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4 Freedom in the Spirit of Sen

PHILIP PETTIT

From his earliest research on social choice theory through to his more recent development of the idea of capability, Amartya Sen has given the idea of freedom pride of place in his thought. I think that his conception of freedom is of the greatest interest, and I try to bring out its distinctive character in this chapter. I shall not be discussing the notion of capability directly – nor, more generally, the place of freedom in Sen's theory of justice – though my comments have implications for how his normative position should be understood (Pettit 2001a). My analysis will focus entirely on how freedom is to be interpreted within the approach taken by Sen. I have titled this chapter 'Freedom in the Spirit of Sen' because I suggest some ways in which his approach can be developed that are not discussed explicitly in his work.

This chapter is divided into five main sections. In the first, I present Sen's conception of freedom as having two forms, direct and indirect, and in the second I show how he associates freedom, direct and indirect, with the idea of agent control. In the third section I introduce a further distinction, between active and virtual control, that is independent of that between direct and indirect control but ought to appeal to Sen, being of a kind with it. In the fourth section I show where Sen's conception of freedom, articulated in line with these distinctions, leads in thinking about the nature of democratic institutions. And then in the final section I explore the significance of his new departures in the theory of freedom generally.

I am grateful to the participants at a 2003 colloquium on philosophy at MIT for a useful set of comments; they led me to make a number of changes to the paper on which this chapter is based.

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1. DIRECT AND INDIRECT FREEDOM

Sen's Distinction[1]

Sen's (1970a, 1970b) 'Liberal Paradox' 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 1983a).

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; Sen 1983a; Sugden 1981). 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: either they can actually choose whether A or B or the fact of what they would counterfactually 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 in that imagined case after a certain pattern (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

[1] The discussion in this subsection draws heavily on (Pettit 2001b), as does the discussion in section 2.

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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[2] – 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 1983a: 20). More than that, however, Sen defends the broader conception under which freedom on a given issue consists in enjoying decisive preference, and not necessarily decisive choice, in relation to that issue. He acknowledges, particularly in more recent work, that the 'process' aspect of freedom – say, the fact that one has a decisive choice, not just a decisive preference – may be important in many cases (Sen 2002: chapters 20–21). But he remains faithful to the thought that the enjoyment of 'opportunity' – in effect, decisive preference – retains its claim to constitute a way of enjoying freedom, regardless of the 'process' involved.

There is one point of contrast between decisive choice and decisive preference that should be mentioned, though Sen does not himself advert to it. When I exercise decisive choice I am bound to be aware of the fact, and presumably to acquiesce in it: to consent to the choice having the effects

[2] Notice that a person's preference in relation to an issue between A and B will be made decisive, not when his or her preference in the actual case on hand is made decisive for all possible cases where the issue arises, but when his or her 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).

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that make it decisive.[3] But this need not strictly be the case, for all that has been said, with decisive preference. I think that Sen takes it for granted, however, that when someone's preference is made indirectly decisive, then the person is aware of that fact or its likelihood – though perhaps not at the very moment when it is made decisive – and acquiesces in its being so. There would be a real paradox in saying that someone's freedom was increased without his or her being aware of the control exercised by his or her preference or without his or her agreeing to that exercise of control.

On this assumption, he would be willing to say

Sen illustrates his view with reference to the example of a person whose preference in regard to medical treatment is respected, even when the person is 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 favor 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 1983a: 19).

Sen's Distinction Extended

This particular example may not serve Sen well, however, since it misses out on a further distinction between two different ways in which I may enjoy decisive preference (Pettit 2007b). One is the case where I depend on the services of a deputy, as we might say: someone, as in the surgery case, who is disposed to act on whatever my preference is. The other is the case where I depend on the services of a proxy: someone who is disposed to act on what my preference actually is and whom I recruit or co-opt, for that very reason, to serve my purposes.

There are many ways in which I may commission or co-opt others, actively or virtually, in the role of proxies. I may come across some individuals who think as I do or whose ends are such that if they are satisfied, then my ends are satisfied; this may be in the neighborhood or workplace, in politics or on the market. And having found such duplicates of my attitudes, or complements to my projects, I may make use of them by choosing to operate in the same environment as they or by providing reasons for them to remain there or to continue to act as they do. Think of how I might always

[3] I abstract here from the sort of issue raised in Frankfurt 1988 as to whether I am in control if I do not actually want the preference on the basis of which I choose to be effective, as in the case of the unwilling alcoholic or drug addict. For further discussion, see Pettit 2001b.

