation. Under any regulations that expose the governors to the harsh effects of their own laws – or, more generally, under any regulations where the governors stand to lose if the governed lose – they will be guided, in effect, by our preferences. Or at least that will be so if our reason for acquiescing in the regulatory regime is precisely that the regulations have this effect.

In none of these cases is there a systematic exercise of choice on the part of the empowered, let alone anything in the way of social athletics. Yet in all of them there may be something approximating – if only at a very modest level and in a collective form – the extended,

indirect form of freedom and capability that Sen rightly treasures. Cohen overlooks the value that Sen finds – rightly, I think – in such passive empowerment.

### CONCLUSION

I have argued a number of propositions that bear on Sen's position.

1. According to Sen, freedom involves decisive preference, not just decisive choice.
2. Decisive preference, he argues, should be content-independently effective.
3. But by the same sort of argument, decisive preference should also be context-independently effective.
4. The most important criterion in measuring quality of life, according to Sen, is functioning capability.
5. This is a species of freedom and involves having decisive preference in relation to how one functions.
6. Functioning capability, Sen emphasizes, is much more important than the prospect of functioning well.
7. The best argument for this is that it is important, as the oil potentate scenario teaches, to have context-independently decisive preference in relation to functioning.
8. G. A. Cohen mistakenly thinks that Sen's focus on functioning capability comes of an athletic image of the good life, because he does not see that it requires decisive preference, not decisive choice.
9. And for the same reason he overlooks the rich possibilities of passive empowerment to which Sen draws attention in envisaging societies that provide their citizens with a high level of functioning capability.

This defence of Sen on freedom and capability, if it is right, reveals a deep connection between his way of thinking and the approach to freedom and government that I think of as republican in character, and in provenance (Pettit, 1997, Skinner, 1997). I conclude with some brief remarks on that connection.

The view of liberty that has been standard for nearly two hundred years equates it with the absence of interference by others in one's choice, where interference is understood broadly to include coercion of the will – and indeed manipulation of the will – as well as coercion of the body. This view, which derives from Bentham and Hobbes, means that one is free so far as one is not actively opposed in the choices one makes or might try to make. One is free so far as one is not interfered with, even if one is powerless to resist certain forms of interference that another party might choose to attempt.

In espousing this view of freedom as non-interference, Hobbes and Bentham were consciously rejecting the established, republican way of

thinking about freedom. A person is unfree in that tradition so far as they live *in potestate domini*, in the power of a master: that is to say, in the power of someone who can interfere on an arbitrary basis – without having to be guided by their readily avowable interests – in whatever choices they make or might come to make. Thus, even if people make certain choices without interference – even if none of the options available is put beyond their reach – they will be unfree in the making of those choices, according to the republican view, if they have to act in the presence of someone who could interfere on an arbitrary basis (Pettit, 1997; Skinner, 1997). Republican freedom requires, not just the absence of interference, but also the absence of a power of arbitrary interference on the part of others: the absence of domination.

Under my reading, Sen's theory of freedom coincides with the republican approach in this emphasis on the connection between freedom and non-dependancy: between freedom and, in a seventeenth-century phrase, 'independency upon the will of another' (Sidney, 1990, p. 17).<sup>4</sup> Non-interference is not sufficient for freedom under Sen's view, because an agent might enjoy non-interference – might even enjoy content-independently decisive preference – without enjoying preference that is decisive in the full sense: in particular, without enjoying favour-independently decisive preference.

The republican conception of freedom is socially more radical than the standard view so far as it denies that non-interference is sufficient for freedom (Pettit, 1997, Chapter 2). This aspect of the view means that we must regard those who are dependent on the goodwill of others for enjoying a normal unfettered life as unfree, even if they are lucky enough to attract goodwill. Sen supports this social radicalism, on my reading, so far as he treats functioning capability, not just a certain prospect of functioning, as important in determining the quality of a person's life. It will not be enough that the wife is likely to be treated well by her powerful husband, the employee by his or her powerful employer, the poor of the village by the powerful landlord. It will also be required that those in such positions enjoy that treatment on a basis that is independent of the goodwill of the powerful.

<sup>4</sup> Freedom as non-domination is formulated with a view to decisive choice rather than decisive preference (Pettit, 1997). You will possess such freedom so far as no one can arbitrarily interfere in your choices. And you will exercise or enjoy such freedom – such undominated choice – so far as you have choices available. But these stipulations are readily extended. You will possess freedom as non-domination in the extended sense so far as no one can arbitrarily interfere in those processes, choice-mediated or not, whereby your preferences effect corresponding results. And you will exercise or enjoy such freedom – such undominated effectiveness of preference – so far as you have access to modes of making preference effective. See also Pettit (2001).

When reformers like Bentham and Paley expanded the constituency of the state's concern to include women and servants, they replaced the old idea that the state should promote the freedom as non-domination of its subjects – an ideal of freedom that had been feasible when only mainstream, propertied males were in the picture – with the idea that it would be enough to promote their freedom as non-interference. This allowed them to think that women and servants who lived under supposedly kindly masters would be free. And so they could call for having the state recognize women and servants as free citizens, without demanding an upheaval in contemporary family and master-servant law (Pettit 1997, Chapter 1).

But there is no reason now, it seems to me, why we should not espouse again the richer ideal of freedom as non-domination and explore its demands in the context of a fully inclusive conception of citizenship. I see Amartya Sen's work, and the work of collaborators like Martha Nussbaum, as advancing precisely that sort of exploration (see, most recently, Sen, 1999). The focus is on the need to have the state promote functioning capabilities, not just functioning prospects. The aspiration, quite rightly, is to get rid of dependancy, not just destitution.<sup>5</sup>

<sup>5</sup> The paper was revised in the light of helpful comments received when and after it was presented in the symposium in honour of Amartya Sen, American Philosophical Association Meeting, Chicago, April, 2000 and at a symposium on 'The Contemporary Relevance of Republicanism', American Political Science Association Meeting, Washington, August–September, 2000. I am particularly indebted to Jerry Cohen for the careful comments that he provided on an earlier draft.

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