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try to walk through a rough neighborhood in the company of a muscular colleague, or of how I might inveigle that colleague to accompany me by being a reliable source of a drink. I will have endorsed the process whereby a proxy generates a certain result – in this case a safe space – and I will have established myself as the controller, if not of the fact that that space exists, at least of the fact that I am within it.

A similar pattern prevails if I go one better and help to create or appoint the proxies on whom I rely, not just exploit proxies already available. I will do this, for example, if I construct a robot that pursues certain goals that support my own. And I will do it, more realistically, if I provide incentives for some individual or body to play a proxy role, or impose constraints on some individual or body that makes him, her, or it likely to play that role; the body may be one that I find in existence or organize myself. The exploitation of any such proxy, of course, is likely to be a hazardous enterprise. Like Hal, the computer in *2001: A Space Odyssey*, the individual or body may form a will that fails to serve the creator and may even prove downright hostile.

What I can affect by my own efforts may fall well short of what can be achieved on my behalf, if deputies can be recruited to act on my manifest preferences or if things can be arranged so that proxies reliably satisfy those wishes, manifest or not. Deputies and proxies can give me a presence in the world that extends well beyond my own physical body. If they are sufficiently reliable, indeed, then they may be seen as prosthetic extensions through which I gather information on matters beyond my personal access and act upon things beyond my personal reach. They may relate to me as my eyes and ears, my hands and legs. They may count as organs and members of an extended body that provides me with enhanced information and gives me an enhanced impact. Thus they may extend my control and my freedom so long as I am aware of the role they play and acquiesce in their playing it.

In what follows I shall take it that proxies may serve as well as deputies to enhance my indirect freedom, though I shall not comment very often on the differences between how they would do so.[4] The surgery example that Sen gives suggests that he thinks of indirect freedom as having to be mediated by deputies, but other examples, as we shall notice later, suggest that he may be equally open to the idea that proxies might play this role. Both mediators can make my preference decisive over certain domains.

[4] In order to remain faithful to Sen's terminology, I take both deputies and proxies to exemplify indirect control and freedom. In Pettit 2007b, I speak of indirect control in the case of deputies, oblique in the case of proxies.

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2. THE CONTROL REQUIRED BY FREEDOM

Perhaps Sen's most striking innovation in the theory of freedom is the idea that it requires 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). If he does this, then that is a slip from the intent of his theory. Quite clearly, what that theory requires for freedom in a certain domain is that my preference be in control of what happens there. It will be in direct control, so far as I get whatever I choose; we may assume that choice generally tracks preference. And it will be in indirect control so far as things are arranged so that what happens depends on what I would prefer to happen.

But the requirement that my preference be satisfied just because it is my preference, and not for any other reason, is more demanding than this may make it seem. Not only does it mean that the satisfaction of the preference should not come about just by chance or coincidence or whatever. It also means that the satisfaction of the preference should not be contingent on the satisfaction of certain conditions over and beyond the fact that I have the preference.

There are two particularly salient conditions such that if my preference's being satisfied requires that either is fulfilled, then the control I have is intuitively too circumscribed to count as freedom. The first condition would stipulate that the content of the preference falls within a certain range; the other, that certain powerful parties bestow goodwill or favor on me, giving me a permit to behave as I would. Neither content-dependent control nor permit-dependent control is sufficient, I would say, for the sort of control required intuitively under Sen's account of freedom.

For a person to have content-independent control in an issue between A and B it is required that his or her preference be 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

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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 be 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 himself or herself free just by adapting his or her preferences appropriately (Berlin 1969: 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 freedom does not require content-independent control, it appears that I can make myself free just by adapting my preferences so that I do indeed prefer A (Sen 1985: 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 control 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: 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 he or she is disposed to choose from among a given set of alternatives – say, option A – but also that this does not depend on his or her being lucky enough to want that particular alternative, A (see also Sen 1999: 76). The person must be assured of getting whatever he or she is or might be disposed to choose; his or her choice-disposition – or preference – must be content-independently decisive.[5]

But in order for someone's preference to be in control in the manner required intuitively for the enjoyment of freedom it is also necessary, I would

[5] The points made here are consistent with the claim made by Sen (1993: 34–5) that how 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) argues this point forcibly in response to a criticism by Ian Carter (1996).

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say, that the control not be conditioned on a second front. Not only must the control be independent of what it is that the agent prefers – independent of content – it should also be independent of whether the agent happens to enjoy the goodwill of those with power over their affairs. The agent should not have to depend on others' being willing not to exercise any power of interference that they may happen to have; the agent, as it is sometimes said, should not be dominated by others: his or her freedom should not be hostage to the fortune of their favor.[6]

The need for this further dimension of independence is not explicitly endorsed in any of Sen's earlier work, though Christian List (2004) shows that it is implied in his social-theoretic treatment of the liberal paradox. In commenting on my introduction of the dimension, Sen (2001: 56) agrees that permit-independence represents 'an important aspect of freedom'. He rightly notes that evaluative assessment should take account of how far each form of independence is realized, not go for an all-for-nothing analysis in terms of freedom; such an analysis might deprive us of important information. But, such qualifications in place, he appears to be willing to go along with the idea that freedom – freedom but not perhaps capability – requires permit-independence as well as content-independence. For purposes of this chapter I shall take him to follow that line.

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 how they feel about blocking you. You have a decisive preference only so far as you enjoy the grace and favor 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 being subject to dominating powers who look kindly on you; by virtue of your success in securing their complacence; or by virtue of your cunning in managing to avoid their notice. You may be said to have decisive preferences, but this decisiveness is permit-dependent.

The main argument against associating content-dependently decisive preference with freedom was that it would enable a person to attain freedom

[6] It is important by my lights that the favor in question here is the favor exercised by someone with a power of interference, when he or she chooses not to interfere. I did not make this sufficiently clear in Pettit 2001a, and this occasioned the misunderstanding present in Sen's (2001: 56) remark: 'We live in a world in which being completely independent of the goodwill and help of others may be particularly difficult to achieve.'

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just by adapting his or her preferences appropriately. A similar argument suggests that permit-dependently decisive preference, in the sense just illustrated, is not sufficient for freedom either. Imagine those individuals whose preferences mean that they stay on the wrong side of their masters or betters, so that their preferences are systematically nondecisive; they suffer serious interference in their lives and affairs. If permit-dependence does not matter, then such individuals 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 favor; or that they come to tolerate having to humor 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-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.

We noted earlier, in the spirit of Sen's argument, 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 should say the same about preference that is, in the sense just illustrated, only permit-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 permit-dependently decisive preference for A gets A freely; no block or difficulty hinders him or her, and indeed no block or difficulty would be put in his or her way if he or she 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 permit-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 favor on a capricious basis, or let the agent become more careless or less competent in retaining that favor, and the decisiveness of the preference is immediately undermined. This sort of fragility is too great, I suggest, to allow us to think of permit-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 permit-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

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the relative ease of the agent's access to different options. It will be a matter of judgment or stipulation as to the degree of dependency on content or favor at which we are to say, not that the agent enjoys freedom in such and such a measure, but that he or she cannot be said to be free at all. The problem is a familiar one. It is akin to the problem of stipulating the degree of confidence – less than 0.5 perhaps – at which we say, not that someone believes with that degree of confidence that something is the case, but that they do not believe it to be the case, period.

3. CONTROL, ACTIVE AND VIRTUAL

We have been speaking about how my preference between certain options, say A and B, might control whether A or B happens, and have seen that Sen distinguishes between two cases. In one the preference assumes hands-on control, leading the agent to choose appropriately. In the other, it assumes only arm's-length control, operating via the interventions of others. This arm's-length control may materialize in either of two ways, as we have seen. Deputies will be disposed to act on whatever I prefer, and will have a more or less permanent commission to serve me. Proxies will be disposed to act for the ends that I happen actually to prefer, and will have a commission to serve me that is conditional on this remaining the case.

This picture of two forms of control, direct and indirect – this picture of direct and indirect freedom – can be extended in a way that Sen should find congenial. In both the case where preference exercises control through leading the agent to choose appropriately, and in the case where it does so via the actions of others, the control normally takes an active form. The preference is at the origin of a causal sequence that fixes the alternative to be realized, and it leads to that result in the usual cause-effect way. In the one case the causal chain materializes entirely within the agent, going via the deliberative process connecting preference and choice. In the other case it materializes via inputs to the larger domain constituted by the agent's deputies and proxies. That preference, once manifest, will affect what deputies decide to do in the agent's name. And that preference, or at least the likelihood of that sort of preference, will be the explanation as to why suitable, preference-satisfying proxies are commissioned, wittingly or unwittingly, to act in the agent's interest.

There are many varieties of active preferential control, in particular of indirect active control. But there is also a nonactive way in which preferential control may be exercised. I speak of this mode of control as virtual rather than active.

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Imagine that someone has preferences over what happens in a certain domain but that the causal process whereby results are determined does not normally involve that person's preferences in any way. And now suppose that three further conditions are fulfilled. First, the causal process normally produces results that satisfy the person's preferences. Second, should the process fail to produce such results, this fact will tend to activate the person, or a deputy or proxy, and lead him or her to reverse the result or amend the process. And third, active control will be returned to the independent process, however amended, once the intervention has done its work. Where such conditions are fulfilled, we may say that the person's preferences are in virtual control of what happens. They may not be at the causal origin of what occurs, but they are positioned so that whatever occurs is required to conform to them (Pettit 1995; Pettit 2007b; Pettit 2007c).[7]

There are many sorts of situation where someone's preferences can exercise this sort of virtual control. The causal process that actually produces virtually controlled effects may be an impersonal one, in which the agent may let it operate as it will and only intervene on a need-for-action basis. This, in the tradition of the Western movie, is how the cowboy ensures that the cattle go in the right direction. He rides herd, letting the cattle follow their instinct and only taking action when one of them strays in the wrong direction. This exemplifies direct but virtual control of an effect.

But virtual control may be indirect too, as when a person exercises virtual control over a deputy or a proxy. Consider the case of the wealthy person who gives control of his or her affairs to a deputy, relying on that agent to work out what he or she is likely to want in any situation – he or she does not actively manifest his or her preferences – and relying on his or her own power to check or replace that deputy should performance fail to satisfy. Or consider the case of someone with the potential to intervene effectively in some area who is quite content ~~to see a proxy exercise~~ power there and only check or override where necessary. The proxy may have similar interests and be disposed for that reason to act congenially, or the proxy may be constrained by surrounding institutions to act in a congenial way.[8]

to select a proxy to exercise

In any case of this kind we have to say that the person's preferences are in control of what happens, though they are not causally active. They are standby factors that ensure that what happens will normally assume a

[7] In this discussion I assume that causal factors are positive factors, so that the absence of a preference cannot be designated as a cause in the same way as the presence of a preference.

[8] A further complexity that may be put in the picture is that the control of the deputy or proxy may itself be active or virtual, as indeed it may be direct or indirect.

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satisfactory shape, but they do this from the position of a manager, as it were, not a worker. They let the causal work be done by other factors and assume an active role only if this is absolutely required to keep the work on track: only if it is necessary to ensure that the results generated are the results desired.

Where Sen distinguishes between direct and indirect control and liberty, then, this observation suggests that in the same spirit of tolerating indirection he should allow a distinction between the case where either sort of control is active and the case where it is virtual. Direct control is hands-on, where indirect control is exercised at arm's length. And either sort of influence may operate in an active, productive manner or in the virtual manner of the manager or monitor. The possibilities are represented by the four boxes in this matrix.

	Direct control	*Indirect control*
Active	1.	2.
Virtual	3.	4.

Before leaving this topic, I should mention that with the category of virtual control in place, we can provide another argument for why the control associated with freedom has to be permit-independent as well as content-independent. Suppose that I am able to make certain choices but only to the extent that certain dominating agents are happy with the choices I happen to make, or are happy for the moment to let me choose whatever appeals to me. That means that those others have virtual control over what I choose; it is this that makes them dominators. I may be the active source of the actions chosen, but I will be allowed to operate in the generation of such actions only when the powerful figures in my life are happy with this. They are in virtual control of what I do, standing by in a position to interfere with me, should their tastes lead them that way; explicitly or implicitly, they invigilate my performance (Pettit 2007c). If permit-dependence means that I am controlled in this way by others, then, intuitively, it means that I do not myself control what I do, and it implies that I am not free.

4. FREEDOM AND DEMOCRATIC INSTITUTIONS

One of the recurring themes in Amartya Sen's work is that well-designed institutions, in particular the institutions associated with democratic society, can serve the cause of freedom. They enable people to control public

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practices indirectly and, though Sen does not note the distinction, by proxies as well as by deputies. '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 don't want to be mugged or roughed up – but the control here is exercised not by me, but by the police' (Sen 1983a: 19). Or, as he says elsewhere: '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*' (Sen 1993: 44). It is this connection between freedom and institutional arrangements that leads Sen to link development – development that involves political institutions as much as economic prosperity – to freedom (Sen 1999).

We are now in a position to see why freedom in Sen's sense is liable to be enhanced in this way by social institutions. Once we allow that people's freedom may be enhanced through the empowerment of their preferences rather than their choices, and when we recognize that this may occur in virtual, not in active mode, then the way is open to recognizing that various social institutions can increase people's freedom, as Sen conceives of freedom.

Consider the example of the police that Sen gives. I have a preference for crime-free streets, and the police operate, let us suppose, to see that this is satisfied. Does that increase my freedom? Well, not for all we have been told so far. It might be just an accident that what the police ensure is something that I want them to ensure. I might not exercise any degree of control over their ensuring this, and such control is essential if we are to think of my freedom as being increased by police action. My preferences may be satisfied without my preferences ruling. And my preferences must rule if my freedom is to be involved (Cohen 1994).

There is more that should be said about this sort of example, however, and I think that it is probably taken for granted by Sen. What needs to be said is that the three following assumptions are also in place:

- my preference for crime-free streets is a preference that I share in common with law-abiding, fellow citizens;
- were the streets not to be generally free of crime, then we law-abiding citizens would protest to government; and
- should we protest in this way, then government would increase expenditure on the police and improve the situation.

These assumptions mean that while the police control crime levels directly and actively, my fellow citizens and I control them indirectly and

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virtually: should the police fail to do the job properly, then we would step in and ensure via government that things were changed. This is to say that my law-abiding fellows and I share in the enjoyment of preferential control and of the associated freedom. And that means, in turn, that each one of us has a partial degree of control in this domain and a partial measure of freedom. The preference that each one of us has is in partial control, though of course only very partial control, of what happens.[9]

But however partial in character, it is worth noting that the control is independent of content and indeed independent of the goodwill of any powerful party, at least in the ideal democratic society. If the preferences that we, the majority of citizens, have argued for supported a different arrangement – if they supported gated communities, in indifference to the streets in general, for example – then they also would be likely to prevail. And this power of shared, popular preference is not contingent on the goodwill of any independent authority, such as a colonial government or a background dictator. It operates more or less unconditionally. We shall see in the next section why such partial but robust control can be very important, surprisingly, in the ledger books of liberty.

The line of thought that Sen suggests in relation to the police can be readily extended to cover other cases. There are three broad categories of situation where my fellow citizens and I, or at least certain groups among us, can share in the control of those in government and can have our freedom therefore enhanced. The control exercised in these cases is indirect, and it is often virtual rather than active. I think of the three categories, alliteratively, as cases where government is controlled by fear of our *reaction*, by the role of *regulation* in forcing the authorities to act after a certain pattern, and by the presence of those who claim to speak for us as (elected or unelected) *representatives*.

The rule of reaction is easily illustrated. In an expressive, democratic society, the people will have influence over government – it will become the indirect executor of their preferences – not just by virtue of electing government officials, but by the fact that those whom they elect to government are going to be fearful of prompting a negative reaction in the populace. If the people understand what government is doing in any instance, and if this is manifest to all – an idealized but not impossible condition – then they are going to be a power that those in government are generally going to have to placate, on pain of losing out in elections; those in government will have to behave as deputies. Even if they do nothing to influence government

[9] For further fairly speculative thoughts on this topic, see Pettit 2007b.

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actively, they will enjoy a measure of virtual control over governmental actions, so far as they are there in the position of an informed and effective invigilator.

People will enjoy regulative control of government so far as there are institutional devices in position that they can change should they find them unsatisfactory and that serve, as things stand, to pressure government into conforming with their wishes; they mean that those in government act as their proxies, if not their deputies. Regulative control can be mediated via any of the standard, democratic devices, ranging from separation of powers to the requirement to support decisions with reasons, to the constraints associated with the rule of law. A good example is the fundamental democratic arrangement whereby those who make the laws have to live under them. Thus the seventeenth-century republican Algernon Sidney (1990: 571), could write of legislators: 'They may make prejudicial wars, ignominious treaties, and unjust laws. Yet when the session is ended, they must bear the burden as much as others'.

The dual place of regulative and reactive power was marked by many traditional political writers. Adam Ferguson illustrates the approach in the answer he gives to the question as to what ensures the sort of law and order that that he saw eighteenth-century Britons enjoying and savoring. He argues that the existence of that sort of order 'requires a fabric no less than the whole political constitution of Great Britain, a spirit no less than the refractory and turbulent zeal of this fortunate people, to secure it' (Ferguson 1767: 167). In our terms, the unwritten political constitution represents regulative control, the zeal of the people reactive control; and both are rightly said to be essential to the good working of the polity.

A last mode of control in which Sen can claim to see the promotion of people's freedom is that which is exercised on their behalf when elected and unelected representatives (Pettit, ~~forthcoming~~ 2009) – say, the members of environmental and consumer movements – direct government into behaving in a manner that conforms to people's general wishes. This direction may itself take an active or virtual form: the representatives may actively influence the authorities or may just stand by, ready to respond to what government does. And in either case, the direction may derive from the preferences of the people represented in an active or virtual way: the representatives may actively track those preferences, for example, or they may be in a position where they will be challenged by ordinary people should they fail to reflect some widely held preferences.

Why say that such representatives, particularly those of an unelected kind, act on behalf of the people? Because the fact that they are not challenged about the role that they play – they may of course be challenged,

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as we just saw, about particular matters – means that they have the virtual support of those on whose behalf they claim to speak. They may not be actively elected or recruited to that role, but they could be ejected from it and they are not.

Unelected representatives are of growing importance in the world of contemporary democracy. Given that government now acts on many fronts, and on issues of great complexity, people's only hope of forcing the authorities to track their widely held preferences – indirectly extending their freedom, as Sen conceives of it – is to introduce specialization and a division of political labor. This is precisely what can be achieved, at least in principle, with the appearance of ever more fine-tuned social movements (Pettit, ~~forthcoming~~ 2009).

5. THE THEORY OF FREEDOM

Sen is clearly concerned with social freedom rather than with freedom in the sense in which it may be affected by psychological malaise or malfunction: if you like, psychological freedom. But what impact do his observations make on the theory of social freedom, considered as a whole?

There are really two quite different topics addressed in the theory of social freedom. These might be described as 'option-freedom', which is the main area of concern in contemporary thinking, and what I describe as 'status-freedom' (Pettit 2007a). Sen is explicitly concerned with option-freedom, suggesting some radical innovations in charting and measuring what it involves. But as we shall see, his theory also has important implications for how we ought to think of status-freedom.

Option-Freedom

Option-freedom is often described as freedom of choice or freedom of opportunity. It is freedom of choice in the sense in which the standard assumptions are, first, that individuals and societies may vary in how much freedom they enjoy; second, that more freedom of choice is better than less; and, third, that how much freedom is available is something worth measuring for purposes of assessing how well individuals and societies fare (Carter 1999).

Freedom in this sense is often invoked by economists in support of the free market; by increasing the commodities and services at people's disposal, the market is assumed thereby to increase their option-freedom. One issue that has dominated the discussion of option-freedom is whether this is so

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and, more generally, whether every increase in the number of options that are available to a person or a society should be taken as a way of increasing freedom (for an overview, see Sugden 1998).

On this issue Sen (2002) argues that it is not just the number of options that matter in computing how far people enjoy option-freedom. What is also of importance is the extent to which the options are diverse and valuable – by whatever criteria of value – for the agents involved. It would be methodologically simpler if the level of option-freedom were a function of the number of options alone, but it runs against common observations to the effect that my freedom is more substantially improved by the addition of a valued as distinct from an unvalued option, or by a novel option as distinct from an option of a familiar sort. Sen is not willing to discount those powerful intuitions and is willing to sacrifice theoretical simplicity in order to accommodate them.

But if Sen makes things more complex and difficult in this respect for the measurement of option-freedom, the new departures we have charted make them more complex in two other respects too. His approach implies, on the one hand, that an option is added to an agent's repertoire of choice only if it is brought under the agent's content-independent and permit-independent control; and on the other, that the range of options relevant for option-freedom extends beyond those that are directly and actively controlled by the agent. The first implication is that the quality of control required for option-freedom is higher than is generally assumed; the second is that the quantity or extent of options in which option-freedom may be enjoyed is larger than standard approaches suggest.

The first implication means that it is not enough for control in a choice, and for the achievement of option-freedom there, that it be physically possible for me to make the choice (Carter 1999; Kramer 2003; Steiner 1994). I must have the ability to make the choice in the sense that the choice is not just possible but relatively accessible. With each option in the choice I must be so positioned, by ordinary criteria – here we return to the issue of degree – that I can take it or not take it, as I will. I must not be exposed to the virtual control of other persons, I must not be inhibited by their power or threat or opposition, and I must not have to run a gauntlet of physical danger or difficulty. If any option requires me to do this or be that, then, in Sen's words, I must be 'actually able to do this or be that' (Sen 1987: 57).[10]

[10] In a usage that differs from Berlin (1969), he describes such freedom as 'positive' in nature. For Berlin, positive freedom means, roughly, either psychological autonomy or democratic enfranchisement.

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The second implication of Sen's ideas for the theory of option-freedom derives from the observation that though control may have to be content-independent and permit-independent in order to count toward the agent's option-freedom, it can be indirect as well as direct, virtual as well as active. The first implication is negative in suggesting that people may have fewer options within their control than are ordinarily allowed. The second is positive in suggesting that in another respect they may have more options – those they control virtually and/or indirectly – than are routinely recognized.

This implication is particularly striking when we add, as charted in the last section, that much of the control that any one of us enjoys is enjoyed in company with others, as in the democratic control of how our lives go. Not only do we benefit from how we can rely on individual deputies and proxies to make our preferences decisive. We benefit from the way in which we can rely on collective deputies and proxies – for example, the politicians and the police – to make our shared preferences decisive.

Status-Freedom

The nuanced contributions that Sen makes to the theory of option-freedom have the paradoxical consequence that option-freedom no longer looks like a useful yardstick by which to measure how well individuals or societies of individuals fare. The reason is that option-freedom becomes just too complex a target. It may be for this reason that Sen turns in his later work to the idea of capabilities for functioning as a yardstick by which to make social assessments.

But there is an alternative approach to social freedom that Sen ignores and that I would like, finally, to put in the frame. This prioritizes status-freedom, as I shall call it, rather than option-freedom.

The status-centered approach to social freedom builds on the tradition in which it is people or agents that are primarily assessed for how free they are, not choices or options. In this tradition the focus is on how far an individual is a 'freeman' rather than a 'bondsman' and how far the members of a society are established in general as freemen. The tradition used to be associated with the narrow assumption that only propertied, mainstream males are to count in the ledger of liberty. But this feature is dispensable. We may focus, more broadly, on how far able and adult individuals count as fully free citizens and the extent to which a society is one in which membership or citizenship entails freedom.

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The status-centered way of thinking is best presented as a set of interconnected claims.

- The state should promote the free choice of its members.
- The state should promote the free choice of members equally.
- Specifically, it should provide equal, effective protection against unfreedom.
- In particular, it should protect against unfreedom in choices that are equally accessible to each.
- Citizens are free to the extent that they are given that protection in those choices.

The first two points are likely to be endorsed in almost any contemporary theory of the state and its duties: the first makes free choice important; the second, equality. The third and fourth points provide an interpretation of what it is for the state to promote the free choice of members equally. That interpretation focuses on protection against forces that would undermine free choice, and it construes equality as requiring equal protection in a domain of choices that is equally accessible to each. The account leaves room for different construals of what protection requires and of what choices should figure in the favored domain, but it suffices to identify a rival ideal to that of option-freedom.

What is freedom, then, on this approach? It is the status that goes with being incorporated equally – and, as protection itself requires, being recognized as being incorporated equally – into the matrix of protection that state and society provide.

Does the quantity of free choice matter on this approach? Yes, for the approach naturally suggests that all equally accessible choices, not just a proper subset, are to be protected. But there is no abstract target that is hailed as a quantity to be maximized; there is nothing that corresponds in that way to option-freedom (O'Neill 1979–80). The assumption is that certain choices can be identified as equally accessible to all and that the set of such choices that is protected should not be unnecessarily restricted. And that is all. Suppose, then, that there are two candidate sets of choices that might be equally accessed by everyone. Consistently with the status-centered approach, there need be no abstract basis for determining that one produces more abstract liberty than the other. The choice about which set to protect may have to be made on the basis of values that are distinct from the value of liberty: say, the value of protecting a set of

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choices that fits well with existing mores and that promises to be relatively stable.

The status-centered way of thinking about liberty is closely associated with the long republican tradition in which, as one Roman commentator puts it, liberty becomes more or less synonymous with citizenship: 'full *libertas* is coterminous with *civitas*' (Wirszubski 1968: 3). In this tradition, the cause of freedom is the cause of establishing people equally in the enjoyment of a standing in which they can walk tall, conscious of being equally protected against others – including the state itself – in a common domain of choice. Freedom does not wax and wane with marginal shifts in the commodities or services over which choice can be exercised. It is a more stable quality of persons, albeit one that is defined by reference to the notion of freedom in choice.

I think that Sen should find the status-centered conception of freedom more attractive and important as a normative ideal than the option-centered conception. The complexities he unearths in the notion of option-freedom, as I mentioned, make it very difficult to think of it as a workable basis for assessing individual or social fortunes. And in addition to that negative consideration, there are three positive reasons why he should find the ideal of status-freedom attractive.

The first is that insisting on the importance of permit-independence as well as content-independence goes very naturally with focusing on status-freedom. If I have to depend on the permit or leave of another in order to be able to make a certain choice, then I am not a free agent; I am not my own person. I may be said with some plausibility to be able to make that choice freely, if my masters give me free rein and let me choose as I will. But I cannot possibly be ascribed status-freedom. Sen's assumption that freedom requires rich, permit-independent control sits very nicely, then, with the status-centered rather than the option-centered approach to freedom.

That assumption, as it happens, has been traditionally associated with the status-centered way of thinking (Pettit 2007a). Perhaps the most central thesis in the long republican tradition is that the protection that is needed in order for someone to enjoy freedom has to ensure permit-independent as well as content-independent choice (Pettit 1997; Skinner 1998; Viroli 2002). The protection provided has to ensure that in making his or her choices, the agent does not have to rely on the leave or permission of others; the agent does not have to act *cum permissu*. The protection must establish the person as *sui juris*, under their own jurisdiction. It has

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to guard the person against living *in potestate domini*, in the power of a master.[11]

But there is also a second positive reason why Sen should find the status-centered way of thinking about freedom more attractive and important than the option-centered alternative. This is that it fits very well with his more recent emphasis on capabilities for functioning and their importance in assessing the quality of life. There are two central questions to resolve in developing an status-centered theory of freedom. The first, just touched upon, is to say what sort of protection has to be provided for citizens in order that they should count as free. The second is to determine the types of choices in which people should have that protection; I describe these, in a common phrase, as the basic liberties. It is on this second question that status-freedom connects with the idea of functioning capabilities.

The usual way to identify the basic liberties is by means of a list or inventory: they include the freedom to speak your mind, associate with others, adopt a religious affiliation, live in one or another part of the country, and so on (Hart 1973; Rawls 1958). But the basic liberties can be characterized, more perspicuously, as liberties that satisfy three constraints (Pettit 2008). They are personally significant for people in general, involving choices that anyone is more or less bound to care about. They are choices that everyone can exercise at once, and do so without the exercise of the choice losing its motivating point; they are not essentially competitive or collectively counterproductive. And they are all the choices of those kinds that a society can protect, not just a proper subset of them; they are not unnecessarily restricted. The choices identified as basic liberties may often presuppose rules that can vary between societies, say because of the differing demands of local mores; the liberty to own property, for example, will vary with different rules of ownership. But regardless of how they vary in that way, they will have to be personally significant, equally accessible to all, and not unnecessarily restricted.

[11] The equal protection stipulation might be taken to require protection against natural misfortune in the same way that it requires protection against interpersonal domination (Van Parijs 1995). I reject that approach on two grounds. First, the impact of natural misfortune on status-freedom, unlike that of interpersonal domination, gives cause for regret but no cause for complaint and does not have the same significance for us. And second, protecting against interpersonal domination will require a degree of protection against natural misfortune and a degree of redistribution in favor of the less well-off; absolute or relative poverty makes people prone to being dominated.

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Let basic liberties be understood in this fashion, and providing for the protection of basic liberties – in particular, their protection against domination – will come very close to what Sen (1982) and Nussbaum (2006) think of as enabling people to enjoy basic functioning capabilities. To have such capabilities is, as Sen (1983b) suggests, to be able to live without shame in one's society. And that is quite close to the idea of having such a protected space for the exercise of basic liberties that one is not subject to the dominating control of others. One does not live *in potestate domini*, in the power of a master.

The third positive reason why Sen should be attracted to the status-centered way of thinking about freedom is that it would make good sense of his commitment to connecting issues of freedom with issues of democracy. The good polity, by the criterion of status-freedom, will have to provide each of us with suitable protection in suitable choices. But a polity might do that and yet figure in our lives as itself a source of domination: an agency with a power of interfering in our lives that effectively gives it virtual control over what we do. If the polity is subject to control in the democratic manner envisaged by Sen, however, then this danger may be avoided. Hence democracy may be said to serve the cause of freedom well.

Suppose that the public officials who control the state – a state that identifies and protects our basic liberties – operate under our indirect, democratic control, as Sen imagines: ideally, under our equally shared, collective control. The fact that there is such a coercive state may be regarded as a historical necessity, akin to the fact of living under natural limitations, so that its mere existence will not dominate us (Pettit 2007b). And the fact that we share equally in democratic control of that state means that the exercise of state authority in shaping and guarding our basic liberties will not be dominating either. Thanks to its democratic structure, the agency that protects us against domination by others will not perpetrate domination in the act of doing so. The control it exercises over us individually will be subject to our own control in the maximal measure possible for each of us in a democratically egalitarian society. Such controlled control – such nonarbitrary control, in the old republican phrase – is no danger to freedom, once freedom is understood in the republican, status-centered way.

The considerations just rehearsed are set out rather briefly. Without expanding on them in any more detail, however, I hope that they give some ground for thinking that the rich and varied considerations generated in Sen's work on freedom support an approach that has a long ancestry in political theory but not much currency in contemporary thought. His personal trajectory has led from recognizing ever more complexities in the

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notion of control and choice, and in the received, option-centered notion of freedom, to the development of an approach that starts from the idea of functioning in one's society and looks for a state that would provide for the equal functioning capability of every citizen. That trajectory, as I see it, describes a path whereby he moves from a focus on option-freedom to a perspective in which something close to the old ideal of status-freedom assumes center stage.

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